

REGULAR MEETING

April 13, 2010

At a regular meeting held this evening at 7:00 p.m., there were present: Mayor Kai Degner; City Manager Kurt Hodgen; Assistant City Manager Evan Vass; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Richard A. Baugh; Council Members David Wiens, Carolyn W. Frank and Ted Byrd; City Clerk Yvonne “Bonnie” Ryan, MMC; and Chief of Police Donald Harper.

Vice-Mayor Baugh gave the invocation, and Mayor Degner led everyone in the Pledge of Allegiance.

Candace Avalos, James Madison University Student Body President, expressed her concerns about the rioting at the weekend’s Springfest an annual block party thrown by JMU students. “I am here on behalf of the JMU Student Body to apologize for what happened this past weekend in the City. I also plan to work with the Student Government Association and Student Body to make sure that this does not happen again.” “We are sorry that we hurt the relationship with the community, damaged the reputation of our students and institution. We want to assist in anyway that we can with the university, community, and law enforcement to support the efforts in assuring that these things don’t happen again.”

Bucky Berry expressed discontent that West Washington Street did not receive any HUD funding to improve sidewalks or the railroad tracks in the area.

Council Member Byrd offered a motion to approve the consent agenda, including approval of the minutes and the second reading of supplemental appropriations for the Police Department, Parks and Recreation Department, and the Public Works Department. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank
Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request from the Harrisonburg-Rockingham Community Services Board to rezone a 0.456 acre parcel zoned B-2C, General Business District Conditional by amending their proffers. The parcel is located at 1351 North Main Street and can be found on tax map 42-B-4. The Comprehensive Plan designates this area as Public/Semi-Public. Mrs. Turner reviewed the surrounding uses in the area. The Harrisonburg Rockingham Community Services Board (HRCSB) is requesting to amend proffers on their .46 acre parcel zoned B-2 to consider locating a Crisis Stabilization Unit (CSU) on the site. CSU is a supervised residential program that provides a location for adults to

stay for no longer than 15 days, who may be experiencing a mental health crisis. The program would be staffed around the clock by trained mental health professionals. This property was rezoned in 2000 from R-2 to B-2C General Business District Conditional. It is necessary to amend the existing proffers because hotels, motels, or similar transient housing facilities are not permitted. Mrs. Turner reviewed the existing proffers. The applicant has proffered that a fence will be installed at the time of the construction of the building. Planning Commission has recommended approval of the request.

At 7:18 p.m., Mayor Degner closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 29, and Monday, April 5, 2010.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, April 13, 2010 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Rezoning – 1351 North Main Street (HRCSB)

Public hearing to consider a request from the Harrisonburg-Rockingham Community Services Board to rezone a 0.456 +/- acre parcel zoned B-2C, General Business District Conditional by amending their proffers. The parcel is located at 1351 North Main Street and can be found on tax map 42-B-4. The Comprehensive Plan designates this area as Public / Semi-Public. This designation includes both existing and proposed public and semi-public use. They include lands owned or leased by the Commonwealth of Virginia (except for institutions of higher learning), the federal government, the City of Harrisonburg, and other governmental organizations. Examples of uses included in this category are public schools, libraries, City Hall and City administrative and support facilities. The Zoning Ordinance states that the B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. No minimum lot size restrictions exist in the B-2, General Business District.

CITY OF HARRISONBURG

Kurt D. Hodgen

City Manager

Mayor Degner called on anyone desiring to speak for or against this rezoning request. Lacy Whitmore, Executive Director of the Harrisonburg Rockingham Community Services Board, said the Crisis Stabilization Program is a needed program in the community. It will be a warm residential facility for people to go who are experiencing a mental health crisis. The facility will be in full compliance with state regulations. There being no others desiring to be heard, the public hearing was declared closed at 7:21 p.m., and the regular session reconvened. Vice-Mayor Baugh offered a motion to approve this rezoning request as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank
Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request from Eastern Mennonite University to rezone approximately 42 acres of their property zoned R-3, Multiple Dwelling Residential District and I-1 Institutional Overlay District by adding a parcel and amending their mater plan. The properties are located along Park Road, West Dogwood Drive, and Parkwood Drive and can be found on tax maps 48-H-3 & 4 and 51-A-1. The Comprehensive Plan designates this area as Institutional. Mrs. Turner reviewed the surrounding uses in the area. EMU recently re-examined the 1998 master plan to see if it needed updating in order to reflect the every changing conditions that affect the school and campus. One area that EMU saw as a priority for the overall campus was to include the implementation and use of green technology. The first change is to install renewable energy solar panels at four locations within the EMU campus. These panels will provide energy from solar cells which in turn would be utilized for power by EMU. Mrs. Turner reviewed the four locations of the solar panels and noted that all equipment associated with the solar panels would be interiorly housed. Two other changes are proposed with this amendment. A 30,000 square foot addition to the Suter Science Center and adding the addition of a parcel into the I-1 overlay district. The house and property at 1110 Park Road were acquired by EMU after approval of the 1998 master plan and the applicant desires to incorporate them into the plan. The dwelling is currently being used for housing. Harrisonburg Electric Commission has been in conversation with EMU regarding the solar panel project and from their standpoint there would not be any problems with the solar usage and interconnection. In reviewing the Plan, it should be noted that this a review of the development concept only and that each campus facility would require separate approval to insure compliance with building codes and with the City's design and construction standards. Planning Commission has recommended approval of the rezoning request.

At 7:29 p.m., Mayor Degner closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 29, and Monday, April 5, 2010.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, April 13, 2010 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Rezoning – EMU Master Plan Change 2010

Public hearing to consider a request from Eastern Mennonite University to rezone 42.9 +/- acres of their property zoned R-3, Multiple Dwelling Residential District and I-1, Institutional Overlay District by adding a parcel and amending their master plan. The

properties are located along Park Road, West Dogwood Drive, and Parkwood Drive and can be found on tax maps 48-H-3 & 4 and 51-A-1. The Comprehensive Plan designates this area as Institutional. These lands are designated for development by certain nonprofit and public institutional uses such as colleges and universities, hospitals, offices of nonprofit organizations, community assembly uses and institutions which provide for the shelter and care of people. The Zoning Ordinance states that the R-3, Multiple Dwelling Residential District is intended for medium- to high-density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-3 are single-family, 6,000 sq. ft. minimum; two-family, 4,000 sq. ft/unit; multi-family, 3,000 sq. ft. minimum per unit; townhouses, 2,000 sq. ft. minimum per unit; and other uses, 6,000 sq. ft. minimum. The I-1, Institutional Overlay District is intended to provide for orderly development of certain nonprofit institutional uses and is created as a special overlay district to be superimposed on base districts by approval of City Council. Dimensional and density regulations are intended to supplement those permitted in the underlying zoning classification.

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Kurt D. Hodgen
City Manager

Mayor Degner called on anyone desiring to speak for or against this rezoning request. Ed Blackwell, of Blackwell Engineering and representing the applicants, said that he was available to answer any questions. Loren Swartzendruber, President of Eastern Mennonite University, expressed his appreciation to everyone for allowing EMU to install solar panels. The project will benefit EMU in a variety of ways and provide many opportunities to work with the entire Harrisonburg community. There being no others desiring to be heard, the public hearing was declared closed at 7:39 p.m., and the regular session reconvened. Even though the public hearing had been closed, Mayor Degner allowed Tony Smith, head of Eastern Mennonite University School of Business, to present his point of view. Council Member Wiens offered a motion to approve the rezoning request as presented. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank
Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request to amend the Zoning Ordinance for corrections and updates within Sections 10-3-5, 16, 25, 48.3, 120, 122, & 123. Mrs. Turner reviewed the proposed modifications to several sections of the Zoning Ordinance for general updates and also to make revisions where word choice and other

inaccuracies mislead zoning interpretations. Planning Commission has recommended approval amending several sections of the Zoning Ordinance.

At 7:46 p.m., Mayor Degner closed the regular session temporarily and called the evening's third public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 29, and Monday, April 5, 2010.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, April 13, 2010 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Ordinance Amendments – Zoning Ordinance Amendments Sections 10-3-5, 16, 25, 48.3, 120, 122, & 123

Public hearing to consider amending the Zoning Ordinance for corrections and updates within Sections 10-3-5, 16, 25, 48.3, 120, 122, & 123.

Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.

All persons interested will have an opportunity to express their views at these public hearings. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the Planner at 432-7700 at least five days prior to the date of the meeting.

CITY OF HARRISONBURG

Kurt D. Hodgen

City Manager

Mayor Degner called on anyone desiring to speak for or against amending these ordinances. There being no one desiring to be heard, the public hearing was declared closed at 7:47 p.m., and the regular session reconvened. Council Member Byrd offered a motion to amend these ordinances as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank
Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh
Mayor Degner

Absent – None

City Manager Hodgen said that the City does not have all of the information regarding the Springfest incident on April 10th. There are a lot of unanswered questions including how

much did it cost. There will be after action report that will be produced after meeting with JMU, student groups, complex representatives, and others to move toward some solutions and recommendations hopefully to avoid such incidents in the future.

Police Chief Harper gave a brief overview of the Springfest incident. On Saturday, April 10th, the Police Department received a complaint from a property owner on Village Lane regarding a large crowd that had become very disorderly. While police officers were trying to clear the area bottles and rocks were thrown at them. Colonel Harper reported City Police Officers were assisted by Virginia State Troopers, Staunton Police Officers, Rockingham and Augusta County Deputies. Property owners reported that students were trying to break into their homes to use bathrooms, defecating on their property and wanted the police to disperse the crowd. After the Police regrouped and declared the party to be an unlawful assembly, officers began to move in to disperse the crowd, using tear gas and pepper spray. The most serious charges included malicious wounding by mob and assault and battery by mob.

Mayor Degner thanked the Harrisonburg Police Department for their duty, bravery and dispersing an out-of-hand and dangerous crowd. He acknowledged JMU Student Government President Candace Avalos for her apology on behalf of the students. This is obviously out of line of what the university expects of their students. “I invite President Rose to excuse the people who are here to throw things at our Police Officers and be drunk and dangerous to people in the community.” For the people that were here that were outside of the community we don’t invite you back and look forward to coming up with solutions to prevent this from ever happening again.

Council Member Byrd thanked Colonel Harper for the professionalism of the Police Department.

School Board Finance and Technology Director, Dee Dee Dawson, presented a request for a supplemental appropriation for the School Board. Mrs. Dawson said that these funds represent unanticipated receipts from local and federal sources. No additional local dollars are required from the City Council for the school division to receive these funds. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$61,975.00 chge. to: 1111-33301 School Revenue – Federal

31,000.00 chge. to: 1114-31691 School Nutrition Revenue – Receipts

\$37,816.00 approp. to: 1111-111114-40610 Instruction

4,000.00 approp. to: 1111-111114-40620 Administration, Attendance, and Health

500.00 approp. to: 1111-111114-40630 Transportation

19,659.00 approp. to: 1111-111114-40680 Technology

2,500.00 approp. to: 1114-111414-40650 School Nutrition Services

28,500.00 approp. to: 1114-111414-40680 Technology-School Nutrition Services

The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank
Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh
Mayor Degner

Absent – None

Council Member Byrd offered a motion to approve the Harrisonburg Education Foundation's request to close one to two lanes of Garbers Church Road to hold the Sherry B. Anderson Memorial 5K run and walk on May 15th from 9:00 a.m. until 12:00. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank
Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh
Mayor Degner

Absent – None

Council Member Byrd offered a motion to approve a street closing request from Rockingham Memorial Hospital on May 26th between 1:30 p.m. until 3:30 p.m. The street closing will occur along South Mason Street between Grace Street and the RMH pedestrian bridge connecting the hospital to the cancer center. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank
Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh
Mayor Degner

Absent – None

Council Member Byrd offered a motion to approve a request from the Shenandoah Valley TEA Party to allow only one lane to be closed if necessary around Court Square from West Market Street to South Main Street for a planned event on April 15th between 5:15 p.m. and 7:30 p.m. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank
Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh

Mayor Degner

Absent – None

Council Member Wiens offered a motion to close a paved public alley located south of the Turner Pavilion and the grassy area behind the Community Development Department every Saturday during the market season between 7:00 a.m. until 1:00 p.m. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank
Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh
Mayor Degner

Absent – None

The next item of business was a presentation and update of a Technical Energy & Water Savings Audit. Public Works Department Planner Thanh Dang said the project began as a result of the City receiving an Energy efficiency block grant in the amount of \$206,200. In January 2010 a proposal was presented for a project to do a Technical Energy & Water Savings Audit on four (4) city buildings, which include the Municipal Building, Public Works Building, Public Safety Building, and Community Activities Center. This proposal is an executive summary of the findings, which is a detailed energy analysis report. The Technical Energy & Water Savings Audit Report identifies a variety of energy savings opportunities within the facilities. Proposed programs include reducing City's utility consumption, completing improvements over a period of time, and providing project cost savings. Following further discussion and comments, Council agreed to ask the Finance Committee to review this report at a future date.

City Manager Hodgen presented a request for appropriated funds for the Public Works Department. He said there are currently funds in the General and Water Capital Projects Funds that have not been budgeted. These amounts include interest earnings, recovered costs, and VDOT revenue sharing funds. Vice-Mayor Baugh offered a motion to approve this request for a first reading, and that:

\$ 1,192.17 1310-31010 Amount from fund balance
3,483.34 1310-31513 Investment earnings
79,014.00 1310-31914 Recovered cost
.04 1310-32527 DEQ Grant (Rain Barrel Work shop)
1,215,371.00 1310-32513 VDOT Revenue Sharing
2,100.00 1321-31513 Investments earnings

\$ 6,473.52 1310-910141-48636 Erickson Avenue/Stone Spring Road
701.99 1310-910141-48699 Peach Grove Park-A Dream Come True
(2,500.00) 1310-910141-48724 HRHA Project Bonds
79,014.00 1310-910141-48610 2 Way Communications system

.04 1310-910141-48616 City wide drainage program
1,215,060.56 1310-910141-48636 Erickson Avenue/Stone Spring Road
2,100.00 1321-910161-48654 Eastern Source Development

The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank
Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh
Mayor Degner

Absent – None

Council Member Byrd offered a motion that Jennifer Carpenter-Stovall, 250 East Elizabeth Street, be appointed to a first term on the Industrial Development Authority to expire on April 24, 2014. The motion was seconded by Council Member Byrd and approved with a unanimous voice vote.

At 9:15 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR