

REGULAR MEETING

February 22, 2011

At a regular meeting held this evening at 7:00 p.m. there were present: Mayor Richard Baugh, Vice-Mayor Ted Byrd, Council Member Kai Degner, Charles Chenault and David Wiens. Also present City Manager Kurt Hodgen, Assistant City Manager Anne C. Lewis, City Attorney Earl Q. Thumma, Jr., City Clerk Erica Kann and Chief of Police Donald Harper. Absent: None.

Council Member Chenault gave the invocation and Mayor Baugh led everyone in the Pledge of Allegiance.

Mayor Baugh declared the month of March as Youth Art Month with the following proclamation:

A PROCLAMATION DECLARING MARCH AS YOUTH ART MONTH

WHEREAS, art education contributes powerful educational benefits to all elementary, middle and secondary students including the following;

- **Art education develops students' creative problem-solving and critical thinking abilities;**
- **Art education teaches sensitivity to beauty, order, and other expressive qualities;**
- **Art education gives students a deeper understanding of multi-cultural values and beliefs;**
- **Art education interrelates student learning in art production, art history, art criticism, and aesthetics, and**

WHEREAS our national leaders have acknowledged the necessity of including arts experiences in all students' education,

THEREFORE, BE IT RESOLVED that support should be given to art teachers as they attempt to strengthen art education in their schools and communities.

NOW, THEREFORE, it is proclaimed that March be observed as YOUTH ART MONTH.

All citizens are urged to take interest in and give full support to quality school art programs for children and youth.

NOW, THEREFORE, I Richard Baugh, Mayor of the City of Harrisonburg, Virginia, do hereby proclaim March 2011 as YOUTH ART MONTH.

BY: _____

Richard Baugh, Mayor

Attest: _____
Erica S. Kann, City Clerk

Don Showalter, cab driver of Harrisonburg, would like council to consider increasing the rate for cab meters in the City of Harrisonburg, due to increasing gas prices.

James “Bucky” Berry would like to see HUD money used to make a park out near the Salvation Army on land that the city owns. Also, Mr. Berry would like to see city decals no longer used.

Steven Daniels, business owner for Reading of Harrisonburg, would like council to consider lowering the flat rate yearly fee that he pays each year for his business license.

Council Member Degner offered a motion to approve the consent agenda, including approval of the minutes of the previous meeting. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh
Vice-Mayor Byrd
Council Member Degner
Council Member Chenault
Council Member Wiens

No – None

Stacy Turner, Planning and Community Development Director, presented a request from Sonya Shaver, Andrew Collins, Wilson Ewing, and Nancy Wheelbarger to rezone five lots from B-2, General Business District to R-2, Residential District. The properties are located at 724, 728, 732, and 740 Grant Street and can be found on tax maps 39-RR-10, 11, 12, 13, & 14. The Comprehensive Plan designates the area as neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Mrs. Turner stated that these were older neighborhoods, which can be characterized by large housing units on small lots.

Mrs. Turner stated that one of the property owners approached the city about renovating and constructing an addition onto their home; however, because it is zoned B-2 and is non-conforming to use, due to changes made in 1969 as part of a Comprehensive Plan, staff informed the owner that renovations would be limited.

Mrs. Turner affirmed that staff and Planning Commission recommended approval of the rezoning, which would change the above tax map parcels’ zoning from B-2,

General Business District to R-2, Residential District. The Comprehensive Plan Land Use Guide designates this area as Neighborhood Residential, which supports the rezoning change to R-2. If approved, the subject parcels' zoning would be consistent with the zoning of the properties on the opposite side of this block, which front Stuart Street and are located between 3rd and 4th Streets – all zoned R-2. Mrs. Turner did note that within the packet that the adjoining property owners, along Stuart Street, submitted a letter of support for this rezoning request.

At 7:09 p.m. Mayor Baugh closed the regular session and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record Monday, February 7, 2011 and Monday, February 14, 2011.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, February 22, 2011 at 7:00 p.m., in the City Council Chambers, 409 South Main Street, Harrisonburg, Virginia, to consider the following:

Rezoning – 724 Through 740 Grant Street (B-2 to R-2)

Public hearing to consider a request from Sonya Shaver, Andrew Collins, Wilson Ewing, and Nancy Wheelbarger to rezone five lots from B-2, General Business District to R-2, Residential District. The properties are located at 724, 728, 732, and 740 Grant Street and can be found on tax maps 39-RR-10, 11, 12, 13, & 14. The Comprehensive Plan designates this area as Neighborhood Residential. This designation states that this type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. These are older neighborhoods, which can be characterized by large housing units on small lots. 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, and miscellaneous recreational, and service activities. No minimum lot size restrictions exist in the B-2, General Business District. The R-2, Residential District is intended for medium-density, single-family and duplex residential development. The residential density ranges for R-2 are single-family, 7,000 sq. ft. minimum and duplex, 5,500 sq. ft/unit.

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 City Manager at least five (5) days prior to the date of the meeting.

CITY OF HARRISONBURG
Kurt D. Hodgen
City Manager

Mayor Baugh called on anyone desiring to speak for or against the request to rezone the five stated lots.

Sonya Shaver, 740 Grant Street, stated that she was the one who started the process of rezoning these lots and would like council to consider and approve this request.

Mayor Baugh declared the public hearing closed at 7:10 p.m., and the regular session reconvened.

Council Member Wiens offered a motion to approve the request to rezone all five lots as presented. The motion was seconded by Vice-Mayor Byrd and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh
Vice-Mayor Byrd
Council Member Degner
Council Member Chenault
Council Member Wiens

No – None

City Manager Hodgen brought to council's attention that the Police Department received a Department of Justice Grant last year and in order for the Police Department to obtain these funds in the amount of \$25,283.00 a Public Hearing had to be held. The funds were used to purchase in-car video cameras for police vehicles.

At 7:13 p.m., Mayor Baugh closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record Monday, February 14, 2011.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, February 22, 2011 at 7:00 p.m., in the City Council Chambers, 409 South Main Street, Harrisonburg, Virginia, to consider the following:

Enhancing Law Enforcement

Public hearing to consider a request from the Harrisonburg Police Department for supplemental appropriation in the amount of \$25,283.00 for a grant to be received through the Department of Justice Grant. The funds will be received through FY

2010 Justice Assistance Grant Program and will be used to purchase in-car video cameras for police vehicles.

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 City Manager at least five (5) days prior to the date of the meeting.

CITY OF HARRISONBURG

Kurt D. Hodgen

City Manager

Mayor Baugh called on anyone desiring to speak for or against the supplemental appropriation for the Police Department. There being no one desiring to be heard, the public hearing was declared closed at 7:13 p.m., and the regular session reconvened. No further action was required.

Mrs. Turner stated that Virginia Mennonite Retirement Community (VMRC) would like council to consider approval of the request to change to the current ordinance of amending and re-enacting Section 11-7-4 of the Harrisonburg City Code. VMRC understands with approval of this ordinance that their signage still needs to be submitted and approved through the comprehensive sign package. Mrs. Turner presented the following ordinance to council for consideration:

**ORDINANCE AMENDING AND RE-ENACTING SECTION 11-7-4
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,
VIRGINIA:**

That Section 11-7-4. Special Regulations for the R-1, Single-family Residential District; R-2, Residential District; R-3, Multiple Dwelling and Medium Density Residential Districts; and R-4, Planned Unit Residential District shall be amended as shown:

(7) Through a comprehensive sign plan approved by City Council, colleges, universities, hospitals, private schools having a function substantially the same as a public school, and uses permitted by right in the I-1, Institutional Overlay District, can have signs that shall be limited to a total sign area of not more than one-half (0.5) square feet for every lineal foot of site frontage parallel to the principal street, provided no single freestanding sign exceeds an area of two hundred (200) square feet, or a maximum height of eight

(8) feet above grade. The comprehensive sign plan request shall present all planned signs, which may include more than one (1) sign of each type.

The remainder of Section 11-7-4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2011.

ADOPTED AND APPROVED this ____ day of _____, 2011.

MAYOR

ATTESTE:

CLERK OF COUNCIL

Council Member Degner offered a motion to approve amending and re-enacting Section 11-7-4(7) of the Harrisonburg City Code. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh
Vice-Mayor Byrd
Council Member Degner
Council Member Chenault
Council Member Wiens

No – None

Mrs. Turner presented council with a summary of the Planning Commission's 2010 Annual Report for all activities that were conducted in 2010.

Council Member Chenault recused himself from the meeting for agenda item number eleven pertaining to the Harrisonburg Redevelopment and Housing Authority.

Michael Wong, Harrisonburg Redevelopment and Housing Authority (HRHA) Executive Director, presented council the following resolution for council's consideration of approval:

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HARRISONBURG, VIRGINIA APPROVING THE ISSUANCE
OF TAX-EXEMPT REVENUE BONDS TO FINANCE THE
HARRISONBURG COMMUNITY HEALTH CENTER PROJECT**

WHEREAS, pursuant to the Virginia Housing Authorities Law, Chapter 1, Title 36, Code of Virginia of 1950, as amended, (the "Act") the Harrisonburg

Redevelopment and Housing Authority (the “Authority”) has approved the issuance of its Tax-Exempt Revenue Bonds (Harrisonburg Community Health Center Project) Series 2011 (the “Bonds”), the proceeds of which are to be used to finance a portion of the cost of i) acquisition of a 3.106 acre parcel located on Little Sorrell Drive in Harrisonburg, Virginia, designated as Lot 2 of Ashby Meadows, Section Two, (the “Project Land”), and ii) construction and equipping of an approximately 21,000 square foot building on the Project Land (collectively, the “Project”) at the request of the Harrisonburg Community Health Center, Inc. (the “Center”), a Virginia non-profit corporation. Pursuant to the plan of financing, the Center will provide the remaining funds necessary to complete the Project, and will lease the Project from the Authority to carry on its charitable purpose of providing outpatient primary care and preventative care, among other services, to medically underserved and low-income or indigent patients (“Patients”). The Center will sub-lease a portion of the Project to a private pharmacy whose activities will include the provision of reduced cost prescription and non-prescription medications for the convenience of Patients as a result of the Center’s eligibility under a 340B Drug Pricing Program applicable to community-based Federally Qualified Health Centers; and

WHEREAS, the Center has requested that the Authority issue its bonds in an amount not to exceed \$1,400,000 and use the funds thereof for the purpose of financing a portion of the Project; and

WHEREAS, with respect to such proposed plan of financing, the Authority has caused a notice of public hearing to be published in a newspaper of general circulation in the City of Harrisonburg, Virginia (the “City”) and has, on February 16, 2011, held a public hearing, all in accordance with the provisions of §147(f)(2) of the Internal Revenue Code of 1986, as amended, and the regulations, rulings and proclamations promulgated or proposed thereunder (collectively, the “Code”) and other applicable laws of the Commonwealth of Virginia (the “Commonwealth”); and

WHEREAS, the Authority has recommended that the City Council of the City (the “City Council”) approve the issuance of the Bonds to comply with Section 147(f)(2) of the Code and Section 36-19.2 of the Act; and

WHEREAS, the City Council is requesting that the Authority acquire and develop the Project pursuant to Section 36-19 of the Act; and

WHEREAS, copies of the Authority’s February 16, 2011 Resolution recommending such approval by the City Council and approving the issuance of the Bonds, subject to terms agreed upon, a record of the public hearing and a “fiscal impact statement” with respect to the Project have been filed with the City Council; and

WHEREAS, the Bonds shall not constitute a debt or a pledge of the faith and credit of the Commonwealth, or any political subdivision thereof (other than the Authority), including but not limited to the City, but shall be paid solely from the revenues of the Project and other collateral required by the lender which may include a deed of trust lien on the Project.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:

1. The City Council requests that the authority acquire and develop the Project pursuant to Section 36-19 of the Act and approves the issuance of the Bonds by the Authority for the benefit of the Center to the extent required by Section 147(f)(2) of the Code and Section 36-19.2 of the Act to permit the Authority to assist in the financing of the Project.

2. The approval of the issuance of the Bonds, as required by Section 147(f)(2) of the Code does not constitute an endorsement of the Bonds or the creditworthiness of the Center, but, as required by Section 36-29 of the Act, the Bonds (and such Bonds shall so state on their face) shall not be debt of the City, the Commonwealth or any political subdivision thereof (other than the Authority) and neither the City, nor the Commonwealth or any political subdivision thereof (other than the Authority) shall be liable thereon, nor in any event shall the Bonds be payable out of any funds or properties other than those of the Authority specifically pledged thereto. The Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

3. The City Manager, the Mayor and the Vice-Mayor are each authorized to take such other actions and to execute such documents as are necessary to achieve the purposes set forth in this Resolution.

4. This Resolution shall take effect immediately upon its adoption.

READ AND ADOPTED: February 22, 2011

CERTIFICATE

A record of the roll-call vote by the City Council of the City of Harrisonburg, Virginia, upon the reading of a resolution titled "RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA APPROVING THE ISSUANCE OF TAX-EXEMPT REVENUE BONDS TO FINANCE THE HARRISONBURG COMMUNITY HEALTH CENTER PROJECT" taken at a regular meeting of the City Council held on February 22, 2011:

	AYE	NAY	ABSTAIN	ABSENT
Richard Baugh, Mayor				
Ted Byrd, Vice Mayor				

Charles R. Chenault				
Kai Degner				
David Wiens				

Dated: February 22, 2011

By: _____
**Mayor or Vice Mayor,
City of Harrisonburg, Virginia**

(SEAL)

ATTEST: _____
**Clerk, City Council of the City of
Harrisonburg, Virginia**

CERTIFICATE

The undersigned Clerk of the City Council of the City of Harrisonburg, Virginia (the “City Council”) hereby certifies that the foregoing is a true, correct and complete copy of a Resolution adopted by the City Council at its meeting duly called and held on February 22, 2011, in accordance with law, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect as of the date hereof.

WITNESS my hand and the seal of the City of Harrisonburg, Virginia this _____ day of _____, 2011.

Clerk, City Council of the City of Harrisonburg, Virginia

Mr. Wong stated that this resolution involves issuance of tax-exempt revenue bonds to finance the Harrisonburg Community Health Center Project. The HRHA is proposing issuing \$1,400,000.00 of bond issuance for construction of the Community Health Center. Mr. Wong informed council that a public hearing was held the previous Wednesday at the HRHA Board of Commissions and no comments were made.

Council Member Wiens offered a motion to approve the resolution approving issuance of bonds by the HRHA as presented. The motion was seconded by Council Member Degner and approved with a recorded roll call vote taken as follows:

- Yes – Mayor Baugh
- Vice-Mayor Byrd
- Council Member Degner
- Council Member Wiens

No – None

Abstain – Council Member Chenault

Drew Williams, Assistant Director of Public Works, reminded council of an incident that occurred last summer at the intersection of Ott and Franklin Street. Mr. Williams stated that council directed Public Works to start working with residents of the neighborhood. Public Works felt the Neighborhood Traffic Calming Program would be the best program to utilize in order to obtain a solution for the neighborhood. The neighborhood got together and submitted a petition to the city expressing concern over speeding and cut-through traffic in the Old Town Neighborhood. Mr. Williams stated that Public Works performed traffic study data and the neighbors worked together over several meetings to develop traffic calming solutions. He mentioned that while all of the behind scene meetings were happening, new speed limit signs, orange placards, and crosswalks had been installed by Public Works and the Police Department continued to patrol and conduct radar enforcement in the neighborhood. Mr. Williams also stated that this plan had been reviewed and recommended by the Harrisonburg Transportation and Advisory Commission.

John McGhee, Old Town Area Neighborhood Traffic Calming Plan member, presented the Old Town Area Neighborhood Traffic Calming Plan, cost estimates, and the priorities of the proposed improvements. Mr. McGhee asked council to consider the adoption and funding of their plan on behalf of the Old Town Neighborhood.

Council requested a line item to enter the budget for Neighborhood Traffic Calming Programs. Mayor Baugh asked Mr. Williams about the overall Traffic Calming Program and where the program would go after approval of the plan? Mr. Williams stated that Public Works is currently working on the next step being graduation from the program, and graduation would act as the problem is solved. Vice-Mayor Byrd asked Public Works to run the plan by the Fire Department as well to see if there were any safety concerns. After discussion, Council Member Degner offered a motion to approve the plan as presented, integrate the plan into the overall street and sidewalk plan, and Public Works to present council with an update in three months on progress of the plan. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh
Vice-Mayor Byrd
Council Member Degner
Council Member Chenault
Council Member Wiens

No – None

Brad Reed, Transportation Planner, presented to council that Public Works plans to take action the second week of March to install delineators on the double yellow line of Vine Street in front of Sheetz's northern entrance to eliminate unsafe ingress and egress left turn maneuvers. Mr. Reed stated that this is the second step of a three step process of trying to eliminate left turns out of Sheetz. He also noted that this was the last step the city can proceed in attempting to stop left turns without Sheetz's cooperation. He also stated the Transportation Safety and Advisory Commission has given recommendation to this action.

City Manager Hodgen presented a request for supplemental appropriation to the Emergency Communications Center's (ECC) budget in the amount of \$302,820.00. City Manager Hodgen stated that the ECC board has received a Federal Homeland Security Grant, which was administered through VA Department of Emergency Management for the purpose of additional portable radios in the ECC Communications Cache. Vice-Mayor Byrd offered a motion to approve this request for the first reading, and that:

\$302,820.00 chge to: 1116-33559 VA Communications Strategic Cache Equipment Grant

\$302,820.00 approp. to: 1116-321132-48231 Radio Equipment

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

Yes – Mayor Baugh
Vice-Mayor Byrd
Council Member Degner
Council Member Chenault
Council Member Wiens

No – None

Police Chief Harper presented a request for supplemental appropriation to the Police Department's budget in the amount of \$13,258.98. Police Chief Harper stated that these funds were received through a federal DMV grant and will be used for overtime for police officers, equipment, and training. Vice-Mayor Byrd offered a motion to approve this request for the first reading, and that:

\$13,258.98 chge to: 1000-33524 Federal DMV grant

\$3,125.00 approp. to: 1000-310231-48211 Machinery & Equipment

\$4,881.00 approp. to: 1000-310231-46100 Police Equipment

\$ 369.26 approp. to: 1000-310631-45530 Training and Travel

\$1,993.70 approp. to: 1000-310631-41020 Salaries/wages OT

\$2,890.02 apptop. to: 1000-310231-41020 Salaries/wages OT

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

Yes – Mayor Baugh
Vice-Mayor Byrd
Council Member Degner
Council Member Chenault
Council Member Wiens

No – None

Vice-Mayor Byrd offered a motion to re-appoint Mr. James B. Acker, 302 Fairway Drive, to the Industrial Development Authority for another term to expire March 14, 2015. The motion was approved with a unanimous voice vote.

At 8:35 p.m., Vice Mayor Byrd offered a motion that council enter into a closed session for discussion and/or consideration of the disposition of publicly owned real estate, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, 1950, as amended. Discussion and consideration of personnel, exempt from the public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia and consultation with legal counsel requiring the provision of legal advice by such legal counsel, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(7) of the Code of Virginia. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh
Vice-Mayor Byrd
Council Member Degner
Council Member Chenault
Council Member Wiens

No – None

At 9:28 p.m., the closed session ended and the regular session reconvened. City Attorney Thumma read the following statement, which was agreed to with a unanimous recorded vote of council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirement pursuant to Chapter 21 of Title 2.1 for the Code of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the closed session was convened, were heard, discussed, or considered in the closed session by the City Council.

At 9:30 p.m., there being no further business and on motion adopted, the meeting was adjourned.

