

MINUTES OF HARRISONBURG PLANNING COMMISSION
September 11, 2013

The Harrisonburg Planning Commission held its regular meeting on Wednesday, September 11, 2013 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh, Gil Colman, MuAwia Da'Mes, Judith Dilts, Deb Fitzgerald, Jefferson Heatwole, and Henry Way.

Members absent: None

Also present: Stacy Turner, Director of Planning and Community Development; Adam Fletcher, City Planner; Alison Banks, Senior Planner and Secretary.

Chair Fitzgerald called the meeting to order and determined there was a quorum with all members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the August 14, 2013 Planning Commission meeting.

Mr. Da'Mes moved to approve the minutes as presented from the August 14, 2013 regular Planning Commission meeting.

Mr. Heatwole seconded the motion.

All members voted in favor of approving the August 2013 minutes (7-0).

Chair Fitzgerald said I know we have a rather long and technical discussion regarding amendments for telecommunications on the agenda under new business. I also know there are several people here tonight who would like to speak under the public input portion of the agenda. I am wondering if there is a motion to re-order the agenda so that public input is the first item on the agenda and we can allow these folks to speak and not have to wait through the lengthy telecommunications discussion.

Dr. Dilts moved to re-order the agenda by placing item four, public input, to the beginning.

Mr. Way seconded.

All voted in favor of the motion to re-order the agenda (7-0).

Public Input

Chair Fitzgerald opened the floor to anyone wanting to address the Planning Commission.

Randy Buie, 1537 Longs Pump Road, Rockingham County, said I am not a City resident, but I am the founder of the Valley Preservation Alliance for American History and Architecture based here in Harrisonburg. I would like to consolidate some of my thoughts and concerns about the recent proposal for the new Municipal Building, the primary design of which has been to place it in a location between this building and the existing Municipal Building. A concern from a preservation standpoint is that it obstructs and it dominates a historic structure. This is generally outside of good preservation standards as established by the Department of Interior; which are the same standards that the Virginia Department of Historic Resources goes by. One of the biggest concerns we have had is that initially there was not a lot done to engage the public; whether through a public comment period or through a collaborative process with the various organizations that have a vested interest in this. When I say this I include the organizations of the Planning Commission, Farmers Market, Plan Our Park Group, Harrisonburg Downtown Renaissance, and Downtown Landscape Committee; as well as Public Works with their Master Streetscape Design Project.

This project is being done as kind of an independent exercise. Because the original RFP (Request for Proposals) affected just the footprint of this building and not the historic Municipal Building, I suspect that is why there was no previous consideration given to preservation standards being applied to the project. Our interest, which the City Council was kind enough to grant last night, is to slow down the process and re-examine some alternative locations.

We hope to draw back and seek some professional preservation input on the scope and scale of everything related to preservation concerns; not the space uses and the infrastructure, but the mass proximity to the historic building and the sight context of the historic building itself. I guess my appeal to Planning Commission is that, either through your efforts or perhaps a special subcommittee, we reach out to preservation professionals in town, including myself or others, or to seek input from the Virginia Department of Historic Resources (DHR) on what the proper preservation standard practices are for this project. DHR does this on a regular basis, they reach out to communities to help, but they have to be invited to do so. It would be beneficial from a public educational perspective, as well as bringing a bit more insight to the people involved in making the decisions on the project.

That is my request, that some type of input be established through Planning Commission and Community Development; to be able to provide professional preservation input through whatever mechanism you have available. Thank you for your time this evening.

Chair Fitzgerald asked if there was any one else desiring to speak.

Jim Orndorff said he too lives in the County of Rockingham, the Town of Bridgewater; however, I do own the historic Ruddle Building at 2 North Main Street in Harrisonburg, and I am interested in historic preservation. I would just like to echo some of what Randy Buie said earlier about the new Municipal Building plan and how it fits in with historic preservation standards. One of the standards that the Secretary of Interior has promulgated relative to preservation says: New additions, exterior alterations, or related new construction will not destroy historic material, features, and spatial relationships that characterize the property. New work will be differentiated from the old, and will be compatible with the historic materials, features, size, scale, proportions, and massing to protect the integrity of the property and its environment. These are very much a concern, not only for the design of the building that is proposed, but for what may happen in the future. Harrisonburg will continue to grow, as it grows so will the City government, as will the building that is being proposed. Currently, the proposed building would sit just barely below the top of the current Municipal Building; if you are using the chimneys to measure, and if it is set at three stories. It is obviously more cost effective to build vertical additions to properties rather than horizontal, because you are not increasing the size of the footprint. So, twenty-five years from now, when we need room for more offices and we build up what does that do to the relationship to the buildings that we already have.

I know that in the Comprehensive Plan there is a statement that reads: "City Planners must assess and mitigate the impacts of all City proposals and projects on adjacent historic resources and areas". I would hope that in your capacity as an advisory body to the City Council you would remind them of the importance of applying those principles that they have directed you to come up with and that they have approved, and that they live by their own Comprehensive Plan language. Thank you.

Chair Fitzgerald asked if there was any one else wishing to speak. Hearing none, she asked Planning Commission if they would like to react to this input at the end of the meeting as part of agenda item six, Other Matters.

Dr. Dilts suggested discussing the comments now rather than waiting until the end of the meeting.

All members agreed if there was a discussion it should happen now.

Chair Fitzgerald asked Commissioner Baugh to update the Planning Commission on what City Council did last night regarding the Municipal Building.

Mr. Baugh said I will give the abbreviated edition. We heard a presentation from the architect and the plans do show a building which sits between the current Municipal Building and this building. In the discussion it was affirmed, unanimously, that we do want to have a public process to gather input on this. Before we do that we actually asked the architect to come back to Council with a site review of what we might be able to do on the other side of the existing Municipal Building. The architect said he could be ready in two weeks, so I am guessing that certainly within a month it would be on Council's agenda again. I could talk on and on about this; but, I think this is what the Chair is looking for.

Chair Fitzgerald said I have one question and I do not know that it was specifically answered last night at the meeting, although I think it was asked – were there other sites that were explicitly looked at.

Mr. Baugh said that was a piece I was going to address. To the extent that Council has discussed this and various options have been considered, that is certainly generally true. Let's focus on the parameters that have gotten us to where we are now. One is the desire to not incur the expense of buying additional property; the City owns a fair amount of property here. There has been the desire to not have to disrupt any City employees. There has been a long standing concern to minimize footprint because of the desire for a downtown park.

One of the things the presentation last night illustrated is that once you get serious about these things and have someone actually look at a site and do some planning about what a building would look like on that site; now you have to pay someone to do that. The only funding that has been authorized for this is the hiring of the architect. We cannot build a building until we have additional funding; this is all still very much in the planning stages. It may be that in the course of this process that there is the possibility that there are other sites or options that we could ask the architect to take a look; but right now the only one that was brought up by the other Council Members was the possibility of looking on the other side of the existing Municipal Building. You do not really know what a site is going to look like until you are willing to make the commitment to have a professional look into it and come back and tell you what works. Council is certainly willing to look at more than one iteration for the proposed building.

Mr. Way asked if there was anything regarding what the process would be.

Mr. Baugh said we talked about doing something very similar to what we have done with the Downtown Streetscape Plan. Perhaps having some sort of a charrette process.

Mr. Way asked will that be after the next plan is looked at.

Mr. Baugh said yes, it does not make sense to begin holding listening sessions right now without the second option to look at; you would probably get a lot of input that was asking if the second location, or any other location, was looked at.

Chair Fitzgerald asked if that would allow for a public input session or charrette sometime in mid-to late October.

Mr. Baugh said yes, something like that. Remember this is a process that is unfolding. I do not know that even after we see the third iteration, there will not be some other ideas that make us want to look at others. So any hesitancy I have in saying, yes we will have public input in late October, is not because I do not want to have public input, it is because the process is still developing.

Dr. Dilts asked what would be the purpose of a charrette at that point. If you have already got an architect who has done one or two or three designs; what does the charrette do for you?

Mr. Baugh said speaking for me; I see it primarily as one of the safety nets for the process. This is the part where if there is someone in the public with a perspective on this and has not come forward yet with some valuable information now is the time. A way where we have established a process where that input can come in. A charrette is just one way of getting people to get input to us. There is also email, telephones, and so on, that the public can contact us; even showing up at a Planning Commission meeting.

Mr. Way said you want this to come through the formal process of Planning Commission. If you are talking about safety nets and a charrette, to me, that is more of the design stage. When it comes to identifying two or three options that seems like something that could easily go before the Planning Commission and we could recommend or advise, based on input from the charrette.

Dr. Dilts said it may be my misunderstanding of what you meant by charrette. My idea of a charrette was that it was done ahead of time. You had a charrette about what kind of Municipal Building you needed or wanted, where it was going to be, etc. What you are really asking for now is, what is wrong with what we have done, or what is right with what we have done, and where are we going with it. We (Planning Commission) are happy to be involved in order to get a sense of the public and what they would like.

Mr. Baugh said that gets back to my question of what is there that is magical about input to Planning Commission as opposed to input directly to City Council?

Mr. Way said I do not think there is anything particularly magical it is just another step in the process. The point of this body is as an advisory body to City Council. Therefore, why would you not want us to do the work for you? There is also the legal reason, and my reading of the City Code suggest that we (Planning Commission) really should have a role in this.

Mr. Baugh said by having ratified the CIP you have taken that step. This has been in the CIP for years.

Mr. Way said I politely disagree based on the language in the ordinance. In that spirit of making sure the process is an open engagement, you must consider that we have a sense of planning; we have been intimately involved with the Comprehensive Plan. But I do defer to your decision as Council.

Mr. Colman said I agree with Mr. Way, but beyond that I think that it allows the public to go through the process. If Planning Commission is there to be part of the process, why not do it that way. Additionally some of the issues that have come up before Council would have already been heard and hopefully addressed during Planning Commission.

Mr. Way said I feel the public is looking for any opportunities for engagement and this is a formal way of doing it.

Chair Fitzgerald said this is at the behest of folks that have contacted us; it is not exactly as if Planning Commission is just saying we are happy to help; we are offering because people have been talking to us about this.

Mr. Baugh said I am happy to express this to the rest of the City Council.

Chair Fitzgerald said thank you for this conversation; and now we will move forward with new business.

New Business

Considering Amendments for Telecommunications Regulations

Chair Fitzgerald read the agenda item and asked staff to review.

Mr. Fletcher said first I would like to point out the two documents placed before you. A citizen brought these in today for your information. This is a conversation she has communicated to the City Manager; it reaches back to December 2010 and February 2011 and some of staff recalls speaking to the person previously. She could not be present this evening, but she did want to make certain that you all receive this information and her concerns were spoken, even if it does regard public infrastructure and public property.

As we move forward on this report my intent is to be brief. I am not going to review all the different ideas from all the localities; I intend to just go over the basics. This is not a formal presentation, so feel free to interrupt me.

The report, research, and recommendation are to try and help answer the question of: “to what extent, if any, should the City Code be amended to address telecommunication facilities?” Hopefully, the report helps answer the question and helps you decide whether or not you want to move forward into drafting telecommunications regulations.

Mr. Fletcher proceeded to briefly review the report discussing how telecommunications are currently allowed throughout the City. The regulatory authority that gives the City the right to regulate telecommunications is outlined within the Telecommunications Act of 1996. The written report outlines the limits of state and local government and describes what we can do, what we can regulate, and specifically what the technology is. Also provided are five guidelines that a state or local government must abide by. This Act was predominantly the regulatory act until last year when President Obama signed the Middle Class Tax Relief and Job Creation Act of 2012. This Act really describes facility modifications. What this Act says is that a state or local government may not deny and shall approve any eligible facility requests so long as it does not substantially change the physical dimensions of that facility. This Act is complicated to understand and is still being interpreted.

What we typically see throughout the City are what is referred to as macrocells, the tall structures that have a lot of equipment attached. Typical regulations governing macrocells are – limited to specific zoning districts, height limitations, setback minimums, foundation landscaping or screening, abandonment requirements, administrative approval opportunities, application submission requirements, and in some areas, concealed technology. For years providers requested to erect towers, macrocells, because the coverage could stretch a radius of miles; however, there was always a gap in between structures. This is no longer true, as in most populated areas there is wall-to-wall cells site coverage. This works well for voice transfer; but data and video overwhelm

the system and necessitates the installation of microcells. These smaller microcells work in unison with the macrocell and can be in the form of boxes or an antenna on utility poles or a building.

Then we get into the more costly and sophisticated equipment of the Distributed Antenna System (DAS) which is comprised of three components: 1) the remote communication nodes; 2) the transportation medium; 3) a hub. This operates as another form of a microcell. There is also a newer technology term being used by the industry, which is the heterogeneous network, or the HetNet. This is the understanding that we are no longer just relying on macrocells; they are being bounced-off of many different types of equipment.

Although ultimately more provisions would be included in the ordinance and other discussions still must be had, at this time staff recommends some form of the following provisions be incorporated in an ordinance for the City to adopt: 1) To allow telecommunications within more zoning districts; 2) To create opportunities for administrative review and approval; 3) To allow telecommunications in public street right-of-way, other public right-of-way, and on publicly owned properties; 4) To require more information and details be submitted upon application; 5) To require all telecommunication facilities, not on alternative structures, be setback 110 percent the height of the tower; 6) To require landscaping or other material that effectively screens the view of the support buildings from adjacent properties; 7) To require freestanding telecommunications facilities to be designed to accommodate at least three providers or more depending upon the height of the facility; 8) To prohibit artificial lighting unless required by the FCC; 9) To require a form of surety to secure the cost to remove the tower and equipment and return the site to its original condition to the extent reasonably possible; 10) To allow at the discretion of the Director of Planning and Community Development, or their designated agent, to contract with experts to assist with the review of telecommunications facilities at an expense of the applicant not to exceed a specified amount; and 11) To incentivize microcell and DAS technology.

Mr. Fletcher said lastly comments from Industry Representatives were generally positive to the recommendations, but noted:

- Understand that requiring telecommunication towers be setback 110% the height of the tower could be too strict for an urban environment.
- Understand that small cells/microcells can only work where macrocells already exist.
- Understand that the implementation of requiring more collocations requires having taller towers to make it feasible.

And comments from City Departments:

- At this time, the Department of Public Works is not interested in allowing equipment on traffic control devices.
- At this time, HEC is open to discussing allowing collocations on transmission towers but not on distribution poles.

Mr. Fletcher said this concludes my presentation.

Dr. Dilts said I believe I read somewhere in the industry comments about other types of wireless devices that were not part of telecommunications. I believe the implication was that perhaps our scope needs to be larger.

Chair Fitzgerald asked if the comment was implying that we were too narrow in scope.

Dr. Dilts said she will get back to the comment.

Mr. Fletcher said what staff is looking for tonight from you is — do you agree with our recommendation that it should be amended; if so, staff will continue moving forward.

Mr. Way asked are we talking about amending the Zoning Ordinance.

Mr. Fletcher said it would be amending the Zoning Ordinance as well as a combination of working with HEC, Public Utilities, or Public Works to get administration policies in place. There may be multiple City Code amendments.

Mr. Way said much of this seems very similar to signage regulations, where it has a zoning component, yet it goes beyond the zoning ordinance.

Mr. Colman said would the City have revenue from renting space.

Mr. Fletcher replied yes, we currently have revenue from co-locations within the City on public property.

Mr. Colman said the HEC transmission lines are generally in an easement, but this co-location would also depend on what zoning they are located in.

Mr. Fletcher said yes. I have talked with the General Manager of HEC, Brian O'Dell about some easements being public, others are private, or within right-of-way. Of course we would have the City Attorney involved regarding the interpretations of the easement language.

Mr. Jefferson said I certainly feel this is definitely worth moving forward with. It appears to be something that needs to be re-evaluated, as the technology is always changing.

Chair Fitzgerald said I am definitely on board with moving forward too. I do have some questions regarding the specific eleven recommendations. Number 4, requiring more information and details upon application, I feel is a bit tricky. It feels as if it could get expensive very quickly, and I know you did some comments back from industry representatives regarding expense. I would be real interested in seeing how we could write that in a way that gave us information, but was not too onerous for the applicant.

We already discussed number 5, the 110% setback. I do not think that a single industry or City representatives responded that this was a good idea. Jim Junkins had some comments about the screening and what seemed to work well from the City's experiences.

Lastly, number 11, I do not quite understand why we have that one in there. Why specifically are we recommending that the City incentivize that particular technology?

Mr. Fletcher replied maybe incentivize was somewhat misleading in a revenue term. It is not a revenue intent; it is more to reduce the complications of our requirements to the industry and push them more to use microcell technology rather than macrocells – such as administrative approval for certain facilities.

Chair Fitzgerald said the idea is to cut road blocks for that particular technology as much as possible and control and regulate the big towers which are more obtrusive.

Mr. Fletcher said yes.

Dr. Dilts said how do you keep up with the rapidly changing technology as the regulations are being written?

Mr. Fletcher said technology was changing as I wrote this report; therefore I do not believe there is a way it could be done.

Dr. Dilts said I do agree with Chair Fitzgerald, I believe we need to move forward with this. I was struck by the balloon-test process for the Blue Ridge Parkway and wondered if, given our location, having sight line type of items within our regulations really should be important to us.

Chair Fitzgerald said are we reading the two pieces we had in front of us tonight, the letter with multiple signatures, as re-enforcing the community's interest in aesthetics, which has been brought up previously.

Mr. Fletcher replied that was my interpretation of what this citizen wished to get across to us. They even said to me that there were times of the day, given the direction of the wind, that the trees open up and one can see the water tanks and the apparatuses holding the equipment. There becomes a point where if you are going to allow towers, you cannot hide all the towers.

Mr. Colman asked if we had a map that showed the existing coverage of the macro towers within the City. At some point there is going to be a saturation that says we have enough towers to cover the entire City.

Mr. Da'Mes said it is not a coverage issue; it is a data capacity issue.

Mr. Colman said I understand the data coverage issue, but now we are discussing the smaller of the transmitters that would fill in those capacity gaps. So at some point we would have enough big towers to send signals from one to another; but at the same time understand that the smaller ones are meeting the demand.

Mr. Da'Mes said that is where administrative review to incentivize that type of technology instead of having to go through a SUP.

Mr. Colman said hopefully that would avoid having to erect any more large towers. In some ways the setbacks do help to discourage location of towers.

Mr. Fletcher said yes, there is that take on the extra setback for towers; however, we do not currently require it.

Mr. Da'Mes said some of these industry responses spelled out some rather poignant threats in terms of restrictions and what the City cannot do.

Mr. Colman asked if we were interested in seeing this type of facility going into residential neighborhoods.

Mr. Fletcher replied I do not know that we are at the point of being prepared to discuss that right now. As we begin to write the ordinance and we continue to look at the effects and hear feedback, we will be more prepared for that conversation. We need to get the question out there of "does the public want to start allowing them in residential areas".

Mr. Way said what is the "is" – a large tower in a neighborhood or a smaller microcell on a light pole.

Mr. Da'Mes said the idea that HEC is willing to allow these on certain poles opens up an entire area. Maybe we need to know where all these poles are currently located.

Chair Fitzgerald agreed and said that may eliminate having the need to consider putting them in residential areas.

Mr. Fletcher said you must consider the fact that Harrisonburg is not huge, and we have a lot of telecommunications towers currently, so what is the answer to “not being in my residential neighborhood?” People who live in Reherd Acres can clearly see the tower on Reservoir Street: is that in their neighborhood area?

Mr. Way said it seems as what you want to achieve in the ordinance is a certain level of regulatory dexterity, so that you have some type of light-footedness built in to it so that you can respond to these new challenges and new things that happen.

Mr. Da'Mes said the JMU student population accounts for a huge percentage of the usage of cell phones. Can we find out what JMU's rational is or what they are open to in terms of technology on the campus?

Mr. Fletcher said I can contact the Real Property Office at JMU to inquire. However, if we want to allow or entertain having more of these type facilities around the area we need to take into consideration having these in residential areas.

Dr. Dilts said I want to ask about the fiber optic use. I know that fios requires fiber optic cable; is that always below ground or can it be above ground too?

Mr. Fletcher said from what I understand we already have some fiber optic cable that runs on some of the utility poles and it is aerial.

Chair Fitzgerald said the sense of Planning Commission is to move forward with the next step.

There was consensus among the Commissioners to begin work on a Telecommunications Ordinance.

Unfinished Business

None.

Report of secretary and committees

Mrs. Banks said in August City forces visited the Greystone Street area of the City for proactive zoning. Nine violations, consisting of tall grass and weeds, inoperable vehicles, and discarded materials, were found. For the month of September the inspectors will be in the Greendale/SE area of the City.

Mr. Baugh said at City Council last night we approved the right-of-way closing at Collicello Street. The rezoning request for the Chicago Avenue property, they had updated the proffers, shifted the building, which lead to a favorable recommendation from staff and approval from Council. Unfortunately there was some citizen input that we had not had previously, regarding noise and vehicle headlights shining into their homes. Had these issues been brought up earlier, it would not have surprised me that something could have been worked out for them.

Other Matters

None.

Adjournment

The meeting was adjourned at 8:30 p.m.

Chair Deb Fitzgerald

Secretary, Alison Banks