

REGULAR MEETING

March 10, 2009

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.

Council Member Frank gave the invocation, and Mayor Degner led everyone in the Pledge of Allegiance.

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 and School Board. The motion also included amending and re-enacting Section 11-7-2, 11-7-4, 11-7-12, and 11-7-13 of the Harrisonburg City Code. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner presented a request from Rosetta Stone, Inc., to rezone five lots totaling 1.2+/- acres from M-1, General Industrial District to B-1, Central Business District. The properties are located at 181 South Liberty Street and can be found on tax maps 25-C-2, 3, 4, 5, & 15. The Comprehensive Plan designates this area as Public/Semi-Public. Mrs. Turner reviewed the surrounding uses in the area. Rosetta Stone LTD is requesting to rezone five lots that were previously owned by the City of Harrisonburg, from M-1, General Industrial District to B-1, Central Business District. The properties are located along West Water Street and South Liberty Street and include a parking lot and a structure that is non-conforming to setback regulations. The applicant is in the process of renovating the structure into office and business space. If rezoned, the structure would be in compliance to setback regulations and the planned uses would be permitted by right. Planning Commission recommended approving the rezoning request.

At 7:11 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, February 23, and Monday, March 2, 2009.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold several public hearings on Tuesday, March 10, 2009 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Rezoning - 181 South Liberty Street (Old Police Department Lot)

Public hearing to consider a request from Rosetta Stone LTD to rezone five lots totaling 1.2 +/- acres, from M-1, General Industrial District to B-1, Central Business District. The properties are located at 181 South Liberty Street and can be found on tax maps 25-C-2, 3, 4, 5, & 15. 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 M-1, General Industrial District is intended primarily for manufacturing, processing, storage, and distribution activities, which are not properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the M-1, General Industrial District. The B-1, Central Business District is intended as an urban and regional center for the conduct of commercial, financial, professional and governmental activities to which the public requires direct and frequent access. No minimum lot size or setback restrictions exist in the B-1, Central Business District.

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 Degner called on anyone desiring to speak for or against this rezoning request. There being no one desiring to be heard, the public hearing was declared closed at 7:12 p.m., and the regular session reconvened. Council Member Byrd offered a motion to approve this 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 - Vice-Mayor Baugh
Council Member Wiens
Council Member Byrd
Council Member Frank
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request from WRockStreet, LLC to rezone two lots totaling .52+/- acres from M-1, General Industrial District to B-1C, Central Business District Conditional. The properties are located at 120 West Wolfe Street and can be found on tax map parcels 35-O-4 & 5. The Comprehensive Plan designates this area as Mixed Use Development. Mrs. Turner reviewed the surrounding uses in the area. The applicant intends to construct a mixed use building containing commercial and residential uses. The submitted proffers include a brick stamped concrete walkway, brick façade buildings, bicycle rack, privacy fence, approximately 2,816 sq. ft of commercial space, approximately 6,570 sq ft. of residential space, seven residential units with a total of nine bedrooms, and that occupancy of each residential unit will not exceed a single family or two unrelated persons per unit. Planning Commission recommended approving the rezoning request.

At 7:18 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, February 23, and Monday, March 2, 2009.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold several public hearings on Tuesday, March 10, 2009 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Rezoning – 120 West Wolfe Street (WRockstreet, LLC)

Public hearing to consider a request from WRockStreet, LLC, with representative Blackwell Engineering to rezone two lots totaling .52 +/- acres from M-1, General Industrial District to B-1C, Central Business District Conditional. The properties are located at 120 West Wolfe Street and can be found on tax maps 35-O-4 & 5. The Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office / service uses allowing people to both live and work in the same area. The Zoning Ordinance states that the M-1, General Industrial District is intended primarily for manufacturing, processing, storage, and distribution activities, which are not properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the M-1, General Industrial District. The B-1, Central Business District is intended as an urban and regional center for the conduct of commercial, financial, professional and governmental activities to which the public requires direct and frequent access. No minimum lot size or setback restrictions exist in the B-1, Central Business District.

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 Degner called on anyone desiring to speak for or against this rezoning request. There being no one desiring to be heard, the public hearing was declared closed at 7:19 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this 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 - Vice-Mayor Baugh
Council Member Wiens
Council Member Byrd
Council Member Frank
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request to amend Section 10-3-38, 10-3-42(c), and 10-3-182(c) of the Zoning Ordinance. These amendments would change the definitions of terminology from “two-family” dwelling to “duplex” dwellings. In addition, Mrs. Turner also presented a request to amend Section 10-3-55.3 of the Zoning Ordinance. This amendment will replace Home Occupations as a use permitted by right within the R-5, within the High Density Residential Zoning classification. Planning Commission recommended approving all of these changes.

At 7:23 p.m., Mayor Degner closed the regular session temporarily and called the evening’s third and fourth public hearing to order. The following notice appeared in the Daily News-Record on Monday, February 23, and Monday, March 2, 2009.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold several public hearings on Tuesday, March 10, 2009 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Ordinance Amendment – Sections 10-3-38, 10-3-42 (c), and 10-3-182 (c) (Two Family to Duplex)

Public hearing to consider amending the Zoning Ordinance Sections 10-3-38, 10-3-42 (c), and 10-3-182 (c). These amendments would replace the term “two-family” with the term “duplex” in the above listed sections.

Ordinance Amendment – Home Occupations Added to R-5

Public hearing to consider amending Section 10-3-55.3 of the Zoning Ordinance to add Home Occupations as a use permitted by right within the R-5, High Density Residential District.

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 Degner called on anyone desiring to speak for or against these ordinances changes. There being no one desiring to be heard, the public hearing was declared closed at 7:24 p.m., and the regular session reconvened. Council Member Byrd offered a motion to adopt Section 10-3-38, 10-3-42 (c), 10-3-182 (c), and 10-3-55.3 of the Zoning Ordinance for a first reading. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was considering a Resolution to allow the use of condemnation in acquiring property interests for the Lucy Drive Extended Improvement Project. City Attorney Thumma said the property owner has requested that the public hearing be continued until March 24, 2009, to allow for further negotiations. Mr. Thumma also said that the staff of the Public Works Department recommended that the public hearing be continued until March 24, 2009. Vice-Mayor Baugh offered a motion to accept the City Attorney's recommendation and continue the public hearing until the March 24, 2009 Council meeting. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

Mayor Degner asked if there was anyone present who wanted to comment on the request tonight because he/she could not attend the March 24, 2009, Council meeting.

Bucky Berry said a property owner should receive a fair value for the property.

City Manager Hodgen clarified that this is a single property Lucy Drive issue and does not have anything to do with the City's proposed project for Reservoir Street.

The next item of business was considering approving the 2007/2008 and 2008/2009 Community Development Block Grant (CDBG) amendments. Kim Alexander, Assistant to the City Manager, said the required public hearing and 30 day public comment period concluded on February 27, 2009, and no public comments were received. Ms. Alexander requested that Council approve the amendments. Council Member Byrd offered a motion to approve the Community Development Block grant (CDBG) amendments for 2007/2008 and 2008/2009. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was to consider implementation options for the Forest Management Plan. Kim Alexander, Assistant to the City Manager, said that until a Recreation Plan is developed, it is recommended that the City post signs to identify the property as City-owned and lay the groundwork for establishing control over the property. Once a recreation plan has been developed then new signs will have to be made. Following further discussion and comments, Council Member Byrd offered a motion to post temporary "City of Harrisonburg" property and "no unauthorized motorized vehicle use" signs, which should be worded accordingly. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

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

Absent – None

Kim Alexander, Assistant to the City Manager, presented an overview of several options of timber management. The Forestry Management Plan has recommended pursuing a timber sale for approximately 695 MBF (thousand board feet) in the 50 to 60 acres at the far northwest end of the property, which is heavy in Hemlock (the tree being killed by the Hemlock Woolly Adelgid), as well as in the 30 to 40 acres near Riven Rock Park. The sale could generate approximately \$125,000 in revenue and would be completed over a 2-year time period, beginning in the fall of 2009. Boundary line surveying would be completed in conjunction with this process. The Hemlock trees are failing in health and once they die and fall over could create a greater risk of wildfire, stream bank erosion, increased stream sediment loads and water contamination. Following further discussion and comments, Council Member Wiens offered a motion to pursue the timber sale of approximately 695 MBF. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

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

Absent – None

Bill Cartwright of Trout Unlimited thanked City Council for taking this step and adopting the plan.

Kim Alexander, Assistant to the City Manager, presented an overview of several recreation plan options. Staff is looking for guidance on whether to proceed with Recreation Plan development “in-house” or utilize an outside agency. If the plan is done “in-house” it would be less cost to the City. Following further discussion and comments, Council Member Byrd offered a motion to accept staff recommendation to proceed with the “in-house” recreation plan option. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

Kim Alexander, Assistant to the City Manager, presented an overview of several area designation options. A public information campaign program will be necessary to let everyone know how important this property is to the City. Council Member Byrd offered a motion to designate this area as a “Watershed Protection Area”. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

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

Absent – None

Council Member Byrd offered a motion to approve street closure requests from the March of Dimes, Eastern Mennonite University, and the Soap Box Derby. The March of Dimes event on April 18th will take place downtown. The Eastern Mennonite University request on April 26th is for closure of Park Road for commencement exercises. The Soap Box Derby request on May 23rd is for closure of East Washington Street between approximately Northfield Court and North Main Street. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. These funds were reimbursed by James Madison University for overtime worked by Harrisonburg Police Officers during the Obama visit on October 28, 2008. Council Member Frank offered a motion to approve this request for a first reading, and that:

\$9,560.38 chge. to: 1000-31677 Police Services

\$ 681.10 approp. to: 1000-310531-41020 Salaries/wages OT

6,642.68 approp. to: 1000-310231-41020 Salaries/wages OT

2,236.60 approp. to: 1000-310631-41020 Salaries/wages OT

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

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

Absent – None

Council Member Frank offered a motion that Jennifer L. Carpenter-Stovall, 250 East Elizabeth Street, be appointed to fill the unexpired term of Jack Reich on the Industrial Development Authority to expire on April 24, 2010. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

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

Absent – None

At 8:07 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR