

REGULAR MEETING

July 28, 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 Chief 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 a supplemental appropriation for the Parks and Recreation Department, re-appropriation of encumbrances outstanding at June 30, 2009, a rezoning request by Craig Steven and Carol Ann Lowry, and amending the Virginia Mennonite Retirement Community Master Planned Complex. The motion also included amending and re-enacting Section 15-3-2 (Nuisances) 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 - Council Member Wiens
Council Member Byrd
Council Member Frank
Vice-Mayor Baugh
Mayor Degner

Absent – None

The next item of business was a request from Rockingham Memorial Hospital (RMH) to close South Mason Street between Grace Street and the bridge. City Manager Hodgen said that RMH is holding a RMH Employee Gifts Campaign Celebration event on August 13, 2009 from 2:30 p.m. until 4:30 p.m. Plans are to close South Mason Street between Grace Street and the bridge that connects the main hospital to the Cancer Center. Access to the Emergency Room and the Maple Parking Lot will not be closed nor will the East and West bound traffic on Grace Street be blocked. Council Member Byrd offered a motion to approve this street closing 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 Wiens
Council Member Byrd
Council Member Frank
Vice-Mayor Baugh
Mayor Degner

Absent – None

The next item of business was authorizing the appropriation of bond proceeds for the City and Harrisonburg Redevelopment & Housing Authority (HRHA) capital projects. City Manager Hodgen said the City completed a General Obligation Bond issued last month for capital projects including HRHA projects, the Dream Come True Playground project and the Tower Street Water Tank. Funding for the projects need to be appropriated into the respective project line items in the current year budget. The 2009-2010 budget will be increased by \$7,863,301.27.

At 7:05 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, July 20, 2009.

NOTICE OF PUBLIC HEARING

A public hearing will be held by the Harrisonburg City Council on Tuesday, July 28, 2009 at 7:00 p.m., or as soon as the agenda permits, in the Harrisonburg High School Auditorium located at 1001 Garbers Church Road, Harrisonburg, Virginia. The purpose of this public hearing will be to get citizen input concerning a proposed increase in the City's 2009-2010 budget in the amount of \$7,863,301.27. The funds will be used to fund several HRHA, Harrisonburg Redevelopment and Housing Authority projects and construct the City's Peach Grove Park and Tower Street Water Tank. The expenditures will be funded by the proceeds from a June 2009 bond issue and estimated interest earnings on the bond issue proceeds.

The budget increases will be as noted below:

Revenues:

General Capital Projects Fund:

Amount from fund balance-Bond proceeds	6,439,815.97
Investment earnings	<u>13,485.30</u>
Total	<u>6,453,301.27</u>

Water Capital Projects Fund:

Amount from fund balance-Bond proceeds	1,408,499.40
Investment earnings	<u>1,500.60</u>
Total	<u>1,410,000.00</u>

Grand Total **7,863,301.27**

Expenditures:

General Capital Projects Fund:

Peach Grove Park (A Dream Come True Playground)	3,301.27
HRHA 6.4 million projects -21.141 million-bond issue	<u>6,450,000.00</u>
Total	<u>6,453,301.27</u>

Water Capital Projects Fund:

Tower Street Water Tank	<u>1,410,000.00</u>
Total	<u>1,410,000.00</u>

Grand Total **7,863,301.27**

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 increasing the budget. There being no one desiring to be heard, the public hearing was declared closed at 7:06 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this request for a first reading, and that:

\$6,439,815.97 chge. to: 1310-31010 Amount from fund balance
13,485.30 chge. to: 1310-31513 Investment earnings

6,453,301.27 Total General Capital Projects Fund

1,408,499.40 chge. to: 1321-31010 Amount from fund balance
1,500.60 chge. to: 1321-31513 Investment earnings

1,410,000.00 Total Water Capital Projects Fund

\$7,863,301.27 Grand Total

\$ 3,301.27 approp. to: 1310-910141-48699 Peach Grove Park
6,450,000.00 approp. to: 1310-910141048724 HSHA projects
1,410,000.00 approp. to: 1321-910161-48657 Tower Street Water Tank

\$7,863,301.27 Total

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

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

Absent – None

At 7:08 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 Saturday, July 18, and Saturday, July 25, 2009.

**NOTICE OF PUBLIC HEARING ON ENACTING
A BACKYARD CHICKEN ORDINANCE
FOR THE CITY OF HARRISONBURG**

The Harrisonburg City Council will hold a public hearing on July 28, 2009 at 7:00 P.M. in the Harrisonburg High School Auditorium located at 1001 Garbers Church Road, Harrisonburg, Virginia, to solicit public comments concerning the possibility of enacting of an ordinance allowing back yard chickens in the City of Harrisonburg.

Copies of the proposed ordinances are available on the City's web site and are available in the City Managers Office, 345 South Main Street, Harrisonburg, Virginia, Monday through Friday, 8:00 A.M. to 5:00 P.M.

All persons interested will have an opportunity to express their views at this public hearing.

Any person requiring auxiliary aids, including signers, in connection with this public hearing shall notify the City Manager at least five (5) days prior to the time of the hearing.

CITY OF HARRISONBURG

**Kurt D. Hodgen,
City Manager**

Mayor Degner called on anyone desiring to speak for or against the proposed draft ordinances regulating "Fowl, chickens and other domestic birds". A number of people spoke against the draft ordinances to allow chickens in the backyard. Also, a number of people spoke in favor of the draft ordinances to allow chickens in the backyard. A list of the names is available upon request. The public hearing was declared closed at 9:01 p.m., and the regular session reconvened.

Council Member David Wiens said, "It is clear that the chicken group have made some very good points especially reducing the lot size from (12,000) square feet to (7,000) square feet. We need to consideration their request and perhaps have a compromise."

Council Member Carolyn Frank said, "Is it correct that all the chickens must be kept in a pen? I support sustainability and have planted a garden, built a water barrel, and bought a composter to use. I am thankful for the food industry, but I want to grow my own food. I like to try something new. If it becomes too much of a burden on the City then we can change the ordinance. But, it is time to move ahead and build relationships."

Vice-Mayor Richard Baugh said, "At this point, I am not prepared to vote for (12,000) square feet or (7,000) square feet of land. If the votes aren't supportive to approve one of the proposed draft ordinances it doesn't make sense to amend it. Some people have asked why Council didn't say no when first approached about the matter. I think Council has done too much of that type of thing in the past. A number of citizens asked for fair consideration on this

issue and I think we owe them respect and consideration. Also, I support the right of citizens to have some say in what their neighborhoods are like. Some times what is done in one town is not done in another town. I intend to vote against it.”

Mayor Kai Degner said, “A number of different concerns and issues including sustainability, property values, noise, enforcement issues, disease, inspection, safety, agricultural production, predators, and keeping chickens as pets have been expressed. Council has many other issues to spend time on other than chickens. How does it impact our neighbors in the county and poultry industry? Other related issues include waste run-off and water quality. Residents of the City and the community have raised funds to support the Farmers Market, which has a good resource of local food. It is not an issue of voting on four chickens in the backyard because it will be becomes hundreds of chickens in the City. How can five people make a decision on something that will go against public opinion and will only benefit a relatively few? If you were against the golf course and are for this issue, I want to say that two rights don’t make a wrong. It is time to move forward. Even if you support this issue you are still part of a community that the vast majority of people are against. Therefore, I will be voting against this issue for that reason.”

Council Member Ted Byrd said, “I spoke against this issue from the beginning. I am not in support of allowing fowl in a residential area. People purchase homes in the City without the expectation of living beside agriculture animals. A residential zone should not have laying hens.”

Council Member Wiens offered a motion to adopt the proposed ordinance except reduce the minimum property size from 12,000 square feet to 7,000 square feet. The motion was seconded by Council Member Frank and denied with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Wiens
Council Member Frank

No - Council Member Byrd
Vice-Mayor Baugh
Mayor Degner

Absent – None

Vice-Mayor Baugh offered a motion to adopt the ordinance with a minimum of two (2) acres of land for a first reading. Following further discussion and comments, the motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

No - Council Member Byrd

Mayor Degner

Absent – None

Council Member Byrd offered a motion that Brian Shull be appointed to a term on the Shenandoah Valley Partnership-Board of Directors to expire on June 30, 2011. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

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

Absent – None

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

CITY CLERK

MAYOR