

## REGULAR MEETING

October 27, 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.

Bucky Berry encouraged everyone to support the Salvation Army’s holiday food drive. He also mentioned that food donations will be collected at various locations throughout the City.

Wayne Rothery, owner and operator of Rockingham Rent-All, expressed his concerns about the new proposed rental tax on personal property, which was enacted by the 2009 General Assembly effective January 1, 2009. He requested that Council delay the tax until January 1, 2010 to give businesses an opportunity to collect the tax before having to pay it.

City Attorney Thumma reviewed information regarding the short term rental tax, which was enacted by the 2009 General Assembly and not the City and the difference between a business license tax and merchant capital tax. Localities cannot have both taxes. The 2009 General Assembly removed the tax from the merchant capital tax and now if a locality doesn’t have a short term rental tax then rentals are charged as personal property tax.

Robin Baker representing Appalachian Equipment said that it is unfair for the City to charge rental tax on personal property.

Council Member Frank offered a motion to approve the consent agenda, including approval of the minutes and the second reading of a appropriation of ARRA Bond Proceeds and amending Section 10-3-139 (b) of the Zoning Ordinance. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

Kristin McCombe, Grants Compliance Officer, presented an overview of the CDBG 2008-2009 Consolidated Annual Performance Evaluation Report (CAPER). This report is required by the U.S. Department of Housing & Urban Development (HUD) for the evaluation and review of CDBG programs in fiscal year 2008-2009. Mrs. McCombe reviewed the

remaining funding for the CDBG programs. This report requires a 15-day public comment period, which will end at 9:00 a.m. on November 12, 2009.

At 7:26 p.m., Mayor Degner closed the regular session temporarily and called the evening's public hearing to order. The following notice appeared in the Daily News-Record on Monday, October 12, 2009.

**NOTICE OF PUBLIC HEARING & COMMENT PERIOD  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)  
CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REPORT (CAPER)**

**The City of Harrisonburg is seeking public comments for the required CAPER - a document required by the U.S. Department of Housing & Urban Development (HUD) for the evaluation and review of CDBG programs in fiscal year 08-09.**

**Comments may be submitted during the CDBG / CAPER Public Hearing portion of the regular City Council meeting on October 27, 2009, at 7:00 P.M. in the City Council Chambers, Harrisonburg Community Development Building, located at 409 S. Main St., Harrisonburg, VA.**

**All comments must be received no later than November 12, 2009, at 9:00 A.M. Comments may be submitted to Kristin McCombe, CDBG Compliance Officer, at 345 South Main Street, Harrisonburg, Virginia 22801, CDBG@ci.harrisonburg.va.us, or (540) 432-8926.**

**Copies of the draft CAPER will be available for review in the City Manager's Office, 345 South Main Street, Harrisonburg, Virginia 22801 and at [www.ci.harrisonburg.va.us](http://www.ci.harrisonburg.va.us) on the CDBG homepage.**

**A summary of the CAPER is as follows:**

**In 2008, the City was awarded \$527,522 in CDBG entitlement funds. An additional \$9,133.24 was added to this amount from previous award years, bringing the total to \$540,956.92. To date, the following is a summary report of Obligated, Expended, and Remaining Funds:**

	<u>Obligated</u>	<u>Expended</u>	<u>Remaining</u>
Housing and Property Improvements	\$144,500	\$144,500	\$0
Community & Public Facilities	\$196,745	\$130,445	\$66,300
Administration	\$105,254	\$43,634.43	\$61,619.57
Public Services	<u>\$94,457.92</u>	<u>\$94,366.96</u>	<u>\$90.96</u>
<b>Total</b>	<b>\$540,956.92</b>	<b>\$412,946.39</b>	<b>\$128,010.53</b>

Mayor Degner called on anyone desiring to speak for or against the CAPER. There being no one desiring to be heard, the public hearing was declared closed at 7:27 p.m., and the regular session reconvened.

Mayor Degner presented the following resolution for Council's consideration of approval:

**RESOLUTION OF SUPPORT**  
**Application for Virginia Department of Transportation**  
**Transportation Enhancement Grant Funds for**  
**DOWNTOWN STREETScape, PHASE II**

**WHEREAS, The City of Harrisonburg is applying for the Transportation Enhancement Grant to complete Phase II of the Harrisonburg Downtown Streetscape; and**

**WHEREAS, The City of Harrisonburg has an adopted Harrisonburg Downtown Streetscape Plan and recognizes the importance of providing safe and adequate pedestrian facilities; and**

**WHEREAS; The City of Harrisonburg, Harrisonburg Downtown Renaissance, and other partners have collaborated successfully to complete Downtown Streetscape Phase I in 2008;**

**WHEREAS, Phase II will include sidewalk and curb ramp improvements on the west side of Main Street from Bruce Street to Elizabeth Street, crosswalk enhancements, upgrade of traffic signals and new pedestrian signals, and other streetscape-type improvements; and**

**WHEREAS, the total project cost has been determined to be \$877,310; and**

**WHEREAS, the Commonwealth Transportation Board has established Transportation Enhancement Grant Program that allows for planning and the construction of the project;**

**NOW, THEREFORE BE IT RESOLVED that Harrisonburg City Council endorses the submission of an enhancement grant requesting funding for planning and construction of the project, and also commits to funding the 20 % match required for the grant in the sum of \$175,462.**

**Adopted this, the 27<sup>th</sup> day of October 2009.**

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**Mayor Kai Degner**

**Attest:**

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**Yvonne Ryan, MMC, City Clerk**

City Manager Hodgen said that VDOT's Enhancement Program is a federally funded program for projects that meet certain criteria for enhancing the safety of pedestrians or bicyclists. The City has received transportation enhancement funding in the past for several City

projects. The City is applying for funding to proceed with the Phase II Streetscape project, which includes replacement of curb/gutter, brick sidewalk, lighting and landscaping. Applications submitted to the program require a local 20% or \$175,462 match. Council Member Byrd offered a motion to adopt the resolution 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 Byrd  
Council Member Frank  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

Economic Development Director Brian Shull presented an overview of establishing boundaries for a Harrisonburg Recovery Zone. He said the Stimulus Act of 2009 has created several new opportunities for localities to finance public assets and to participate in the public financing of private business assets. The Governor issued an executive order September 30, 2009 allocating funds to localities across the state to use incentives for bonding capacity. Recovery Zone Economic Development Bonds allow for public interinfrastructure financing. Recovery Zone Facility Bonds can be used to finance depreciable property in a recovery zone for a qualified private business. The City has been allocated the capacity to issue up to \$1,990,000 Recovery Zone Economic Development Bonds and \$2,985,000 Recovery Zone Facility Bonds. City Council will need to establish distinct boundaries for a Recovery Zone and is required to file a Notice of Intent by November 2, 2009 if the City wants to keep its options open. Council can designate the boundaries of its recovery zone. Following further discussion and comments, Vice-Mayor Baugh offered a motion to authorize the City Manager to delivery to the Governor's Office a Notice of Intent to reserve its allocation for both Recovery Economic Development Bonds and Recovery Zone Facility Bonds. 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  
Vice-Mayor Baugh  
Mayor Degner

Abstained - Council Member Byrd

Absent – None

Kris Ludwig, Special Events Manager of Harrisonburg Downtown Renaissance (HDR), presented several requests for street closings for the Harrisonburg Parks and Recreation Department and the Harrisonburg Downtown Renaissance to hold the annual Christmas parade on December 4, 2009 at 7:00 p.m., "Holidays on Main Street" on December 4, 2009 from 4:00 p.m. until 9:00 p.m., First Night 5K Run/Walk on December 31, 2009 and to close the streets on December 31, 2009 for First Night Harrisonburg. Council Member Frank offered a motion to

approve the street closings for “Holidays on Main Street”, Holiday Parade, First Night 5K Run/Walk, and First Night Harrisonburg contingent upon the City receiving all the appropriate insurance certificates. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

Parks and Recreation Director Lee Foerster presented a request for a supplemental appropriation for the Parks and Recreation Department. These funds are being allocated in the Parks and Recreation budget and will be used for the “Dream Come True Playground” Capital Projects fund. The request also includes a transfer of funds reserved in the General Fund from the Shenandoah Valley Electric Coop Tree Reparation payment to Capital Projects to purchase trees for the “Dream Come True Playground” project. Council Member Frank offered a motion to approve this request for a first reading, and that:

\$32,000.00 chge. to: 1000-710171-48184 Improvements  
65,000.00 chge. to: 1000-710171-48284 Improvements  
23,000.00 chge. to: 1000-710171-46131 Ed/Rec. Supp. Playgrounds  
10,000.00 chge. to: 1000-31010 Amount from Fund Balance  
130,000.00 chge. to: 1310-34210 Transfer from General Fund

\$130,000.00 approp. to: 1000-990111-49216 Transfer to Capital Projects  
130,000.00 approp. to: 1310-910141-48699 Transfer from General Fund

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

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

Absent – None

Mayor Degner presented the following resolution for Council’s consideration of approval:

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,**

**VIRGINIA, ADOPTING THE EMERGENCY OPERATIONS PLAN**

**WHEREAS, the City Council of the City of Harrisonburg, Virginia recognizes the need to prepare for, respond to, and recover from natural and man-made disasters; and**

**WHEREAS, the City of Harrisonburg has a responsibility to provide for the safety and well being of its citizens and visitors; and**

**WHEREAS, the City of Harrisonburg has established a Department of Emergency Management and appointed a Director and Coordinator of Emergency Management;**

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

**That the Emergency Operations Plan, as revised October, 2009, is officially adopted; and**

**It is further proclaimed and ordered that the Director of Emergency Management, or his/her designees, are tasked and authorized to maintain and revise as necessary this document over the next four year period or until such time it be ordered to come before this Council.**

**Approved: October 27, 2009**

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**MAYOR**

**ATTEST:**

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**CLERK OF THE COUNCIL**

Fire Chief Larry Shifflett said that title 44 of the Code of Virginia requires that localities develop and adopt an emergency operations plan detailing the City's response and recovery from a natural or man-made disaster. The plan being submitted for Council's approval is the latest revision of the plan. In addition, it is also requested that Council adopt the H1N1 influenza plan. Council Member Byrd offered a motion to approve the emergency operations plan including the H1N1 influenza plan. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

Assistant City Manager Vass presented a brief overview of a request to utilize public property for the placement of a trash storage building. This building will be placed on a City owned public parking lot at the intersection of East Water and Federal Streets and will be used to store solid waste and recyclables generated by various uses prior to removal by the City crews and private trash haulers. The properties have inadequate on site trash storage for the volume of solid waste being generated. One public parking space would be utilized for the placement of the storage building. However, the parking lot will be reconfigured resulting in no loss of parking within the public lot. Council Member Byrd offered a motion to defer this request until the next Council meeting in order to allow for public comment. The motion was seconded by Vice-Mayor Baugh and approved with a unanimous voice vote.

Council Member Wiens offered a motion to have a short-term rental tax presentation at the next Council meeting in November. The motion was seconded by Vice-Mayor Baugh and approved with a unanimous voice vote.

At 8:30 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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CITY CLERK

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MAYOR

cc: City Council  
City Manager  
Public Library