

## REGULAR MEETING

December 8, 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.

Council Member Wiens offered a motion to approve the consent agenda, including approval of the minutes and the second reading of a supplemental appropriation for the Police Department and an alley closing request by Donna R. Brock to close an undeveloped alley located between Effinger Street and Kelley Street. 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  
Vice-Mayor Baugh  
Council Member Frank  
Mayor Degner

Absent – None

City Manager Hodgen said that City Council considered this grant application and passed a similar resolution on October 27, 2009 for this grant. However, at the time there was no public hearing held, which is required for the TE grant applicant process. The City was given permission by VDOT to submit this resolution after the application due date. The grant application pertains to Phase II of the Streetscape program. The estimated cost is \$877,310. Applications submitted to the program require a local 20% or \$175,462 match.

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, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the**

sponsoring jurisdiction in order that the Virginia Department of Transportation establish an enhancement project in the City of Harrisonburg; 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; and**

**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 of Phase II has been determined to be \$877,310; and**

**NOW, THEREFORE BE IT RESOLVED, that the City of Harrisonburg requests the Commonwealth Transportation Board to establish a project for the improvement of Phase II of the Harrisonburg Downtown Streetscape and that the City of Harrisonburg commits to funding the 20% match required for the grant in the sum of \$175,462.**

**BE IT FURTHER RESOLVED, that the City of Harrisonburg will be responsible for maintenance, upkeep and operating costs of any facility constructed with Enhancement Program funds.**

**BE IT FURTHER RESOLVED, that if the City of Harrisonburg subsequently elects to cancel this project the City of Harrisonburg hereby agrees to reimburse the Virginia Department of Transportation for the total amount of costs expended by the Department through the date the Department is notified of such cancellation. The City of Harrisonburg also agrees to repay any funds previously reimbursed that are later deemed ineligible by the Federal Highway Administration.**

**Adopted this, the 8<sup>th</sup> day of December 2009.**

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**Mayor Kai Degner**

**Attest:**

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**Yvonne Ryan, MMC, City Clerk**

At 7:06 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 Wednesday, November 25, 2009.

**NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a public hearing on Tuesday December 8, 2009 at 7:00 p.m., in City Council Chambers, 409 South Main Street to consider the following:**

**Public hearing to consider a resolution for VDOT's Transportation Enhancement Program for Phase II of the Downtown Streetscape Project.**

**VDOT's Enhancement Program is a federally funded program for projects that meet certain criteria for enhancing the safety of pedestrians or bicyclists. This grant application for Phase II Streetscape includes replacement of curb and gutter, brick sidewalk, lighting and landscaping. The termini points for this project are Bruce Street to the south and Elizabeth Street to the north. Court Square has been identified as a standalone project for sidewalk improvements, however, water and sewer utility replacements will continue from Bruce to Elizabeth.**

**The total cost of the project has been determined to be \$877,310. Application for the program requires a 20% match to the project cost by the City of Harrisonburg in the sum of \$175,462.**

**All persons interested will have an opportunity to express their views at this public hearing. 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 the VDOT's Transportation Enhancement Program resolution. There being no one desiring to be heard, the public hearing was declared closed at 7:07 p.m., and the regular session reconvened. Council Member Byrd offered a motion to adopt the resolution as presented. 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  
Vice-Mayor Baugh  
Council Member Frank  
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request from Virginia Mennonite Home, Inc. to amend the Virginia Mennonite Retirement Community Master Planned Complex to modify the allowable uses for the Woodland facility, single family homes and open space. The property is located at 1301 Virginia Avenue. The Comprehensive Plan designates this area as Institutional. Mrs. Turner reviewed the surrounding uses in the area. The applicant wants to amend the 6.9 acres to build Green House Homes as an innovational approach to skilled nursing. Each home will have ten private rooms, each with a bathroom, and common

living areas. Mrs. Turner reviewed the proposed loop road and entrances onto the property, sight distance plans along Virginia Avenue, and an EMU access easement. Planning Commission recommended amending the Virginia Mennonite Retirement Community Master Plan.

At 7:13 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, November 23, and Monday, November 30, 2009.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold several public hearings on Tuesday, December 8, 2009 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

***Master Plan Amendment – VMRC (Woodland Green House Homes)***

**Public hearing to consider a request from Virginia Mennonite Home, Inc. to amend an approximate 6.9 +/- acre portion of the Virginia Mennonite Retirement Community master planned complex. The request would modify the allowable uses for the Woodland facility and the adjacent open space and single family homes located at 1301 Virginia Avenue and 1304, 1305, 1307, 1308, 1309, 1311, & 1321 Woodland Drive. The property is zoned R-3, Multiple Dwelling Residential District along with an Institutional Overlay District and can be found on tax maps 52-A-1.**

**The Comprehensive Plan designates this area as Institutional. These lands are designated for development by certain nonprofit and public institutional uses such as colleges and universities, hospitals, offices of nonprofit organizations, community assembly uses and institutions which provide for the shelter and care of people.**

**The Zoning Ordinance states that the R-3, Multiple Dwelling Residential District is intended for medium- to high-density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-3 are single-family, 6,000 sq. ft. minimum; two-family, 4,000 sq. ft./unit; multi-family, 3,000 sq. ft. minimum per unit; townhouses, 2,000 sq. ft. minimum per unit; and other uses, 6,000 sq. ft. minimum. The I-1, Institutional Overlay District is intended to provide for orderly development of certain nonprofit institutional uses and is created as a special overlay district to be superimposed on base districts by approval of City Council. Dimensional and density regulations are intended to supplement those permitted in the underlying zoning classification.**

Mayor Degner called on anyone desiring to speak for or against amending the Virginia Mennonite Retirement Community Master Plan.

Chris Garber representing the Troyer Group said the Green House Community is a very innovative approach to senior living. The loop road through this project is designed to allow emergency vehicles to access the site and be able to access each individual home. The design of

the site will maintain as many of the existing trees on site as possible. If approved, this will be the first Green House Community design in the Commonwealth of Virginia.

Sylvia Moore a resident of Park Gables at VMRC spoke in favor of the Green House concept because it changes the stereo-typical concept of nursing home care.

Marvin Nisley, a member of the staff with VMRC, said this is a living arrangement for people who need long-term nursing care. VMRC will be the first in Virginia to put Green House Homes into place. There being no others desiring to be heard, the public hearing was declared closed at 7:22 p.m., and the regular session reconvened. Council Member Byrd offered a motion to approve the Virginia Mennonite Retirement Community Master Plan. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

A public hearing scheduled to amend Sections 10-3-46 and 10-3-48.4 of the Zoning Ordinance was withdrawn by the applicant.

Planning and Community Development Director Turner presented a request from Cypress Park, LLC to preliminarily subdivide 32.9 acres into 78 single family home lots, zoned R-1, Single Family Residential District. The property is located at 1120 Willow Spring Road and can be found on tax map parcels 100-A-3 and 100-B-3. The Comprehensive Plan designates this area as General Industrial. Mrs. Turner reviewed the surrounding uses in the area. This proposal has been reviewed by Planning Commission and City Council several times during the last five years. The property is zoned R-1, but is in the middle of an area that is mostly developed with industrial uses and a landfill. The whole development is considered a large cul-de-sac and only has one public street entering into the neighborhood, no secondary public street access, and requires crossing a rail line. Although the general layout and design of the community has not changed, the applicant claims that the Subdivision Ordinance variance is not necessary because the request is not deviating from the City's maximum cul-de-sac length of 800 feet or the regulation of 250 maximum vehicle trips per day. Although the property owner is not requesting the Subdivision Ordinance variance, this requirement must be waived in order to build the subdivision. Requirements for cul-de-sac are necessary because of service deliveries, snow removal, student pick-up, bike and pedestrian's safety, police patrols, and public safety. The City Attorney has determined that if the subdivision is approved as requested that it will need a variance. The property owner is proposing a 50-foot buffer easement adjacent to the landfill, a fence and two rows of Leyland Cypress and Norway Spruce trees, and 78 single-family home lots. Planning Commission recommended approval by a vote of four to two with the following conditions: 1) The developer shall construct the emergency access road so it is functional during the first phase of the project. 2) The developer shall perform a diagnostic railroad review to determine if active controls are warranted for the railroad crossing into and out of the property. Planning Commission recommended approval of the preliminary plat by a vote of four to two.

Following a very lengthy discussion and comments, Vice-Mayor Baugh offered a motion to deny the request for the preliminary plat. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

Norman Yoder, a representative from Brown, Edwards & Company, presented the 2008-2009 Comprehensive Annual Financial Report. He gave a brief overview of the report. Mr. Yoder expressed his appreciation to the Finance Department for all of their assistance. The City will receive an unqualified opinion, which is the highest level of assurance placed on financial statements.

The next item of business was a presentation by People Incorporated. Rob Goldsmith, President of People, Inc., provided an overview of the agency and its purposes, which are primarily to benefit low and moderate income persons. Mr. Goldsmith requested that Council designate People Incorporated as the City of Harrisonburg Community Action Agency. People, Incorporated has recently become the designated Community Action Agency for Page, Shenandoah, Clarke, Frederick, and Warren counties.

The following discussion by Council Members included: Noted in the information provided by People Incorporated that form #990 has not been prepared since 2007. Would People Incorporated be competing with local agencies for funding? Council requested that staff provide more information before taking any action.

The next item of business was a presentation by Bicycle Coalition. Earl Martin, representing Voluntary Gas Tax, Laura Maxim representing New Community Project, and Ben Wyse representing Shenandoah Valley Bicycle Coalition presented a brief overview of their goals of helping Harrisonburg become a more bicycle-friendly City in a timely fashion. They proposed sending representatives from the City and the Bicycle Coalition on an all expenses paid visit to Davis, California, a model bicycle-friendly City, to learn first-hand about how they can have implemented bicycle infrastructure and bike-friendly design standards in the City. Davis is also a university town and is surrounded by agricultural uses similar to Rockingham County. Council Member Wiens offered a motion to approve an offer from the Bicycle Coalition to send representatives from the Bicycle Advisory Committee, City Council, and Planning Commission, to Davis, CA. The motion was seconded by Council Member Frank and approved with a unanimous voice vote.

Assistant City Manager Evan Vass presented for Council's consideration a draft ordinance establishing a deer hunting season (archery) within the City limits. Mr. Vass reviewed the language in the proposed ordinance that would permit and regulate a deer archery hunting

season on private property within the City limits. Following further discussion and comments, Council Member Frank offered a motion to schedule a public hearing in January, 2010. The motion was seconded by Council Member Byrd and approved with a unanimous voice vote.

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. These asset seizure funds will be used to purchase ballistic level III helmets for the Swat Team. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$ 3,200.28 chge. to: 1000-31010 Amount from Fund Balance

\$ 3,200.28 approp. to: 1000-310631-46100 Police supplies

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

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

Absent – None

Council Member Frank offered a motion that James R. Robinson, 760 Elmwood Drive, be appointed to a second term on the Harrisonburg Parks and Recreation Commission to expire on December 31, 2013. The motion was seconded by Council Member Wiens and approved with a unanimous voice vote.

Council Member Frank offered a motion that John Marr, 251 Maryland Avenue, be appointed to a first term on the Harrisonburg Parks and Recreation Commission to expire on December 31, 2013. The motion was seconded by Council Member Wiens and approved with a unanimous voice vote.

At 9:50 p.m., Council Member Frank offered a motion that Council enter into a closed session for discussion and consideration of the acquisition of real estate to be used for public purposes, 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 prospective candidates to be appointed to the Harrisonburg Planning Commission, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended. 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  
Vice-Mayor Baugh

Council Member Frank  
Mayor Degner

Absent – None

At 10:10 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 of 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.

Vice-Mayor Baugh offered a motion that Debra Stevens Fitzgerald, 93 Middlebrook Street, be appointed to fill the unexpired term of Jared Burden on the Harrisonburg Planning Commission to expire on December 31, 2010. The motion was seconded by Council Member Wiens and approved with a majority voice vote.

At 10:12 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