

## REGULAR MEETING

February 9, 2010

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 Frank offered a motion to approve the consent agenda, including approval of the minutes and the second reading of a supplemental appropriation for improvements to Rawley Springs. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner presented a request from South Avenue, LLC and Patrick and Virginia Logan to rezone three parcels from M-1, General Industrial District to B-2C, General Business District. The parcels are located at 191 South Avenue and 1100 and 1118 South High Street and can be found on tax maps 20-A-9, 10, & 12. The Comprehensive Plan designates this area as Commercial. Mrs. Turner reviewed the surrounding uses in the area. The following development plan proffers were submitted: 1) Applicant will generally comply with the site plan as submitted except for the possibility to create a shared full service entrance onto South High Street. 2) All planted landscaping will be maintained by the property owner. 3) Applicant will incorporate accommodations for future bicycle lanes along South Avenue. 4) The existing Billboard Sign on the location will be removed by the applicant at the earliest possible date, but not later than sixty (60) days from the end of the contract lease. 5) Applicant will erect only one (1) free standing sign until the Billboard Sign is removed. 6) Applicant will have “Enter” and Exit” signs located at the entrances for the subject property but with no additional letters or words on the sign other than enter or exit. 7) Applicant shall take the required actions to have all internal lot lines vacant on the subject properties. The development plan incorporates razing all of the existing buildings to make way for a CVS pharmacy/retrial building that has two entrances – one, right-in right-out access along South High Street, and one, full service entrance along South Avenue. The layout illustrates 13 more parking spaces than the required minimum and landscape plantings. Planning Commission recommended approval of the rezoning request.

At 7:13 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, January 25, and Monday, February 1, 2010.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a public hearing on Tuesday, February 9, 2010 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

*Rezoning – Corner of S. High St. & South Ave. (CVS Pharmacy)*

**Public hearing to consider a request from South Avenue, LLC and Patrick and Virginia Logan to rezone three parcels totaling 2.41 +/- acres from M-1, General Industrial District to B-2, General Business District. The parcels are located at 191 South Avenue and 1100 and 1118 South High Street and can be found on tax maps 20-A-9, 10, & 12. The Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, wholesale, or service functions. These areas are found along major travel corridors and in the Central Business District of the City. 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-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. No minimum lot size restrictions exist in the B-2, General 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. Dusty Rhodes, an attorney for the applicant, said that he was available to answer any questions. There being no others desiring to be heard, the public hearing was declared closed at 7:14 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 - Council Member Frank  
Council Member Wiens  
Council Member Byrd  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

The request to amend Sections 10-3-92 and 10-3-98 of the Zoning Ordinance was removed and will be considered after a public hearing has been held.

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA, PERMITTING AN ENCROACHMENT ONTO A  
TWELVE (12) FOOT WIDE ALLEY ON THE NORTHWEST SIDE  
OF NORTH MAIN STREET IN THE CITY**

**WHEREAS, the Harrisonburg Redevelopment and Housing Authority (HRHA) is the contract purchaser of real estate located at 715 North Main Street in the City of Harrisonburg, Virginia also shown on the City Block Maps as parcel number 40-T-10; and**

**WHEREAS, the house on said property encroaches onto the adjoining twelve foot alley owned by the City by a total of 28 square feet, more or less; and**

**WHEREAS, pursuant to Section 15.2-2011 of the Code of Virginia, 1950, as amended, the City Council may allow the encroachment of the existing house to remain within the alley until the said building is destroyed or removed;**

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

**That the existing encroachment (totaling 28 square feet, more or less) of the house onto the twelve (12) foot wide alley at 715 North Main Street in the City of Harrisonburg, Virginia can be maintained by the Harrisonburg Redevelopment and Housing Authority (HRHA), its successors and/or assigns, until such house is destroyed or removed, however, nothing in this authorization to maintain the encroachment shall be construed to relieve the HRHA or its successors and/or assigns of negligence on their part on account of said encroachment.**

**Approved: February 9, 2010**

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**MAYOR**

**ATTEST:**

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## CLERK OF THE COUNCIL

Michael Wong, Executive Director for the Harrisonburg Redevelopment and Housing Authority (HRHA), said that HRHA is the contract purchaser of retail estate located at 715 North Main Street. The house on this property has a slight encroachment onto an adjoining alley dedicated to the City. Following further discussion and comments, Council Member Wiens offered a motion to approve the request by HRHA authorizing the Mayor to execute a resolution and grant a license for the encroachment onto City owned property to HRHA and future owners of the structure until such time as it is demolished. 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  
Council Member Byrd  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

A presentation by Blue Ridge Community College was postponed due to the weather.

A presentation by Big Brothers Big Sisters was postponed due to the weather.

The next item of business was a presentation by Shenandoah Valley Bicycle Coalition (SVBC). Charlie Chenault representing the group requested that City Council authorize staff to draft design plans and cost estimates for two multi user off road paths to be included in the 2010 Bicycle Plan. Path number one is the Hillandale Park Connector path which would connect Circle Drive to Hillandale Park and then to Garbers Church Road. Path number two is the Bluestone Trail which would connect Stone Spring Road to Port Republic Road paralleling Interstate 81 with a side connector to the apartment complexes on the east side of South Main Street. City Manager Hodgen suggested that City staff review and outline a timeframe to allow the City to undertake all of the steps available for a shovel ready project.

The next item of business was a presentation by the Department of Public Works and Shenandoah Valley Bicycle Coalition. Public Works Department Planner Thanh Dang reviewed the application for a “Bicycle Friendly Community” (BCF) Award presented by the League of American Bicyclists to localities across the nation. The BFC application audits the City of Harrisonburg and its community’s efforts on engineering, education, encouragement, evaluation and planning, and enforcement. Some benefits of this program include recognition, promotion, bench marking, and technical help from the League of American Bicyclists.

City Manager Hodgen presented a request for a supplemental appropriation for the Police Department. These funds will replace funds reimbursed by a Justice Assistance Grant (ARRA). Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$71,022.84 chge. to: 1000-33546 Justice Assistance Grant

\$ 253.93 approp. to: 1000-310431-48172 Software  
5,620.91 approp. to: 1000-310231-46100 Police Supplies  
4,221.00 approp. to: 1000-310231-48211 Machinery & Equipment  
13,767.00 approp. to: 1000-310331-48111 Machinery & Equipment  
47,160.00 approp. to: 1000-310431-48151 Motor Vehicles & Equipment

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  
Council Member Byrd  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

City Manager Hodgen presented the following resolution for Council’s consideration of approval:

**A RESOLUTION CONFIRMING THE DECLARATION OF A  
LOCAL EMERGENCY IN THE CITY OF HARRISONBURG**

**WHEREAS, the City Council of the City of Harrisonburg, Virginia does hereby find as follows:**

- 1. Due to the occurrences of snowfall on January 29 – 30, February 5 – 6, the pending February 9 -10 snowfall, and expected high winds, dangerous conditions now exist that could adversely affect the lives, property and safety of the residents of Harrisonburg.**
- 2. As a result of these conditions the declaration of a local emergency is necessary to permit the full powers of government to deal effectively with these conditions.**

**WHEREAS, in accordance with the provisions of Section 44-146.21 of the Code of Virginia, the Director of Emergency Services for the City of Harrisonburg has declared a local emergency; and**

**WHEREAS, the Code of Virginia requires subsequent confirmation of the declaration by the local governing body.**

**NOW, THEREFORE, BE IT RESOLVED by the Harrisonburg City Council that the “Declaration of a Local Emergency” is hereby confirmed.**

**Adopted this 9<sup>th</sup> day of February, 2010.**

**BY:** \_\_\_\_\_

**Kai Degner, Mayor**

**ATTEST:** \_\_\_\_\_

**Yvonne H. Ryan, MMC, City Clerk**

Council Member Wiens 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 Frank  
Council Member Wiens  
Council Member Byrd  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

At 8:08 p.m., Council Member Byrd offered a motion that Council enter into a closed session for discussion concerning a prospective business where no previous announcement has been made of the business' interest in expanding its facilities within the City, exempt from the public meeting requirements pursuant to Section 2.2-3711(A)(5) of the Code of Virginia. Discussion and consideration of prospective candidates to be appointed to the Board of Zoning Appeals for the City of Harrisonburg, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

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

Absent – None

At 8:15 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.

Council Member Frank offered a motion that Dany Fleming, 1051 James Place, be recommended to the Circuit Court to fill the unexpired term of Elizabeth Swallow on the Board of Zoning Appeals to expire on March 20, 2010 along with a full first term to begin March 20, 2010 and expire on March 20, 2015. The motion was seconded by Vice-Mayor Baugh and approved with a unanimous voice vote.

Council Member Frank offered a motion that Alexis Morehouse, 1434 Bluestone Street, be recommended to the Circuit Court to fill the unexpired term of Kent Darrah on the Board of Zoning Appeals to expire on March 20, 2013. The motion was seconded by Vice-Mayor Baugh and approved with a unanimous voice vote.

At 8:16 p.m., City Council reconvened into a closed session in the classroom in the Community Development Department to continue discussion concerning a prospective business where no previous announcement has been made of the business' interest in expanding its facilities within the City, exempt from the public meeting requirements pursuant to Section 2.23711(A)(5) of the Code of Virginia.

At 10:45 p.m., there being no further business and on motion adopted the meeting was continued and recessed until February 17, 2010 at 1:00 p.m., at which time Council intends to enter into a closed session for discussion concerning a prospective business where no previous announcement has been made of the business' interest in expanding its facilities within the City, exempt from the public meeting requirements pursuant to Section 2.2-3711 (A)(5) of the Code of Virginia.

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CITY CLERK

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MAYOR

REGULAR MEETING

February 17, 2010

At a reconvened meeting held this afternoon at 1:00 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.

At 1:00 p.m., Vice-Mayor Baugh offered a motion that Council enter into a closed session for discussion concerning a prospective business where no previous announcement has been made of the business' interest in expanding its facilities within the City, exempt from the public meeting requirements pursuant to Section 2.2-3711(A)(5) of the Code of Virginia. 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 Byrd

Council Member Wiens  
Council Member Frank  
Mayor Degner

Absent – None

At 2:20 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.

At 2:21 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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ACTING CITY CLERK

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MAYOR