

REGULAR MEETING
December 13, 2011

At a regular meeting held this evening at 7:00 p.m. there were present: Mayor Richard A. Baugh, Vice-Mayor Ted Byrd, Council Members Kai Degner, Charles Chenault and David Wiens. Also present: City Manager Kurt D. Hodgen, Assistant City Manager Anne C. Lewis, City Attorney Earl Q. Thumma, Jr., City Clerk Erica S. Kann and Police Chief Harper. Absent: None.

Mayor Baugh gave the invocation and also led everyone in the Pledge of Allegiance.

Robert Munro, 549 Pointe Drive, stated he was pleased with Council and their interest in a Dog Park. Mr. Munro stated that his guide dog is a working dog and would enjoy the opportunity to have play time with other dogs in a park. Mr. Munro invited citizens to participate in the Happy Dogs Unleashed meetings that happen every third Thursday of each month at the Parks and Recreation Community Center.

D.D. Dawson, 1160 Decca Drive, thanked Council for the support they had given for One Court Square and the beauty it has brought downtown once again. Mrs. Dawson also stated that she will miss the great asset that Lester Seal, Finance Director, has been and she stated she will miss Lester and wished him a happy retirement.

Vice-Mayor Byrd offered a motion to approve the following items on the consent agenda:

- a. Approval of minutes of the previous meeting, and dispensing with reading of minutes.
- b. Consider request to transfer \$22,824.91 from the General Fund to the General Capital Projects Fund.
- c. Consider supplemental appropriation to the school operating budget and the school nutrition budget.

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

Yes – Mayor Baugh, Vice-Mayor Byrd, Council Member Degner, Council Member Chenault and Council Member Wiens

No – None

Stacy Turner, Director of Community Development, presented a request from Virginia Mennonite Retirement Community (VMRC) for a special use permit per Section 10-3-48.4 (8) of the Zoning Ordinance. Mrs. Turner stated the Comprehensive Plan designates this area as an R-3 Medium Density Residential District along with the benefit of an I-1, Institutional Overlay District and also provided the zoning for the surrounding properties. The fence would be constructed along the northern property boundary of Park Village, a subsidiary of VMRC, behind the dwelling units located along Hawthorne Circle, Villa Drive,

and Spruce Court. Mrs. Turner stated currently a wooden fence that had been constructed in 1987 is in disrepair and needs to be replaced and noted at that time, building permits were not a requirement for the project. Mrs. Turner described the proposed fence being a solid, vinyl fence. Both staff and Planning Commission didn't foresee any negative impact in approval of the application. However, they did recommend approval with the following conditions: the special use shall only be applicable to the proposed fence in this application, there shall be no advertising on the fence, and if in the opinion of Planning Commission or City Council, the fence becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Mayor Baugh closed the regular session and called the evening's first public hearing to order at 7:08 p.m. The following notice appeared in the Daily News-Record on November 28, 2011 and December 5, 2011.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, December 13, 2011 at 7:00 p.m., or as soon as the agenda permits, in the City Council Chambers, 409 South Main Street, Harrisonburg, Virginia, to consider the following:

Special Use Permit – Fence Height (VMRC)

Public hearing to consider a request from Virginia Mennonite Retirement Community (VMRC) for a special use permit per Section 10-3-48.4 (8) of the Zoning Ordinance to allow a fence to exceed the 6-foot, on average, fence height within the R-3, Medium Density Residential District. Along with being zoned R-3, the property has the benefit of the I-1, Institutional Overlay District. The property is located along Park Road, Spruce Court, Villa Drive, and Hawthorne Circle and can be found on tax map 52-D-9.

Special Use Permit – 1559 Red Oak Street

Public hearing to consider a request from Acorn Enterprises, Inc. with representative Jeff Robb, of Lee & Associates, for a special use permit per Section 10-3-97 (10) of the Zoning Ordinance to allow recreational and leisure time activities within the M-1, General Industrial District. The property is located at 1559 Red Oak Street and can be found on tax map 56-G-1.

Special Use Permit – 1106 Reservoir Street

Public hearing to consider a request from Alan E. Strawderman with representative Lynn Koerner, of Global Tower, for a special use permit per Section 10-3-91 (4) of the Zoning Ordinance to allow a communications tower, no more than 125-feet in height, within the B-2, General Business District. The property is located at 1106 Reservoir Street and can be found on tax maps 14-L-0 & 7.

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 Baugh called on anyone desiring to speak for or against the special use permit for VMRC as presented.

At 7:09 p.m., Mayor Baugh declared the public hearing closed and the regular session reconvened.

Council Member Wiens offered a motion to approve the request from VMRC for the special use permit with the stated conditions. The motion was seconded by Council Member Degner and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh, Vice-Mayor Byrd, Council Member Degner, Council Member Chenault and Council Member Wiens

No – None

Mrs. Turner presented a request from Acorn Enterprises, Inc. with representative Jeff Robb of Lee & Associates, for a special use permit, per Section 10-3-97 (10) of the Zoning Ordinance, to allow recreational activities within the M-1, General Industrial District. The property is located at 1559 Red Oak Street. Mrs. Turner stated the Comprehensive Plan designates this area as General Industrial and also provided the zonings for the surrounding properties. Mrs. Turner stated that the applicant would like to utilize the 2,500 square foot building for his training facility related to strength and conditioning business. Mrs. Turner informed Council that NextLevel Athletic Development, LLC provides sports performance training for athletes, as well as personal training for individuals seeking to improve their overall health. Training would be offered on an individual basis or in small groups by appointment only. Mrs. Turner also stated that the applicant had been granted a modification, for one year, from the Building Codes Division regarding permits, and the number of bathroom facilities that are required in a B (Business) use group. Mrs. Turner stated both staff and Planning Commission recommend for approval with the following condition: the permit shall be applicable only for the use, or a substantially similar use, as requested in this application.

Mayor Baugh closed the regular session and called the evening's second public hearing to order at 7:13 p.m. The above notice appeared in the Daily News-Record on November 28, 2011 and December 5, 2011.

Mayor Baugh called on anyone desiring to speak for or against the special use permit to be granted at the property located at 1559 Red Oak Street as presented.

Mike Martin, Owner of NextLevel Athletic Development, made himself available if there were any questions.

At 7:14 p.m., Mayor Baugh declared the public hearing closed and the regular session reconvened.

Vice-Mayor Byrd offered a motion to approve the request as presented for the special use permit at 1559 Red Oak Street. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh, Vice-Mayor Byrd, Council Member Degner, Council Member Chenault and Council Member Wiens

No – None

Mayor Baugh recused himself from the next item on the agenda and asked Vice-Mayor Byrd to lead the next agenda item.

Mrs. Turner presented a request from Alan E. Strawderman with representative Lynn Koerner, of Global Tower (GTP), for a special use permit, per Section 10-3-91 (4) of the Zoning Ordinance, to allow a communications tower, no more than 125-feet in height, within the B-2, General Business District. The property is located at 1106 Reservoir Street. Mrs. Turner stated the Comprehensive Plan designates the area as Professional and also provided the zoning for the surrounding properties. Mrs. Turner stated that the area is recommended as Commercial Use and has several residential uses. Mrs. Turner informed Council that the structure would reach 120 feet in height with a four-foot lightning rod attached at the top, bringing the entire tower structure to a height of 124 feet. The tower would be a galvanized steel finish with antennas of a neutral, non-reflective color owned by AT&T mounted at the top and would not be lighted. Mrs. Turner stated the original plan stated a chain link fence would surround the tower, however, the applicant had proposed a board fence. The tower facility would also include four additional areas for future co-location tenants. Mrs. Turner stated this tower is needed for an increased level of in-building penetration, to offer a solution for off-loading capacity from the surrounding AT&T antennae locations, and to bring 4G services in the form of LTE (Long Term Evolution) technology to the City. Mrs. Turner provided elevation points along and parallel to Reservoir Street that included HEC power pole (1,435 ft. above sea level), track/hockey field lights (1516 ft. above sea level) and upper soccer field lights (1,555 ft. above sea level) at JMU compared to the proposed cell tower (1,472 ft. above sea level). Mrs. Turner stated staff recognized that the area is a busy part of the City with nearby commercial uses, but the circumstances do not support approval of the SUP as presented. Mrs. Turner informed Council that Planning Commission recommended approval with the following conditions: if the telecommunications equipment ceases to be used for more than 12 months, all equipment, including the pole, shall be removed within a timeframe determined by the City at the owner's expense, only equipment

as shown on the submitted drawings, or equipment substantially similar to such equipment, including co-locations as shown, shall be approved under the issuance of this special use permit, future tenants shall verify with HRECC that their additional telecommunications equipment will not interfere with HRECC's equipment, placement of advertising of any kind is prohibited on the antennas and equipment, the pole and antennas are to be a neutral color that blends in with the surrounding area, the fence shall be maintained so as not to appear dilapidated or in poor condition, and evergreen landscaping shall be planted and maintained along the exterior of the fence to provide a semi-opaque screen. Such evergreen plantings shall be six feet in height when planted. If any of the above conditions are found to be in neglect, a certified letter will be sent to the property owner, at which time the provider will need to bring the equipment into compliance. If the equipment is not brought into compliance within 10 days, the special use permit will be held null and void and all equipment approved under issuance of this permit shall be removed within a timeframe determined by the City at the owner's expense, or if in the opinion of Planning Commission or City Council, the equipment becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit. If the permit is revoked, all equipment shall be removed within a timeframe determined by the City at the owner's expense. Mrs. Turner stated that the proposed location is for a small area that surrounds the tower to help with in-building penetration and dropped calls; therefore, the Washington Street Tank would not work for this specific request. The Washington Street Tank will be used as a co-location.

Vice-Mayor Byrd closed the regular session and called the evening's third public hearing to order at 7:26 p.m. The above notice appeared in the Daily News-Record on November 28, 2011 and December 5, 2011.

Vice-Mayor Byrd called on anyone desiring to speak for or against the special use permit to be granted to allow a communications tower located at 1106 Reservoir Street as presented.

Greg Tulley, Planning Consultant with Network Building and Consulting, stated he was at the meeting representing Global Tower Partner, developer of the tower location, and AT&T wireless. Mr. Tulley announced that Shentel Communication Services signed on as the second tenant, if approved. Mr. Tulley touched on four equally important areas of the tower and they were as follows: need, compatibility, no opposition, and other locations within the City. The antenna that currently stands on top of Hampton Inn and Suites drops 8-10% of calls a day that happen surrounding the proposed tower location. The proposed tower would help the capacity of the current antenna to a new location. Mr. Tulley stated that the proposed tower would also help in-building penetration and 4G technology. Mr. Tulley stated the technology that has to be used requires heavier and larger equipment. Mr. Tulley stated with the surrounding patterned infrastructures, the proposed tower would be appropriate. Mr. Tulley read a section of Chapter 12 of the CIP relating to the subject. Mr. Tulley gave other locations that were considered and after being analyzed would not improve the problem. Mr. Tulley also reinforced the proposed wooden, fence as Mrs. Turner had mentioned earlier.

Bill Latham, 427 Mountain View Drive, stated he was the President of the College Station Property Owners Association, informed Council they had not had an executive board meeting, but he was in favor of this tower. Mr. Latham stated that they have faced years of frustration and tenants not being able to get in-building penetration. Mr. Latham stated he would like Council to vote in favor of the tower proposal.

Devon Leeper, 1601 Hillcrest Drive, stated he also owns property at College Station and agreed with Latham and would like Council to approve the tower proposal.

Alan Butch Strawderman, 1106 Reservoir Street property owner, stated when the company originally contacted him he was concerned about the Copperstone Complex property owner. Mr. Strawderman stated he had contacted Ms. Brook who saw no opposition with the proposed tower. Mr. Strawderman also stated he had contacted other surrounding property owners, had available contact information, and they showed no opposition from any of them. Mr. Strawderman stated with no opposition from surrounding property owners that he is also in favor of the proposed tower.

Mac Nickels, representative of Mr. Strawderman, recapped on the need, location and no opposition of the proposal. Mr. Nickels thanked Council for their time and consideration.

At 7:41 p.m., Vice-Mayor Byrd declared the public hearing closed and the regular session reconvened.

Council Member Wiens reviewed the reasons why he was opposed to the proposed tower which included: the way the proposal was presented and how they chose the site because of surrounding neighborhood, JMU not allowing towers on their campus when they are a major part of the need for this technology to help their students, spending money for penetration for the ECC and no provisions for co-locations. Council Member Wiens also would like the Council to ask Planning Commission to develop a plan of provisions for co-locations.

Council Member Chenault stated the money spent on the ECC penetration did indeed help, but mentioned there are some areas that still have problems with penetration within buildings. Council Member Chenault also touched on the fact that the ECC towers could go down and other towers are important for possible backup. Council Member Chenault stated the one major concern he had was one dropped phone call could possibly mean one dropped emergency call. Council Member Chenault also stated that Planning Commission spoke briefly about the need of a separate ordinance specifically for cell phone towers and they plan to revisit at a future meeting.

After brief discussion, Council Member Degner offered a motion to approve the request to allow communication tower with the amended conditions, to include the wooden fence, with clarification of condition one being that the owner is the tenant of the pole. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Yes – Vice-Mayor Byrd, Council Member Degner and Council Member Chenault

No – Council Member Wiens

Abstain – Mayor Baugh

Mrs. Turner stated that staff received an inquiry from the Arts Council of the Valley about hanging decorative banners from the porch of the Smith House to better advertise the Darrin-McHone Art Gallery and the Court Square Theater box office. Mrs. Turner stated with the Arts Council not fitting in the category of corporate/business, civic, charitable, fraternal and welfare organizations they are prohibited from installing flags, banners, and similar devices from their building. Mrs. Turner stated staff believed it would be appropriate to modify Section 11-7-3 (3) & (5) of the Harrisonburg City Code. Subsection 3 pertains to signage exempted from the provisions of the Sign Regulations and the proposed amendment would add a new exemption. The amendment for subsection 5 includes the addition of cultural organizations as a use permitted to have a flag, banner, etc. Mrs. Turner stated that these changes did not have to go before Planning Commission so no recommendation of approval had been given other than staff's. Mrs. Turner presented the following two ordinances to Council for consideration:

**ORDINANCE AMENDING AND RE-ENACTING SECTION
11-7-3
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA**

Be it ordained by the Council of the City of Harrisonburg, Virginia:

**That Section 11-7-3 be amended as follows:
Section 11-7-3. General Regulations for all signs.**

Amend Subsection (3) as shown:

The following signage is exempt from the provisions of this chapter requiring a permit, but shall be in accordance with applicable safety standards:

Add:

f. Items permitted by Section 11-7-3 (5) a — e.

The remainder of Section 11-7-3 is reaffirmed and re-enacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2011.

Adopted and approved this _____ day of _____, 2011.

MAYOR

ATTESTE

CLERK OF THE COUNCIL

**ORDINANCE AMENDING AND RE-ENACTING SECTION
11-7-3
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA**

Be it ordained by the Council of the City of Harrisonburg, Virginia:

That Section 11-7-3 be amended as follows:

Section 11-7-3. General Regulations for all signs.

Amend Subsection (5) as shown:

Pennants, banners, streamers and all other fluttering, spinning or similar-type signs and advertising devices are prohibited except as specified below:

- a. National flags and flags of political subdivisions of the United States and flags associated with the Armed Forces.**
- b. Corporate/business flags only when erected on the same pole as, or directly adjacent to, displays containing flags as listed in 11-7-3 (5) a. Corporate/business flags shall be no larger in size than flags as listed in 11-7-3 (5) a., and shall be limited in number to one (1).**
- c. Flags of bona fide non-profit civic, charitable, cultural, fraternal and welfare organizations.**
- d. Flags used for decorative purposes on residentially zoned property that do not have words or images related to advertising a site for business purposes located outside of the setback from all public streets unless within five (5) feet of a permitted sign structure within the setback. Such flags must be affixed in permanent foundations, on permitted sign structures, or on principal buildings.**
- e. Pennants, banners, streamers and other fluttering, spinning or similar-type advertising devices pertaining to and during nationally recognized holiday periods, or during a special civic or cultural event.**
- f. As permitted within Section 11-7-11 of this Code.**

The remainder of Section 11-7-3 is reaffirmed and re-enacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2011.

Adopted and approved this _____ day of _____, 2011.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

Council Member Degner offered a motion to approve both Section 11-7-3 (3) & (5) of the Harrisonburg City Code as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh, Vice-Mayor Byrd, Council Member Degner, Council Member Chenault and Council Member Wiens

No – None

Megan Argenbright, Auditor from Brown, Edwards & Company, LLP, thanked Council for their time and staff for another year of a well prepared City's Comprehensive Annual Financial Report (CAFR). Ms. Argenbright stated that they would miss working with Lester Seal, Finance Director, but look forward to Larry Propst the new Finance Director at the beginning of the calendar year. Ms. Argenbright reported that an unqualified opinion was awarded.

Mayor Baugh recognized Lester Seal and thanked him for all his hard work and dedication to the City of Harrisonburg. Mayor Baugh also wished him a happy retirement.

Lester Seal, Finance Director, thanked Council for their support and opportunity to work with the City over the past years. Mr. Seal also mentioned that the finance department would be left in good hands with Mr. Propst.

City Manager Hodgen stated several correspondence were received from the auditor's with suggestions and recommendations. City Manager Hodgen informed Council that staff reviews and implements what they can. City Manager Hodgen also mentioned the City's financial position had improved since the previous year.

Drew Williams, Assistant Public Works Director, provided background to the Bluestone Trail project which included: decision from Council on February 9, 2010, planning of project, changes and concerns from Parks and Recreation, stakeholders, final alignment, and construction Phase I. Mr. Williams also introduced Rich Edwards with International Mountain Bicycling Association (IBMA).

Mr. Edwards, 1005 Dogwood Ave., reviewed some awards the City of Harrisonburg had received for being both a bicycle and pedestrian friendly community. Mr. Edwards stated one item the City is missing is non-motorized pathways that are used for walkers, runners, bicyclist, and commuters. Mr. Edwards provided examples of other localities with non-motorized pathways within the state of Virginia and benefits that come with them which included: health, recreation, social, economic, and increase value of adjacent land. Mr.

Edwards reviewed the steps that had occurred, current and future items to occur. Mr. Edward reviewed the original and connectivity maps and reviewed in detail smaller sections of the map. Mr. Edward provided the vision which included: connect Purcell and Ramblewood Parks, create model shared-use pathway for future trail projects, and develop a trail that is instantly popular and heavily used to showcase demand and community support for future trail projects. Mr. Edwards reviewed the next steps of the project which included: Recreational Access Grant for a portion of Phase I, remaining federal funding on Port Republic Road, Phase III, and complete preliminary engineering work by summer 2012.

Mr. Williams stated the Parks and Recreation Committee reviewed and endorsed the trail alignment on November 21, 2011. Mr. Williams also stated the Bicycle Subcommittee recommended it to the Transportation and Advisory Committee which they endorsed during their December meeting. Mr. William stated there are some challenges as Mr. Edwards mentioned including the two bridge crossings, conservation easement, and right-of-way from five property owners. Mr. Williams stated that one of the next steps would be approval of the following resolution that would help implantation of Phase I:

**RESOLUTION TO REQUEST FUNDING THROUGH THE RECREATIONAL
ACCESS PROGRAM TO PROVIDE FUNDING FOR A BIKEWAY KNOWN AS
“THE BLUESTONE TRAIL”**

At a regularly scheduled meeting of the Harrisonburg City Council held on December 13, 2011, on a motion made by _____, seconded by _____, the following resolution was adopted by a vote of ____ to ____.

WHEREAS, the Purcell Park is owned and operated by the City of Harrisonburg; and

WHEREAS, the facility is need of adequate bicycle access; and

WHEREAS, the procedure governing the allocation of recreational access funds as set forth in Section 33.1-223 of the Code of Virginia requires joint action by the Director of the Department of Conservation and Recreation (DCR) and the Commonwealth Transportation Board (CTB); and

WHEREAS, a statement of policy agreed upon by the said Director and Board approves the use of such funds for the construction of access facilities to publicly-owned recreational or historical areas; and

WHEREAS, the Council has duly adopted a zoning ordinance pursuant to Article 7 (Section 15.2-2280 et seq), Chapter 22, Title 15.2 of the Code of Virginia; and

WHEREAS, it appears to this Council that all requirements of the law have been met to permit the Director of the DCR to designate the Purcell Park as a public facility and further permit the CTB to provide funds for access to this public recreation in accordance with Section 33.1-223 of the Code of Virginia; and

WHEREAS, the right of way of the proposed bicycle access is provided by the City of Harrisonburg at no cost to the Virginia Department of Transportation; and

WHEREAS, this Council acknowledges that, pursuant to the provisions of Section 33.1-223 of the Code of Virginia, this bikeway, once constructed, shall be regulated and maintained by the City of Harrisonburg.

WHEREAS, the City of Harrisonburg acknowledges that the State Environmental Review Process (SERP) must be conducted on this project as a condition of use of the Recreational Access Fund; and

WHEREAS, the “Bluestone Trail” appears in the City’s adopted 2010 Bicycle & Pedestrian Plan; and

WHEREAS, the City of Harrisonburg’s Parks & Recreation Commission has reviewed and endorsed the trail alignment at their regular meeting on November 21, 2011 and subsequently, the Bicycle & Pedestrian Subcommittee reviewed and endorsed the trail alignment at their regular meeting on November 28, 2011 and furthermore, the City’s Transportation Safety & Advisory Commission endorsed the trail alignment at their regular meeting on December 1, 2011.

NOW, THEREFORE BE IT RESOLVED, that the Council of the City of Harrisonburg requests the Director of DCR to designate Purcell Park as a public area and recommend to the CTB that recreational access funds be allocated to serve said area; and

BE IT FURTHER RESOLVED, that the CTB is hereby requested to allocate the necessary Recreational Access Program funds to provide a suitable bikeway as hereinbefore described.

BE IT FURTHER RESOLVED, that the City Manager of his designee be authorized to act on behalf of City Council to execute any and all documents necessary to secure the funding sought through the Recreational Access Program up to, but not exceeding, \$75,000 state funds.

Mayor Richard Baugh, SEAL

ATTEST:

Kurt D. Hodgen, City Manager

Council Member Chenault offered a motion to endorse the alignment and approve the resolution as presented. The motion was seconded by Vice-Mayor Byrd and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh, Vice-Mayor Byrd, Council Member Degner, Council Member Chenault and Council Member Wiens

No – None

Mr. Williams provided an update to Council on Old Town Neighborhood. Mr. Williams provided updates that had been completed in summer 2011 and a follow-up traffic study which included an 85th percentile speed improvement. Mr. Williams stated the group is interested in reconvening to meet about specific locations that still need attention. Mr. Williams stated the next steps would be to meet with the neighborhood and to consider additional traffic calming improvements. Mr. Williams also reviewed some challenges including funding and perception of speeding.

Council Member Degner questioned the traffic calming measures on Paul Street. Mr. Williams stated there were some measures taken on Paul Street, but the main focus of the next steps would be East of Ott Street.

City Manager Hodgen presented a request to transfer fund from the Sanitation Fund Balance to the Steam Plant Capital Projects fund which would be to repair the refractory in Unit #2 at the plant in order to operate the plant at the full capacity. Vice-Mayor Byrd offered a motion to approve the following request, and that:

\$493,500.00 chge. to: 2014-31010 Amount from Fund Balance
493,500.00 chge. to: 1324-34270 Transfer from Sanitation Fund

\$493,500.00 approp. to: 2014-992042-49216 Trans. to Sanitation Capital Projects
493,500.00 approp. to: 1324-910142-48682 Retro-fit Steam Plant

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

Yes – Mayor Baugh, Vice-Mayor Byrd, Council Member Degner, Council Member Chenault and Council Member Wiens

No – None

City Clerk Kann left the meeting at 8:46 p.m. and returned at 8:48 p.m.

Mike Collins, Public Utilities Director, reviewed the history of the Shenandoah River Project that began in 1996. Mr. Collins reviewed the five phases which included the following stages: initiation, planning, execution, monitoring & control and closing. Mr. Collins informed Council that the project had been broken down to 17 subprojects that go through the five stages listed above and touched on some of the subprojects and the history. Mr. Collins stated his goal is to build a water line from the Water Treatment Plant to the east corporate limits of the City by the end of the year 2012-2013. Mr. Collins stated the decision to approve the East-West Interconnector made the water line project easier since the road

would be under construction. Mr. Collins gave a breakdown of projects either completed or plan to be completed. Mr. Collins stated there were four sections of the interstate (VDOT) to cross to cross and he would like to get funding to complete before prices change due to uncontrollable changes at VDOT. Mr. Collins provided a financial overview of the project to cost \$32,519,000. Mr. Collins stated that Public Utilities has part of the \$4,724,100 available in the project fund, but is requesting transfers to complete portions as presented of the Eastern Raw Water Line. Mr. Collins stated that the remaining \$18,000,000 would be reviewed at a future date. Mr. Collins reviewed the Shenandoah Raw Water Project Portfolio, 2011-2012 Eastern Raw Water Line Financial Planning Document, and the water cash and fund balance. Mr. Collins stated with the request it would be approving repaying \$1,300,000 that was used previously from the Eastern Raw Water Line project for the new Tower Street water tank and to close existing Capital project account for Groundwater Development and transferring it balance of \$215,863.51 to the Eastern Raw Water Line Project.

After brief discussion of financial reports, Vice-Mayor Byrd offered a motion offered a motion to approve the following request, and that:

\$1,650,000.00 chge. to: 2011-31010 Amount from fund balance
1,650,000.00 chge. to: 1321-34220 Transfer from Water Fund

\$1,650,000.00 approp. to: 2011-392061-49216 Trans. to Water Capital Projects Fund
1,650,000.00 approp. to: 1321-910161-48654 Eastern Source Development

\$215,863.51 chge. to: 1321-910161-48629 Ground Water Development
1,300,000.00 chge. to: 1321-910161-48657 Water Storage Tanks
\$1,515,863.51 approp. to: 1321-910161-48654 Eastern Source Development

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

Yes – Mayor Baugh, Vice-Mayor Byrd, Council Member Degner, Council Member Chenault and Council Member Wiens

No – None

Mayor Baugh called a five minute recess at 9:07 p.m.

Mayor Baugh called reconvened the regular meeting at 9:12 p.m.

City Manager Hodgen stated that the City along with legislatures from surrounding jurisdictions drafted a Legislative Program for submission to Governor McDonnell, Senator Obenshain and Delegate Wilt. City Manager Hodgen stated the program outlines areas of particular interest to the City relative to pending or potential legislation that would be considered by the General Assembly in the 2012 session. City Manager Hodgen presented the following resolution for Council's consideration:

**A RESOLUTION ESTABLISHING THE CITY OF
ARRISONBURG'S
2012
LEGISLATIVEPROGRAM**

WHEREAS, The Mayor and City Council of the City of Harrisonburg, Virginia, governing from a position closest to the City's citizens and desiring to make City government more responsive to Harrisonburg citizens, believe it is important to advise the City's representatives in the Virginia General Assembly of the City's legislative positions.

THEREFORE, BE IT RESOLVED by the Council of the City of Harrisonburg that the 2012 legislative principles adopted by the Virginia Municipal League are hereby endorsed:

The Governor and General Assembly should not:

- Restrict further local revenue authority or sources.**
- Impose new funding requirements or expand existing ones on services delivered by local governments.**
- Shift state funding responsibilities onto local governments.**
- Impose state fees, taxes or surcharges on local government services.**
- Place additional administrative burdens on local governments.**

BE IT FURTHER RESOLVED that the City Council respectfully requests that the General Assembly support legislation regarding the following issues:

a. State Aid to Localities

The City of Harrisonburg is extremely concerned about continuing state budget cuts that threaten essential services to citizens. State cuts to schools, libraries, juvenile detention, social services, constitutional officers, and law enforcement negatively impact the education, health, and public safety of our community. The State should fully fund K-

12 education. The continued erosion of HB 599 funds for law enforcement represents a serious breakdown by the Commonwealth in the very carefully crafted annexation moratorium arrangement. In addition, state funding for constitutional offices has been eroding at different rates without regard to the statutory requirements and

duties of those offices and without regard to equity and parity among the offices. The City opposes further reductions in the Comprehensive Services Act (CSA) funding due to increasing demands for services for high risk children/youth with severe emotional and behavioral problems.

b. BPOL and Machinery and Tools Taxes

City Council opposes any effort to eliminate the local BPOL or the machinery and tools tax without the Commonwealth providing equivalent and sustainable replacement funding. Given the history of car tax reform, HB 599 funding reductions, Line of Duty Act, etc., local governments have learned that promises of "revenue neutral" transition plans and "partnerships" with Richmond are fleeting and unreliable.

c. Transportation

- 1. City Council supports adequate, sustainable, dedicated, non-general funds from the State to support the Commonwealth's Transportation network, including public transportation and light rail. Further, the commonwealth must maintain street maintenance funding and policies to help maintain critical city infrastructure.**
- 2. The Council supports improvements to railroad infrastructure to increase freight shipment capacity and reduce truck traffic and impacts on Interstate 81. Maintaining I-81 at its current capacity and interchange configurations would only serve to discourage economic development and business expansion in the City.**
- 3. The Council supports adequate, sustainable funding for public transportation.**
- 4. City Council supports the use of non-motorized forms of transportation for health, energy conservation and cost reasons for all Virginians, including trails, pathways and greenways as an essential element of Virginia's transportation system. Maintenance of these alternative forms of transportation should be an eligible cost item for street maintenance payments.**

d. Regional Strategies

The Commonwealth should encourage, facilitate and incentivize regional cooperation to promote efficiency, mitigate inequities and overcome barriers that result from Virginia's unique local government structure and moratorium on annexation.

e. Chesapeake Bay Clean-up

The City supports a measured, balanced approach to meeting the clean-up needs of the Bay; one that balances the cost of the requirement with the potential obtainable

result. Further, the requirement must be within the scope of technology to obtain at a cost that is reasonable.

f. Eminent Domain Constitutional Amendment

City Council endorses the Virginia Municipal League policy statement on eminent domain as follows: The General Assembly should approve a resolution to call for a vote on a constitutional amendment to limit the use of eminent domain. The amendment is unnecessary and will harm Virginia's citizens by severely limiting the ability of local governments and the state to carry out projects that help improve life for the Commonwealth's population, due to the amendment's language on lost access, lost profits, and the loss of eminent domain where economic development, increasing jobs and increasing taxes are involved.

g. Predatory Lending

City Council strongly encourages the Governor and General Assembly to adopt a 36% interest rate cap on all consumer lending, to include, but not be limited to, short term "payday" loans, car title loans, and tax refund anticipation loans. Further, Council requests that the "fees" related to these loan products be considered as interest in any case calculated on a two week \$100 loan, including fees.

h. Education Funding is the largest financial burden from the Commonwealth and local government:

1. Benchmarking methodology (and establishing new "cost sharing standards") for school funding should not be used to merely to shift costs to localities without an offsetting reduction in mandates. (If funds are cut, be fair enough to acknowledge that quality may be reduced by that action, and as such evaluate laws and regulations, and identify which ones the General Assembly is willing to eliminate)
2. VRS "holiday" for School systems. This previous action now results in a hardship for both the Commonwealth and its localities. How will the contributions be "made up" and by whom, and how much will it cost?
3. Standards of Quality, Standards of Learning and Standards of Accreditation should be suspended until the Commonwealth meets its funding commitment to school systems.

i. Constitutional Officers

Eliminate the Compensation Board and convert funding to block grant. Allow employees of constitutional officers to be local employees and allow local governing bodies to establish staffing levels.

j. Economic Development

- 1. Governor's Opportunity Funding (GOF) should be maintained at the current level or increased to provide economic stimulus in the state. The guidelines for the program need to be reevaluated to provide greater flexibility to meet the challenges of attracting firms in the new economy.**
- 2. Virginia Jobs Investment Program funding level must be maintained, if not increased.**
- 3. Our delegation is asked to support innovative approaches and increased funding for higher education. Virginia is now 40th in the nation in state investment in higher education. Harrisonburg and Rockingham are focusing their economic development efforts toward high-tech, research and development-based endeavors. It is critical for the state's long-term economic competitiveness that our colleges and universities receive adequate financial support to produce the graduates necessary for business expansion and high-wage job creation not only here but throughout the Commonwealth.**

k. Public Works

Mandates for water quality improvements (which impact the cost of providing water and treating wastewater) should be adequately funded.

l. Law Enforcement/Corrections

DOC standards (federal and state) place a high financial burden on the housing of inmates. Regional jail currently has 43 inmates (almost 20% of capacity) out of compliance (meaning the prisoner remain in local jails too long).

m. Local Government Finance

- 1. Our delegation is asked to not support any legislation that: 1) restricts local taxing authority or revenues; 2) imposes new funding requirements or expands existing ones on services delivered by local government; 3) shifts funding responsibilities from the state to localities (i.e. law enforcement, public safety, etc.); 4) imposes state fees, taxes or surcharges on local government services; 5) places additional administrative burdens on local govt.**
- 2. State and federal governments should make payments-in-lieu-of-taxes for tax exempt state and federal property located within a locality (Over \$1 billion in assessed value of tax-exempt property in Harrisonburg)**

3. Carefully evaluate the proposals submitted by the Clerk's Association that allow for local fees to be charged where appropriate with the local review and appropriation of funds to offset on-going cost of operation.

BE IT ALSO RESOLVED that the City Council respectfully requests that the General Assembly oppose the following legislation:

a. Any proposed new Unfunded Mandates

There are currently 570 mandates on local governments; 456 are state mandates. During the last ten years, only four have been recommended for elimination and none have actually been eliminated. On average, five to ten new mandates are added every year. City Council strongly opposes any and all mandates from the Commonwealth that are not fully funded by the Commonwealth. The Line of Duty Act is the most recent example of the Commonwealth creating an unfunded mandate, wherein the premium for the program was recently shifted from the state to local governments.

b. Aid to the Commonwealth

City Council opposes the concept of "Aid to the Commonwealth" whereby the City must actually budget for and provide payment to the state to cover state budget reductions to the City. The City has found the alternative option of simply accepting less state funding up front is unworkable as such reductions have not been processed correctly by the state.

c. Fire Program Funds

Council opposes restricting the use of Virginia Fire Programs funding to preclude education programs.

The City Manager shall mail or deliver a copy of this Resolution to the Governor, the City's representatives in the General Assembly, other selected members of the General Assembly and area local governments; to the Virginia Municipal League, and Virginia First Cities organizations; and other interested persons, as appropriate.

Adopted this 13th day of December 2011.

Richard Baugh, Mayor

Attest: Erica S. Kann, City Clerk

Council Member Degner offered a motion to approve the 2012 Legislative Program resolution as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh, Vice-Mayor Byrd, Council Member Degner, Council Member Chenault and Council Member Wiens

No – None

City Manager Hodgen stated the City had been working with Rockingham County in a branding and marketing effort. City Manager Hodgen stated that at staff level there has been consensus with moving forward ultimately with a brand that “Harrisonburg, Virginia” would represent both the Harrisonburg and Rockingham County area. City Manager Hodgen informed Council that discussion of having joint marketing strategy and materials would be used for both economic and tourism. City Manager Hodgen stated the proposed actions currently are to review current market strategies and develop joint budget for FY2012-13 and continue to work with the Chamber of Commerce Vision 2020. City manager Hodgen stated that marketing is already in the City’s budget, but will be reviewed and used for joint marketing efforts when appropriate. Council showed no opposition.

City Manager Hodgen stated budget letters and calendar schedules were sent out to department heads and hoped to adopt the budget on April 24, 2012. City Manager Hodgen also stated that with outside uncertainties that the City will remain conservative and to maintain current operations with current funds.

Council Member Degner would like maintenance replacement not to be pushed too long. City Manager Hodgen stated better programs have been put in place to review the replacement of vehicle maintenance.

Council Member Degner thanked all those whom participated in the Holiday parade.

Council Member Chenault offered a motion to appoint Sue Haywood, 150 S. Dogwood Drive, to a first term on the Parks and Recreation Commission to expire December 31, 2015 and it was approved with a unanimous voice vote. Council had no opposition to not make an additional appointment for the other at-large position.

Council Member Chenault offered a motion to appoint Scott Gallagher, 905 Oak Hill Drive, to a term adjustment term on the Harrisonburg Redevelopment and Housing Authority which will expire on November 29, 2012 and it was approved with a unanimous voice vote.

At 9:27 p.m., Vice-Mayor Byrd offered a motion that Council enter into a closed session for discussion and/or consideration of personnel, exempt from the public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia and of the disposition of real estate, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, 1950, as amended. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh, Vice-Mayor Byrd, Council Member Degner, Council Member Chenault and Council Member Wiens

No – None

At 9:55 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, 1059, 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 9:56 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR