

REGULAR MEETING

May 24, 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 Chief Police Harper. Absent: None.

Council Member Chenault gave the invocation and Mayor Baugh led everyone in the Pledge of Allegiance.

James "Bucky" Berry stated that he would like the City of Harrisonburg and Rockingham County to get a pre-tornado awareness system in place. Also, Mr. Berry stated he would like to see reverse 911 be used for cell phones, due to citizens cancelling land lines.

City Manager Hodgen stated reverse 911 systems are site specific with smaller numbered area and that we currently have access to approximately 25,000 phones. The system that the City and Rockingham County are currently using can make up to 1,000 calls per hour and just utilizing the reverse 911 system it would take days to communicate. City Manager Hodgen also stated that other alternatives had been looked at for an early warning system and when the study was completed, no recommendations were made.

Nicholas Melas referred to an article that ran in the Daily News Record, on Monday, May 21, 2011 about the possible park that would be located on Monroe Street behind the Salvation Army. Mr. Melas stated that he would like the City to consider other options such as a public garden at this location. Mr. Melas understands that the garden would be in a flood plain, but with raised beds and other feasible solutions, he felt that it would be a great place for volunteer efforts for a public garden.

Council Member Wiens stated that after speaking on the difficult matter with the Parks and Recreation Commission, a heavy rain flooded some parts of the Monroe Street property during the previous week.

Mahamad Hijjeh stated that there had been talk about rate increases for taxi cabs, Mayor Baugh informed Mr. Hijjeh that the item was on the consent agenda; therefore, at this time, he could not speak on the matter.

Mayor Baugh gave recognition, thanks, support, and letter to the American Legion Post 188 for the leadership and dedication efforts associated with the recognition of "Armed Forces Day" and the "Blue Star Salute" for local service men, women and their families here in the community.

Mr. Jeffrey C. Warden, Post Commander of America Legion Post 188, thanked Council for their support. Mr. Warden stated that the event was a great success with several families in attendance. Mr. Warden presented Mayor Baugh with a certificate from both the American Legion Family and Post 188.

Council Member Chenault stated that the event held on the previous Saturday evening was very special and it is a sobering realization of what the men and women that serve our Country and their families do.

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 a Subdivision Ordinance amendment by adding sidewalk improvement requirements when subdividing on an existing street when adjacent property on either side has an existing sidewalk. Second Reading.
- c. Consider a request from NewBridge Bank, with representative Mike Jackson on Union First Market Bank, to rezone 0.89 acres by amending proffers on a parcel zoned B-2C, General Business District Conditional for property located at 440 South Main Street. Second Reading.
- d. Consider supplemental appropriation in the amount of \$34,736.00. Second Reading.
- e. Request for transfer of funds in the amount of \$607,182.05 - Public Utilities. Second Reading.
- f. Resolution adding a fuel surcharges to the City taxi rates.

The consent agenda also included the following transfer that was included at the previous meeting vote pertaining to agenda item 5e:

\$115,000.00 chge. to: 2012-422061-43844 Construction

\$115,000.00 approp. to: 2012-482061-47060 H-R Regional Sewer Authority

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
Council Member Wiens

No – None

Drew Williams, Assistant Public Works Director, stated the Public Works Department had been working on the Chicago Avenue and Mt. Clinton Pike Project for the last eight months and the public comment period concluded May 19, 2011. Mr.

Williams stated the study objectives, which were the following: Transportation (bicycle/pedestrian facilities, intersection improvements, and future and planned growth), Stormwater management, Maintain neighborhood characteristics, and Plan for long-term improvements. Mr. Williams reviewed the existing conditions which included: Traffic volumes, Traffic accidents, and Speeds. Mr. Williams reviewed the Conceptual Improvements which included: Mount Clinton Pike (two travel lanes for vehicles with raised median or center turn lane, bicycle lanes, and sidewalks) and Chicago Avenue (two lanes for vehicles with turn lanes at intersections, bicycle lanes, sidewalks, and significant stormwater management system). Mr. Williams stated Mt. Clinton Pike and Chicago Avenue are both mentioned in the 2011 Comprehensive Plan that was just recently approved. The intersection of Chicago Avenue, Mount Clinton Pike, and Park Road are listed in the Capital Improvement Plan (CIP), however the portion of Mt. Clinton Pike in this specific location is not listed in the CIP. Mr. Williams stated on Chicago Avenue from 2nd Street to Grant Street there are plans to reconfigure the intersections. Mr. Williams also presented two alternatives for the Waterman Drive and Chicago Avenue intersection as well as three alternatives at the intersection of Mt. Clinton Pike, Chicago Avenue, and Park Road. Mr. Williams pointed out the alternatives that had been presented are just concepts and not actual placements of the changes. Mr. Williams presented a picture of Mt. Clinton Pike from College Avenue to Smith Avenue showing median and median breaks at public streets. Also, Park Road and Parkwood Drive would receive a conceptual roundabout for a traffic calming measure, due to the volume not dense enough for a traffic light. Mr. Williams stated at the Public Information Meeting that was held on Tuesday, April 19, 2011, there were 108 attendees and of those attendees, there were strong interest in sidewalks, bicycle facilities, safety improvements, and roundabout concept. Mr. Williams stated that Public Works provided a Public Information Survey that were offered both at the meeting and online, asking residents to prioritize 12 items, if they supported roundabouts, and encouraged additional comments. After the collection of 91 comments, the following items were listed starting with the most important: need for pedestrian/bicycle facilities, safety, speeding, traffic congestion, need for additional public transit options, stormwater, aesthetics, environmental impacts, property impacts, cost to taxpayers, street lighting, and zoning/land use. Mr. Williams stated the next steps are to continue design for the corridor and potential breakout projects. Mr. Williams asked for Council's support with moving forward with the intersection at Chicago Avenue/Mt. Clinton Pike/Park Road.

Mr. Williams noted that currently a Safe Routes to Schools Project is underway in this particular area of the community, which will involve sidewalks on the south side of Waterman Drive. Mr. William stated on Chicago Avenue and Mount Clinton Pike that a short term pathway would be created to help the safety with both pedestrian/bicycle traffic and potential shoulder improvements in certain locations. Mr. Williams stated that the cost of the pathway would roughly amount to \$95,000.

Council Member Wiens stated he felt the short term pathway would alleviate a lot of the concerns and complaints about safety on Chicago Avenue, but concern is the City not owning the land. Council Member Wiens also asked when the overall project would be shovel ready.

Mr. Williams stated that the City would have to get permission from the property owners to allow the City to be there and for use of their land. Mr. Williams stated that the project would be a 12-18 month process if the engineering to a “right of way” level came with 60% drawings for Mount Clinton Pike and Chicago Avenue. However, Mr. Williams stated that if the City would do a breakout project with the pathway, the biggest process will be getting approval with property owners.

Council Member Wiens asked what the first steps would be to get the pathway started. City Manager Hodgen stated we would need to survey the properties, obtain permission from property owners, and bring a cost estimate back before Council.

Drew Williams stated that this would be a temporary fix until, if and when, street improvements in that area move forward.

Karen Thomas, President of Northeast Neighborhood Association, requested Council’s consideration to implement a Spot Blight Abatement Program in the Northeast Community. Mrs. Thomas stated that Spot Blight has proved to be one of the most effective tools dealing with blighted properties and neighborhoods. Mrs. Thomas referenced Section 36-3 of the Code of Virginia which includes the definition of “blighted property”. Mrs. Thomas explained the process of Section 36-49-1 of the Virginia State Code which allows localities to acquire or repair blighted property anywhere within the locality. The owner of the property would be provided with notice and opportunity to repair the blight, but if the owner fails to repair or provide an adequate plan, the local government is allowed to hold a public hearing on the condition of the property. Mrs. Thomas explained the City, at that point, could proceed to repair or acquire the blighted property by eminent domain at which the owner would be billed for the cost of repair or disposal of the property. Mrs. Thomas did note that the City could not use this section to obtain occupied property, unless the property has been declared unfit for human habitation. Mrs. Thomas referenced Section 36-19.5 of the Code of Virginia authorizes localities to partner with local redevelopment and housing authority to acquire a blighted single family or multi-family dwelling through purchase or eminent domain. The authority must give written notice and 60 days to correct the blight or to provide a satisfactory plan of the correction to take place. If the owner fails to correct the blight or an adequate plan the authority seeks a resolution from the City authorizing acquisition of the property. Mrs. Thomas stated that the reason this process is so effective is that it allows localities to take meaningful action against absentee owners of blighted property. Mrs. Thomas stated the program may have a few drawbacks such as, create potential nuisances and a convenient haven for criminal activities. The presence of blighted and neglected properties impairs growth and the development of neighborhoods that can often lead to an exodus of current businesses and residences threatening to spread the blight to other properties and neighborhoods. Mrs. Thomas stated that the Northeast Neighborhood Association purpose is to promote safe, attractive, and a strong community. Mrs. Thomas thanked Council for their help to revitalize their community and to consider the Spot Blight Abatement Program.

Council Member Degner asked Mrs. Thomas how many properties are currently being looked at by the Northeast Neighborhood and in the future.

Mrs. Thomas stated currently there are two the Northeast Neighborhood properties currently being reviewed.

City Attorney Thumma stated that statues are being used and over the past few years, four properties have been taken down within the City. However, the City hasn't taken any action under the blight section of the Code of Virginia. City Attorney Thumma also noted that the cost of demolition is added to the properties taxes. City Attorney Thumma also stated that Harrisonburg Redevelopment and Housing Authority are interested in working together to find a solution for the Northeast Neighborhoods' property that is being looked at.

City Manager Hodgen stated the City would be in contact with the Harrisonburg Redevelopment Housing Authority.

Ryan Ramirez presented information to Council about the Property Assessed Clean Energy Financing (PACE) which the General Assembly has approved enabling legislation for Virginia. Mr. Ramirez stated that PACE is new energy efficiency financing models that have enormous potential to catalyze demand from both owners and lenders for clean-energy investment in buildings. PACE financing is a model that would be administered by local governments and could allow property owners to undertake energy efficiency, renewable energy, and water efficiency projects without large up-front payments. Mr. Ramirez stated the PACE "districts" would essentially be special taxing districts that would allow local governments to provide capital for energy and water improvements in buildings. The outlay for projects is secured by a property lien and is repaid by the owner as a voluntary special assessment on the property tax bill over a 5 to 20 year term. Mr. Ramirez provided a brief overview of the PACE program that was established in California in 2008.

Patrick Cushion, who worked with Senator Creigh Deeds when the PACE legislation was presented to the General Assembly, provided background to the PACE program and the support the legislation had at the state level when the legislation was being considered. Mr. Cushion stated that a deliberate effort was made to make sure control would be maintained by the locality when using the PACE legislation.

Mr. Ramirez stated the benefits that come with the PACE program include: produces peak energy demands, creates permanent local jobs, ability to leverage private funding rather than public funding, saves individuals/businesses money by installing free energy upgrades, and voluntary participation (no taxpayer's money). Mr. Ramirez also stated a few benefits that for property owners which are the following: removes upfront costs, reduces energy costs, and loans transfer with property. Mr. Ramirez provided an overview of the six commercial PACE Programs that are currently being used today and the commercial program with owner arranged financing. Mr. Ramirez stated that he would like to see Harrisonburg use the commercial program with owner arranged

financing because it doesn't require any issuance of bonds or any City funds to operate the program or to loan money. Mr. Ramirez stated that the program will help leverage private capital and the program would use minimal administrative staffing. Mr. Ramirez reviewed what he felt would impact the community such as, change in economic and decisions of clean energy upgrade, potential large scale impact, and improve energy technology. Mr. Ramirez requested Council to authorize an ad hoc study group to explore owner arranged PACE financing for commercial properties in City of Harrisonburg.

Jeffery Tang, Professor at JMU, stated that he would like this piece of legislation to help the City of Harrisonburg lead others in the Commonwealth of Virginia to promote renewable energy and energy efficiency.

After further discussion, Council asked staff to review the PACE program.

City Manager Hodgen stated during the March 8, 2011 Council Meeting, Council requested Planning Commission to review the Harrisonburg-Rockingham Chamber of Commerce Vision 2020 project. City Manager Hodgen stated the Planning Commission recommended support of the Joint Resolution. City Manager Hodgen stated the resolution presented doesn't bind current or future Council's to any specific items, but to recognize the effort of working with other local governing bodies. City Manager Hodgen stated staff worked with the Chamber of Commerce representatives to draft the resolution as follows:

**JOINT RESOLUTION
RELATING TO VISION 2020
FOR THE HARRISONBURG-ROCKINGHAM COUNTY AREA**

WHEREAS The Harrisonburg-Rockingham Chamber of Commerce initiated a community leaders' forum entitled Vision 2020 to provide a venue to discuss the future of the Harrisonburg City - Rockingham County Metropolitan Area, including the incorporated towns within its borders; and,

WHEREAS the Vision 2020 initiative has evolved into a community-wide process of envisioning for our community in the year 2020 and beyond; and

WHEREAS the Chamber and Vision 2020 leadership have sought to increase citizen and government participation in order to insure that Vision 2020 is truly reflective of and fully embraced at all levels of the community; and

WHEREAS we as local governing bodies are responsible for planning the future of our respective jurisdictions, and realize that it is in our best interest to work collaboratively in harmony with each other and with the citizens of the greater Metro area community in preparing for our future;

NOW THEREFORE BE IT RESOLVED that we, the undersigned local:

- 1. Recognize and appreciate the groundwork laid through the Vision 2020 process in helping to identify a collective, desired vision for our community; and**
- 2. Embrace the will to maintain and improve our quality of life through cooperation and collaboration of the public and private sectors, elected officials and citizens alike; and**
- 3. Pledge to work with and support the process of creating a long-range community vision, and agree to work toward the achievement of the desired objects of the Vision Statement, Cornerstones and Strategies outlined in such plan.**

**John Long, Mayor
Town of Broadway
Approved: May __, 2011**

**Buddy Farris, Mayor
Town of Dayton
Approved: May __, 2011**

**Gene Davis, Mayor
Town of Elkton
Approved: May __, 2011**

**Joe Morris, Mayor
Town of Grottoes
Approved: May __, 2011**

**Richard Baugh, Mayor
City of Harrisonburg
Approved: May __, 2011**

**Alfred Cook, Mayor
Town of Mt. Crawford
Approved: May __, 2011**

**Mike Breeden, Chairman
Rockingham County Board of Supervisors
Approved: May __, 2011**

**Donald Delaughter, Mayor
Town of Timberville
Approved: May __, 2011**

**Mayor Hallie Dinkle
Town of Bridgewater
Approved: May __, 2011**

After a brief discussion, Council Member Chenault offered a motion to approve the Joint Resolution relating to Vision 2020. The motion was seconded by Council Member Degner and approved with unanimous voice vote.

City Manager Hodgen stated Agenda Item 10 pertaining to Chapter 13, Section 1 will be moved to the June 14, 2011 Council Meeting.

Stephen King, Chair of the Community Policy and Management Team (CPMT), stated the Draft of Policy Regarding Denial of Funding to Local Governments (Community Policy and Management Teams) was not in compliance with provisions of the Comprehensive Services Act for At-Risk Youth and Families (CSA) that deals with the Office of Comprehensive Services (OCS). OCS had problems with localities contracting for services with vendors that weren't adequately licensed. Mr. King stated unfortunately we had the same mishaps in this locality. Mr. King stated he had spoken with OCS about the legislation when he then found out that the legislation was to address other situations that other localities had run into. Mr. King stated the OCS has the authority to seek reimbursement now for services, but the draft policy that was presented was to clarify their policy. Mr. King stated that CPMT expects the same policies that have been used to continue to be used and be compliant with what is expected by the OCS. Mr. King stated CPMT would reinforce the expectations of the contractors, by including the policies in the contract that will be presented, so the locality can seek reimbursement for the State if the vendors fail to comply.

City Manager Hodgen stated that others involved such as Virginia Municipal League (VML) which had been contacted, had awareness and would like any feedback to be presented by May 31, 2011.

Police Chief Harper presented to Council to consider a supplemental appropriation for the Police Department in the amount of \$500.00. Police Chief Harper stated donations were received and they would be transferred for the purchase of Crime Prevention Materials. Council Member Chenault offered a motion to approve the request for the first reading, and that:

\$500.00 chge. to: 1000-31809 Amount from Fund balance

\$500.00 approp. to: 1000-310131-46140 Other Operating Supplies

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
Council Member Wiens

No – None

City Manager Hodgen presented Council the following resolution:

**A RESOLUTION REQUESTING THAT THE FEDERAL GOVERNMENT
WITHDRAW ITS LAWSUIT AGAINST GEORGE'S FOODS**

WHEREAS, on May 7, 2011 George's, Inc. acquired certain assets of Tyson Foods' Harrisonburg complex, including a processing plant in Harrisonburg, a feed mill in Mt. Jackson, a hatchery in Dayton, and a truck shop in New Market; and

WHEREAS, the economic troubles of the former Tyson Foods complex had reduced many workers to 30 hour workweeks and caused extended downtime for contract growers; and

WHEREAS, George's purchase of these assets from Tyson Foods saved an unprofitable poultry operation that was in danger of closing; and

WHEREAS, George's is honoring all contracts of the growers formerly contracting with Tyson Foods and plans to make substantial capital improvements to the former Tyson facilities and expand production; and

WHEREAS, such production expansion could increase the annual number of birds sent to the farms of the growers formerly contracting with Tyson and may also provide additional hours, and consequently, wage payments to plant workers; and

WHEREAS, on May 10, 2011, the federal government, acting under the direction of the Attorney General of the United States, filed suit to force George's, Inc. to divest its ownership of the former Tyson Foods poultry complex at Harrisonburg, Virginia; and

WHEREAS, the geographic proximity of George's existing Virginia poultry operations and George's business plans make it uniquely positioned to make the unprofitable former Tyson complex profitable; and

WHEREAS, in the absence of another viable buyer in close proximity to the Harrisonburg complex who can purchase those assets and make the necessary capital investments to provide an opportunity for the complex to become profitable, closure of the former Tyson complex appears likely; and

WHEREAS, closure of the former Tyson complex would harm the livelihoods of more than 500 employees; 121 contract growers; and numerous local businesses that provide goods and services to the complex; and

NOW THEREFORE BE IT RESOLVED that the Harrisonburg City Council does hereby request that federal government reconsider and withdraw its lawsuit against George's Foods, LLC, George's Family Farms, LLC, and George's, Inc.

Adopted this ____ day of _____, 2011.

Richard Baugh, Mayor

Attest: Erica S. Kann, City Clerk

Council Member Chenault offered a motion to approve the request that the Federal Government withdraw its lawsuit against George's Foods. 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
Council Member Wiens

No – None

Council Member Degner mentioned he would be providing maps for Council from the Metropolitan Planning Organization (MPO) that had been recently released of plans and projects that they have planned.

At 8:31 p.m., Vice-Mayor Byrd offered a motion that Council enter into a closed session for discussion and consideration of the acquisition 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 Degner and approved with a recorded roll call vote taken as follows:

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

No – None

At 9:00 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 Byrd offered a motion to approve the supplemental appropriation of \$10,000.00 to the Harrisonburg-Rockingham Historical Society (budget line item

910411-45649). The funding is for City participation in an archeological/historical study that the Society is undertaking. 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
Council Member Wiens

No – None

At 9:03 p.m., there being no further business and on motion adopted, the meeting was adjourned.