REGULAR MEETING
July 12, 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 and Charles Chenault. 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 Captain Dan Claytor. Absent: Council Member David Wiens.

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

Terry Turner asked Council if any residents of the City of Harrisonburg were exempt from ordinances involving the structures/appearance of older buildings and junk cars. Mr. Turner is concerned about the look of some of the buildings and properties on South High and Bruce Streets and he wants to know why nothing is being done to improve the properties.

Mayor Baugh stated without knowing the exact location of the properties Mr. Turner is concerned about, he suggested he turn the property addresses into the City Manager's Office. Mayor Baugh stated the City does have a system in place, but the process would not happen overnight.

City Manager Hodgen also stated that even though a building might not be attractive, it might still be structurally secure and might not fit into a code of the City to have to be fixed.

Ron Copeland, Director of Our Community Place, explained to Council that in 2002 Our Community Place came before Council requesting to be tax exempt. Mr. Copeland explained that in 2002 Council approved tax exemptions and, at that time, exemptions needed to be approved by the General Assembly. Mr. Copeland stated that was the last he had thought about it until he received a letter from the City about past property and business taxes due. Mr. Copeland asked Council for guidance on the next steps he should take to receive the tax exemption for Our Community Place. Mr. Copeland stated he spoke to June Hoosaflook and there were no record of the General Assembly passing the tax exemption request after the Council approved. Mr. Copeland doesn't know who is at fault, but wants the opportunity to become tax exempt and an extension to pay the past due taxes, until he can obtain the money needed.

City Attorney Thumma stated that at the time General Assembly did indeed have to pass the tax exemption request, but now the statue has changed in giving localities the authority to approve tax exemption request. City Attorney Thumma stated that he was not the City Attorney at that time, so he doesn't know about this specific request, but he did state that they could apply to be tax exempt and at that time Our Community Place could request to be tax exempt for the three years previous to the current year.

Mayor Baugh stated the Mr. Copeland needed to apply for tax exemption with the Commissioner of Revenue's office. It would then come in front of Council and, at that time, Council would be able to take the next steps of the request.

James "Bucky" Berry stated the smell being produced by George's some days is unbearable and would like something to be done.

Council Member Chenault stated that the DEQ had been contacted previously, but wasn't sure if they have been contacted recently. Council Member Chenault recommended contacting the DEQ to check into the current smell.

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 supplemental appropriation to police department in the amount of $3,205.85.
c. Consider supplemental appropriation to police department in the amount of $3,203.25.
d. Consider supplemental appropriation to police department in the amount of 9,728.20.
e. Consider supplemental appropriation to police department in the amount of $5,400.59.

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

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

No – None

Absent – Council Member Wiens

Stacy Turner, Planning and Community Development Director, presented a request from Virginia Mennonite Home, Inc. to amend an approximate 6.39 +/- acre portion of the Virginia Mennonite Retirement Community master planned complex located at 1301 Virginia Avenue and 1301, 1304, 1305, 1307, 1308, 1309, 1311, and 1321 Woodland Drive. The property is zoned R-3, Medium Density Residential District along with an Institutional Overlay District. The Comprehensive Plan designates this area as Institutional. Mrs. Turner stated the original master plan for Virginia Mennonite Retirement Community (VMRC) was approved in March 1997 and has been amended on several occasions. The most recent amendment was approved in December 2009, which allowed for the construction of ten Green House Homes in the Woodland area of the

VMRC property. Mrs. Turner stated the plan illustrated the Green House Homes as a micro-community, with around-the-clock nursing care, clustered around gardens and a community park. Mrs. Turner stated following approval in 2009 the design and layout of the homes began to change when complications occurred when the placement of the stormwater detention area required some shifting. After discussion with staff, it was agreed to request a master plan amendment with the redesigned Green House Home layout utilizing the relief mechanisms and flexibility allowed within the Institutional Overlay District. Mrs. Turner stated VMRC is requesting a change to their December 2009 approved Overlay Master Plan, which will allow flexibility with setbacks, building height and parking requirements through the master plan process. Mrs. Turner stated with this request, VMRC would like to maintain their existing master plan, which includes the skilled nursing care, but the plan would allow the homes to be as close as 20-feet, as opposed to the required 30-feet. In addition, setbacks are shown as 20-feet from both Parkwood Drive and Virginia Avenue, and 10-feet from interior property lines. Mrs. Turner stated the applicant has stated that it is not their intention to build each home to these setbacks; but, it would offer the flexibility should building need to be shifted. The setbacks as presented deviate from the required 30-feet from public streets and the ten and 25-foot setbacks for the interior lines. Mrs. Turner stated the Public Works Department is requesting for right-of-way along Parkwood Drive in order to bring the current right-of-way to a point 30-feet from the existing street centerline on their side of the road. In addition, they have requested four feet of right-of-way along Virginia Avenue. Mrs. Turner stated the requested relief for the front setbacks from 30-feet to 20-feet would allow the applicant to construct the ten homes after the right-of-way dedication and still have the ability to shift the buildings, should be necessary. Mrs. Turner reviewed the changes to the entrance of the Green House Homes as well as some changes to the VMRC community. Mrs. Turner also noted the total number of parking spaces increased slightly from the previous approved master plan. Mrs. Turner stated both staff and Planning Commission support the request to amend this portion of the VMRC Mater Plan.

At 7:25 p.m. Mayor Baugh closed the regular session and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on June 28 and July 5, 2011.

**NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a public hearing on Tuesday, April 12, 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:**

***Rezoning/Master Plan Amendment – VMRC Woodland Greenhouses 2011 Amendment***

**Public hearing to consider a request from Virginia Mennonite Home, Inc. to amend an approximate 6.39 +/- acre portion of the Virginia Mennonite Retirement Community master planned complex. The request is to make amendments for planned development on property known as the Woodland**

**facility and the adjacent open space and single family homes located at 1301 Virginia Avenue and 1301, 1304, 1305, 1307, 1308, 1309, 1311, & 1321 Woodland Drive. The property is zoned R-3, Medium Density Residential District along with an Institutional Overlay District and can be found on tax map 52-A-1.**

**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 Master Plan amendment as presented.

Marvin Knicely stated that he wanted to clarify that the building will be used for long term nursing care. Mr. Knicely stated that these homes are geared towards younger individuals that need constant care. Mr. Knicely stated that the greenhouse concept is an important concept for the future of VMRC. However, the setting is for elders that need the assistance, but provides the feel of the homes they had to move from.

At 7:27 p.m., Mayor Baugh declared the public hearing closed and the regular session reconvened. Council Member Degner offered a motion to approve the request to amend the portion of the VMRC Master Plan as presented. The motion was seconded by Council Member Chenault and approved with a recorded the following recorded roll call:

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

No – None

Absent – Council Member Wiens

Jeff Shafer, City Treasurer, stated in Section 4-1-29 of the Harrisonburg City Code, the Treasurer needs permission from Council to advertise unpaid real estate taxes for years 2008-2009 and 2009-2010. Mr. Shafer stated, at this time, he is requesting Council's permission to advertise in the Daily News Record (DNR) to remove delinquent tax accounts from books due to expiration of collection time. Mr. Shafer reviewed the plan of the Treasurer's Office which included the following: letters to be mailed,

recipients' have 30 days to pay off debt, and those whom don't comply would be advertised in the DNR. Mr. Shafer noted that any payments applied after the date of this letter will affect the charge off amount. Mr. Shafer stated this process usually changes the list of the delinquent account. Vice-Mayor Byrd offered a motion to approve the advertisement for the unpaid real estate taxes for the years as presented. 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 Chenault
Council Member Degner
Mayor Baugh

No – None

Absent – Council Member Wiens

Jeff Shafer, City Treasurer, stated in Section 4-1-36 of the Harrisonburg City Code and Code of Virginia §58.1-3940, the statute of limitation is 20 years for real estate and five years on personal property taxes to remove delinquent taxes from current collection accounts. Mr. Shafer requested Council's approval to remove delinquent taxes from 1990 real estate and 2005 personal property taxes. Mr. Shafer stated, in the past year, warrants were served to those who were in debt for years 2005-2006 for personal property taxes and they will continue to proceed in future years to get caught up. Mr. Shafer stated that, in future years, the accounts to be written off will continue to drop. Mr. Shafer stated for the December real estate taxes currently due, tax collections are 98.02% and 96.22% on personal property taxes. Council Member Degner offered a motion to approve the removal of the delinquent taxes as presented. The motion was seconded by Vice-Mayor Byrd and approved a recorded roll call vote taken as follows:

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

No – None

Absent – Council Member Wiens

Eddie Bumbaugh, Harrisonburg Downtown Renaissance (HDR) Director, presented the HDR quarterly report. Mr. Bumbaugh reviewed all HDR's involvement with presentations, activities, consultations, and awards received through the Virginia Main Street Community. Mr. Bumbaugh recognized some of the events of which HDR had involvement in which included the following: Appalachian Trail Community, Valley Conservation Council Symposium and Award Ceremony, and Best in the Valley Awards. Mr. Bumbaugh stated that one of the programs HDR feels has tremendous impact on the

downtown area is the Façade Enhancement Grant Program and reviewed the winners from the previous year. Mr. Bumbaugh stated applicants for upcoming funds should have applications in no later than July 25, 2011. Mr. Bumbaugh reviewed seven new retail businesses, three business changes, and future businesses to come to the downtown area. Mr. Bumbaugh provided an overview of different designs that took place over the last quarter such as the following: planters, Welcome Home Garden, Blacks Run Project, and downtown streamwalk signs. Mr. Bumbaugh stated that one of the goals of Downtown Renaissance Night was to raise funds for holiday beautification for Court Square and One Court Square.

Trisha Maust-Blosser, Program Manager of HDR, reviewed fund raisers that had been recently held such as Renaissance Night. Mrs. Maust-Blosser provided an overview of upcoming events such as Celebration & Reception to be held at Capital Ale House Wednesday, October 19, 2011. Also, to be held on Wednesday, November 2, 2011 at Court Square Theater will be Temptations at the Theater. Mrs. Maust-Blosser also announced a new event, the Holiday Church Tour, which is tentatively scheduled for Sunday, December 4, 2011.

Thanh Dang, Public Works Planner, provided an overview and background of an Energy Efficiency Block Grant funded and received from the U.S. Department of Energy in June 2009 in the amount of $206,000. Audits of four city buildings were completed and Linc Group, LLC was involved with the study. The Community Activities Center at Parks and Recreation was selected to receive the bulk of the grant fund.

Ryan Sheard, Project Coordinator with Linc Group, LLC, provided an overview of the projects completed by funds that were received from ARRA grant for energy improvements for the Parks and Recreation Community Center. Mr. Sheard stated the focus of the project was to maximize impact for building infrastructures. Mr. Sheard stated the following items were included in the project: lights, HVAC, solar water heating, and energy awareness. Mr. Sheard shared the construction period savings and the guaranteed period savings. Mr. Sheard stated the overall summary which included: comfort levels dramatically improved, positive feedback from city staff and residents, savings to date (120% of projection), and the City of Harrisonburg taking a lead role being a "green community".

Council Member Degner stated that he liked the savings that had been recorded and would like to continue to look for grants to use towards other buildings that were studied.

City Manager Hodgen stated that the other buildings that were studied were larger scaled projects. City Manager Hodgen stated that at the time of the study to do some of the projects would have meant borrowing funds or bond issuance. The approach Council took at the time was to do a smaller scaled project and review the outcome of success. City Manager Hodgen stated that part of the grant funds were used towards water pump stations and significant savings have also been noticed. City Manager Hodgen stated that some items could be looked at for next year's budget.

Jeff Buennemeyer, stated the Governor has allocated a significant amount of funding currently available to municipality's. Mr. Buennemeyer provided a few examples of projects he had worked on with zero interest funding. Mr. Buennemeyer stated that with this program, budgets become neutral because you pay off with the money that you have saved with energy improvements.

City Manager Hodgen stated another concern at the time was adding to the City's debt capacity by moving forward with the complete list of projects. City Manager Hodgen stated that we would work towards recommendations in the next budget. City Manager Hodgen stated the cost savings from the project are being traced and plan to use savings towards other projects. However, the projects that are being looked at are higher priced projects.

Steve Tomasi, Event Director of DR100, stated that the DR100 event that occurred in the previous year was to solely raise funds for both pedestrian and bike lanes throughout the City of Harrisonburg and Rockingham County. Mr. Tomasi stated that event raised over $24,000.00 with matching funds from both the City and County. Mr. Tomasi reviewed all the events and procedures of the upcoming DR100. Mr. Tomasi came before Council to request approval for use of city streets and police personnel for the DR100 event to be held on September 17, 2011. Mr. Tomasi stated James Madison University (JMU) has approved the use of the Memorial Hall site and other nearby parking facilities. Also, the Parks and Recreation Department has approved use of facilities for part of the race events. After brief discussion, Council Member Chenault offered a motion to approve the DR100 event as presented. The motion was seconded by Council Member Degner approved with a unanimous voice vote.

Mayor Baugh recused himself from the next agenda item and asked Vice-Mayor Byrd to lead any discussion on the following matter. City Manager Hodgen stated that the SPCA has been providing services to the City of Harrisonburg and Rockingham County since the mid-seventies. However, official signed documents of the service agreement have not been located by either the City or County. City Manager Hodgen stated that both Council and Board of Supervisors suggested having a formally-adopted and signed agreement for services with the SPCA. City Manager Hodgen stated that the respective attorneys have put together a draft agreement, which was included in Council's packet. City Manger Hodgen stated the agreement spells out the obligations under the Code of Virginia that the SPCA is required to meet on behalf of the City and County. Also, a resolution of the SPCA Board of Directors, addresses other actions beyond those required to comply with the state law that the SPCA will undertake to serve the community and care for the animals under its charge. City Manager Hodgen stated that if the City and County did not have an agreement that they would be responsible to staff and operate such a facility such as the SPCA. City Manager Hodgen stated it was recommended to approve both the agreement and resolution as presented.

Council Member Degner stated that he would like to see the quarterly report as stated on the resolution that had been presented. Council Member Degner stated that he

understood the concerns of groups about the euthanized animals, but there is a common ground of all groups sharing the same interest in caring for animals. Council Member Chenault agreed with Council Member Degner and also stated that another item that was taken into consideration was the public safety of the community. Vice-Mayor Byrd stated that Council is open to take other proposals, but currently the SPCA has provided a proposal. Council Member Degner offered a motion to approve both agreement and resolution as presented. 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
Council Member Chenault

No – None

Abstain - Mayor Baugh

Absent - Council Member Wiens

Assistant City Manager Lewis provided an overview on the Virginia Line of Duty Act (LODA). Assistant City Manager Lewis stated if Council had any questions both the director of finance and human resources were available. Assistant City Manager Lewis reviewed the LODA definition and whom it affected. Assistant City Manager Lewis stated that legislative actions taken during the 2010 session of the General Assembly changed how benefits under the Virginia LODA would be funded. Assistant City Manager Lewis stated that the General Assembly mandated this to the local governments and no longer would be funded by the State. Assistant City Manager Lewis stated that it was now up to the local government to provide the benefit both to employees and volunteers. Assistant City Manager Lewis stated there are three options for the City to provide the benefit and they were as followed: participate in the state administered program (VRS), participate in the Virginia Municipal League (VML) insurance program, or self-fund a program. Assistant City Manager Lewis stated staff had reviewed the three items that were presented and provided costs for both VRS and VML. She stated that the costs associated with the self-funded program are currently unknown, but expect it to cost the City more than $50,000.00 when including the shared cost for the Sheriff's office. Assistant City Manager Lewis stated that Council had to make the decision to either opt out of the LODA fund with the state or to continue with VRS for one year and continue to watch the General Assembly's action. Also, the city will look at the costs over the next fiscal year, if Council chooses to self-fund. Assistant City Manager Lewis stated that staff recommended continuing with VRS for this fiscal year and re-examining staying with VRS or switching to a VML plan or self-funding during the next budget cycle. Assistant City Manager Lewis stated if Council chose to participate with VRS the City would have to alert them and back date to July 1, 2011 with a resolution. Assistant City Manager Lewis stated if Council chose to opt out of VRS no changes could be made. Assistant City Manager Lewis stated that the figures for this item were not available at the time of the budget and would have to be taken out of reserve or other

departmental budgets. Vice-Mayor Byrd offered a motion to approve the recommendation of staff to continue VRS coverage for one more year. The motion was seconded by Council Member Chenault and approved with a unanimous voice vote.

City Manager Hodgen stated he brought up the next item up during the previous Council meeting and he had brought changes that he spoke of pertaining to the CSPDC Charter of Agreement. City Manager Hodgen stated again that the agreement doesn't affect the City of Harrisonburg's representation to the board. City Manager Hodgen presented the following resolution for Council's consideration:

**R E S O L U T I O N**

**A Resolution Concurring with Recommended Amendment to the Central Shenandoah Planning District Commission Charter Agreement**

**WHEREAS, the Harrisonburg City Council entered into an Agreement on 30 September 1969 to form the Central Shenandoah Planning District Commission; and**

**WHEREAS**, **the Central Shenandoah Planning District Commission was created to facilitate effective regional planning and to provide planning and technical services to its member localities; and**

**WHEREAS**, **from time-to-time the Central Shenandoah Planning District Board of Commissioners reviews its Charter Agreement and Bylaws and submits recommendations to its member localities for Charter Agreement amendments as may be appropriate.**

**NOW, THEREFORE BE IT RESOLVED by the Harrisonburg City Council that it does hereby concur with and approve the recommended amendments to the Charter Agreement on this the (date), said amendments being more specifically described as follows:**

**Article II, Section 1**

**PROPOSED CSPDC MEMBERSHIP**
**POPULATION MATRIX**

| | |
|---|---|
| ~~1 to 15,000~~<br>1 to 20,000 | One member who is an elected member of his/her governing body. |
| ~~15,001 to 30,000~~<br>20,001 – 40,000 | one additional member who either holds no office elected by the people or is an elected official but not a member of his/her appointing governing body. |
| ~~30,001 to 45,000~~<br>40,001 to 60,000 | One additional member who is an elected member of his/her governing body. |
| ~~45,001 to 60,000~~<br>60,001 and above | One additional member who either holds no office elected by the people or is an elected official but not a member of his/her appointing governing body. |
| ~~60,001 to 75,000~~ | ~~One additional member who is an elected member of~~ |

| | |
|---|---|
| | ~~his/her governing body or an elected official of another jurisdiction within his/her appointing governing body's county.~~ |
| ~~75,001 to 90,000~~ | ~~One additional member who either holds no office elected by the people or is an elected official but not a member of his/her appointing governing body.~~ |
| ~~90,001 to 105,000~~ | ~~One additional member who is an elected official of his governing body. or an elected official of another jurisdiction within his/her appointing governing body's county.~~ |
| ~~105,001 to 120,000~~ | ~~One additional member who either holds no office elected by the people or is an elected official but not a member of his/her appointing governing body.~~ |
| ~~120,001 to 135,000~~ | ~~One additional member who is an elected official of his governing body. or an elected official of another jurisdiction within his/her appointing governing body's county.~~ |
| ~~135,001 to 150,000~~ | ~~One additional member who either holds no office elected by the people or is an elected official but not a member of his/her appointing governing body.~~ |

**This table is established to assure that a majority of the COMMISSION members shall be elected officials of the governing bodies of the governmental subdivisions. In determining the population of counties, the numerical total shall be exclusive of participating towns which have a population of three thousand, five hundred (3,500); said towns are eligible to have one representative. The Towns over 3,500 in population are eligible to each have one elected representative on the Board, but may opt out if they choose.**

**Adopted this ____ day of _____, 2011 in Harrisonburg.**

**_____ _____**

**Richard Baugh, Mayor Attest: Erica S. Kann, City Clerk**

Council Member Degner offered a motion to approve the resolution as presented. 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 Chenault
Council Member Degner
Mayor Baugh

No – None

Absent – Council Member Wiens

City Manager Hodgen stated that staff is currently working on proposals to bring to Council to amend the code(s) that dealt with the flag issue that was brought to Council's attention last week pertaining to an issue in one of the apartment complexes

within the City. City Manager Hodgen stated the flag that is currently being looked into is a decorative flag and not an advertisement flag.

Mayor Baugh stated that Citizens Academy applications are now available and are due on August 18, 2011 at 5:00 p.m.

City Manager Hodgen stated there was no good explanation as to why flags were not put out along City streets during the 4th of July celebration, but he apologized and stated it was a serious matter.

Council Member Chenault reminded citizens that the Harrisonburg Fire Department's annual smoke alarm inspection was to be held Wednesday, July 13, 2011. Call CiCi's for a pizza and receive a free pizza and a complimentary smoke alarm inspection.

Council Member Chenault also recognized Donald Litten, who passed away the previous weekend, for his service to the City and to the Water and Sewer Authority.

Mayor Baugh stated that the community has been deeply saddened over the past few weeks with the death of Andrew Lohr (wife of former House of Delegates member), Nelson Liskey, Emily Long (previous voter registrar), and Spc. Levi E. Nuncio.

Council Member Degner stated that Council is starting to use iPads to become more transparent and tonight's meeting was the kick-off for meetings to be available online.

Council Member Chenault offered a motion to appoint Henry Way, 288 Franklin Street, to a first term on the Tree Advisory Board to expire July 12, 2014. The motion was approved with a unanimous voice vote.

Council Member Chenault offered a motion to appoint Tiffany Runion, 625 S. High Street, to a first term on the Community Services Board to expire July 12, 2014. The motion was approved with a unanimous voice vote.

At 8:53 p.m., there being no further business and on motion adopted, the meeting was adjourned.

_____ _____

CITY CLERK MAYOR