



City of Harrisonburg

409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

Mayor Ted Byrd
Vice-Mayor Charles Chenault
Council Member Kai Degner
Council Member Richard Baugh
Council Member Abe Shearer

Tuesday, August 26, 2014

7:00 PM

Council Chambers

1. Roll call

Present: 5 - Mayor Ted Byrd, Vice-Mayor Charles Chenault, Council Member Richard Baugh, Council Member Kai Degner, and Council Member Abe Shearer

Also Present: 5 - City Manager Kurt Hodgen, Assistant City Manager Anne Lewis, City Clerk Erica Kann, City Attorney Chris Brown, and Police Chief Stephen Monticelli

2. Invocation

Council Member Baugh offered the invocation.

3. Pledge of Allegiance

Mayor Byrd led the Pledge of Allegiance.

4. Comments from the public, limited to five minutes, on matters not on the regular agenda. (Name and address are required)

James Beavers, 331/335 West Grace Street, stated the noise ordinance was a subjective law and too much money and good is going into the community from JMU students to be treated like they are. Mr. Beavers stated he would like the noise ordinance to be changed. Mr. Beavers stated he would like to be an organizer to help mend the relationships between JMU and community members.

Melinda See, 3243 Clause Lane, shared her concerns about the high euthanasia rate at the Rockingham-Harrisonburg SPCA. Ms. See stated the state average is 28% and our local is 52% and she finds this unacceptable. Ms. See feels that the SPCA is using an outdated sheltering model and challenged the City/County to shadow what the Shenandoah Valley Animal Shelter is doing.

Lisa Hensley, 218 East Market Street, also shared her concerns about the Harrisonburg-Rockingham SPCA and gave examples of how the law would affect her two cats if they were captured.

James "Bucky" Berry, 30 West Washington Street, stated an emergency food drive would take place September 8 through October 6, 2014. Mr. Berry stated that they would also be at James Madison University (JMU) on November 20, 2014.

Matthew Wade, 746 Elwood Drive, spoke on the MRAP police vehicle. Mr. Wade felt that the police should have what they need, but the MRAP is a little extreme. Mr. Wade stated the Department of Defense has noted that these types of vehicles aren't necessary. Mr. Wade suggests to sell it; give it back; or if we keep it, to use it wisely.

Steven Pendergraph, West Weaver, questioned Council about the Harrisonburg Resource Recovery Facility. Mr. Pendergraph stated he doesn't feel the City as a whole understands what it actually does. Mr. Pendergraph asked if it was going to shut down and questioned how the citizens would feel about it. Mr. Pendergraph stated he understood that it is up to Council on whether or not the facility gets shut down. He doesn't want to see an overflow at the landfill and the facility is the only mass burn fill facility within the State. Mr. Pendergraph asked Council to inform the public about what is going to happen to the facility.

David Briggman, Mountain Valley Road, stated that this is not the first armored vehicle in the area and MRAP is as gentle as the operator. Mr. Briggman stated the police need protection, but Council needs to set a protocol for the use.

5. Consent Agenda (any item placed on the consent agenda shall be removed and taken up as a separate matter, if so requested by any member of Council, otherwise all items will be voted on with one (1) motion)

A motion was made by Council Member Degner, seconded by Council Member Shearer that all matters, except 5.b., be approved on the consent agenda.

Yes: 5 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

No: 0

5.a. Approval of minutes

These minutes were approved on the Consent Agenda.

5.b. Consider ordinance to close a portion of Chesapeake Avenue (24,176 +/- sq. ft.), East Grace Street (50,429 +/- sq. ft.), a portion of South Mason Street (28,575 +/- sq. ft.), and a 10-foot alley located between South Main Street and South Mason Street (6,708 +/- sq. ft.)

City Attorney informed Council that a few administrative items needed to take place before the ordinance could be passed.

5.c. Consider a request from Gerdau to amend the Zoning Ordinance to allow junk yards within the M-1, General District by special use permit. The amendment would add text within Section 10-3-96 (8) & (20), add junk yards as an available special use within Section 10-3-97, add additional text within Section 10-3-99 (c), add parking regulations for junk yards within 10-3-25 and correct language within Section 10-3-24

These Zoning Ordinances were approved on second reading.

- 5.d. Consider reappropriation of encumbrances requested by department heads that were outstanding at the end of fiscal year 2014

This Supplemental Appropriation was approved on second reading.

6. Regular Items

6.a. Report from Up with People

Jennifer Carlson, Isaiah McGregory, and Lotta Lundell, Up With People representatives, showed a video and gave an overview of the Up With People program. They reviewed five main aspects of the program which were the following: international participation; world travel; volunteer work; host families; and show. The group coming to Harrisonburg has 100 participants from around the world with 15 different countries represented. The group will arrive Monday, September 15, 2014 and do two days of volunteer work and three days of shows and then depart on Sunday, September 21, 2014. They stated they are looking for host families and if interested to contact Jennifer Carlson at jcarlson@upwithpeople.org. Tickets are for sale and all proceeds will go to the Children's Museum.

6.b. Consider approval of State Performance Contract for Community Services Board

Lacy Whitmore, Executive Director Community Services Board, reintroduced the City and County joint public agency known as the Community Services Board (CSB) which provides the following services: public mental health, substance abuse treatment, and support to individuals and families with individuals who are intellectual disabled. Mr. Whitmore stated the agency is in their 42nd year in the community. Mr. Whitmore reviewed the three major changes to health care which were the following: medicaid; federal government rules; and involuntary treatment for mental health. Mr. Whitmore asked Council to consider approving the contract that is between the Harrisonburg Rockingham Community Services Board and the Virginia Department of Behavioral Health and Development Services. The Code of Virginia calls for a formal vote on this contract. However, if no action is taken by Council by September 30, 2014, it is considered approved. Mr. Whitmore stated he just received 42 different changes that the Board will review during their meeting next week. Once the contract is executed, the CSB will receive approximately \$4.7 million.

Council thanked staff for their hard work. Mr. Whitmore also thanked Council for their continued support. Mr. Whitmore stated there had been a new commissioner appointed, Debra Ferguson that will be coming to Harrisonburg to see how the CSB operates.

A motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, that the State Performance Contract be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

No: 0

6.c. Consider request from Andre Wallace for support of a historical marker for Edgar A. Love

City Manager Hodgen stated Council members were contacted by Andre Wallace requesting their support for installing a historical marker near John Wesley United Methodist Church in honor of Edgar A. Love. Mr. Love was born in Harrisonburg in 1891 and was a cofounder of Omega Psi Fraternity, social justice advocate, professor, U.S. Army Chaplain, and a Bishop. City Manager Hodgen stated prior to the group submitting the application for the historic marker to the Commonwealth of Virginia, the City has to agree to install and maintain the marker. The Public Works Department has reviewed the request and recommended approval. If Council approves this request, and subsequently the Commonwealth does, Public Works will install and maintain the marker. The marker will be installed adjacent to John Wesley United Methodist Church at the intersection of Sterling and Effinger Streets.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, to support the historical marker near John Wesley United Methodist Church in honor of Edgar A. Love and be approved. The motion carried by a voice vote.

6.d. Consider by-law changes for Transportation Safety and Advisory Commission

Bill Blessings, Chairman of the Transportation Safety and Advisory Commission (TSAC), and Brad Reed, Public Works designee, provided a brief history about the Commission. They stated the TSAC would like to recommend changes to the Commission's by-laws in the city code. They stated since 2010, there have been six voting members of the Commission: four citizen members, plus one representative from the Public Works Department and one from the HPD. Aside from those voting members, representatives from HFD, HDPT, JMU, EMU, and DMV often attend serving in an advisory capacity. They believe these representatives should be included in a formal fashion, i.e., identified as non-voting participants of the TSAC meetings in the city code. They also stated since the city has increased in population since the Commission was initially chartered, there should be an additional voting citizen member on the Commission. Adding a member will also create an odd number of members which will assist in voting. The TSAC recommended that the five citizen members be chosen, to the extent possible, from different geographical areas of the city: one from each geographical quadrant and one at-large member. The TSAC also recommended that the terms of appointment should be changed from four to three years. With this cycle, the terms of two members would expire every 1st and 2nd year and the term of one member would expire every 3rd year. They stated members

would continue to be reappointed, if they reapply and Council wishes. The TSAC also recommended not to limit terms served on the Commission. They mentioned the School Board is also present at the meetings when the group feels that is necessary for them to attend.

The following discussion occurred: those who apply need to understand that the group meets every month; group contributes a lot of work; meeting minutes are available online; the group is proactive; and Council appreciates the group having recommendations.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that the recommended changes to the TSAC by-laws be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

No: 0

6.e. Report on taxi companies request for rate adjustments

Reggie Smith, Director of Public Transportation, stated that it is recommended to approve the proposed taxi rate increase requested by the City of Harrisonburg taxi companies. Mr. Smith stated the recommendation is based on the letter dated July 30, 2014, to remove the fuel surcharge approved May 10, 2011, and add the \$0.75 to the initial load fee. Mr. Smith stated this increase is meant to benefit the drivers. Mr. Smith stated although we cannot request, the City hopes the cab company owners will not increase the cab lease fees.

A motion was made by Council Member Degner, seconded by Council Member Baugh, to add a \$0.75 surcharge to the base fee as presented be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

No: 0

6.f. Report on "Ban the Box" Initiative

City Manager Hodgen stated Council had requested staff look into the removal of the "box" or question on the City job application form which asks if the applicant has been convicted of any offenses. The idea is that having this on a job application could eliminate some otherwise qualified applicants from consideration and makes it harder for ex-offenders to get jobs. City Manager Hodgen noted a number of Virginia cities have eliminated this from their job applications. City Manager Hodgen noted the Commonwealth of Virginia has not adopted a state-wide policy on this issue. The City will continue to ask about a job applicant's criminal history, just at a different state in

the process. He stated it is currently our practice to run criminal background checks on any applicant to whom we make a conditional job offer. City Manager Hodgen noted that if we rescind an offer of employment, based on information contained in the background check, we must make the applicant aware of this and give them a chance to explain or correct the information in the event that it is erroneous. Given the preceding paragraph, staff believes that the best interests of the City remain protected if the question is eliminated from our job application and thus recommend that the question be removed. City Manager Hodgen stated this had been run by the City's liability carrier and they were fine with the change.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, to remove questions 3 & 4 under the agency questions found on the City's employment application. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

No: 0

7. Supplementals

- 7.a. Consider a supplemental appropriation for the Police Department in the amount of \$30,000

City Manager Hodgen stated these funds would be transferred from the State Asset Seizures budget (Law Enforcement Program Only) to the MV and equipment line item to purchase equipment for a Mine Resistant Armored Personnel Carrier acquired through the United States military. City Manager Hodgen stated equipment includes metal skirting and detachable foot rails, articulating ram, handrails, armored hatch, emergency lights, back up camera system, mobile surveillance video and painting/lettering. City Manager Hodgen stated staff recommended approval of the request.

Brief discussion was held on the following: lots of feedback about this vehicle; the unit itself came months ago; empathize with the concerns of militarizing the police, but need to understand what it is intended for; intended for defense for those weapons that are available to citizens; degree of accountability rest on our staff; feel that police will take responsibility with how they respond in the vehicle; hope police continue the efforts such as Coffee with a Cop and National Night Out; articulating ram is an unfortunate description because this portion of the vehicle serves as an arm that could help out in situations such as hostage situation; it is not the vehicle but the professionalism of the individuals using it; those using it are trained for SWAT-like situations, but are seen as regular police officers everyday; vehicle is designed to save and protect police officers but also serve to help those who are in danger; haven't lost a life of police/fire officer recently and hope that is because they have the necessary tools; hope the vehicle will not have to be used; funds are coming from State forfeiture and have to be used towards police items; police officers have to be

prepared for all types of situations; trust police department will have protocol in place.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that this Supplemental Appropriation be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

No: 0

7.b. Consider a supplemental appropriation for the Main Street Streetscape Project in the amount of \$880,782

City Manager Hodgen stated these funds represent monies that will be received from the Transportation Enhancement Program for the Main Street Streetscape Phase 2 Project and are recommended for approval.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that this Supplemental Appropriation be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

No: 0

7.c. Consider a supplemental appropriation for the Department of Public Transportation School Transportation Fund in the amount of \$250,000

Mr. Smith stated these funds will be used to purchase four additional school buses and an activities bus with funding coming from the fund balance of the School Transportation Fund. Mr. Smith stated Harrisonburg has an increased student population and use of mobility devices on school buses.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, that this Supplemental Appropriation be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

No: 0

8. Other Matters

Vice-Mayor Chenault asked staff to review the van that is used in Richmond at VCU to measure sound.

Council Member Shearer and Vice-Mayor Chenault requested an update from the school system about the planning of an Elementary School. Next year's budget process will soon start and it will be an important part to know where it stands.

Vice-Mayor Chenault stated if it involves acquisition of real estate in anyway discussions need to begin. Council needs to look at it from a funding mechanism.

Council Member Baugh provided an update about Planning Commission matters.

Mayor Byrd stated he received a message from an individual who lives where a parking permit is required, but doesn't allow parking on the street. This individual is also denied a visitor pass even for a close side street. Mayor Byrd asked for staff to revisit our parking ordinance.

Council Member Degner asked if the consultants for the jail were provided with a list of questions discussed at the last meeting. City Manager Hodgen stated there was a conversation with the consultants yesterday and the information needed was outlined. City Manager Hodgen stated the consultants are working on the information. However, the information is not currently in an accessible format in the Sherriff's Office, so it will take a while to produce. City Manager Hodgen stated the first acquisition that might occur is to get a system to track everything. City Manger Hodgen stated he believed that a meeting was going to be set up next week with the Advisory/Review Board. City Manager Hodgen stated he wouldn't say the process is slowing down, but the process is evolving. City Manager Hodgen stated there is a possibility that the December deadline would not be met. City Manager Hodgen stated we will have to build something to help with the services that need to be provided. However, the big issue is not having the data to classify which types of prisoners we currently hold. Currently, the option downtown is maximum security cells, which is the most expensive type of facility to build. City Manager Hodgen stated the facility that has been discussed is not maximum security.

9. Boards and Commissions

9.a. Shenandoah Valley Workforce Investment Board

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that Andrew Breeding, HR Manager of Tenneco Automotive and Marshall Price, Director of Massanutten Technical Center be appointed to a first term on the Shenandoah Valley Workforce Investment Board to expire June 30, 2018. The motion carried with a voice vote.

9.b. Social Services Board

A motion was made by Council Member Baugh, seconded by Council Member Shearer, that Greg Czynszczon, 507 Stonefield Court, be appointed to a first term on the Social Services Board to expire July 1, 2018. The motion carried with a voice vote.

10. Closed Session

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that that the Harrisonburg City Council enter into a closed meeting as authorized by the Virginia Freedom of Information Act, Virginia Code Section 2.2-3711(A), under: Subsection 1 for the evaluations of specific City Employees; Subsection 3 for a discussion of the acquisition of real estate for a

public purpose; Subsection 3 for a discussion of the disposition of publically held real estate; and Subsection 7 for consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel. The motion carried by the following vote:

Yes: 5 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

No: 0

10.a. Discussion or consideration of the acquisition of real property for a public purpose where discussing in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body

This Closed Session Item was approved.

10.b. Consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel

This Closed Session Item was approved.

10.c. For the evaluation of specific City employees.

This Closed Session Item was approved.

11. Adjournment

At 10:15 p.m., the closed session ended and the regular session reconvened. City Attorney Brown read the following statement, which was agreed to with a unanimous recorded vote of Council: I hereby certify that to the best of my knowledge (1) only public business matters lawfully exempted from open meeting requirements under Chapter 37 of Title 2.2 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 meeting was convened were heard, discussed or considered in the closed meeting by the City Council.

At 10:16 p.m., there being no further business and on motion adopted, the meeting was adjourned.

City Clerk

Mayor