



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

Mayor Christopher B. Jones
Vice-Mayor Richard Baugh
Council Member Ted Byrd
Council Member Kai Degner
Council Member Abe Shearer

Tuesday, May 10, 2016

7:00 PM

Council Chambers

1. Roll Call

Present: 5 - Mayor Christopher B. Jones, Vice-Mayor Richard Baugh, Council Member Ted Byrd, Council Member Kai Degner and Council Member Abe Shearer

Also Present: 4 - City Manager Kurt Hodgen, City Clerk Erica Kann, City Attorney Chris Brown and Police Chief Stephen Monticelli

2. Invocation

Mayor Jones offered the invocation.

3. Pledge of Allegiance

Mayor Jones 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)

Diane Orndorff, 22 East Market Street, spoke about accreditation at the Middle River Regional Jail and felt there isn't a reason not to review it in a broader way because accreditation is a helpful device, the application process is under \$20,000, hopes to see it in October's budget, and it could prevent litigation. Mrs. Orndorff also thanked council for their work on the mulch ordinance.

Bernd Kaussier, 540 S. Mason Street, stated he was here representing many neighborhoods across the city that has been affected by anti-social behavior. Mr. Kaussier spoke about his recent phone call into the non-emergency number after seeing students slapping and punching each other. Mr. Kaussier noted a citation was not given, but noted the police didn't see the activity. Mr. Kaussier feels that the police department isn't staffed to handle large parties, we need more foot and bike police, we need to deter parties, landlords need to take more responsibility for their tenants, and zoning needs to be more proactive. Mr. Kaussier noted that James Madison University (JMU) doesn't allow Greek life on campus and only 35% of the properties in the city are owner occupied.

Mayor Jones stated he reached out to ABC Law Enforcement Board, hopes to get support for a memorandum of understanding between JMU and the city of Harrisonburg, and hopes we have a plan in place prior to August.

Karen Thomas, 158 East Johnson Street, presented another proposal for paving of the alleys that intersect within Newtown Cemetery after notification was received that another proposal was requested.

A brief discussion took place regarding communication, a letter was read by Ms. Thomas, and Ms. Thomas asked council why council didn't feel this request was important. Council Member Degner thanked Ms. Thomas for the proposal. Ms. Thomas stated Charlottesville gave their African American cemetery \$80,000.

Pamayotis "Poti" Giannakaouros, 98 Emory Street, thanked council for the service they provide and stated he has received data for the last three months and noted the incarceration rate has shown another increase. Mr. Giannakaouros also noted it has been the highest rate that we have experienced in the city. Mr. Giannakaouros stated he will provide election numbers to help understand where the community is and what we can mobilize in order to address the health of our community.

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 the consent agenda be approved. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

5.a. Minutes

These minutes were approved.

5.b. Consider amending and re-enacting Sections 5-2-18, 5-2-19 and, 5-2-20 of the Harrisonburg City Code on combustible landscape cover material (mulch)

These ordinances were approved on second reading.

5.c. Consider a request to amend the Zoning Ordinance Sections 10-3-24, 10-3-90, & 10-3-96 related to plant nurseries and greenhouses. The amendment would add landscaping businesses and similar operations within the definition of plant nurseries and greenhouses. The amendment would also allow these uses to have small-scale, outdoor manufacturing, processing, storage, and treatment of products within the M-1, General Industrial District.

These zoning ordinances were approved on second reading.

5.d. Consider amending the Zoning Ordinance Sections 10-3-24, 132, and 135 through 140. Section 10-3-24 Definitions shall be amended by updating the definition of

“variance” to align with changes to the Code of Virginia. Multiple sections within Article W, Board of Zoning Appeals shall be amended by updating existing sections in order to align with recent changes to the provisions of the State Code and to make general housekeeping corrections within the Article.

These zoning ordinances were approved on second reading.

6. Joint Public Hearing with Planning Commission

- 6.a.** Consider a request for a Special Use Permit per Section 10-3-34(11) to allow for a proposed, new elementary school to exceed the 35-foot maximum height allowed for a structure in the R-1, Single Family Residential District

At 7:26 p.m., Planning Commission Chair Fitzgerald called the City Council Planning Commission Joint Meeting to order and noted Planning Commission had a quorum.

Adam Fletcher, director of community development, reviewed the surrounding properties, the site, and stated in 2014 the city’s policy changed to have the city conform to the regulations of city zoning ordinances. Mr. Fletcher stated the comprehensive site plan for Bluestone Elementary School was approved on March 28, 2016 after going through four formal reviews. Mr. Fletcher stated the building permit was submitted for review on March 17, 2016 and the first stage of a permit’s review includes evaluation for a zoning ordinance compliance and that was when staff was informed of the maximum height of the proposed elementary school would exceed the 35-foot maximum height allowance of the R-1 district. Mr. Fletcher stated the Overall Elevation West illustration, the northern, two story side of the building reaches a height of 35 feet 3 inches, while on the southern, three story side of the building, the structure reaches a height of 44 feet 4 inches. Mr. Fletcher noted the radio towers near the location are over 350 feet in height and stated staff recommended approval of the special use permit.

Council Member Degner asked if this request would have come up earlier in the process, would the recommendation have been different. Mr. Fletcher stated staff’s recommendation would have been the same.

Planning Commission Chair Fitzgerald stated Planning Commission didn’t have any questions.

At 7:33 p.m., Mayor Jones closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Monday, April 25, 2016 and Monday, May 2, 2016.

There being no one desiring to be heard, Mayor Jones closed the public hearing at 7:34 p.m., and the regular session reconvened.

Planning Commissioner Dilts offered a motion, seconded by Planning Commissioner Heatwole to approve the special use permit as presented. The

motion was approved by a unanimous voice vote.

A motion was made by Vice-Mayor Baugh, seconded by Council Member Degner, to approve the special use permit. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

At 7:35 p.m., Planning Commissioner Heatwole offered a motion, seconded by Planning Commissioner Dilts to adjourn the City Council Planning Commission Joint Meeting. The motion was approved by a unanimous voice vote.

7. Public Hearings

- 7.a. Consider a request from Erickson Road Investments, LLC with representative Edmond Blackwell for a special use permit per section 10-3-91 (9) of the Zoning Ordinance on the property addressed as 1911 South High Street

Mr. Fletcher reviewed the site, the history of the site, and the surrounding properties and stated if the request is approved, the applicant desires to redevelop the property and construct a new structure within 0.83 feet of its southern property line. Mr. Fletcher stated within the area where the new building is proposed, there is a 30% grade change. Mr. Fletcher reviewed the following regarding the site: the southern property line is at an elevation of approximately 1,280 feet while the parking area for the site is approximately 1,298 feet; any building constructed in this area would require a foundation wall of approximately 18-feet and may require some encroachment onto the adjacent property; there are storm drainage and sanitary sewer pipes that cross onto the adjacent property to the south; and, the applicant will need to work closely with the adjacent property owner, which will need to take place during the Comprehensive Site Plan review. Mr. Fletcher noted that during the review there were concerns from the fire chief and specific building code regulations and the applicant is aware of the issues and will work closely with the building inspections division when designing the proposed new building. Mr. Fletcher noted that both staff and Planning Commission recommended approval of the request.

At 7:43 p.m., Mayor Jones closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Monday, April 25, 2016 and Monday, May 2, 2016.

Sheldon Early, 1921 S. High Street, shared his concerns regarding the request, stated he has been in communication with the applicant, requested the city guarantee him a zero setback for his property, and asked for a further study on this proposal before a decision is made.

At 7:47 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

Council Member Degner asked if staff is reviewing the sewer line at this point. Mr. Fletcher stated the plan being presented is a conceptual plan, the sewer line will be reviewed further in the building review process, and as well as state standards that need to be met regarding water retention and water flow.

Council Member Byrd asked if stormwater concerns were site specific. Mr. Fletcher stated yes, the site can't produce more flow than it currently does, and the site design will have to meet state standards.

Mr. Fletcher stated if the applicant would like to build over the riprap area, which they can do without permission from the zero setback, they would have to structurally show that water flow would not be increased. Mr. Fletcher stated a wall can be constructed over the riprap area by-right. Council Member Shearer clarified, by-right the wall can be constructed. Mr. Fletcher stated yes, but during construction the applicant would have to get permission from neighbor to go on their property during the construction period. It was noted in the last 10 years approximately four zero setbacks have been granted in B-2 zoning. After further discussion, it was concluded that Mr. Early's concerns would be addressed during the design and construction phase and if Mr. Early would like to receive a zero setback, he would have to go through the same process this applicant went through. Mr. Early again shared his concern for water runoff and would like the applicant to build a foundation for him while they construct the wall. It again was noted; that concerns such as these will need to meet state standards and the foundation requested would be up to the applicant. City Attorney Brown noted if the applicant didn't comply, Mr. Early would have some enforcement remedy options. Mr. Early asked if his zero setback could take place in conjunction with this application. Council responded this applicant is several steps ahead.

A motion was made by Vice-Mayor Baugh, seconded by Council Member Degner, to approve the special use permit as requested. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

- 7.b.** Consider a request from Wharton Aldhizer & Weaver, PLC (WAW) to rezone 2,316+/- square feet of their property from B-2, General Business District to B-1C, Central Business District Conditional and located at 245 East Water Street

Mr. Fletcher stated the applicant desires to subdivide the structure, also referred to as the carriage house, into an individual parcel, separate from the main Wharton Aldhizer & Weaver, PLC property. Mr. Fletcher reviewed the properties involved, the surrounding properties, the history of the request, and stated two concerns were identified: setbacks and parking. Mr. Fletcher stated at this time Wharton Aldhizer & Weaver, PLC intends to maintain the existing paved area, which, as described, is essentially three parking spaces. However, depending upon the uses that might utilize the property and coupled with improvements that might be made to the structure, due to handicapped accessibility issues, the existing three spaces

could end up being converted to two spaces. Mr. Fletcher stated the Comprehensive Plan designation of Mixed Use Development supports the idea for the B-1 zoning classification for this parcel and on-street parking is available along East Water Street and Newman Avenue within this area. Mr. Fletcher stated the applicant submitted the following proffer: two parking spaces shall be provided on site if the subject property is used for commercial/business purposes, and if used residentially, one parking space per tenant will be provided on site, which resolves staff's typical concern regarding off-street parking for B-1 properties. Mr. Fletcher stated the applicant was informed that there is an issue regarding easements for the existing water and sewer services to the carriage house that would need to be worked out prior to the approval of a subdivision for the parcel; however, this does not affect the rezoning request. The applicant was also informed that depending upon where the new property line is placed, there may be building code issues regarding future openings for any proposed doors or windows. Mr. Fletcher stated staff and Planning Commission both recommended approval of the request.

At 8:12 p.m., Mayor Jones closed the regular session and called the third public hearing to order. A notice appeared in the Daily News-Record on Monday, April 25, 2016 and Monday, May 2, 2016.

Greg St. Ours, partner with Wharton, Aldhizer and Weaver, thanked Adam for the thorough presentation and made himself available for questions.

At 8:13 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

A motion was made by Vice-Mayor Baugh, seconded by Council Member Byrd, to approve the request with the stated proffer. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

- 7.c.** Consider a request from Jamison Black Marble Wildlife Preserve LLC represented by Richard Blackwell to close a 8,523 +/- square foot undeveloped portion of Red Oak Street

Mr. Fletcher presented a request to close 8,500 square feet of an undeveloped portion of Red Oak Street. Mr. Fletcher stated this presentation also included the next agenda item request to dedicate portions of nine parcels as public street right-of-way for Red Oak Street and to create a permanent cul-de-sac. Mr. Fletcher presented the preliminary plat for the dedication of private property to become public street right-of-way and the street closing/purchase of 8,523 square feet of the undeveloped portion of Red Oak Street right-of-way. Mr. Fletcher noted a temporary cul-de-sac is already present, with the intent to extend Red Oak Street to the south, and if necessary, extended even further. Mr. Fletcher noted the street closing is to the south of that area, and both of these requests stem from conditions placed in July 2015 upon approval of the special use permit (SUP) to

allow for recreational and leisure time activities with non-transient dwellings on the M-1 zoned property at 1430 Red Oak Street, which is owned by Jamison Black Marble Wildlife Preserve, LLC. Mr. Fletcher reviewed the nine properties involved in the request, reflecting part of the dedication due to pipe-stem portions leading to the public street. Properties seven and eight, which are private properties and letters from the owners stipulating they are not interested in buying the portion requested for closure, are adjacent to public street right-of-way closing which is to become part of the property to the south. Mr. Fletcher noted that all properties are zoned M-1. Mr. Fletcher reviewed the proposed residential structure, the private street standards, the variance requirements, and the SUP conditions and noted there are still two obligations to be met in the SUP: building the street as is required by the fire department, a fire hydrant and, a water line that must be extended. Mr. Fletcher noted that there will be many easements needed if the city decides to vacate the right-of-way as follows: existing water lines, existing sewer, flood way, and an HEC overhead power line easement. Mr. Fletcher stated that if all of this is approved, before the final approval and plat, easements will be reserved by staff. Mr. Fletcher noted that there will also be two private easements: a private access easement and a private drainage easement.

At 8:27 p.m., Mayor Jones closed the regular session and called the fourth public hearing to order. A notice appeared in the Daily News-Record on Monday, April 25, 2016 and Monday, May 2, 2016.

At 8:28 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

Vice-Mayor Baugh asked City Attorney Brown if these items need to be voted on separately. City Attorney Brown acknowledged that these are to be taken up as separate matters.

A motion was made by Vice-Mayor Baugh, seconded by Council Member Shearer, that the street closure of 8,523 +/- square foot undeveloped portion of Red Oak Street be approved. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

8. Regular Items

- 8.a.** Consider a request from Acorn Enterprises, Inc.; Reon Properties, LLC; Mathew S. and Holly C. Einstein; and Quarles Petroleum, Inc. all being represented by Richard Blackwell to preliminarily dedicate portions of 9 parcels as public street right-of-way for Red Oak Street and to create a permanent cul-de-sac

This request was presented with the previous agenda item 7.c.

A motion was made by Vice-Mayor Baugh, seconded by Council Member Shearer, that the request to dedicate portions of 9 parcels as public street right-of-way for Red Oak Street and to create a permanent cul-de-sac be approved. The motion carried with a recorded roll call

vote taken as follows:

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

No: 0

8.b. Consider a Comprehensive Sign Package request for 1854 East Market Street and 22 Terri Drive

Mr. Adam Fletcher presented a request for a Comprehensive Sign Plan for property located at 1854 East Market Street and 22 Terri Drive. Mr. Fletcher stated that per City Code Section 11-7-6.1 for the B2 District, Subsection 1 stated free standing advertising signs must be located on the same site as the use they advertise; however, Section 11-7-6.1(7) allows for the approval of a Comprehensive Sign Plan, which has specific stipulations that allow individuals to apply and council can approve the Comprehensive Sign Plan when the property is owned by the same entities, giving them two options: signs that are non-permitted signage (i.e. wall signs) and/or for off-premises free standing signage. Mr. Fletcher stated that the signage being requested is the off-premises free standing signage, presented the specifications of the sign and noted the restrictions for the signage. Mr. Fletcher noted that this was not required to be presented to the Planning Commission.

A motion was made by Council Member Byrd, seconded by Council Member Shearer, that the Comprehensive Sign Plan request be approved. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

8.c. Consider a recommendation of the proposed revisions to Section 15-2-24 Fowl, Chickens and other Domestic Birds (commonly referred to as the Chicken Ordinance)

Mr. Fletcher stated in September of 2015, the following four talking points were presented to the planning commission to discuss, provide feedback and offer recommendations: lot size of 2 acre minimum reduction, neighbor approval added to the permit process, amount of permits issued during implemental trial period, and any other issues not discussed in 2009.

Mr. Fletcher stated in October 2014 Planning Commission reviewed all information that was previously presented in 2009 and requested expert advice on Avian Influenza to educate the Planning Commission. This issue was not brought back to Planning Commission until January 2016, when Dr. Don Hopson, the Regional State Veterinary Supervisor for the Virginia Department of Agriculture and Consumer Services (VDACS), spoke to the commission. Planning Commission decided to move forward in February 2016 with a public input session, which was well attended by the public, and the Virginia Poultry Federation who submitted several comments including whether a buffer should be required around poultry

facilities. Mr. Fletcher stated that after the February meeting Planning Commission gave staff the guidelines to begin drafting the amendments to the current ordinance, staying focused on the four talking points. Mr. Fletcher stated during the March 2016 meeting, after the draft amendments were reviewed by staff, additional unofficial public comments and feedback were offered to the commission, and the final revision was presented in April 2016. Mr. Fletcher reviewed the recommended amendments with council, which included a buffer zone, litter and carcass disposal, neighbor approval, pen requirements, Virginia Livestock Premises registration requirements, and to eliminate the 2 acre minimum requirement. Mr. Fletcher stated that while working in coordination with Ms. Earhart, animal control officer, it was recommended that the permit/plaque should be displayed on the pen. Mr. Fletcher stated it was also suggested that brochures and manuals provided by the Virginia Poultry Federation be made part of the application, which are published by the U.S. Department of Agriculture (USDA), and are also available in Spanish.

Council Member Byrd asked if a public hearing was held throughout the entire process. Mr. Fletcher stated it was strictly public input sessions, not an advertised public hearing.

Mayor Jones stated he is in favor of the neighbor waiver. Council Member Byrd agreed with the neighbor waiver and suggested a public hearing be held on this issue. Council Member Degner requested a public hearing be held with the amendments including the requirement of the permit/plaque display on pen. Council Member Byrd asked why the neighbor waiver requirement was not included.

Vice-Mayor Baugh stated he was an advocate for the neighbor waiver but felt he was the only one in favor. Vice-Mayor Baugh stated during discussions within the Planning Commission the response was dependent upon whether one was an advocate for or against; however, the response was uniformly negative. Vice-Mayor Baugh stated with the poultry industries clear involvement and influence on the ordinance, this could be a potential template for other communities. Vice-Mayor Baugh stated Ann Arbor amended their ordinance to reflect a neighbor waiver would only be required if three to six hens were requested.

Council Member Byrd stated he is still in favor of the neighbor waiver and a public hearing regarding these recommended amendments be held. Vice-Mayor Baugh stated he only keeps bringing the neighbor waiver up because it was a vigorous and polarizing debate in 2009. Council Member Byrd suggested that during the public hearing, the suggested changes be shown on the requested amendments. Mayor Jones stated that according to the neighbor waiver requirements in Ann Arbor, we are within that hen limit and are in line with requesting a neighbor waiver. Council Member Shearer noted that in the past meeting notes from Planning Commission it was quite clear that at first there was hesitation on the neighbor waiver, primarily from proponents, but over time, it seemed to iron itself

out and there isn't much of a concern any longer, but he feels it is a legitimate request. Mayor Jones stated the concern of a neighbors input, no matter what issue, promotes a positive conversation.

A motion was made by Council Member Degner, seconded by Vice-Mayor Baugh, that a public hearing be held on the recommended amendments to Harrisonburg City Code Section 15-2-24. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

8.d. Consider approval of the FY2016 CDBG Action Plan

Ande Banks, assistant to the city manager, presented the fiscal year 2016 Community Development Block Grant (CDBG) Action Plan for consideration, in which the proposal is to spend \$528,947.00 as originally proposed, including the annual debt service for Harrisonburg Redevelopment Housing Authority (HRHA), several public utilities projects and seven non-profit organizations in the community, to further the priorities described in the 2012-2016 Consolidated Plan. Mr. Banks stated the full 2016 Action Plan is available in the city manager's office, at the Massanutten Regional Library, and on the city's website. Mr. Banks stated a 30-day public comment period was held and no comments were received and staff recommended approval.

A motion was made by Council Member Shearer, seconded by Council Member Byrd, to approve the FY2016 CDBG Action Plan. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

8.e. Consider approval of an Amendment to the CDBG Citizen Participation Plan

Mr. Banks presented the amendment to the Community Development Block Grant (CDBG) Citizen Participation Plan (CPP), per the U.S. Department of Housing & Urban Development (HUD) regulations, which takes care of federal language that was changed this year to include the Analysis of Fair Housing. Formerly known as the Analysis of Impediments to Fair Housing per the Affirmatively Furthering Fair Housing Final Rule requirements found at 24 CFR 91.105 and 24 CFR 5. These revisions reflect the city's requirement to prepare and submit an Assessment of Fair Housing no later than October 1, 2016, and specify how the city will develop, revise, amend, and adopt the documents required as an entitlement community designated by HUD. Mr. Banks stated the procedures for public hearing, public comments, etc will remain the same. Mr. Banks stated no comments were received during the public comment period and staff recommended approval. Mr. Banks noted this plan will not become final until approved by HUD.

A motion was made by Council Member Degner, seconded by Council Member Shearer, that the Amendments to the CDBG Citizen Participation Plan be approved. The motion carried

with a recorded roll call vote taken as follows:

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

No: 0

8.f. Consider updates to the Stormwater Utility Fee Credit Manuals for Residential and Non-Residential

Jim Baker, director of public works, introduced Kelly Junco, MS4 coordinator for the city. Ms. Junco presented the first half statistics of stormwater fees collected to date as well as the credit applications received. Ms. Junco presented the Non-Residential Credit Manual changes reflecting the proposed Pre-Existing Non-Residential BMP Maintenance Agreement as well as the pollutant removal spreadsheet. Ms. Junco presented the Residential Credit Manual changes which included a scale based on lot size for tree canopy cover credits, and reviewed the stormwater utility fee credit appeal process. Ms. Junco stated that if approved, these changes would be effective immediately.

Council Member Byrd noted that he had several questions during the last SWAC meeting, regarding if the rebates/credits given were fair compared to the nutrients being removed, he received a spreadsheet reflecting they were, based on using different valuations of the cost to remove a pound of nutrients or sediment, and would also like Ms. Junco to update council on the MS4 permit requirements to the city's five, ten, and 15 year goals in regard to total nitrogen and phosphorous removal and total suspended solids in our reports to Richmond.

Ms. Junco stated the goal for phosphorous has been met as well as for sediment for the 15 year goal through the street sweeping program; however, the nitrogen goal has not been met. Council Member Byrd noted that the goal for nitrogen is for 2028, but we have met the requirements for the MS4 permit as it was issued. Council Member Byrd stated that a stream bank restoration using the enterprise fund money was discussed, and asked how much nitrogen would be removed. Mr. Tom Hartman, assistant director of public works, stated the stream bank restoration project reflects removal of approximately 400 pounds of nitrogen removal. Council Member Byrd stated that would make us 700 pounds short for the 15 year goal, and shared his concerns with the \$2.4M tax implemented to meet these nutrient removals, we are already at the 10 year goal, and although he is in favor the stormwater utility fee credit changes, he feels we need to discuss rolling back of the stormwater fee, because of our progress.

Council Member Shearer stated we have requirements that need to be met by 2018, 2023, and 2028; a tax was created to raise funds to meet the goals by 2028; the tax is currently estimated at \$2.4M per year; and, we have already met two thirds of our 15 year removal requirement.

Mr. Hartman stated the fee is to help meet the 2018 goal, not knowing what the 2023 and 2028 will be because they haven't been set yet. Mr. Hartman stated

when this was in development two years ago all the guidance was not in place for the different practices nor the efficiencies of each practice; however, since we've had the experience of going through the SWAC, developing the utility fees, implementing the fees, with new guidance always coming out, and it has placed us in this good position. Mr. Hartman stated with the new guidance there are still areas that might be changed on how credits are obtained and could put us back in a deficit for 2023. Council Member Shearer asked if based on where we are now, we could literally do nothing for the next 15 years. Mr. Hartman stated that there are other control measures that have to be done. Council Member Byrd stated this program needs to be in place as part of the permit requirement, the guiding principal of the permit was to make the nutrient removal goals (TMD's), which have been acquired for five and ten year goals, but has a hard time reaching out 15 years, and requested more information on these goals. Mr. Baker stated he would provide more information, as there is more involved than just meeting the nutrient reduction requirements. Council Member Byrd stated he understood, but was wondering what the expense need is. Mr. Baker stated the stormwater fees are also used for future projects. Council Member Shearer stated over \$36M will be collected over the next 15 years, even though we have met almost all requirements. Mr. Baker re-iterated that there are projects that need to be done. Council Member Byrd asked Mr. Baker if we are using the fee collected for other projects. Mr. Baker stated these fees can be used to complete other stormwater projects that address stormwater issues, publicly and privately, which we have not been able to do due to funding restrictions. Mr. Byrd stated these fees were set up to strictly satisfy permit requirements, when did that change. Mr. Shearer stated it sounds like a pretty clever tool to raise revenue outside of the general fund to achieve other projects masked as stormwater. Mr. Baker stated these funds are for stormwater projects only. Council Member Byrd stated he was caught by surprise with this information and feels others might have issues with this as well. Mayor Jones stated that if the fees were pulled back, and the goal is moved, then the fee would have to be increased later. Council Member Shearer stated he would rather raise the revenue when it's needed than when we don't need it. Mayor Jones stated we haven't met the nitrogen levels yet. Council Member Byrd stated we have met the five and ten year goal for nitrogen removal requirements. Mr. Baker stated he will bring additional information. Council Member Byrd requested the information be provided prior to end of budget and needs to know the maintenance costs of this program. Mayor Jones re-iterated that if the goal post is moved, we may not meet our requirements.

A motion was made by Council Member Byrd, seconded by Vice-Mayor Baugh, that the amended Stormwater Utility Fee Credit Manual be adopted. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

9. New Special Event Application Requests

- 9.a.** Consider the special event request application for the Strawberry Festival on Saturday, May 21, 2016 for approval

Katie Yount, director of events for Harrisonburg Downtown Renaissance, presented a new special event application for the Strawberry Festival which will take place on Saturday, May 21, 2016 in the City Hall parking lot and adjacent gravel lot. Ms. Yount stated the festival will be from 11:00 a.m. to 5:00 p.m. with kid's activities, food trucks, and strawberry themed goodies for sale to benefit the city and county park projects. Ms. Yount stated that the insurance requirements have been received, and Billy Robinson, with Rotary, is in attendance for any additional questions outside of her knowledge.

Mayor Jones asked if there are any neighbor issues. Ms. Yount stated all the neighbors and surrounding businesses have been notified.

A motion was made by Council Member Byrd, seconded by Council Member Shearer, that Special Event Application for the Strawberry Festival be approved. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

10. Annual Special Event Application Requests

- 10.a.** Consider the special event request application for Fundfest 2016

Ms. Yount presented a special event request for FundFest 2016, which will be held every other Wednesday this summer: May 18, June 1, June 15, June 29, July 13, July 27, August 10 and 24, 2016, at the Turner Pavilion. Ms. Yount stated all departments have approved the request, but insurance is still pending.

Council Member Degner acknowledged that Ms. Yount will be leaving Harrisonburg Downtown Renaissance, and thanked her for sitting through all of the meetings until her agenda item is reached and wished her good luck. Ms. Yount stated she will be at one more meeting. Mayor Jones thanked Ms. Yount for her work.

A motion was made by Council Member Byrd, seconded by Council Member Shearer, that this Special Event Application for FundFest be approved. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

11. Supplementals

- 11.a.** Consider a supplemental appropriation in the amount of \$2,404,517.00 for the

Sanitation Fund

City Manager Hodgen stated it is requested that council consider approving a supplemental appropriation for the Sanitation Fund in the amount of \$1,975,517.00 for costs associated with the decommissioning and cleanup of the Resource Recovery Facility (RRF) as well as construction costs and operational costs incurred at the RRF that are reimbursed by James Madison University in the amount of \$429,000.00, for a total of \$2,404,517.00. City Manager Hodgen stated that staff recommended approval.

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

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

No: 0

12. Reallocations

- 12.a.** Consider a budget reallocation in the amount of \$411,023.14 for the Sanitation Capital Projects Fund

City Manager Hodgen stated it is requested that council consider the reallocation of budgeted funds in the amount of \$411,023.14 within the Sanitation Capital Projects Fund for costs associated with the decommissioning of the RRF. This is mainly for the costs related to the design of the new transfer station that needs to be in place once removed from the old steam plant site upon final acquisition by James Madison University. City Manager Hodgen stated that staff recommended approval.

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

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

No: 0

13. Other Matters

Mayor Jones stated it is police week and encouraged citizens to thank police officers.

Mayor Jones encouraged citizens to submit public input on the budget over the next two weeks due to a budget needing to be adopted by May 31, 2016.

Mayor Jones asked the city manager if he was able to make a change for the school in the amount of \$167,000 that had been discussed during the budget work session. City Manager Hodgen stated per conversation held last night relevant to debt service numbers we believe funding is available, but it will require a formal action taken by council. Mayor Jones stated with real estate taxes being reduced

to \$0.065 we still end up with the surplus being the same with the proposed \$0.08 real estate tax increase. Council Member Shearer stated each year we get ahead and this year we have an opportunity to correct it, the surplus is \$3.8M, and after adjustments the unappropriated fund balance is \$1.8M. Mayor Jones stated real estate taxes need to be set to be able to operate with new expenses such as Middle River Regional Jail and alternative programs. Council Member Degner asked Council Member Shearer what revenue projections he would change. Council Member Shearer stated he wouldn't change any revenue projections and noted the city has \$1.9M in excess Fund Balance and \$1.5M in cafeteria funds. Council Member Shearer stated in real estate taxes we are trying to collect \$2.5M in new money and the city has it in the Fund Balance. Council Member Shearer stated he is aware that we need to grow the city's Fund Balance, but the time to do that was when real estate taxes were \$0.59. It was noted the city's Fund Balance policy has been increased from 16% to 18%. It was also noted the \$1.8M planned for schools wouldn't be used until 2021. City Manager Hodgen stated beginning in December 2018 the city is going to need between \$1.5M to \$2M to pay for our share of the CAD/data management system, and he feels the schools are also going to be back to ask for engineering funds to design the high school annex. Historically council approved these kinds of projects for use of Fund Balance in order for it not to get too high above the 18% reserve requirement. City Manager Hodgen stated the city's fund balance is within comparison of other surrounding localities and we don't have access to 18% of the balance. City Manager Hodgen noted if we begin using funds within those 18% we begin to lose our bond ratings. Council Member Shearer stated if we are growing our Fund Balance for specific projects we need to be clear about it. It was noted there will be new council members and there is no guarantee the schools will move forward with the projects being discussed. There were brief comments regarding the amount the schools did receive. Council Member Degner stated we have many infrastructure needs that are real and asked if adding additional line items for the \$1.8M in the budget would make other council members feel more comfortable. Council Member Degner stated funds being brought in this year will not cover the needs, but help build towards covering the needs. Council Member Shearer stated there was \$3M in natural revenue growth in the proposed budget. City Manager Hodgen stated \$1.6M in natural revenue growth. Council Member Shearer stated the following: there is \$500,000 in sales tax, \$1,100 in gas tax, \$19,000 in water and sewer rates, \$66,000 in business and licenses, and \$120,000 in motor vehicle. City Manager Hodgen stated there were line items that decreased. The discussion ended between council members with different standing of how to view the budget and discussions will continue during the next council meeting when a decision will need to be made.

Council Member Degner asked about the status of the Performance Standards Committee. City Manager Hodgen stated Ande Banks is coordinating meetings with the appropriate individuals.

Vice-Mayor Baugh stated Planning Commission only has one item on their agenda tomorrow night that may or may not have to come before council; however, the

first council meeting in July will be heavy with Planning Commission items.

There was brief discussion about cancelling the second meeting in June due to two members being absent. Staff stated they would plan around not having a second meeting in June as best as they can.

City Manager Hodgen announced that this was Deputy City Manager Lewis' last meeting and thanked her for her five years of service. Deputy City Manager Lewis stated it has been her pleasure to serve the city and that the staff is very knowledgeable and passionate about their jobs.

14. Boards and Commissions

14.a. Planning Commission

It was noted an additional application from Mr. Finks was received prior to the meeting. No action was taken after a brief discussion was held to appoint a second member to Planning Commission after receiving notification of a second vacancy.

A motion was made by Council Member Byrd, seconded by Council Member Shearer, to appoint Kathy Whitten, 560 South Mason Street, to an unexpired term on the Planning Commission to expire December 31, 2016. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

15. Adjournment

At 9:51 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR