



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, July 26, 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: 5 - City Manager Kurt Hodgen, Acting Deputy City Manager Ande Banks, City Clerk Erica Kann, City Attorney Chris Brown and Police Chief Stephen Monticelli

2. Invocation

Council Member Shearer offered the invocation.

3. Pledge of Allegiance

Mayor Jones led the Pledge of Allegiance.

Mayor Jones noted the recent Baton Rouge incident as well as other recent tragedies and stated that his thoughts and prayers were with all involved.

4. New Agenda Items Added During Meeting

4.a. Consider a resolution honoring Larry Shifflett for his service

Fire Chief Shifflett stated it has been a privilege to work for the city for 47 years and to serve as the fire chief for 33 of those years. Fire Chief Shifflett thanked previous and current staff and council members for their continued support for the Fire Department.

A motion was made by Council Member Degner, seconded by Council Member Shearer, to approve the resolution as presented. The motion carried with a unanimous voice vote.

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

James "Bucky" Berry, 30 West Washington Street, stated 2010 was the first year the Fire Department participated in the Brent Berry Food Drive. Mr. Berry complimented Fire Chief Shifflett and his department for their community service and presented a picture to Fire Chief Shifflett.

Diane Orndorff, 22 East Market Street, stated good conversations were held at the

Simms Center last Tuesday. Mrs. Orndorff would like to see a report given on the effectiveness of the hiring policy that had been adopted by council to help hire a more diverse population to reflect the citizens of Harrisonburg. Mrs. Orndorff also stated she was concerned about those who were convicted felons and their ability to get a job.

Mayor Jones stated a report will be provided closer to the two year mark of the adoption of the policy. Mayor Jones also noted that the city is still obligated to hire qualified candidates but noted the removal of the "box" or question on the city's job application form, which had asked if the applicant had ever been convicted of any offenses, also known as the "Ban the Box" initiative. Mayor Jones stated it is important to increase the diversity numbers in the pool of applicants.

Jeffery Sigworth, 541 Vine Street, stated he and his wife moved from Florida two months ago and asked council to consider enacting a Jake Brake ordinance along Vine Street.

Council noted there have been previous complaints about trucks on Vine Street, but they had never received a specific request other than not allowing trucks to use the street. Council thanked Mr. Sigworth for the specific request and asked staff to review.

Mr. Berry stated he would like to see reserve money go towards overtime for the Police Department for community policing. Mr. Berry also suggested for the city to seek grants or increase taxes by another penny to hire more police officers and increase their pay. Mr. Berry noted the increase of pay is needed to keep officers employed with the city and not leaving to go to James Madison University where they and their families can receive free education.

5.a. Introduction of the new Parks and Recreation director

City Manager Hodgen introduced the new director of Parks and Recreation, Luciana Santangelo.

Mrs. Santangelo stated she moved here from Florida and she has worked in parks and recreation and in the capacity of a director for more than 20 years. Mrs. Santangelo stated she looks forward to working here in the city.

6. 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 Byrd, seconded by Council Member Degner, to approve the consent agenda as presented. 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

6.a. Minutes

These minutes were approved on the consent agenda.

6.b. Consider an ordinance granting a franchise to use streets and other public lands of the city of Harrisonburg for operation of a fiber optic network

This ordinance was approved on second reading.

6.c. Consider a request from the Trustees BPO Elks 450 to rezone three parcels from R-3, Medium Density Residential District to B-2C, General Business District Conditional

This rezoning was approved on second reading.

6.d. Consider a request from Harrisonburg OB/GYN Associates, LLC to rezone a parcel from R-3, Medium Density Residential District to B-2C, General Business District Conditional

This rezoning was approved on second reading.

7. Regular Items**7.a.** Consider revisions to the Arts & Cultural District ordinance

Brian Shull, director of Economic Development, stated on June 14, 2016 council voted unanimously to approve the expansion of the borders of the Arts and Cultural District and to review the incentives and effectiveness of the district. Mr. Shull stated this district offers a marketing opportunity due to the clustering of arts venues. Mr. Shull noted the district offers a three year business, professional, occupational license tax (BPOL) exemption to help ease the initial tax burden for qualified arts businesses and he recommends leaving that within the ordinance. Mr. Shull recommended removing the admissions tax exemption incentive from the ordinance. There are currently no certified arts organizations in the district receiving exemptions from the admissions tax. Mr. Shull noted two businesses had been approved, but never chose to charge admission. Mr. Shull noted over the entire Arts and Cultural District the admissions tax brought in approximately \$5,000 in FY15-16. Mr. Shull stated it isn't a significant revenue source for the administrative burden it places on both the Commissioner of the Revenue Office and the vendors themselves.

The question was asked how many vendors made up the \$5,000. Mr. Shull stated less than five.

Mr. Shull noted that the proposed ordinance also brings clarity to the language so it was clear that restaurants weren't able to qualify to have their food and drink sales be eligible for BPOL exemption, which to date no businesses had done.

Mr. Shull also noted that he had met with Mr. Clark to discuss the concerns he

raised during the previous meeting and to discuss the proposed changes. Mr. Clark agreed with the proposed ordinance language.

Mr. Shull stated businesses don't have to be certified to be included in the Arts and Cultural District. Any business physically located within the district is encouraged to market itself as being in the Arts and Cultural District. Mr. Shull clarified that certification is only for the BPOL exemption. Mr. Shull stated it is recommended that this ordinance become effect September 1, 2016.

Mayor Jones asked who markets the Arts and Cultural District. Mr. Shull stated he works with Harrisonburg Downtown Renaissance (HDR) and the Arts Council of the Valley, but doesn't oversee the marketing of the district.

Mayor Jones suggested adding this marketing to the other marketing items that he has discussed with Tourism and Economic Development. Council Member Degner stated he would like to see what other localities are doing to promote arts and cultural districts and if they have any policies in place.

A motion was made by Council Member Degner, seconded by Vice-Mayor Baugh, to approve the revisions of the Arts and Cultural District.

Paul Somers asked to address council.

Mayor Jones stated they would allow him to address council, but noted it is a regular agenda item. Mayor Jones also stated since it was on the agenda comments couldn't have been received during public comment regarding this matter. Mayor Jones stated comments could have been sent to council members prior to the meeting. Mr. Somers stated he spoke to one member of council. It was suggested to contact all members of council.

Mr. Somers, owner of The Golden Pony, reviewed his involvement with arts and the downtown and brought concern that his business was the only business paying those taxes within the entire city and questioned if his business was the only business selling admission tickets. Mr. Somers stated if other businesses aren't paying these admissions taxes it is unfair to his business. Mr. Somers stated since his business opened up he has collaborated with other downtown businesses to bring performances and other events to his business. Mr. Somers stated he isn't upset to pay the admissions tax; he is upset that he is the only one paying it. Mr. Somers proposed the city collect this tax equally and fairly and direct the funds exclusively to organizations doing arts and cultural work within the district such as HDR, Arts Council of the Valley, or Larkin Arts. Mr. Somers noted that just with admissions taxes collected last year from The Golden Pony the money could have doubled the HDR façade enhancement grant. Mr. Somers asked council to answer why he has been the only one paying the admissions tax. Mr. Somers concluded by stating let's not say we want to incentivize the Arts and Cultural District, let's actually do it.

Council Member Baugh stated he wouldn't mind looking into the matter, but council doesn't collect the tax. The tax is collected by the Commissioner of the Revenue (COR), which is another elected official. Council Member Shearer asked the city manager to contact the COR to get feedback regarding the matter.

Mr. Somers added he would like to know if the fees were collected, would it impact the arts and cultural district.

Council Member Shearer was asked if he had spoken with the COR. Mr. Somers stated he hadn't.

There was clarification that others in the city pay admissions taxes due to the \$163,000 collected in admissions tax this fiscal year and Mr. Shull's number of \$5,000 collected admissions tax revenue was solely for businesses within the Arts and Cultural District. It was suggested that Mr. Somers speak with the COR regarding this matter.

A motion was made by Council Member Degner, seconded by Vice-Mayor Baugh, to approve the revisions of the Arts and Cultural District. 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

Council Member Byrd asked that we follow council's rules regarding public comment. Mayor Jones stated any matter that is on the agenda that isn't a public hearing comments won't be received and suggested to get those comments to council prior to the meeting.

7.b. Update on Public Works projects

Tom Hartman, assistant director of Public Works, reviewed the Public Work projects that received grants in FY2017, which included the following: VDOT Revenue Sharing Grant, Reservoir Street, Garbers Church Road Shared Use Paths, and Grace Street (extension of Bluestone Trail) on JMU's campus which JMU is providing the local match; VDOT SmartScale Program (formerly House Bill 2), Exit 245 north bound off-ramp realignment and South Main Street/Martin Luther King Jr. Way improvements; and, the Transportation Alternatives Program (TAP) Grant, Safe Routes to School Spotswood Elementary. Mr. Hartman stated these grants totaled \$13,059,384 in improvement value with only \$3,499,000 of local funds being required. There was a discussion regarding the Bluestone Trail project which included the following: the current project going through JMU stops at the railroad tracks, there is a current project that is ready to go to bid this fall to continue the path from the lake to Carrier Drive, and with the hotel project it will extend the path along Mason Street to Martin Luther King Jr. Way.

Mr. Hartman reviewed the Public Work projects for which grants are being sought during FY2018, which included the following: VDOT Revenue Sharing Grant,

continuation of the Grace Street extension on JMU's campus which JMU is providing the local match; VDOT SmartScale Program, exit 247 improvements to include the bridge and interchange, exit 247 to include the interchange, Mt Clinton Pike improvements, and Erickson Avenue Phase 4; the TAP grant, Federal Street shared use path; and, the Highway Safety Improvement Program (HSIP), corridor signal optimization, flashing yellow arrow study and implementation, and city wide bicycle and pedestrian improvements. Mr. Hartman noted after this year grant applications for VDOT Revenue Sharing and the SmartScale Program will be staggered. Mr. Hartman stated VDOT had received maintenance dollars to replace the structures over the railroads on East Market Street, so those two structures have been removed from the city's grant application. Mr. Hartman noted that VDOT has asked that we submit a grant with the structures over the interstate in the Exit 247 SmartScale grant. Mr. Hartman stated they were also submitting the interchange improvement grant for exit 247 since funding wasn't received in FY2017, with the addition of the northbound off-ramp spur. Mr. Hartman explained that the left turn lane would extend past the merge point of the northbound off-ramp with a dividing median. Mr. Hartman feels the addition of the spur will help the application score higher due to it being within the top 100 intersections within our district for incidents. Mr. Hartman clarified that the intersection improvements can take place without the bridge portion of the application.

Council Member Shearer recognized the work that staff does to seek grants such as these. There was brief discussion regarding the proposed traffic patterns off of exit 247. It was noted the bridges along interstate 81 would be widened during the improvements.

7.c. Consider repealing Section 7-2-20 of the Harrisonburg City Code, Fluoridation of city water supply

City Attorney Brown stated since the 1970's the city has had an ordinance that requires the Public Utilities Department to introduce and maintain sodium fluoride into the city's water supply and keep detailed reports related thereto. City Attorney Brown stated the tank where the city's fluoride is contained has developed a leak and therefore the department is requesting Section 7-2-20 be temporarily repealed until the department is able to comply with the ordinance. City Attorney Brown stated while that specific issue is being addressed, the department would like to undertake a cost/benefit analysis of the fluoride program and to provide council a recommendation as to whether the fluoride program should be maintained. City Attorney Brown stated it should be a three to four month process to replace the tank, upgrade the system, and find a new location on the property for the tank. City Attorney Brown stated during those months the department will present information to council regarding the cost of the system upgrade including the pros and cons of a fluoride system. It was clarified that council wasn't voting on whether or not to keep fluoride within city water, but to keep the city in compliance with a city ordinance. City Attorney Brown stated the ordinance will also be reviewed during the upcoming months. Council Member Shearer suggested during the presentation the department provide an educational component as to why fluoride is provided in city water, how long it has been provided, and why we should or

shouldn't continue placing it in the water.

A motion was made by Council Member Byrd, seconded by Council Member Shearer, to repeal Section 7-2-20 of the Harrisonburg City Code. 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.d. Report on the city of Harrisonburg's Environmental Performance Standards as indicated in the Comprehensive Plan

Ande Banks, acting deputy city manager, stated in January council affirmed its prior adoption of Objective 8.3 of the city of Harrisonburg's Comprehensive Plan and asked for recommendations on implementation, the merits of creating an advisory committee, and how best to engage stakeholders. Mr. Banks reviewed Objective 8.3 and the three strategies that fall under the objective. Mr. Banks stated a group of staff members began reviewing existing environmental performance standards that the city currently has and informed council there are over 50 rules, ordinances, and regulations that currently apply to private and public development projects, which span across federal, state, and local government jurisdictions. Mr. Banks stated staff brought two considerations which were as follows: the creation and implementation of additional standards requires agreed upon goals for those standards and agree upon an establishment of measurements for quantifying attainment of the goals. Mr. Banks stated staff recommended the following: if council wishes to create additional standards for measuring performance then staff would recommend creating an advisory committee. As with the creation and utilization of the Stormwater Advisory Committee (SWAC), a working group, representative of the community, might review existing standards and make recommendations to council on additional environmental performance measures and community engagement.

Council Member Shearer asked what staff's recommendation was regardless of what council desires. City Manager Hodgen stated with the language within the Comprehensive Plan he deemed council to have some measure of desire. City Manager Hodgen stated staff would like feedback on whether or not council would like staff to setup an application form online for individuals' interested in serving on the advisory committee. City Manager Hodgen stated as Mr. Banks had mentioned there is a lot of work to be done in terms of considering potential rules, policies, etc. City Manager Hodgen reminded council that there are certain things the city can't do because of the need for state enabling authority. City Manager Hodgen stated this committee could review potential cost impacts. City Manager Hodgen expressed his concern with the potential for increasing the cost of development and driving development elsewhere. Council Member Byrd stated the way he reads it, on the private side a lot of items are voluntary. Council Member Byrd feels the review is more for city projects. City Manager Hodgen stated the other localities they researched showed the programs for the private side were generally voluntary, with the locality providing ideas, suggestion, and programs. Vice-Mayor

Baugh stated he feels there is recognition in the Comprehensive Plan anticipating a time where it might be considered an appropriate local government function.

A motion was made by Council Member Byrd, seconded by Vice-Mayor Baugh, to approve staff's recommendation to create an advisory committee to review environmental performance standards.

City Manager Hodgen stated he doesn't feel the city has done its job to promote the items we currently have in place. Council Member Shearer stated over the past few years, council has sat down with staff to see what the city is currently doing in regards to this matter. Council Member Shearer stated he feels this committee will be established to evaluate what currently is in place to see if there are sincere concerns or if it is a perception. A brief discussion took place regarding getting citizens involved and to make sure a diverse membership is reflected on the committee.

City Manager Hodgen noted that bylaws for the committee were included in the agenda packet and recommended the motion to include the adoption of those.

A motion was made to amend the current motion by Council Member Byrd, seconded by Vice-Mayor Baugh, to approve the bylaws for the advisory committee as presented.

Council Member Degner stated a large percentage of what the city is doing is required by the federal or state level, but this allows an opportunity for this committee to consider new ideas. It was noted that Virginia is a Dillon Rule state.

A motion was made by Council Member Byrd, seconded by Vice-Mayor Baugh, to approve staff's recommendation to creating an advisory committee to review environmental performance standards.

A motion was made to amend the current motion by Council Member Byrd, seconded by Vice-Mayor Baugh, to approve the bylaws for the advisory committee as presented. 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.e. Consider entering into a Joint Procurement Agreement with the Central Shenandoah Planning District Commission (CSPDC)

City Manager Hodgen stated this agreement provides the city the option to purchase architectural and engineering services through the CSPDC's contacts. City Manager Hodgen stated that the city may never use this, but if necessary it could help speed up the process. City Manager Hodgen stated council's approval is necessary to execute the Joint Procurement Agreement.

Council Member Byrd asked if the agreement contained indemnification provisions to protect the city if the CSPDC's procurement activities weren't to standard.

City Attorney Brown stated in the worst case scenario they aren't to standard, the remedy is for a bidder to contest the contract award and that may start the process over or result in award to another bidder. City Attorney Brown stated there are no monetary damages in the procurement field.

A motion was made by Council Member Byrd, seconded by Council Member Degner, to approve the city manager to execute the Joint Procurement Agreement. The motion carried with a unanimous voice vote.

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

No: 0

8. Supplementals

- 8.a.** Consider a supplemental appropriation for the General and Water Capital Project Funds in the amount of \$38,637.90

City Manager Hodgen stated this request is from interest earned on the 2014 bond issue, interest earned to-date on the 2015 bond issue, and funds received from VDOT. City Manager Hodgen stated the amounts are from the following projects: Erickson/Stone Spring, Reservoir Street, City Hall, Pleasant Valley Road bridge, and Fire Station 1 renovation.

A motion was made by Council Member Shearer, seconded by Vice-Mayor Baugh, to approve the supplemental appropriation as presented. 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. Special Event Application Requests

- 9.a.** Consider the special event request for Block Party in the Burg on Saturday, August 27, 2016 in downtown Harrisonburg

Andrea Dono, executive director of Harrisonburg Downtown Renaissance, stated Block Party in the Burg will be held downtown on Saturday, August 27, 2016 from 4:00 p.m. until 6:00 p.m., and will include a procession from the JMU quad down to downtown along Main Street. Ms. Dono stated all businesses have been notified and insurance has been received. A brief discussion was held regarding the time of the event being earlier. Ms. Dono stated the downtown businesses were surveyed and the time was a compromise of what the survey concluded and JMU.

A motion was made by Council Member Degner, seconded by Vice-Mayor Baugh, to approve this special event application 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. Other Matters

Mayor Jones stated he has had concerns brought to him regarding treatment of inmates at the Middle River Regional Jail and stated he plans on speaking with Council Member Degner and other appropriate people about concerns he has received.

Mayor Jones announced that Citizens Academy applications are due August 1, 2016.

Mayor Jones announced that National Night Out will be held on Tuesday, August 2, 2016 with the kickoff at 5:00 p.m., at Court Square.

Mayor Jones also announced that the office for the child safety seat inspections will be moving to Station 4 beginning Monday, August 1, 2016 for approximately a year while renovations occur at Station 1.

Mayor Jones announced that household hazardous waste collection will take place on August 20, 2016 at the city's recycling facility located at 2055 Beery Road. Mayor Jones noted that this is open to both city and county residents.

Mayor Jones stated the NAACP and Northeast Neighborhood meetings that were held last week were both great events with great conversations held.

Mayor Jones stated the K9 for Warriors event was a success, thanked Chad Layman for his leadership, and the event raised approximately \$240,000.

Mayor Jones also stated the Shenandoah Valley Pride Festival had a successful event on Court Square.

Mayor Jones noted the Valley Business Keynote that took place at the Forbes Center earlier in the day.

Council Member Byrd asked about the presentation regarding the recommendation on the restated stormwater fee/tax rate. City Manager Hodgen stated he believed that it was being presented at the next council meeting. It was noted it needed to happen prior to the printing of the September billing cycle. Council Member Byrd asked if the second reading could take place in time. City Attorney Brown stated yes, that ordinances don't have to have two votes, but council has to address the issue as least two times.

Council Member Shearer thanked the Fire Department for their annual smoke alarm event and stated it is a great program that provides the department interaction with the community and brings awareness to safety and smoke detectors.

Council Member Shearer again reminded citizens about National Night Out and that it involves emergency personnel, city employees, and other local leaders. Council Member Shearer thanked staff for their efforts with events such as these.

Council Member Degner thanked Steven Thomas for putting together the Northeast Neighborhood event last week. Council Member Degner also thanked Marsha Garst and Officer Boshart for being present at the event.

Vice-Mayor Baugh reviewed upcoming Planning Commission items coming before council during the first meeting in August.

11. Boards and Commissions

11.a. Consider appointing one council member to the Finance Committee

A motion was made by Council Member Byrd, seconded by Council Member Degner, to appoint Council Member Shearer to the Finance Committee. The motion carried with a unanimous voice vote.

12. Adjournment

At 8:44 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR