



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

Tuesday, December 10, 2019

7:00 PM

Council Chambers

1. Roll Call

Present: 5 - Mayor Deanna R. Reed, Vice-Mayor Sal Romero, Council Member Richard Baugh, Council Member Christopher B. Jones and Council Member George Hirschmann

Also Present: 4 - City Manager Eric Campbell, City Clerk Pam Ulmer, City Attorney Chris Brown and Police Chief Eric English

2. Invocation

Council Member Baugh offered the invocation.

3. Pledge of Allegiance

Mayor Reed led the Pledge of Allegiance.

4. Special Recognition

4.a. Check presentation for Race to Beat Breast Cancer 5K

Erik Dart, athletics manager of the Harrisonburg Parks and Recreation Department stated in October 2019 the Race to Beat Breast Cancer took place. He stated this event was started 17 years ago to help the women in our community battling breast cancer, keeping all funds raised local. He stated they teamed up with the Rockingham Memorial Hospital (RMH) Foundation and has grown from 53 participants in 2003 to over 800 people this year reflecting a 32% increase in participation and a 60% growth in funds raised. He stated this year the event had two sponsors, Dick Myers and F&M Bank, and the Parks and Recreation department is pleased to present a check to the RMH Foundation in the amount of \$24,498 for funds raised. He stated next year the Race to Beat Breast Cancer will be held on October 17, 2020.

This Presentation was received and filed.

4.b. Consider adopting a resolution consenting to continued initial resettlement of Refugees in the City of Harrisonburg, Virginia

Mayor Reed read the resolution consenting to continued initial resettlement of refugees in the city of Harrisonburg. Susannah Lepley, director of Church World Services Virginia thanked Council for their support now and in the past.

Council Member Baugh stated if anyone wants to look at a community that has been successful and has benefitted from refugees it would be our city.

A motion was made by Council Member Baugh, seconded by Vice Mayor Romero, to adopt the resolution as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

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 Baugh, seconded by Council Member Hirschmann, to approve the consent agenda as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

5.a. Minutes from the November 26, 2019 City Council Meeting

These minutes were approved on the consent agenda

7. Regular Items

7.a. Presentation of the City's Fiscal Year 2019 Comprehensive Annual Financial Report (CAFR)

Mayor Reed announced that agenda items 7a and 7b will be heard prior to the public hearing agenda items.

Dustin Roderick, manager of Brown and Edwards, Inc., stated this is his eighth year working on the city's financial audit and thanked Council for the opportunity to serve the city and thanked the finance team for their excellent work in getting the audit done on time. He stated he spoke with the Finance Committee regarding the Comprehensive Annual Financial Report. He stated Brown and Edwards provided a clean opinion and found no compliance matters.

Council Member Baugh complemented staff on a job well done for getting this quality of a report year end year out.

Council Member Jones asked how much more will this report increase our debt capacity. Larry Propst, finance director, stated this report doesn't affect our debt capacity. Eric Campbell, city manager, stated the debt capacity is in the Council

Rules and Financial Policies, the result of this report does not increase the debt capacity, it is a policy decision of Council as to how high the debt capacity would be. Mr. Propst stated the current assessed value of all taxable property in the city is \$4.3B, and six percent of that would equal \$127M debt capacity. Council Member Baugh stated this report is showing that our practices are sufficient, and the funds are being spent where they say they are being spent.

This Presentation was received and filed.

- 7.b.** Consider adopting a resolution appointing Ms. Rachel Drescher as the Zoning Administrator for the City of Harrisonburg

Mayor Reed presented a resolution appointing Ms. Rachel Drescher as the Zoning Administrator for the City of Harrisonburg.

A motion was made by Council Member Baugh, seconded by Vice Mayor Romero, to adopt the resolution as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

6. Public Hearings

- 6.a.** Consider a request from Emerihrt Harrisonburg LLC for a special use permit to allow walls and fences greater than the height otherwise permitted at 2101 Deyerle Avenue.

Adam Fletcher, director of Community Development, presented a request for a Special Use Permit (SUP) for property located at 2101 Deyerly Avenue. He stated the SUP comes from Section 10-3-48.4(8) of the City Code, to allow walls and fences greater than the height that is otherwise permitted. He reviewed the property and noted it is zoned R-3 which allows for walls and fences to be up to six feet in height. He reviewed the surrounding properties and long term for this area of the city. He stated the applicant requested to increase a current six-foot fence to eight feet in height.

He stated staff and Planning Commission (4-0) with the following conditions:

1. The special use permit shall only be applicable to the proposed fence located around the 20-foot by 20-foot memory care patio area along the western side of the existing Brookdale facility.
2. The fence shall be no taller than 10 feet in height.
3. If in the opinion of Planning Commission or City Council, the fence becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

At 7:22 pm Mayor Reed closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Monday, November 25, 2019 and Monday, November 2, 2019.

There being no one desiring to be heard, Mayor Reed closed the public hearing at 7:23 p.m., and the regular session reconvened.

A motion was made by Council Member Baugh, seconded by Vice Mayor Romero, to approve the request with all conditions as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

6.b. Consider Sign Ordinance Comprehensive Update

Adam Fletcher, director of Community Development, stated this item reflects a comprehensive rewrite of the sign ordinance that has taken over 3 years and noted Rachel was project lead on this and will present this item.

Rachel Drescher, zoning administrator, reviewed the purpose to regulate signage, the background on how sign ordinances came about, and noted the last time the city's sign ordinance was reviewed was over 20 years ago. She stated public input was received via two public input panels, stakeholders were notified, press releases, social media and city web page was updated. She reviewed the proposed changes to the current sign ordinance which included civil penalties, temporary signage, organization and clarity to name a few. She stated staff and Planning Commission (4-0) recommended approval of the amendments.

At 7:28 pm Mayor Reed closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Monday, November 25, 2019 and Monday, November 2, 2019.

There being no one desiring to be heard, Mayor Reed closed the public hearing at 7:28 p.m., and the regular session reconvened.

Council Member Baugh stated he finds it interesting that not one person commented on this public hearing. He stated there was a lot of work staff and Planning Commission did on this.

Council Member Jones asked if the enforcement of this ordinance changed. Ms. Drescher stated the penalties changed to civil penalties, a warning letter will still be provided to violators but will get a fine if not adhered to rather than criminal charges. Council Member Jones asked about proactive enforcement. Ms. Drescher stated they will still include sign violations in the proactive zoning enforcement, which takes three years to go through the city, but there is no specific enforcement just for signs.

Council Member Jones asked how do we assess the violations or is it just the ones that staff happen to find. Ms. Drescher stated they address any sort of violation by complaint, proactive enforcement or if the property is under scrutiny. She stated she would be open to a discussion on any other proactive enforcement approaches. Council Member Jones shared his concerns of fair and balanced enforcement.

Vice Mayor Romero stated a lot of times the lack of knowing what the ordinances are about can create violations. He asked how the public will be notified and educated of these changes. Ms. Drescher stated often the education happens through the warning letter and signage ordinances are discussed during new business orientations, etc.

Vice Mayor Romero stated other options should be looked at to educate the community, perhaps through schools and churches and in multiple languages.

Mr. Brown, city attorney, stated in the process of these amendments there were stakeholder meetings that included sign companies who will be very familiar with these changes and will help educate the community as well. He stated one of the goals was to simplify the sign ordinance

Council Member Jones stated asked if staff is also stopping for visible violations on the way to respond to a complaint. Ms. Drescher stated signs that are illegal are addressed as they see them.

Council Member Baugh stated the policy of enforcement has not changed and if Council want a change it would need to be addressed.

A motion was made by Council Member Baugh, seconded by Vice Mayor Romero, to approve the ordinance amendments as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

6.c. Public Hearing regarding the new Harrisonburg High School

Mayor Reed announced individuals that signed up to speak will be called up to speak, if there are any others that wish to speak that did not sign up will have the opportunity after those that did sign up. She asked everyone to be mindful, Council is eager to hear their input and asks individuals refrain from repeating comments that have already been made to allow everyone to speak in a timely fashion.

At 7:39 pm Mayor Reed closed the regular session and called the third public hearing to order. A notice appeared in the Daily News-Record on Monday, December 2, 2019 and Saturday, December 7, 2019.

The following individuals spoke in favor of building the new high school as originally

proposed (no phasing in), also referred to as Plan A:

Jim Orndoff, 22 E Market Street; Kathy Beery, 741 Northfield Court; Elizabeth Jalinski., Barbara Reisner, Tim Howley, Elizabeth Nathanson, Kathleen Holter, Laura Toni-Holsinger, Chris Noll, Carrie Knight, Evelyn Ola, John Webb, Adrian Hooker, Cathy Copeland, Peter Johnson, Becky Delaney, Diane Foucar-Szachi, Rebecca Brannon, Rachel Smallwood, Virginia Healy, Mia Way, Mr. Benjamin, Ron Ornstein, Tom Domonoski, Jessica Conway; and Andrew Sommers

The following individuals spoke in opposition of building the new high school as proposed:

James "Bucky" Berry, Gary Edlind, Jim Jenkins, Carolyn Poirot, Sandra Gray, Laura Logie, and Bill Call.

Mr. Barry Kelly spoke opposed to the location of the anticipated high school

At 9:01 pm Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Jones stated he had tried twice to vote for a school and wanted it to open in 2021 but was unsuccessful. He stated five years ago council members had conversations of buying land but no one ever supported them. He reviewed the history of building the most recent middle school and pre-school. He stated although he was not serving on Council yet, he was not in favor of the building of a pre-school as he knew a new high school was needed in the near future. He stated when he got elected, the middle school was in process of being built, and costs were higher than originally agreed upon. He stated when he saw the hand-chiseled blue stone wall at the ribbon cutting, he knew it would create questions. He stated what we have now is do we or don't we build a new school, which we need to solve the overcrowding, but also knowing we have other needs in the city. He stated there are 23 Council meetings a year in which we conduct the business needed to run the city and work on the budget. He stated most people don't show up for those meetings, it takes all of that in order for the schools to happen as well, and while he understands what most people said this evening, most people left that part out. He stated he understands the passion behind the comments, but we need a new fire station, more police officers, and we need to maintain our water and public works departments to keep services to the residents of the city. He stated these are all the macro needs in order to run the city. He stated he has spent a lot of time in meetings regarding jail needs and was sad that the crowd during those meetings and discussions were so small. He stated if we don't put the same passion in the rest of the city that you have for our schools, we still will have the same issues with our jails, something is being missed. He stated he still hasn't heard as to what is being done now and during the time the new school is being built as to what can be done about the overcrowding, and if that will cost money then it should be presented at the same time. He stated he noticed during the

design meetings of the new school there were discussions on making sure that the current high school stays up to par, what is the plan for that and how much will that cost. He stated we are looking at cost, quality and schedule, we have pushed up our schedule which has driven up our costs. He stated the School Board and the overcrowding has put us in a position where we must pay more for the schedule. He stated he feels it was a horrible idea and a waste of land and money when we invested in the golf course. He stated it was a horrible idea to give up our city center and sell what was the original Harrisonburg High School, but he is not in love with the parcel chosen to build the new high school. He stated the land is near opportunity zones, it's near commercial and industrial areas, where our economic development team would get more benefit out of the land than the schools. He stated there are places we should probably consider but he understands the need for an opening of 2022. He stated that is where the golf course piece comes from for him, he would like to put that 205 acres back into play since we are taking 60 off the tax books. He stated previous School Board Members and Council Members did what they could with what they had, but there needs to be some corrections made, the location for the new high school is not the most favorable, and urges the School Board to look at other options if they have a few weeks to spare to make sure the right macro decision is made as a team. He stated he hopes we don't have to cut services and hopes we can phase in with the tax increases.

Vice Mayor Romero stated he made a promise to his son in March of 2018 that he would run for council so that his son would be able to go to a high school that was not overcrowded. He stated he keeps his words and is excited to make it happen!

Council Member Hirschmann stated he is not quite as excited as other council members are, he stated we need a school and if we could have done it yesterday it would have been a big help. He stated it concerns him that we are talking about a lot of money, it will put a big squeeze on the city budget and there are so many other things that need to be done and kept an eye on. He stated between emergency equipment, police, waterlines, sewage, additional elementary and middle school, there is a potential for more funding needed, and he is concerned. He stated the price tag on the school concerns him a great deal, with other schools being built in the state for much less, and he doesn't want to lose sight of other things that need to be done on a daily basis. He stated he would like to hear other possibilities on locations, and it would take a lot of pressure off of council to make a quick decision. He stated he knows something needs done but would like to see a reduction in cost of the new school as there are sure to be additional costs added.

Council Member Baugh stated at the last Council Meeting the city manager stated the situation fairly well. He stated when Council had their Council Retreat there was consensus that Council needs to always look at the big picture, in which he has been consistent throughout his time on Council. He stated Council doesn't have the luxury to be all in when it comes to education, environmental issues, homeless advocacy, criminal justice reform or infrastructure issues. He stated we spend a lot of money on

infrastructure things that everyone takes for granted. He stated this body has already voted and approved the building of a new high school and has done everything the School Board has asked except for timing. He stated the initial figure and completion date provided by the School Board was reviewed by council and initially agreed upon with the exception of the build date. He stated Council doesn't have to do anything at this point and would be on track to build a new high school as originally approved and have the ability to communicate in good faith with the School Board on a price. He stated he is concerned if we approve this now hoping that others may work things out. He stated he has had several conversations with people on both sides, and there was one person that spoke this evening as to what 80% of his conversations outside of Council chambers are like, and it's about the school not being the single most important issue in the city, we all agree a new high school is needed, but the cost should be reasonable.

Mayor Reed stated she has read many emails and has had many conversations, the body does look at the big picture, and she is very proud of this Council as it represents the voices in our community. She stated two members of this body work in education, we all care about our kids, there is no one in the high school more often than she is and she sees the overcrowding, which has been an issue for over six years. She stated people can't get upset with Council because they must look at the big picture, we know we need a second high school and her issue is with the cost of it. She stated it was her hope that everyone could work together for the benefit of the kids and she will never be afraid of any decision she makes. She stated everyone knows she supports the children, that's her life's mission, that's why she serves and ran for City Council.

A motion was made by Council Member Jones, seconded by Vice Mayor Romero, to approve the Resolution of the City Council of Harrisonburg, Virginia regarding the Comprehensive Agreement for a new second high school, a draft of which is included with this agenda item, with a contract price of \$83,905,369.50 and a Guaranteed Maximum Price of \$87,240,574.50, which Comprehensive Agreement provides for the construction of a new high school, including an auxiliary gym and outdoor athletic facilities, all to be completed for an opening in the fall of 2022, and the Road Improvements Addendum in the amount of \$4,932,293.00. Included in my motion is approval of the estimated \$8,565,366 in soft costs necessary for the new high school construction, but which are not included in the Guaranteed Maximum Price.

The motion carried with a recorded roll call vote taken as follows:

Yes: 3 - Mayor Reed, Romero and Council Member Jones

No: 2 - Council Member Baugh and Council Member Hirschmann

Recess

At 9:36 p.m., Mayor Reed called the meeting into recess.

At 9:43 p.m., Mayor Reed called the meeting back into session.

8. Other Matters

8.a. 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, the Brent Barry Food Drive will be set up at Walmart for 14 days straight starting December 13, 2019. He complimented the Harrisonburg Fire Department as they have been bringing the fire engine to these food drives since 2010, complimented the Harrisonburg Police Department as the Chief of Police attended and is a big supporter. He stated on 12/17/19 Brent Berry will retire, after five years serving, from the Junior Cadette City Police, his badge will put on a plaque. He stated we have a great community, but you never know what could happen, his food drive has helped over 39,000 families over the past 11 years. He thanked the Harrisonburg Department of Public Transportation for allowing a transit bus to help with the food drive.

Pamayotis "Poti" Giannakaouros, stated we are in a new fiscal space today, he does pay attention to the sewer, attends many meetings and is happy to see that many people stayed for comments from the public. He stated we are in a prime position to make a comprehensive reassessment of how we run and how we think of this city. He stated most people in the city don't think about their property taxes because 60% of our residences are not owner occupied and of those that are owner occupied only a small fraction are occupied by people considered as homeowners. He stated those folks are stressed as a few hundred dollars a year makes a difference, and there are many things we can do to rationalize how we run our city so that we take pressure off those people for those of us that are sincere about saying that we are now fiscally stressed. He stated he hopes everyone will get together to work on making major changes on how we run our city. He stated we can repeal our R-1 zoning, changing how we think about changing zoning and community development, and abiding by the FOIA law, are just a few things that should be looked at.

Council to discuss if City should be closed December 31, 2018

A motion was made by Council Member Baugh, seconded by Council Member Jones, to cancel the December 24, 2019 City Council Meeting . The motion carried with a unanimous voice vote.

8.b. City Council and Staff

Vice Mayor Romero stated he attended the Holiday Parade and thanked city staff as many positive comments were received, he is very proud of the work that was put into it.

Mayor Reed stated a Parks and Recreation Commission meeting was held on December 9, 2019 and the Purcell Park presentation was reviewed and spoke on the opportunity for the park staff to come to Council with a presentation about the golf course. She stated the Holiday parade was wonderful, JMU has a playoff game on December 13, 2019, the Parks and Recreation Activity Guide is out, a public forum will be held on December 12, 2019 at Simms Center to discuss the Route

33/Interstate 81 road project and will begin at 4:00 pm, the Harrisonburg Fire Department is collecting new, unused bicycles for children in the community, donations can be brought to any fire station in the city until December 19, 2019, City Hall will be closed on December 24 and 25 for the holidays and will re-open on December 26, 2019.

Eric Campbell, city manager, stated the Middle River Regional Jail (MRRJ) Board Authority met last week and approved the Community Needs Assessment and Study to do the expansion to increase the rated capacity of the regional jail. He stated this does not mean this is the final number of the capacity, but it did authorize architects to submit the Needs Assessment for funding and rated capacity.

9. Boards and Commissions

9.a. Harrisonburg Rockingham Community Policy and Management Team (CPMT)

A motion was made by Council Member Baugh, seconded by Vice Mayor Romero, to re-appoint Mary Ellen Chewning to the Harrisonburg Rockingham Community Policy and Management Team (CPMT). The motion carried with a unanimous voice vote.

10. Closed Session

10.a. Virginia Code Section 2.2-3711(A), under: Subsection 7 for consultation of legal counsel regarding specific legal matters requiring the provision of legal advice for such counsel, namely the negotiation of a potential contract.

Council Member Baugh stated for reasons related to legal professional ethics he recused himself from Agenda item 9.a.

Vice Mayor Baugh stated the Virginia State and Local Conflict of Interest Act requires that he make the following disclosure to be recorded in the city records on any matter from which he is prohibited by law from participating:

The transaction involved is the item taken up on the December 10, 2019 Agenda as Item 10(a), a closed session for consultation of legal counsel regarding specific legal matters on the negotiation of a potential contract; his personal interest in the transaction relates to the ethical requirements to which he must adhere as a licensed member of the Virginia State Bar; he affirms he will not vote or any manner act on behalf of city council on this matter

At 9:55 pm a motion was made by Council Member Jones, seconded by Council Member Hirschmann, to enter into closed session as authorized by the Virginia Freedom of Information Act, Virginia Code Section 2.2-3711(A), under: Subsection 7 for consultation of legal counsel regarding specific legal matters requiring the provision of legal advice for such counsel, namely the negotiation of a potential contract. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Mayor Reed, Romero, Council Member Jones and Council Member Hirschmann

No: 0

Abstain: 1 - Council Member Baugh

11. Adjournment

At 10:36 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 10:36 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR