



# 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*

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Tuesday, February 10, 2015

7:00 PM

Council Chambers

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### 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, Assistant City Manager Anne Lewis, 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)

Leonard VanWyk, 1065 S. Dogwood Drive, stated he was a member of the Transportation Safety and Advisory Commission and he wanted to remind council of the August 14, 2014 letter of recommendation for the shared used path from Hillandale Park to Garbers Church Road by the new school location from the Transportation Advisory Committee, Bicycle and Pedestrian Subcommittee and the School Board. Mr. VanWyk wanted to draw attention to this so the shared use path wouldn't get lost through all the deliberation. Mr. VanWyk noted the portion of the shared use path from Hillandale to Garbers Church should have been constructed when the new school was to be built and the portion on the east side of Garbers Church Road was meant to serve the Elementary School. Mr. VanWyk hopes council keeps the path in the bond, so all the hard work of the Safe Routes to School programs that are geared for students K-8, would be an opportunity to continue through high school years.

James "Bucky" Berry, 30 West Washington Street, stated a food drive would be held at the Ford dealership in the coming weeks. Mr. Berry also noted on March 28, 2015 from 10:30 a.m. through 3:30 p.m. a summit on homelessness and hunger would be held at the Simms Center and invited all council members to attend. Mr. Berry asked for money to be put in the budget for homelessness.

Ricardo Cortes, 343 W. Bruce Street, spoke in regards to the recent agreement with Middle River Regional Jail and stated that it was never about building a building, it was about sending people to prison and he was disappointed about how the deal happened and the lack of transparency. Mr. Cortes stated most people think the proposal about the new jail was used as leverage towards Middle River Regional Jail.

Beth Schmoyer, 419 Neyland Drive, stated she was also not surprised with the agreement that has happened with the jail and nothing has been done to solve the real issues that affect people in our community. Ms. Schmoyer stated the jail and jail beds don't solve poverty, unemployment, fix substance abuse or addiction, decrease the education or income gaps, create meaningful and dignified jobs and training, support or help those with mental illness or homelessness and communities. Ms. Schmoyer stated the people of Harrisonburg want to invest in the people and not the broken criminal justice system.

Alison Coltrane, 242 E. Water Street, stated she was concerned about the future of Harrisonburg after hearing about the jail being a fiscal win. Ms. Coltrane doesn't think we should expand when there are people in jail that don't pose as an immediate threat to the community. Ms. Coltrane reviewed what jail beds don't fix which were as follows: make her feel safer, unemployment, drug addiction and close education gaps. Ms. Coltrane stated jails do create bitterness, divided communities and violence. Ms. Coltrane stated instead of finding solutions that will decrease incarceration rates in our town it has been decided that incarceration rates will climb. Ms. Coltrane noted that she was a 6th grade teacher and spoke in regards to her students and the in-school suspension program. Ms. Coltrane presented the following alternative outside the criminal justice system: the money that is used towards the jails be invested in our schools and then schools use that money to hire practitioners who could train staff in restorative justice practices such as non-violent communication, healthy relationships, how to be assertive, how to exercise empathy and more. Ms. Coltrane asked council to listen to those speaking for the next generation.

Sula Pepcros, 1175 Hamlet Drive, stated she was also disappointed about the transparency regarding the deal with Middle River Regional Jail that won't do anything to deal with the root causes of incarceration and crime. Ms. Pepcros stated she wants those who end up in the system to have basic human rights and dignity, but her opposition is in knowing that these are not solutions but stop gaps. Ms. Pepcros asked council to say no toward putting more energy into the vicious cycle of incarceration and say yes to exploring alternatives and thinking strategically about the future.

Stan Maclin, 117 High Street, thanked staff for the work that has been done to the city's policies to make an inclusive and diverse workforce. Mr. Maclin stated he was concerned with the amount of personnel in Human Resources Department and the time needed to monitor and keep the city in compliance with policy. Mr. Maclin noted he wants to make sure there are no violations to Title 6, Civil Rights Act.

Joshua Diamond, 481 Green Street, spoke about the Middle River Regional Jail and

urged council to think deeply about what it means to predict that we will need 250 beds, what is our commitment and what are our priorities. Mr. Diamond urged council to empower young people, community and relate to the people in Harrisonburg so we don't need a jail.

**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)**

Council Member Byrd noted that he reviewed the last meeting online and is able to vote on these matters.

**A motion was made by Council Member Shearer, seconded by Council Member Degner, to approve the consent agenda as presented with the noted change to add the word "all" under agenda item 8.c. between abating and taxes. The motion carried by the following vote:**

**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 as amended.**

**5.b. Consider Amendment to Section 4-2-31 of the Harrisonburg City Code (Retail Revitalization Zone)**

**This Ordinance was approved on second reading.**

**5.c. Consider a supplemental appropriation for the Police Department in the amount of \$34,675.00**

**This Supplemental Appropriation was approved on second reading.**

**5.d. Consider a supplemental appropriation for the Police Department in the amount of \$14,183.00**

**This Supplemental Appropriation was approved on second reading.**

**5.e. Consider a supplemental appropriation for the Parks & Recreation Department in the amount of \$12,577.50**

**This Supplemental Appropriation was approved on second reading.**

**5.f. Consider a supplemental appropriation for the Police Department in the amount of \$47,000.00**

**This Supplemental Appropriation was approved on second reading.**

**5.g. Consider a supplemental appropriation for the School Board in the amount of \$100,000**

This Supplemental Appropriation was approved on second reading.

## 6. Public Hearings

- 6.a. Consider a request from TAP Investments, LLC and DCW, LLC for a special use permit per Section 10-3-91(9) of the Zoning Ordinance to allow for the reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1 on property located at 1854 East Market Street.

Stacy Turner, Director of Community Development, reviewed the property and the surrounding property that is located at the southeast corner of the East Market Street/Terri Drive intersection. Mrs. Turner noted that the building was constructed prior to annexation in 1983 and is considered non-conforming to set back requirements and cannot be enlarged or structurally altered in a manner that would compound the setback encroachment. Mrs. Turner stated the property owners would like to build a loading dock on the rear and a dumpster enclosure. Mrs. Turner stated the owners must apply for a minor subdivision because the new dock and enclosure would cross the existing property line between their two parcels; this can be done as a property line adjustment or a property line vacation. The minor subdivision would need to be approved and recorded prior to the release of any building permits for construction of the addition. Mrs. Turner noted there were questions at Planning Commission about truck deliveries. Mrs. Turner stated the occupants have provided information that a 32-foot delivery truck could get in and out to the loading dock location. Mrs. Turner stated staff and Planning Commission showed no concerns with the SUP request and recommended approval.

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, January 26, 2015 and Monday, February 2, 2015.

Bob Pingry, owners representative, thanked staff for their assistance in coming up with a solution and made himself available for questions.

At 7:34 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Shearer, seconded by Vice-Mayor Baugh, that this Special Use Permit 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

## 7. Regular Items

- 7.a. Consider a request from Chand Development, LLC to preliminarily subdivide an 8.09-acre parcel into 69 lots-two common area parcels and 67 townhouse lots. A

variance to the requirements of Subdivision Ordinance Section 10-2-42 (c) is being requested. The property, zoned R-3, Medium Density Residential District, is currently addressed as 705 Stonewall Drive; however, the parcel's public street frontage is along Chestnut Ridge Drive.

Mrs. Turner stated the applicant is requesting to preliminary subdivide one, 8.09-acre parcel into 69 lots, located on Acorn Drive, which would include 67 townhome units/lots and two common area parcels. Mrs. Turner reviewed the area and the grading issues that staff began reviewing in November 2006 when the applicant first requested a preliminary plat approval for an 80-lot townhouse subdivision. Mrs. Turner stated after discussion with staff over the years, their representative submitted the current request. The proposed subdivision creates two common area parcels and 67 townhouse lots intended for student housing, where each unit would include four bedrooms. Unlike the 2006 preliminary plat, the development includes a clubhouse and swimming pool and more of the site will be left undeveloped. The applicant is requesting a variance to the Subdivision Ordinance Section 10-2-42 (c) as most of the lots would not have public street frontage. Since the development would be served by private streets, the city would not provide street maintenance, snow removal, or trash pick-up. Public school bus service would be provided as necessary. If approved, the applicant understands that private streets within the development must meet the requirements of the Design and Construction Standards Manual. Among other things, this includes meeting minimum street widths, having sidewalk on both sides of private lanes, and meeting public street grade requirements. The applicant and their engineer believe they will be able to achieve all of these requirements and have not requested variances. Mrs. Turner noted the applicant is planning to construct nine more than the minimal parking spaces required. There are planned parking areas adjacent to two single family home lots located to the north of this property; therefore these lots must be screened from the parking areas. To meet this requirement, the applicant plans to install a 6-foot vinyl fence. Although not required, the plat also demonstrates a single row of Leyland Cypress trees planted on 15-foot centers along much of the northern property boundary adjacent to townhome lots already developed and along the single family home lots impacted by the parking areas. As required, all lots would be served by public water and sewer. At this time, there does not appear to be any conflict in providing adequate water and sewer service. However, the Preliminary Engineering Report, which must be submitted prior to the Comprehensive Site Plan submission, will determine if there are any issues. Mrs. Turner stated the applicant has been in communications with staff on how they will be addressing stormwater management requirements and they note those on the plan. At this time, the Harrisonburg Department of Public Transportation (HDPT) would like the developer to construct a bus pull-off and bus shelter along this property's public street frontage. To meet these desires, the applicant identified where this could be accommodated. HDPT further noted, however, that during design and/or construction

of the development, circumstances with providing public transportation around this area may change resulting in not needing the bus pull-off or shelter. Mrs. Turner addressed the question regarding student housing and reviewed enrollment numbers and known on-campus and off-campus housing with staff believing there may already be sufficient units to accommodate the student population. Mrs. Turner noted with the location of the housing request staff supports the request with the following conditions: the evergreen buffer as shown along the northern property line shall be installed and maintained. Such trees may be of any species that may mature to form a dense screen. The trees shall be 6-feet in height at the time of planting and no more than 15-feet on center and at the time of Comprehensive Site Plan review, if HDPT desires a bus pull-off and/or bus shelter along the subject property's public street frontage, the developer shall construct both at their expense. If a bus shelter is required to be installed, the property owner shall be responsible for all cleaning, maintenance, repairs and replacement. Mrs. Turner stated both staff and Planning Commission recommended in favor of the request. The following discussion took place: questions regarding Reservoir Street being completed, complex is planned to open in fall of 2016, interim light installed before the road is finished, TIA was not required, discussion regarding the road is not a reason to disapprove and encouraged staff to review traffic at intersections before Neff Avenue along Reservoir Street.

**A motion was made by Vice-Mayor Baugh, seconded by Council Member Shearer, approval of this Preliminary Subdivision Variance and the suggested conditions. 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 the recommendation for the Elizabeth Street Parking Deck Mural Project

Eddie Bumbaugh, Executive Director of Harrisonburg Downtown Renaissance, provided background of the parking deck enhancement process. Mr. Bumbaugh reviewed what City Council had authorized, mentioned eleven proposals had been received, 650 individuals voted and showed the three finalists.

Lindsay Denny, Marketing Manager of the Arts Council of the Valley, stated the proposal from Andre Shank and Paul Somers is recommended to be placed on the parking deck. Ms. Denny stated the committee has met with the artist's team and all parties had signed the agreement. Ms. Denny stated an informational plaque about the project and Lucy Simms will be placed near the mural. Ms. Denny read the artist's statement that was provided in the application and a short time lapse film would be made of the painting process. Ms. Denny recognized Rick Peters, Shenandoah Paint and Decorating Center, and the artist's team. Ms. Denny stated it is recommended that City Council approve the construction of the mural presented.

Council Member Degner congratulated Jenny Burden on her new position, Executive

Director, at the Arts Council of the Valley. Council Member Degner also noted how different public art can be and he is excited about the learning we have done as a community to get this far. Mayor Jones also noted that it is a perfect mural for a perfect space.

**A motion was made by Council Member Degner, seconded by Council Member Shearer, that the recommended mural project 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

**7.c. Consider City-County Landfill Agreement**

City Manager Hodgen stated with the closing of the Resource Recovery Facility the landfill agreement has been voided. City Manager Hodgen presented the new agreement that will allow certain solid waste to be taken to the landfill. City Manager Hodgen stated tipping fee will be in accordance with the county's fee schedule. The volume of trash is also noted in the agreement along with provisions that allow more or less trash with the proper notifications. City Manager Hodgen noted the length of the agreement is seven years and recommended approval.

**A motion was made by Council Member Byrd, seconded by Council Member Shearer, to approve the Landfill Agreement 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.d. Consider funding for School Construction projects**

City Manager Hodgen noted the memo that was attached to the agenda item and stated the number being presented tonight is \$30,360,000 and noted that this is not all the costs associated with the school. City Manager Hodgen stated there is also information of how the number was reached for bonding purposes and tax rate implications and funding scenarios. Mayor Jones asked for the furnishings fixtures and equipment (FFE) number. City Manager Hodgen stated it was \$3.3M for the elementary school and \$1M for the pre-k facility. Council Member Degner stated he won't be supporting the recommended amount because the schools are currently at \$39.7M after decreasing from \$48M, added investments make them more sufficient and he is also sensitive to the bike lane request. Superintendent Dr. Scott Kizner stated he would rather not focus on the square foot cost per student. Dr. Kizner stated the School Board feels confident with the numbers they presented, which were put together by professional architects, would meet the needs of our students. Dr. Kizner stated over the last few months focus hasn't been on the following: children

that will be entering the school in August 2017, highest free reduced lunch school system in Virginia ranking 13 out of 133, rank number one or two for students who speak English as their second language and most diverse and challenged school system in Virginia. Dr. Kizner reviewed the conditions at Spotswood Elementary School. Dr. Kizner noted upfront investments would save more later. Dr. Kizner reminded council of the two part project and it was to remove the preschool program so space could be created for 5th grade classes to get them out of middle schools. Dr. Kizner stated if council approves the recommendation, it won't get that outcome and by the time the building opens up we would be ready for another building. Dr. Kizner stated the schools need the classroom space and when we reduce the amount something else has to be reduced and noted things the schools take pride in. Dr. Kizner stated there would be implications not getting the funding that the School Board has worked on and they believe \$37M is a good compromise. Dr. Kizner stated they reduced their early childhood education and square footage. Dr. Kizner stated we owe it to the community to build and have the best schools and programs and respectfully asked council to support what the School Board has proposed. The following discussion took place: dialogue has been happening for awhile; first priority is the School Board needs a number and we need to walk out of here with a number; Finance Committee and staff has reviewed; recognizing this is an ongoing dialogue and it isn't a finished product; bid going out toward the end of the year; questions have been asked and not answered due to an amount not known; open to revisiting and don't see it as a finished product; support that it is an important investment we make; the number the state proposes is around 50% higher and lower than similar schools; would like to see money used towards programs and teachers and not toward brick and mortar facility that exceeds our needs; beginning of the process and things can change between now and then; funds outlined are to cover construction and site development and FFE budget would be determined in the future; in favor of staff and Finance Committee's recommendation; there is an ongoing process that we have to go through; informed a number was needed so the process wouldn't slow down; conversation doesn't end; concerned whatever number is approved that is what they would work towards; programs are done through the budget process; schools are at their capacity; hope to open for 2017 school year; general discussions on what might have to be downsized; hesitant to approve millions of dollars on general analysis and as we move forward if we see that we aren't going to meet our standards it needs to be addressed; goal to meet standards Dr. Kizner referenced; conversations on dollars per square feet, not dollars per programs; and information needs to be provided about programs. Dr. Kizner stated there wasn't any conversation about program reductions because they were operating under the program fee presentation that the architect did, so there is no need to have a program reduction discussion. Dr. Kizner noted that it was the School Board's decision of staffing and programs, but programs require people and space and absence of space programs do get impacted. Council Member



Degner stated this discussion occurred because he asked what would be lost if council approved \$5M less than the School Board was requesting. Mayor Jones stated on Saturday all city departments were reporting they were doing more with less; this is when it becomes a detriment to being one of the lowest tax cities in Virginia. It was noted that the School Board can make recommendations, but they aren't responsible for raising taxes.

**A motion was made by Council Member Byrd, seconded by Council Member Shearer, to approve the recommendation as presented by staff for construction cost of \$30,360,000. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Jones, Vice-Mayor Baugh, Council Member Byrd and Council Member Shearer

**No:** 1 - Council Member Degner

## 8. Supplementals

- 8.a. Consider a supplemental appropriation for Harrisonburg City Schools in the amount of \$379,360.80

Tracy Shaver, Harrisonburg City School Executive Director of Finance, stated this supplemental appropriation request is for additional state and federal grants that had been awarded after the approval of the fiscal year 2015 budget and this doesn't require additional local funding.

**A motion was made by Council Member Byrd, seconded by Vice-Mayor Baugh, that this Supplemental Appropriation be approved on first reading. 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. Other Matters

Council Member Degner stated on March 28, 2015, a Hunger and Homelessness Summit will be held at the Simms Center from 10:30 a.m. through 3:30 p.m. This event will happen due to partnership from the following: Harrisonburg Redevelopment and Housing Authority, Community Services, United Way and Department of Social Services Board. Council Member Degner noted the event was free, lunch would be provided and more information to come.

Council Member Shearer stated a seat on the Parks and Recreation Commission has become available for the east side.

Vice-Mayor Baugh stated the Planning Commission will be reviewing the telecommunications ordinance draft tomorrow night.

Mayor Jones stated he wanted to address comments that were received during public

comment period regarding the partnership with Middle River Regional Jail. Mayor Jones stated something needed to be done; currently, some inmates are not sleeping in beds, which is not right either. Mayor Jones stated he believes no council member is in favor of building a jail and are in favor of alternatives. Mayor Jones stated council members would be in favor of less crime and it is a personal community responsibility when it comes to how you raise your children, police ourselves and how we protect, love and serve our neighbors. Mayor Jones stated you can build or not build a jail, but it is the character of people who determine who ends up in those positions.

**10. Boards and Commissions**

**11. Closed Session**

**11.a. Closed Session**

**At 8:36 p.m., a motion was made by Council Member Byrd, seconded by Vice-Mayor Baugh, to enter into closed session as Authorized by the Virginia Freedom of Information Act, Virginia Code Section 2.2-3711(A), under: Subsection 3 for the discussion of disposition of publicly held real estate. 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. Adjournment**

At 9:08 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 9:09 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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City Clerk

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Mayor