



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

Mayor Deanna R. Reed
Vice-Mayor Richard A. Baugh
Council Member Ted Byrd
Council Member George Hirschmann
Council Member Christopher B. Jones

Tuesday, March 27, 2018

7:00 PM

Council Chambers

1. Roll Call

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

Also Present: 3 - City Manager Eric Campbell, City Attorney Chris Brown and City Clerk Ande Banks.

2. Invocation

Vice Mayor Baugh offered the invocation

3. Pledge of Allegiance

Mayor Reed led the Pledge of Allegiance

4. Special Recognition

4.a. Proclamation recognizing April 27, 2018 as Arbor Day

Mayor Reed presented a proclamation recognizing April 27, 2018 as Arbor Day

4.b. Proclamation for Local Government Education Week April 1 - 7, 2018

Mayor Reed presented a proclamation recognizing April 1-7, 2018 as Local Government Education Week.

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 Vice Mayor 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:

5.a. Minutes from March 13, 2018 City Council Meeting

These minutes were approved on the Consent Agenda.

6. Public Hearings

6.a. 2018 CDBG Annual Action Plan

Kristin McCombe, grants compliance officer, presented the 2018 Community Development Block Grant Action Plan. She stated the new Community Development Block Grant (CDBG) allocations are \$505,968.00, same as last year, and the selection committee met earlier in March to discuss the applications and to make funding recommendations to council. She stated staff decided to roll \$379.46 in previously unspent CDBG funding into the pot for this year. She stated the department has not yet heard from the U.S. Department of Housing and Urban Development (HUD) regarding the City's allocation amount for the 2018-2019 year and therefore, contingency plans are in place. The selection committee has decided to recommend that funding to community services be kept at 15% of the total grant allocation which is the maximum amount allowable in that category.

Ms. McCombe stated there were two applications under the category of Housing and Property Improvements: Harrisonburg Rockingham Housing Authority (HRHA) for the Harrison Heights Renovation and HRHA's Down Payment Assistance Program, and the committee is recommending the amount requested be approved by council.

She stated the committee chose to recommend, in the Community and Public Facilities category, the use of available funds to go towards the resurfacing and upgrades to Westover Pool, as it has the highest priority for the Parks and Recreation department.

She stated the committee recommends a portion of the 20% allocation to Planning and Administration be used on a parking study for downtown Harrisonburg.

She reviewed the organizations and the amounts recommended to be awarded for each project under the Public Services category and noted a contingency plan is in place for final funding amounts once the final allocation amount is received from HUD. She stated should the city receive a higher allocation than expected, funding to Friendship Industries will increase up to no more than a total of \$14,186 and if more funding remains to reach the 15% cap, it will be granted to the Salvation Army. She stated all other necessary increases in funding will be made to the Westover Pool Resurfacing and Upgrades project. She stated should the city receive a lower allocation than expected, the Friendship Industries allocation will be reduced to the extent needed for Public Services to comply with the 15% cap (but not lower than an allocation of \$4,841) and if more cuts are required to keep the Public Services allocations under the 15% cap, it will be taken from the Salvation Army. Should the remaining amount for the Salvation Army or Friendship Industries become so low that either organization chooses not to accept the funding, these funds will be awarded to the Westover Pool Resurfacing and Upgrades project. She stated General

Administration funding will also decrease to keep it within the 20% cap. All other necessary decreases in funding will be made to the Westover Pool Resurfacing and Upgrades project.

She reviewed the schedule for the 2018 Action Plan, which begins immediately with a 30-day public comment period and members of the public may submit comments directly to her.

Council Member Jones asked if any feedback or reactions were received regarding the two Public Works projects that did not receive funding. Ms. McCombe stated they thanked the committee for their consideration. Council Member Jones stated he would like to hear their feedback as he is aware that the Greystone St and Chicago Sidewalk Connection was considered a priority for Public Works. Ms. McCombe stated this was one of the decisions the committee felt was the best use of the funding. Council Member Jones stated his concern was that the area would be less walkable and less cyclable and would put a strain on Public Works to find other grants which would need to be supported by city funds in order to do the projects.

Mayor Reed stated she believes the Westover Pool has not been renovated in the past 30 years.

Council Member Byrd stated the three organizations under Public Service category that did not get the full allocations, we were short \$25,000 on the 15% basis, basically we would have to receive \$166,000 more from HUD to fund the gap.

At 7:11 p.m., Mayor Reed closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Monday, March 12, 2018.

James "Bucky" Berry, 30 West Washington Street, stated he doesn't represent the Salvation Army. He stated he would like to see the golf course budget cut, use those funds to renovate the swimming pool, and give the CDBG funds to the people who need it. He stated if the Salvation Army and other organizations don't get the funds they need the city will have a bigger problem and we already have over 220 homeless individuals in the city.

Pamayotis "Poti" Giannakaouros, stated he feels the CDBG Grant funds are designed to address housing inequities and with that in mind, he stated, nothing says you are not welcome like an anonymous letter telling you to fix an unspecified non-existent violation in five days or else. He stated this happens in the city because of an ordinance that claims to be justified on a presumption of health, safety or welfare. He stated Virginia survived just fine without such ordinances until 2014, when enabling legislation was passed over the consistent opposition of our local representatives. He reviewed previous regulations, and stated the idea that plants can be presumed a threat to health and safety have long since fallen to the wayside, the justification that remains to back the ordinance up legally is based on aesthetics.

He reviewed a Supreme Court ruling from 1954, and feels it would be wrong for us to accept CDBG money while we still have this ordinance.

Beth Bland, Director of Senior Services, Valley Program for Aging Services, thanked Mayor Reed and Council Member Hirschmann for participating in VPAS's Community Champions Day. She stated VPAS is very grateful for the past support that the city has shown through CDBG funding and respectfully requests continued support for \$18,000 in funding which will be used for VPAS's Meals on Wheels Program. She stated VPAS is the only provider of a five-day per week meal program for older residents. She stated for the year ending in 2017, VPAS provided 16% more city residents over the prior year and senior hunger is a serious and growing problem. She stated without adequate nutrition, seniors will develop more health problems. She stated not only is the food important, but the check-in provided by the volunteers during the meal delivery provides a social interaction and a sense of security for the meal recipient.

At 7:19 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

City Attorney Brown noted there is no action required on this item at this time.

This PH-Action Item was received and filed.

6.b. Consider a request to amend the City Code Section 16-6-58 Weeds, etc., on lots

Chris Brown, city attorney, presented the request to amend City Code Section 16-6-58. He stated at the previous council meeting Adam Fletcher, director of Planning and Community Development reviewed the requested revisions in great detail.

Mr. Brown stated the intention was to clean up the existing ordinance, re-organize it, and provide more exemptions, which will loosen the ordinance up a bit.

Mr. Brown stated since individuals like to plant things other than grass, a provision was included that states grass, weeds or foreign growth shall not be interpreted to include planned, intentional and maintained areas of ornamental grasses, ground covers, ferns, fruits, vegetables, herbs, spices, flowers or trees. He stated staff also recommended removing the criminal penalty from this ordinance.

He stated the Community Development Office will no longer post a yard sign on the property, but a notice will be posted on the front door to make it less intrusive, unless the property is undeveloped.

He stated the civil penalty will be \$50 per violation and only one notice per year granted to the property owner. He reviewed statistics and noted in 2017 there were 64 complaints, after the inspection nine were believed to have no violation, 56 notices were sent, 4 properties were mowed of which two were foreclosed properties, the

other 2 were in an estate with questions on who the responsible party was. He stated generally, when someone gets a notice they take care of it promptly.

He stated the question was asked if someone who makes the complaint would be able to remain anonymous, and under the Freedom of Information Act (FOIA), there are provisions for those that makes zoning or criminal complaints where their identity can be protected, however, there is no such protection for a tall grass and weeds complaint, however we cannot force someone to give us their name when they call in with a complaint.

Council Member Jones asked if we respond to anonymous requests, because we should document their information to see if there is a pattern or disagreement as this could open the door for anyone who sees something they don't like for people which could create a burden on staff.

Mr. Brown stated based on the numbers that has not been the case, where people drive around looking for violations and he believes staff will take that into consideration.

Mayor Reed stated for the benefit of our citizens watching, she asked if the four properties that were mowed were residential properties. Mr. Brown stated he assumes they were, but he is not sure.

Council Member Jones asked if enforcement is an efficient use of staff's time. Mr. Brown stated during the height of the season, it is only a few hours of staff time, as they will inspect property while in the area doing other projects.

Council Member Byrd asked if inspections of property are already being done on a regular basis. Vice Mayor Baugh stated it takes approximately two and a half years to cycle through the entire city with inspections.

At 7:30 p.m., Mayor Reed closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Saturday, March 17th, 2018 and Saturday, March 24, 2018.

Pamayotis "Poti" Giannakaouros stated his perspective on the data is rather different, he has a document with nine complaints by someone driving in from outside of the neighborhood and with respect to how much time staff spends on this he asked Raini Ott how much time was spent and she stated two-thirds of her time is spent on these types of incidents. He stated this is an extraordinarily unpopular ordinance and he has hundreds of signatures saying this is unpopular. He stated he did a FOIA request on the properties of record for a particular person and reviewed the complaints which consisted of issues with a banner, flags and grass. He stated he believes staff has a distorted perspective when they think about and look at their fellow residents.

He stated the City Attorney had the opportunity to look at a property and stated he

was not sensitive to the 4th amendment. He stated this past summer, perspectives like that of staff to residents have been cited as being wrong, under law that was established during urban renewal, a case was passed that stated the city can't go and inspect without a warrant. He stated it is time to set this ordinance aside.

At 7:36 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

Vice Mayor Baugh stated he is not unmindful that there are some good points made that come from a good place. He stated the request before us is for amendment to an existing ordinance, we have the authority to repeal the entire ordinance or review at another meeting. He stated the immediate question is if what is proposed by staff better than what we have right now and he noted he finds it is better. He stated he needs more information before considering a request to repeal, he is hardwired to be suspicious of those that say the rules are so bad and by getting rid of them we would be better off. He stated he looked this up in other communities, and couldn't find anything regarding repeals. He did find an odd affirmation that pretty much every jurisdiction has this type of ordinance, the ratios are staggering, and he would be very interested in finding out if there are other communities who have wrestled with it the way we have. He stated, even though he has skepticism towards repealing, he is always up for improving our ordinance.

Council member Hirschmann asked what similarities were found when Vice Mayor Baugh was doing the research.

Vice Mayor Baugh stated they looked very similar but did not get into the other ordinances in depth, but what jumped out at him was that every community seemed to be wrestling with this in some way and they seem to go through a process such as ours.

Mayor Reed stated she was hoping council would have heard more from the community about this as this was not originally a public hearing.

Council Member Jones stated the ability to remain anonymous will cease. Mr. Brown stated we cannot force anyone to provide us with their information but they will be asked.

Council Member Jones stated after discussions on the chicken ordinance he asked if citizens could be neighborly and talk, and has had great results with no problems, he hopes this can be the same

Mayor Reed stated council can always revisit this again.

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

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

No: 0

7. Regular Items

- 7.a.** Consider enacting Section 5-1-11, Employment of off-duty law enforcement officers, to the Harrisonburg City Code

Chris Brown, city attorney, presented the consideration to enact section 5-1-11 Employment of off-duty law enforcement officers, to the Harrisonburg City Code. He stated he had done research and while they have a policy, which permits off duty police officers to work in uniform for private entities, in Virginia there is no such thing as an off-duty Police Officer, which made it clear the city and the officers would have more protection if the city authorized, by ordinance, off-duty employment. He stated the private entity requesting the officers would pay the officers and the city would have more officers on the street. He stated it is recommended that council approve the enactment of this ordinance with reasonable rules and regulations.

Council Member Hirschmann asked if this requires officers remain in uniform. Mr. Brown stated officers would be in full uniform with full police powers and authority.

A motion was made by Council Member Byrd, seconded by Council Member Hirschmann to approve the ordinance enactment as presented. The motion carried with a recorded roll call vote taken as follows:

8. Special Event Application Requests

- 8.a.** Consider the event application request for the Prayer Walk on Saturday, April 14, 2018 from 11am-12:30pm.

Erin Johnson, events manager with Harrisonburg Downtown Renaissance (HDR), presented a special events application for the Divine Unity Prayer Walk to be held on Saturday, April 14, 2018, from 11:00 am to 12:30 pm, with approximately 400 participants expected. She noted the participants will walk from City Hall to Court Square, and the organizer is requesting rolling street closures and some Harrisonburg Police Department (HPD) support in managing pedestrian crossing at intersections.

A motion was made by Council Member Jones, seconded by Vice Mayor Baugh, to approve the special event application as presented. The motion carried with a unanimous voice vote.

- 8.b.** Consider the event application request for the Downtown Dinner Party on Saturday, May 19, 2018 from 7pm-11pm.

Erin Johnson, events manager with Harrisonburg Downtown Renaissance (HDR), presented a special events application for the Downtown Dinner Party to be held on Saturday, May 19, 2018, from 7:00 pm to 11:00 pm at the Turner Pavilion, with

approximately 300-350 participants expected. She noted this is an HDR event and requesting minimal HPD support and some Public Works support.

A motion was made by Council Member Jones, seconded by Vice Mayor Baugh, to approve the special event application as presented. The motion carried with a unanimous voice vote.

- 8.c.** Consider the event application request for Valley Fourth on Wednesday, July 4, 2018 from 7am-9:45pm.

Erin Johnson, events manager with Harrisonburg Downtown Renaissance (HDR), presented a special events application for the 17th Annual Valley Fourth to be held on Wednesday, July 4, 2018, from 7:00 am to 9:45 pm at the Turner Pavilion, with approximately 10,000 attendees are expected. She stated closure of Warren Street and use of the municipal lot, City Hall lot, gravel lot, the Turner Pavilion and Park is requested. She noted support of HPD, Public Works and Harrisonburg Fire Department (HFD) is being requested.

A motion was made by Council Member Jones, seconded by Vice Mayor Baugh, to approve the special event application as presented. The motion carried with a unanimous voice vote.

- 8.d.** Consider the event application request for the Valley Fourth Run on Wednesday, July 4, 2018 from 8:30am-11am.

Erin Johnson, events manager with Harrisonburg Downtown Renaissance (HDR), presented a special events application for the 7th Annual Valley Fourth Run, organized by Virginia Momentum, to be held on Wednesday, July 4, 2018, from 8:30 am to 11:00 am. She stated closure of Main Street from Martin Luther King Jr. Way to Gay Street and the left lane of Liberty Street from Gay Street to Grattan Street is requested. She noted support of HPD and Public Works is being requested.

A motion was made by Council Member Jones, seconded by Vice Mayor Baugh, to approve the special event application as presented. The motion carried with a unanimous voice vote.

- 8.e.** Consider the event application request for Farm to City on Saturday, June 30, 2018 from 9:30am-1:00pm.

Erin Johnson, events manager with Harrisonburg Downtown Renaissance (HDR), presented a special events application for the 4th Annual Farm to City Festival, organized by Explore More Discovery Museum, to be held on Saturday, June 30, 2018, from 9:30 am to 1:00 pm, with an expectation of 600 participants. She stated the use of the upper and lower Newman Avenue parking lots and the closure of Newman Avenue from Main Street to Federal Street is requested. She noted support of HPD, Public Works and minimal HFD is being requested.

Council Member Jones thanked Ms. Johnson for getting so far ahead on these events.

A motion was made by Council Member Byrd, seconded by Council Member Jones, to

approve the special event application as presented. The motion carried with a unanimous voice vote

9 Other Matters

9.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, stated he received a call stating every JMU sorority on Greek Row is collecting food, and expects it to be the biggest haul ever, it shows that JMU does give back to the community. He stated he was at the Salvation Army the other day and stated 25 families came in for food each day, this food drive is more important than ever. He stated he never thought the city would have a 60% poverty level, all the talk about it needs to turn into action. He stated he believes hunger and poverty all tie into crime and increased incarcerations.

Pamayotis "Poti" Giannakaouros stated he hopes the voices like Mr. Berry's will be heard because we do see a pattern of some voices speaking again and again and not being heard, the message from Mr. Berry is an important one as it echoes one from Dr. Martin Luther King, Jr. He stated there will be an event on April 4, 2018 and encouraged everyone to enjoy their public parks, especially Liberty Park, on that day, where you can see the potential of a little green oasis in a hard part of the community. He shared a quote from Dr. King and urged all to listen to his words and to some of the voices who aren't always heard and enjoy the public parks on April 4, 2018.

Cathy Copeland, 1153 Nelson Drive, stated she wanted to let council know how pleased she is with how they are looking at the budget and all of things are working as they should. She encouraged council to acquire the land for the second high school as soon as possible to avoid additional costs since real estate value is increasing.

9.b. City Council and Staff

Council Member Jones, stated there will be a Community Criminal Justice Board (CCJB) meeting on September 24th, 2018 beginning at 6:30 and encouraged council to attend and the location is yet to be determined. He stated at the last meeting the idea of hiring a Community Justice Planner was discussed and the board is looking further into the costs, but the position could save a lot of money on the front end through grants and other things. He stated a program entitled Smart Justice will be presented at the September meeting, and the Community Justice Planner from Charlottesville should be there as well.

He stated a few issues that came up at the last meeting that we can directly work with the county on would be as follows: the Middle River Regional Jail (MRRJ) \$3 per day charge to the inmates; the \$1 charge per day by the local jail was challenged and can be further discussed; the food quality at MRRJ versus the city jail, staffing shortage creating a lockdown of 18 hours; personal items not being transferred from city to MRRJ, which puts more stress on the family. He stated these are changes we could make on our end. He noted they also talked about adding a reentry member, we need

to be more proactive as our original goal was not to fill it but to have more space. He stated the Drug Court has been very successful so far.

Vice Mayor Baugh stated the Planning Commission will be presenting a Special Use Permit for increased residency on Old South High and two related matters of a zoning ordinance and a Special Use Permit to increase flexibility for warehousing use in commercial property. He stated all will be coming with favorable recommendations from staff and Planning Commission. He stated a short-term rental ordinance is also being worked on.

Council Member Byrd just wanted to follow up that notifications are provided to property owners for any violations such as those during St. Patrick's Day.

Council Member Hirschmann stated regarding the costs Council Member Jones referred to at the jails, he understands that if the charges are not paid there are no fines given, and there is no recourse, so he feels this needs to be added to the discussions. Mayor Reed stated the charges keep adding up on a tab. Council Member Jones stated he believes that upon release the tab would need to be cleared. Council Member Byrd asked if that would be a decision the sheriff makes. Council Member Jones stated no and City Manager Campbell stated locally it would be the Sheriff's decision, but for MRRJ it would be the board. Vice Mayor Baugh stated the Sheriff's office has the same budget issues the city has, and if he stops collecting that charge, it is a revenue item in his budget he would no longer have. He stated personally he would like to see this charge go away and would be open to looking at the numbers and having a conversation with the Sheriff to see if there is another alternative. Mayor Reed stated we know that the hardship comes on the families, not the inmate and is not clear exactly where the money goes. Council Member Jones stated the other thing is we don't have institutional jobs, so we are charging them but not letting them work at all. Vice Mayor Baugh stated that is a decision we don't make.

City Manager Campbell stated staff talked about the budget and have been actively working on putting together the city budget. He presented a budget schedule, with April 10th, 2018 being a presentation to council by the schools with their budget; April 24th he will have the budget presentation to council ready; May 8th will be the first public hearing on the first reading of the budget, May 22 will be a public hearing on the real estate tax rate which is required because of the 1% increase in assessments, and on May 22 would be the final adoption of the budget. Throughout this process there are dates that are built in with meeting with the finance committee as well as any work sessions that council may want to have to deliberate on the budget.

9.c. Proposal from Downtown Harrisonburg Park Corporation dba Build Our Parks

City Manager Campbell stated staff is in receipt of a proposal submitted by Downtown Harrisonburg Park Corporation, dba Build Our Parks, to fund a public park. Deputy City Manager Banks stated the proposal has been briefly reviewed by

staff and noted it meets the expectations under our PPEA procedures. He stated he is available to answer any questions and to recommend to council they accept this proposal and allow staff to post notice to begin the 45-day timeframe required.

A motion was made by Vice Mayor Baugh, seconded by Council Member Byrd, to accept the proposal and begin the PPEA procedure as presented. The motion carried with a unanimous voice vote.

9.d. City Council and Staff (continued)

City Manager Campbell provided an update on the recycling program and the convenience center, which officially opened on March 19, 2018 with hours of operation being Monday through Friday 8:00 am to 4:00 pm, and plans to extend to Saturday hours of 8:00 am to 12:00 pm and will begin on April 7, 2018. He stated over the short period of time it has been open recyclables have been dropped off, with more than 900 pounds of cardboard received. He stated the location is on Beery Road adjacent to the Valley Wellness Center, and staff is still working on a permanent solution.

City Manager Campbell stated Novak Consulting Group has been selected as the firm for the nationwide search for the chief of police. He stated written proposals were opened to solicit firms, 13 responses were received, 10 were determined to be responsive to the RFP, and a committee which included the fire chief, interim police chief, the Human Resources director, deputy city manager and himself, was formed. He stated the committee narrowed the 10 proposals down to four, who were interviewed and Novak was selected. He stated he will be in touch with each council member to coordinate building a profile of what we would like of the police chief.

Mayor Reed stated on Thursday, March 29, 2018 she will host a discussion at City Hall about homelessness, she is working on recruiting with city schools to bring diverse teachers to the area, and the Prom Dress Drive items will be given out at the Lucy F. Simms Center on April 7, 2014 from 1:00 pm to 4:00 pm, she noted Bridal Impressions donated more than 200 dresses.

Mayor Reed stated Blacks Run and Downtown Clean-Up Day will be held on Saturday, April 14, 2018 and Volunteers can sign up by visiting cleanstream.org; Parent representatives are needed to volunteer on the Family Assessment and Planning Team and the Community Policy and Management Teams. Anyone interested should contact Ande Banks in the City Manager's Office; Don't forget that the Public Works Department has opened a Recycling Convenience Center at 2055 Beery Road. Residents are invited to take their recyclable materials to the center Monday through Friday from 8-4. The collection will soon expand into Saturday hours; and You are all invited to a film titled "Felled: A Documentary Film About Giving New Life to Fallen Urban Trees" on April 5, starting at 6 p.m. This event will connect homeowners, local artisans, interior designers, and sawmills to the urban wood utilization movement, which has increased in interest due to the recent threat of the

Emerald Ash Borer in the city.

10. Adjournment

At 8:16 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR