



# City of Harrisonburg

409 South Main Street  
Harrisonburg, VA 22801

## Meeting Minutes - Final City Council

*Mayor Ted Byrd*  
*Vice-Mayor Charles Chenault*  
*Council Member Kai Degner*  
*Council Member Richard Baugh*  
*Council Member Abe Shearer*

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Tuesday, September 23, 2014

7:00 PM

Council Chambers

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### 1. Roll call

**Present:** 5 - Mayor Ted Byrd, Vice-Mayor Charles Chenault, Council Member Richard Baugh, 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

Vice-Mayor Chenault offered the invocation.

### 3. Pledge of Allegiance

Mayor Byrd 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)

Roberta Fernandez, 95 Campbell Street, introduced two of her new neighbors and stated she has gotten to welcome a total of eight new neighbors, who are all members of Alpha Sigma Phi, in the past month. Mrs. Fernandez stated that she has helped them learn the rules and customs of Harrisonburg.

Joe Scholnick, 111 Campbell Street, stated he was Mrs. Fernandez's new neighbor and President of Alpha Sigma Phi. Mr. Scholnick stated the fraternity is working with the White House on an initiative "It's on us" to prevent sexual assault. Mr. Scholnick stated as members of Alpha Sigma, they are committed to building a strong healthy relationship between students and local families. Mr. Scholnick stated the fraternity is held accountable as active citizens in the local community and they would like to see their neighborly ways replicated across Harrisonburg.

DD Dawson, 160 Decca Drive, spoke of behalf of Happy Dogs Unleashed and thanked all who attended the Dog Park Grand Opening last week. Mrs. Dawson also thanked council and staff for their continued support and stated the Community Foundation was a wonderful financial partner.

James "Bucky" Berry, 30 West Washington Street, stated on October 24, 2014 between T.A. and Harrisonburg the price will be dropped to \$2.50 to get in for food

and thanked Dr. Kizner. Mr. Berry stated Brent's Foundation has written checks to the Salvation Army. Mr. Berry stated with raised taxes more people are coming into the Salvation Army. Mr. Berry would like more affordable housing and for the city to work more with the middle class.

**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)**

**Approval of the Consent Agenda**

A motion was made by Vice-Mayor Chenault, 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 Byrd, Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

**No:** 0

**5.a. Approval of minutes**

**These Minutes were approved.**

**5.b. Consider a request to amend multiple sections of the Zoning Ordinance to allow public uses to deviate from requirements of the Zoning Ordinance by approval of a special use permit**

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

**5.c. Consider a request from Farhad Koyee, Bahar Mikael, and Sabir Haji to rezone a 0.38-acre (16,553 +/- sq. ft.) portion of a 0.52-acre (22,600 +/- sq. ft.) parcel from R-2, Residential District to B-2C, General Business District Conditional**

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

**5.d. Consider two supplemental appropriations for Economic Development Department totaling \$70,000**

**These Supplemental Appropriations were approved on second reading.**

**5.e. Consider a transfer of funds to the Health Insurance Fund**

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

**6. Regular Items**

**6.a. Update on Stormwater Advisory Committee (SWAC) activities and draft Stormwater Utility Ordinance**

Bill Jones, Stormwater Advisory Committee (SWAC) Chair, stated that Thanh Dang

would be presenting the work that SWAC has performed since it was formed in February 2014. Mr. Jones stated SWAC was formed to address the city's responsibility regarding stormwater management that came from both federal and state regulations.

Thanh Dang, Public Works, stated council heard a presentation in May 2014 about the stormwater management ordinance to meet requirements to have a locally run program to meet the Virginia Stormwater Management Program (VSMP), which is different from the Municipal Separate Storm Sewer System (MS4) permit. Mrs. Dang stated the city has had a MS4 permit since 2003, but on July 1, 2013 significant changes occurred which included the following: public education and outreach programs; programs for municipalities operations; and Chesapeake Bay total maximum daily load (TMDL) requirements. Mrs. Dang reviewed what stormwater runoff is and why we care which included the following: infrastructure; erosion; drinking water; and other recreation activities. Mrs. Dang reviewed how we can achieve meeting these regulations and provided some examples such as: administration of the MS4 Permit Program; maintain and operate city-owned stormwater drainage and stormwater management facilities; developing a city-wide Stormwater Improvement Plan; and design and construct stormwater capital projects to meet Chesapeake Bay TMDL requirements. Mrs. Dang reviewed SWAC's proposal on how we could fund this and provided some examples such as: a stormwater utility fee, with dedicated fund for stormwater management, property owners charged based on contributions to stormwater runoff, and gives property owners opportunities to reduce fees (credit); and expenditures from the General Fund would continue to fund a portion of the MS4 Stormwater Program. Mrs. Dang stated the stormwater fee would be calculated by \$XX per year for every 500 square feet of impervious area (roofs, driveways, parking lots, streets, and other hard surfaces). Mrs. Dang presented how citizens can make a difference and/or reduce utility fee by the following: green roof; permeable pavement; rain garden; and rain barrels. City staff and SWAC are working on a manual and application process for property owners to receive credits and those items being reported by property owners would also help the city meet requirements for the MS4 permit. Mrs. Dang reviewed SWAC's next steps which were those that follow: SWAC continuing to meet monthly; come back to council in November with proposed fee structure; public input meetings in November/December; early 2015 council consider Stormwater Utility Ordinance and Fee Structure; and July 1, 2015 as the proposed effective date of a stormwater utility ordinance and fee.

**6.b.** Consider a request for a mural contest and hear an update from Harrisonburg Downtown Renaissance and Arts Council of the Valley

Eddie Bumbaugh, Harrisonburg Downtown Renaissance Executive Director, stated discussion pertaining to parking deck enhancements began during an HDR Board

retreat in January 2014 and funds were raised to support projects discussed during Renaissance Night. Mr. Bumbaugh stated that the Arts Council of the Valley's mission is consistent with some of the proposals in supporting art related projects in downtown. Mr. Bumbaugh stated additional focus was addressed on this issue when the Parking Study was completed by a JMU class. Mr. Bumbaugh reported on the progress that had occurred since he last presented to council and they were as follows: stairwells painted, living wall, two display cases, and new signage installed. Mr. Bumbaugh stated he had spoken to a William Brennon, Business Manager at Blessed Sacrament Catholic Church, and he was in support of the enhancements. Mr. Bumbaugh complimented council and staff for Phase II of the Downtown Streetscape Plan. Mr. Bumbaugh stated several banners have been designed that could possibly be placed in the downtown parking decks. Mr. Bumbaugh stated on September 12, 2014, HDR was selected by Blue Ridge Architects to participate in their "design dash" which allowed their staff to work with HDR to come up with several designs and suggestions that could be used for the decks. Mr. Bumbaugh suggested that HDR work with Public Works, Community Development, and Downtown Parking Services to work out the details, recommendations, and develop a plan for parking decks. Mr. Bumbaugh asked unless the proposals deal with ordinance changes, who has the final approval. Mr. Bumbaugh asked if council would like the approval of any enhancements to come from departments or council. The following question was asked; would HDR coordinate the process and pay for banners. Mr. Bumbaugh stated the group would review what Blue Ridge Architect recommended and review what is realistic, what is affordable, where items would be placed, and what the purpose is. Vice-Mayor Chenault stated he felt comfortable to leave it up to departments because they know traffic patterns and the structures. City Manager Hodgen noted in the past, that if it is city property that has not been previously used it has been up to council's discretion. It was noted, that this discussion only references the parking deck enhancements such as, banners, flags and power washing and not the mural. Council Member Shearer stated he didn't feel comfortable waiving approval, when it wasn't clear what the waiver would deal with. Vice-Mayor Chenault stated that he felt comfortable to have HDR work with staff as they have done in the past dealing with the parking decks and if there is an issue to report to council. City Manager Hodgen noted banners and flags are treated differently, because a lot of zoning classifications don't allow for these types of use. Council encouraged collaboration to improve the parking deck, but recognized all the details are not known at this point, that council should be made aware, and should have a say. City Manager Hodgen presented an example, if council approves banners in the parking decks, he doesn't feel it is necessary to come back to get approval every time; however, if a new activity or structure is addressed he would like council to review it and provide direction to staff. Council Member Baugh stated he would like it delegated to staff, recognizing that there might be times when council's input is needed.

A motion was made by Council Member Degner, seconded by Council Member Shearer, that City Manager Hodgen ask departments to work with HDR to bring a proposal to Council for improvements and design work in the parking decks. The motion carried by a voice vote.

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

**No:** 0

**6.b.1.** Consider a request for a mural contest.

Lindsay Denny, Arts Council of the Valley Marketing Manager, requested council's approval on distributing the request for proposal (RFP) and for the expenditure of approximately \$2,500 to have Public Works clean the wall and coat it with anti-graffiti sealant once the mural is complete. Ms. Denny stated HDR and Arts Council of the Valley have formed a joint committee which will review all the artist applications. Ms. Denny stated the public would have an input on the final design as well as Public Works and Downtown Parking Services. Ms. Denny thanked Rick Peters, Shenandoah Paint and Decorating Center, for their donation of primer coat of paint; all paint supplies, and all the paint for the mural. Ms. Denny stated once the final design has been selected by the committee, it would be brought back to council for final approval. City Manager Hodgen noted that Public Works would be doing prep work prior to the painting of the mural that would cost approximately \$2,800.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, to approve distributing the request for proposal (RFP) and for the expenditure of approximately \$2,500 to have Public Works clean the wall and coat it with anti-graffiti sealant once the mural is completed. The motion carried by a voice vote.

**6.c.** Update on Hotel Conference Center discussions and request for public hearing

City Manager Hodgen stated he didn't have any additional information other than what was presented with the agenda. City Manager Hodgen requested council to authorize the advertisement for a public hearing, October 14, 2014 at which time project details and associated documents would be presented to council and the general public. Vice-Mayor Chenault asked for this particular agenda item to be out prior to the agenda, so the public has more time to review. Council Member Degner noted he would like staff to use the BeHeardHarrisonburg.org site to provide information.

A motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, to approve a public hearing to be held on October 14, 2014. The motion carried by a voice vote.

**7. Supplementals**

**7.a.** Consider a supplemental appropriation for the Police Department in the amount totaling \$52,887.50

City Manager Hodgen stated these funds are assets forfeiture funding that have been

returned to our locality for criminal activity and can only be used for law enforcement purposes. City Manager Hodgen stated the department plans to purchase exterior vest covers and thirty on body cameras. City Manager Hodgen noted that these funds had been taken out of the budget during January budget discussions.

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

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

**No:** 0

## **8. Other Matters**

Consider authorizing City Manager sign contract in relation to the closing a portion of Chesapeake Avenue (24,176 +/- sq. ft.), East Grace Street (50,429 +/- sq. ft.), a portion of South Mason Street (28,575 +/- sq. ft.), and a 10-foot alley located between South Main Street and South Mason Street (6,708 +/- sq. ft.)

City Attorney Brown informed council that under JMU's policy and procedures they have requested a contract and deed to secure the funds to pay the city for their recent request to close a portion of Chesapeake Avenue, East Grace Street, South Mason Street, and an alley. City Attorney Brown recommended council to authorize City Manager Hodgen to sign a basic real estate contract without any warranties, representations, or addendum and a quick claim deed. City Attorney Brown stated that this would allow JMU to meet all internal and external policy and procedures as well as the city to stay in compliant with Virginia State Code. City Attorney Brown stated he would bring a formal resolution to the next meeting for ratification.

**Vice-Mayor Chenault offered his approval of authorizing the City Manager to sign the contract as discussed. No objections were made by other Council Members.**

Harrisonburg/Rockingham Jail Expansion Needs.

Council Member Degner stated after reviewing the data that was provided, it concerned him that 18 months ago the jail had a population of 283 and currently we are at 424. Council Member Degner noted one of the pressures of building and exploring options is due to high population that has caused us to write a check to Middle River Jail for the overage after 315. Council Member Degner stated even if we were to approve the jail, it isn't going to be open for another four years. He feels that we have a short term motivation today looking at what has happened in the previous 18 months that has caused the increase. Council Member Degner noted that no one is to blame, but he feels that we don't have a group or committee being held

accountable for the missing data that is needed and able to make recommendations. Council Member Degner asked what can we do in short-term to reduce the jail population. Council Member Shearer stated he needs more information to make any in depth decisions and feels that data needs to be provided about the last 18 months. City Manager Hodgen stated he didn't know how many questions would be answered because of the format of the jail information. City Manager Hodgen stated even if a group of people were devoted to reviewing the information, it wouldn't be available by the end of this year. City Manager Hodgen stated that his understanding is that we can send something to Richmond to get us in the queue while continuing to work towards the information needed and refining what it is we need. He noted, if we don't get something into Richmond by the end of this year, it will most likely become six years before funding would be available. City Manager Hodgen stated the study group has another meeting scheduled for the second week of October, so by the next meeting more information may be available. Council Member Degner stated he doesn't know if the consultants will be able to get the data by the end of the year, because we don't have a system that we should have. Council Member Degner also stated that there should be a group reviewing and analyzing this data, such as a Criminal Justice Board. Council Member Degner suggested the City/County Liaison Committee meet about and establish a committee. Council Member Degner stated there are two issues: something should have been in place years ago to be collecting and reviewing data and what is it we want to do with the report by the end of this year. Council Member Degner asked the question, is our Criminal Justice System reflective of what our community values are. Council Member Shearer would like to know what other jurisdictions are doing. A suggestion was made to have a Criminal Justice Board create a Community Corrections Plan to hold the system accountable. Vice-Mayor Chenault stated the main issue is, data is needed and it is not discoverable due to the fact they are internal jail records and will need a secure analysis. He stated we need to find out what it is going to require to obtain the data and who is needed to do so. City Manager Hodgen stated other localities have systems in place to do these types of things and also noted that he would invite the Sheriff and other appropriate staff to provide a report.

**Council Member Degner offered a motion, seconded by Council Member Baugh to have City Manager Hodgen report back to council why there has been such a dramatic increase in the jail population in the last 18 months and empower him to pursue the data to answer those questions.**

Vice-Mayor Chenault asked for members of the Finance Committee to put Option 3c back before council with a recommendation.

Vice-Mayor Chenault asked council consider approving funding for Thanksgiving and Christmas meals for city employees who have to work those days.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, to approve City Manager Hodgen to allocate funds for a Thanksgiving and Christmas meals for city employees who have to work on those days. The motion carried by a voice vote.**

Council Member Baugh provided an update on Planning Commission matters.

**9. Boards and Commissions**

No action was taken.

**10. Closed Session**

At 8:09 p.m., a motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, 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 and consideration of disposition of publicly held real property and Subsection 7 for consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel. The motion carried with a recorded roll call vote taken as follows:

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

**No:** 0

- 10.a. Consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel

**11. Adjournment**

At 8:41 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 8:42 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