



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

Tuesday, November 9, 2021

7:00 PM

Council Chambers

1. Roll Call

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

Also Present: 3 - City Attorney Chris Brown, City Clerk Pam Ulmer and Mayor Matthew Tobia

2. Invocation

Vice Mayor Romero offered the invocation.

3. Pledge of Allegiance

Mayor Reed led the Pledge of Allegiance

4. Special Recognition

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 Romero, seconded by Council Member Hirschmann, to approve the consent agenda as presented. The motion carried with a recorded vote as follows

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

No: 0

5.a. Minutes from the October 26, 2021 City Council meeting

These minutes were approved on the consent agenda.

5.b. Minutes from the October 19 and October 20, 2020 City Council Work Sessions (Housing Summit)

These minutes were approved on the consent agenda.

5.c. Consider approving amendments to Title 4 Chapter 2, Article 5, Sections 4-2-76.1 through 4-2-80, related Transient Occupancy Tax, of the Code of Ordinances, City of Harrisonburg

These ordinance amendments were approved on second reading

6. Public Hearings

6.a. 2022-2026 Consolidated Plan, 2022 Annual Action Plan and Analysis of Impediments to Fair Housing Choice for the Community Development Block Grant (CDBG)

Kristin McCombe, coordinator, Community Development Block Grant (CDBG), reviewed the purpose of the 5-year Consolidated Plan, the 2022 Annual Action Plan, and the Analysis of Impediments to Fair Housing Choice. She introduced Jessica Lurz, housing and community development specialist, Mullin and Lonergan Associates, Inc., (M&L). Ms. Lurz reviewed what the 5-year Consolidated Plan is, its components, and what workshops have already taken place. She reviewed the basic CDBG Eligible Activities, CDBG Public Services, national objectives that need to be met, and low and moderate maximum income limits for Harrisonburg. She stated the 2022 allocations have not yet been determined, but estimating the funding to be the same, or close to, the amount funded in 2021. She reviewed the activities funded through the CDBG program in 2019.

Ms. Lurz stated the analysis of Impediments to Fair Housing Choice provides the right to choose housing free from unlawful discrimination, the federal, state, and local laws protect people from discrimination in housing transactions such as rentals, sales, mortgage lending and insurance and it ensures access to housing for everyone and she reviewed the Fair Housing Protected Classes, and examples of housing discrimination.

Ms. Lurz stated she would like to get a sense from Council as to the needs in the community, public and infrastructure or facility needs, any Fair Housing violations or concerns, needed services or employment opportunities.

At 7:14 p.m., Mayor Reed closed the regular session and called the first public hearings to order. A notice appeared in the Daily News-Record on Wednesday, November 3, 2021.

Panayotis "Poti" Giannakouros, stated Harrisonburg has a major structural impediment in fair housing that can be reflected in the high level of segregation at the neighborhood level. He spoke on the functions of the City's Community Development department, anonymous complaints on ordinance violations and how they are enforced, and the need to restructure that department.

At 7:25 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Dent stated it was good to see both federal and state level categories on the fair housing protected classes, she stated as of July 2021 a new class was added to that category - Source of Funds, which means it is illegal to discriminate against someone applying for housing with a housing voucher, but she

believes there are some impediments in that developers have ways to get around that and she provided examples. She stated this is an impediment that needs attention. Ms. Lurz stated this was a discussion at one of the recent stakeholder's workshops, and she advised everyone that although property managers are allowed to set standards on who they accept and allow into properties, they should be encouraged to have conversations with potential tenants, and we should encourage property owners with rentals to speak with their potential tenants and relax their requirements to rent. She stated as M&L goes through the plan for the city, they will make sure they will look at best practices to address that. Mayor Reed stated we have organizations in the city that have been trying to work with landlords and tenants to find housing, however, we are a college town, and it makes it more difficult to have those landlords work with us because they can get more money from students.

Council Member Jones stated we have had ongoing issues with the Harrisonburg Redevelopment and Housing Authority (HRHA) regarding upkeep and maintenance of their properties and asked if there is a standard to review to ensure adequate, clean housing with up-to-date maintenance is done to those properties. He stated many complaints have been received and we are trying to find the correct forum to handle these complaints. He stated we need to maintain a certain level of standards to our residents. Ms. Lurz stated the federal infrastructure funding for the CDBG is intended to be used for low- and moderate-income persons but public housing authorities are not eligible for these services, because they receive their own federal money from HUD to address any capital improvement needs or infrastructure needs. She stated HUD requires housing authorities to keep up with Housing Quality Standards (HQS) and there are 13 elements that must be met by the housing authority to ensure the units meet the HSQ. She stated conversations regarding standards of living in HRHA properties needs to be addressed with HRHA directly. She stated she will note Council's concerns in her notes and try to address those in the plan.

Vice Mayor Romero stated the demand for housing is high in the city and inventory is low, which make it more likely housing discrimination takes place. He asked what the protections are and how is it monitored to ensure no discrimination is taking place, how are landlords held accountable. Ms. Lurz stated anyone that feels they have been discriminated against for housing can contact HUD and file a complaint, and noted the information is available on the city's website. She stated Kristin McCombe is the city's Fair Housing Officer and can direct anyone with complaints. She stated some CDBG funds can be used to do Fair Housing education among other things if the city is interested, although it may only be a small amount. Vice Mayor Romero stated there seems to be a more reactive approach but is concerned about housing discrimination that goes unreported, he would like to take a more active stance.

Mayor Reed asked for the procedure if a complaint is received. Ms. McCombe explained the process, and noted she never is informed of the outcome. She stated she does hold annual Fair Housing training that is available to members of the community. Mayor Reed stated we need to start going into the neighborhoods and

checking on our residents. Ms. McCombe stated she has been trying to secure Paired Housing Testing but the organizations that do this type of testing have stated they don't have the funding to do it, it is not an inexpensive process and would take funding from the city as well.

This Public Hearing - No Action was received and filed.

6.b. Consider adopting a resolution to permit the City to use condemnation proceedings to acquire necessary easements for the Eastern Raw Waterline Project

Chris Brown, city attorney, stated the request for this resolution is related to the Eastern Raw Water Line Project and the acquisition of easements. He stated this request does not come lightly; it is a very serious matter used as a last resort. He stated there have been meetings, letters, emails, phone calls, and extensive good faith negotiations with the landowner, and sometimes best efforts fail, the city must be good stewards of taxpayer dollars, we have to pay fair market value, but sometimes the landowner often feels despite the city's best efforts the city doesn't offer what they feel it's worth. He stated easements have been secured for this project from 43 landowners, with only two landowners not secured. He reviewed the process of securing easements, the property information related to this resolution and the city's easement needs, the offer made to the landowner, landowners concerns and the things the city did to appease those concerns, to no avail. He stated if the resolution is adopted, it does not stop any negotiations with the landowner to secure the easement, but it does allow the city to proceed with the project until this is either settled or filed in Court.

At 7:55 p.m., Mayor Reed closed the regular session and called the second public hearings to order. A notice appeared in the Daily News-Record on Monday, November 1, 2021, and Monday, November 8, 2021

Panayotis "Poti" Giannakouros, stated he strongly objects to the term by the city attorney in regard to "taxpayer" dollars, the correct term should be public dollars or Harrisonburg dollars as it has an implication that people deserve more or less representation on the basis of ownership of property or the related paying of taxes. He stated we do not have greater rights of representation based on ownership of property and his been the subject of numerous civil rights laws. He spoke on subsidies to industries using the water, his concerns about the entire waterline project, the infrastructure bill, and ARPA funding.

At 7:59 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Dent asked if all the negotiated items the city offered to the landowner will still be in effect remain regardless of this resolution. Mr. Brown stated yes.

A motion was made by Council Member Dent, seconded by Council Member Hirschmann, to

adopt the resolution as presented. The motion carried with a recorded vote as follows:

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

No: 0

7. Regular Items

7.a. Presentation on the 4-H Program

Dustin Smith, program assistant for Harrisonburg 4-H program, stated he has been with the 4-H program for almost 20 years, from youth to adult. He reviewed the following:

- Youth reached during the last school year and at which schools.
- Programs offered
- Duplicated versus Unduplicated numbers of participants
- Promotion and advertising of programs
- Goals for future growth of program
- Benefits of the 4-H program

He thanked Council for their time and funding of this program.

Council Member Jones stated he didn't hear any direct information regarding Blue Stone Elementary School and asked if Mr. Smith could provide. He also asked if the children that participated in the program were already there or specifically for those part of the program already. Mr. Smith stated Blue Stone was the first school he went to for this program and the students that participated in the classes at the Children's Museum was a specific day camp for students doing virtually learning. Mr. Smith stated he has been proactive on getting this program in other schools in the city. Vice Mayor Romero offered help to Mr. Smith to get the program into other schools. Council Member Jones stated he would like to be able to use other city locations to house some of these programs. Mayor Reed stated she will invite Mr. Smith to an out of school learning coalition meeting where all the organizations that offer after school programs meet which will allow him to get connected to families, organizations, etc. She asked if he was concentrating on elementary school children. Mr. Smith stated currently he is, but he would eventually like to have these programs available to all grades. Further discussion took place about a leadership component 4-H offers. Council Member Jones thanked Mr. Smith for presenting an update on the program and how the Community Contributions are put to use.

This Presentation was received and filed.

7.b. Presentation on the Local Energy Alliance Program (LEAP)

Chris Meyer, executive director, Local Energy Alliance Program (LEAP), reviewed

the company's history and purpose. He reviewed residential energy use and noted 50% of household energy use goes to heating and cooling. He reviewed what a home energy assessment consists of, common area of air leaks in a home, the scope of work done by LEAP, and external funding opportunity through the Department of Housing and Community Development's (DHCD) Housing Innovation Partnership grants. He stated he would like to know if the city is interested in collaborating with LEAP in obtaining the grant, they would do all the grant writing, and hopes to collaborate with up to ten localities to maximize the probability of selection for the grant.

Council Member Dent stated she is very interested in this opportunity, in particularly lowering the utility bills for lower income residents through energy efficient measures. She stated there is a time constraint in applying for this grant and she wanted to check with other Council members on their interest in collaboration with LEAP. She stated she reached out to Harrisonburg Electric Commission (HEC) to see if this overlaps or supplements the program they already offer, and this program would supplement theirs. She stated minimal city staff effort would be needed to get in on this potentially large grant funding, that could help approximately 10-12 homes in the city.

Vice Mayor Romero asked what localities Mr. Meyer is working with on this collaboration. Mr. Meyer stated two municipalities Albemarle County and Charlottesville are interested, LEAP has reached out to Fredericksburg, and plan to reach Augusta County, Waynesboro, Staunton, and Greene County. Vice Mayor Romero asked what some of the qualifiers for the grant are to increase probabilities of LEAP getting it. Mr. Meyers stated the city could apply directly but the requirements are based on if a locality consists of 50% or higher population of low-income residents, has Economic Incentive Zones, or considered a Historically Economically Disadvantaged Community.

Council Member Jones spoke on what types of housing could benefit the most from this type of program. Council Member Dent stated we would be able to choose what types of housing to provide this program to.

Discussion took place on the competitive grant process, amount of grant, and LEAPS administrative fee and what is included with that.

Council Member Jones asked Mr. Campbell to share his input on this item. Eric Campbell, city manager, staff does not have a recommendation on this as it did not go through the city manager's office to review or vet.

Vice Mayor Romero stated we are bypassing the process; staff is always so helpful and knowledgeable about what Council needs to make decisions and since staff has not vetted this, he is hesitant to make any decision on this. He stated it sounds great, would help people, but we can always apply directly. Further discussion to place

regarding having staff vet this as well as any requests like this, not bypassing the process, possibly applying directly, deadlines, required match and the request to staff to review and vet this grant opportunity.

Council Member Dent made a motion to have staff review and make a recommendation to Council. The motion failed for lack of a second.

A Motion was made by Council Member Jones, seconded by Council Member Dent, directing city staff vet weatherization opportunities for homeowners in the city that could be funded through grant opportunities with limited resources provided by the city. The motion carried with a recorded vote as follows:

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

No: 0

7.c. Consider adopting a naming for the Garbers Church Road Shared Use Path

Tom Hartman, director of Public Works, stated the naming of the Garbers Church Road Shared Use Path is for public safety issues by providing an address and install way markers along its path. He stated brand marketing is another reason for the naming of this path. He reviewed the current path and noted it is planned to be open by the end of November 2021. He reviewed the naming process which included public surveys, signage, and the results, with the first place being "Friendly City Trail".

Council Member Hirschmann stated it is obvious the majority requests it be called "Friendly City Trail". Mayor Reed stated everything is named the Friendly City, we should choose something different. Council Member Dent stated it is the city's branding. Council Member Jones stated it is private businesses using the name, Vice Mayor Romero stated it would have been good to have our students participate in naming the path because it is connecting schools if this didn't take place. Mr. Hartman stated the schools and students were reached out to and participated. Vice Mayor Romero stated the names of city places should reflect the population and it would be great to have a bilingual or multilingual name to it. Further discussion took place regarding the naming of the path. Vice Mayor Romero suggests in the future we reevaluate our process and make sure it is more accessible to everyone in the city.

A motion was made by Council Member Dent seconded by Council Member Hirschmann, to name the path "Friendly City Trail". The motion carried with a unanimous voice vote:

7.d. Consider a refund for a portion of the 2021 Business Professional and Occupational License (BPOL) tax for one business.

Chris Brown, city attorney, presented a request for Business, Professional and Occupational License (BPOL) tax refund, that involves the payroll apportionment method of determining gross receipts for purposes of BPOL. He stated the company has satellite offices in different jurisdictions but paid its BPOL based on its gross receipts to the city. One of the other jurisdictions audited the account and under a

fairly recent Virginia Supreme Court Case the gross receipts must be apportioned by the amount of payroll paid in each jurisdiction. He stated the business is entitled to a refund in the amount of \$6,193.56 which will be paid to other localities by the business owner.

A motion was made by Council Member Hirschmann, seconded by Council Member Dent to approve the request as presented. The motion carried with a recorded vote as follows:

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

No: 0

- 7.e.** Consider approval of participation in the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (the "MOU") and proposed opioid litigation settlements - McKesson, Cardinal Health, AmerisourceBergen, and Janssen Pharmaceuticals, Inc.

Chris Brown, city attorney, presented two resolutions related to the participation in the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (the "MOU") and proposed opioid litigation settlements. He stated the city does not yet know the amount that will be distributed from the settlement nor the timing, but he expects it to be in two batches of approximately \$400,000 each to the city, one will be restricted to opioid related uses, the other may be more unrestricted.

Council Member Dent stated our city and region doesn't have as strong of an Opioid problem as it does with Methamphetamine problem, and the unrestricted portion of the funds could be used towards that.

A motion was made by Council Member Dent, seconded by Vice Mayor Romero to approve the resolution for the Memorandum of Understanding as presented. The motion carried with a recorded vote as follows:

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

No: 0

A motion was made by Council Member Dent, seconded by Vice Mayor Hirschmann to approve the resolution of approving the proposed litigation settlement as presented. The motion carried with a recorded vote as follows:

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

No: 0

- 7.f.** Consider amending and reenacting Title 12, Chapter 1 of the Code of Ordinances City of Harrisonburg related to Business, Professional and Occupational Licenses (BPOL)

Karen Rose, Commissioner of the Revenue, presented amendments to the BPOL ordinance to bring in line with the Virginia State Code. She reviewed the

amendments requested and noted due to the increase in our populations from the recent census, the state requires us to expand our gross receipts level for our fee structure from \$50,000 to \$100,000 and the amendments reflect those changes. She reviewed additional recommended amendments, and noted staff feels in the increase in some of the fees that would impact local restaurants and retailers is recommended. If Council decides the fees should be increased a public hearing would be required.

A motion was made by Vice Mayor Romero, seconded by Council Member Hirschmann, to approve the Ordinance Amendments as presented. The motion carried with a recorded vote as follows:

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

No: 0

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)

Annette Farnadel, 1051 James Place, parent, teacher, and resident, spoke on the critical school bus driver shortage in the city and how it is affecting everyone. She requested Council make it an urgent priority to discuss what can be done to alleviate this shortage.

Gerald Gatobu, director of Harrisonburg Department of Public Transportation and resident, thanked Ms. Farnadel for speaking, he stated we are facing a shortage of drivers and we need to look at what we can do. He stated our services are still running, and hopes further conversations take place on how to get the word out that other positions are available to offer a 40-hour work week and our bus drivers are valuable members of our city staff. He thanked Mr. Parks and the city manager's office or all that has been done today, but we need to continue to reach out to people and organizations.

Panayotis "Poti" Giannakouros, stated there is nothing ridiculous about going to federal authorities when local authorities are not responsive. What is ridiculous is the culture of dismissiveness of resident testimony by sitting public officials, our sitting officials sets the tone that shapes our culture, and he has video and policy documents reflecting numerous instances of public officials trampling the rights of residents particularly the right to speech, assembly, and the petitioning for grievances. He spoke on anonymous complaints, enforcement of ordinance violations, naturalized yards, restructuring of departments, and the wasted cost of consultants.

Bucky Berry, spoke on the Harrisonburg Police Department and required vaccinations, pay for officers, cost of living, additional benefits for officers, and stated we will lose officers if something isn't done.

8.b. City Council and Staff

Mayor Reed thanked Mr. Gatobu for speaking, she if fully aware of the bus shortage, and asked the city manager to speak on what the city staff has been doing about this issue. Mr. Campbell stated a new incentive program was created to not only get new drivers but to keep the drivers we do have. He stated the pay rate was adjusted, and made sure bonuses were for both school bus drivers as well as transit drives. Michael Parks, director of Communications stated a robust marketing campaign has been started to attract drivers, radio ads are being run, three videos were run in both English and Spanish, and applications have been submitted based on those videos. He stated ads on the buses specifically targeting the bonus offered. He stated some of the other ads have been targeted to those that have been drivers before and noted the benefits of these ads are already seen and staff will continue to run these ads. Mayor Reed stated the city is aware of the shortage and staff and Council needs to be aggressive in supporting the needs of the Transportation Department. Council Member Dent stated one of the members of the Citizens Academy stated they had a friend who wanted to apply but the hours for the school bus drivers was not sufficient. She stated it should be emphasized that the drivers can be cross trained to get a 40 hour a week position. Vice Mayor Romero stated the shortage of drivers is not only impacting the time children leave for school and get home from school, but it is impacting the opportunity of extracurricular activities as well. He stated we have seen the efforts of the Transportation Department and it is appreciated, this is a nationwide issue, we must keep working on it. Council Member Jones pleaded to the residents that may be retired and/or have the ability and time to work, our children need their help.

Council Member Dent stated at the EPSAC meeting more information was received regarding the Green House Gas study, one observation stood out to her, even though we passed the resolution aiming for 100% renewable energy by 2035 Dr. McGinnis stated he didn't think it was feasible under the current conditions, we should aim high, but recommended we set an aggressive goal that we shoot for 50% renewable by 2030. She stated EPSAC chose to focus on the transportation area first, and Mr. Gatobu is applying for the second round of funding for electric school buses and is a major step toward incrementally having our electric transportation fleet that will cut down on a major source of green house gas emissions. She stated other options being explored include electric vehicle chargers throughout the city. She stated the buildings and energy group of EPSAC are still exploring things, such as the LEAP presentation earlier. She stated a new process for vetting EPSAC sponsored projects to bring to council has been established. She stated she attended the Community Housing Summit, and one of the most gripping stages was hearing from people who were homeless or formerly homeless and the community services that helped them be housed such as Our Community Place, Mercy House and the HRHA. She stated she offered what have been gleamed from the Council's Housing Summit

such as the four different quadrants and how the lowest 30% of the area median income is mostly served by these organizations, and how the city is exploring permanent shelter for the unhoused and other options that are being looked into. She stated she learned that the developers are only interested in the 50-80% AMI (average median income) so that leaves those in the 30-50% and that is where the city needs to focus as to what serves they need to stay housed.

Council Member Hirschmann stated we should have a new directory of the library system by the end of the year, there are some strong candidates.

Mayor Reed stated the Northeast Neighborhood has been working with the 7-11 on Mason Street regarding their expansion and the desires of the neighborhood, and she will be asking them to come and present to City Council as to what the project will look like.

Eric Campbell, city manager, stated he provided an update on city staff's investigation as to what has been done to date regarding the status of bettering the quality of the broadcasts to the community. He stated on November 19, 2021, from 4-7pm at Turner Pavilion the consultants will be unveiling the initial first glimpse of the Downtown Master Plan recommendations. He stated there will be a formal presentation to Council in December 2021. He stated city staff has been faced with the issue of holding a holiday parade this year, and one of the things that we are faced with is that we are still in a pandemic, staff was not comfortable with providing a traditional parade due the usual number of participation and safety. He stated staff is working closely with the Harrisonburg Downtown Renaissance and their Winter Fest, planned for December 11, 2021, which will include static floats stationed throughout downtown, the annual tree lighting, and other activities to make it festive and family oriented.

9. Boards and Commissions

9.a. Parks and Recreation Advisory Committee

Pam Ulmer, city clerk, advised Council that a reappointment application had not yet been received by Carol Mills-Rooker, whose term does not expire until December 31, 2021, and asked Council if they wanted to wait to vote on appointments until Ms. Mills-Rooker advised if she was interested in continuing to serve.

This item was tabled until December 14, 2021

A motion was made by Vice Mayor Romero, seconded by Council Member Hirschmann, to table this item. The motion carried with a unanimous voice vote.

9.b. Transportation Safety Advisory Committee (TSAC)

A motion was made by Council Member Hirschmann, seconded by Vice Mayor Romero, to appoint Chance Ebersold to a third term and Marian Lebherz to a second term all to expire on December 31, 1024. The motion carried with a unanimous voice vote.

10 Closed Session

10a. Closed meeting as authorized by the Virginia Freedom of Information Act, Virginia Code Section 2.2-3711(A), under:

Subsection 8 for a discussion with legal counsel regarding specific legal matters involving contractual negotiations requiring the provision of legal advice by such counsel.

At 10:14 p.m., a motion was made by Vice Mayor Romero, seconded by Council Member Dent, to enter into closed session as authorized by the Virginia Freedom of Information Act, Virginia Code Section 2.2-3711(A), under: Subsection 8 for a discussion with legal counsel regarding specific legal matters involving contractual negotiations requiring the provision of legal advice by such counsel.

11. Adjournment

At 10:51 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 10:51 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR