



# 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, September 13, 2016

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

**Absent:** 2 - Acting Deputy City Manager Ande Banks and City Clerk Erica Kann

**Also Present:** 4 - City Manager Kurt Hodgen, City Attorney Chris Brown, Police Chief Stephen Monticelli and Clerk Pro Temp Pam Ulmer

### 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)

Jim Orndorf, 22 E. Market Street, stated he has the privilege of being the community liaison for the JMU's Café, a project of the JMU Library, to provide a forum for students, faculty and staff as well as members of the Harrisonburg Community to explore topics of public interest. Mr. Orndorf stated the first meeting, held on Thursday, September 22 from 6:30 pm - 8:00 pm in the Rose Library, will explore the roll of the media in public life. Mr. Orndorf invited the council to participate.

Stan Maclin, announced an open house will be held at the new location of the Harriet Tubman Cultural Center on 2065 Reservoir Street, time and date to be announced. Mr. Maclin stated there is an unexpected rise of racism in the community, referenced the hate letter left on a citizens vehicle and the incident with the Commissioner of Revenue's office. Mr. Maclin stated an organization called ARMED, which stands for Americans Resisting Minority and Ethnic Discrimination, has been formed and a petition drive to call for the recall of Commissioner Rose has been started. Mr. Maclin stated he hopes the city can be

an inclusive community, where everyone, regardless of race, can have opportunity of equality.

Mayor Jones noted he spoke to the couple that received the hate note, and is extremely disappointed this happened in the city, especially as we declared to always do our best to be a welcoming and friendly city, there is no place for this in the city of Harrisonburg.

**5. Consent Agenda (any item placed on the consent agenda shall be removed and taken up as a separate matter, if so requested by any member of Council, otherwise all items will be voted on with one (1) motion)**

A motion was made by Council Member Degner, seconded by Council Member Shearer, to approve the consent agenda as presented. The motion carried with a recorded roll call vote taken as follows:

**5.a. Minutes**

**This Minutes was approved on the Consent Agenda.**

**5.b. Consider amending and re-enacting Sections 13-1-79 and 13-1-84 of the Harrisonburg City Code, parking violation fines and appeals**

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

**5.c. Consider a supplemental appropriation for the Fire Department in the amount of \$207,371.63 from Fire Program and Four-for-Life funds**

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

**5.d. Consider a supplemental appropriation for the Police and Fire Departments in the amount of \$76,179.41 from various grants**

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

**5.e. Consider a supplemental appropriation for the Police Department in the amount of \$18,078.00 to purchase a special events vehicle**

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

**6. Public Hearings**

**6.a.** Consider CDBG 2015-2016 Consolidated Annual Performance Evaluation Report (CAPER)

Kristin McCombe, grants compliance officer, presented the CDBG 2015-2016 Consolidated Annual Performance Evaluation Report (CAPER) and reviewed the projects that were extended, funds unused and reason of extension for each. Mrs. McCombe noted the fifteen day public comment period begins immediately until 9:00 am on September 29, 2016. Mrs. McCombe provided contact information to submit comments.

At 7:15 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, August 22, 2016.

There being no one desiring to be heard, Mayor Jones closed the public hearing at 7:15 p.m., and the regular session reconvened.

**6.b.** Consider a request from 217 S. Liberty, LLC with representative Michael Jaffee of Matchbox Realty to amend the Zoning Ordinance Section 10-3-30.1, Parking Lot Landscaping

Adam Fletcher, director of Planning and Community Development, presented a request for a zoning ordinance amendment of Section 10-3-30.1, Parking Lot Landscaping, to exempt parking lots in the B-1 district with ten or fewer parking spaces from the parking lot landscaping regulations and reviewed the history of the parking lot landscaping ordinance from its implementation.

Mr. Fletcher noted the amendment requested stems from a result of the Ice House parking area, but staff had prior discussions on how difficult it can be to try to place parking in some of the smaller niches of property in the downtown area, where many times it is prohibitive for property owners to try to put in one, two or three parking spaces due to landscaping requirements. Mr. Fletcher reviewed the original site plan for the Ice House parking area that was approved in 2013 and noted since then a raised curb in the center of the cul-de-sac, which contains an art piece giving the area an aesthetic appeal, had been added. Mr. Fletcher noted that as the area began to be used as off-street parking, the fire department, community development and the applicant discussed and brainstormed on how to make it work, including fire lane marking, spacing for parking to allow for compliance with the parking lot landscaping ordinance, etc. Mr. Fletcher noted it was not in the property owner's vision to proceed, but staff noted this might be a perfect candidate for an exemption. Mr. Fletcher noted the current ordinance applies to all uses, all parking lots, with the exemption of single family homes or duplex dwelling units.

Mr. Fletcher reviewed the applicant's proposal for the amendment to the current ordinance, adding the exemption for parking lots with 10 or fewer parking spaces

within the B-1 district. Mr. Fletcher stated if this was approved, anyone in that category would not have to provide separation of parking from public street right of way (landscaping border of ten feet in width), separation from property line (wall or fence to be installed), minimum landscaping areas to be equal to fifty percent of the paved area for parking lots, landscaping mounds of 140 square feet at the ends of each terminus, and rows of parking spaces would not have to be divided at intervals of no more than 12 parking spaces. Mr. Fletcher noted that within many of these spaces are tree and shrub planting requirements to bring appeal to the areas and to provide all the additional benefits of landscaping on the hard surfaces of the city. Mr. Fletcher stated if council approves the current requested amendments staff suggests the language of the amendments be tweaked a bit, and reviews staff's modification recommendations.

Mr. Fletcher reviewed a snap shot of how staff looked at this issue on a special perspective, and how parking lot landscaping in the small niches in the downtown area were cost prohibitive and reviewed a graph showing how available parking spaces converted to actual parking spaces allowed with the landscaping requirements, therefore staffs final recommendation of the ordinance amendment requested reflect six or fewer parking spaces rather than 10 or fewer. Mr. Fletcher noted an additional amendment recommended by staff was to Section 10-3-30.1(16) on nonconforming landscaping. Mr. Fletcher noted the Planning Commission voted in favor of the final recommended ordinance amendment to Section 10-3-30.1 and 10-3-30.1(16)

Council Member Degner asked Mr. Fletcher for more clarification as to why six parking spaces was the magic number with which to proceed. Mr. Fletcher stated the larger number deviated from the intent with aesthetics and environmental impacts.

Mayor Jones asked how the Planning Commission felt about losing green space with this requested exemption. Mr. Fletcher noted that was not discussed. Vice-Mayor Baugh stated the Planning Commission spoke of it generally, but no vote was taken regarding that issue.

Mayor Jones noted conversations about stormwater, environmental standards, aesthetics, walk-ability and bike-ability have taken place many times in the past with City Council.

**A motion was made by Vice-Mayor Baugh, seconded by Council Member Byrd to approve the recommended amendment 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

- 6.c.** Consider a request from Eastern Mennonite School (EMS), Virginia Mennonite Missions, and Mennomedia, Inc. to rezone 26.88 acres of property by amending

### EMS's existing Master Plan

Adam Fletcher, director of Planning and Community Development, presented a request from Eastern Mennonite School (EMS), Virginia Mennonite Missions, and Mennomedia, Inc. to rezone 26.88 acres of property by amending EMS's existing Master Plan, currently zoned R-3 and B-2. Mr. Fletcher stated the three entities are requesting to rezone the property to pull in over two acres of property into the master plan in order to renovate the Mennomedia building and create an elementary school on site. Mr. Fletcher noted the subject property is bound by Parkwood Drive, Virginia Avenue and Mt. Clinton Pike. Mr. Fletcher reviewed surrounding uses and explained the institution overlay district. Mr. Fletcher stated the applicant is requesting the following: desires a 10-foot building setback be applied to the entire campus perimeter to allow for flexibility with future building expansions and additions. Currently, a 30-foot setback from public streets would be required; deviation from 20' setback to 10' set back; deviation from the required parking lot landscaping ordinance for the new parking areas, provided that landscaping as shown on the proposed master plan will be installed near the perimeter of the parking lots rather than at otherwise required internal landscaping islands.

Mr. Fletcher stated the applicant will dedicate the needed right-of-way and easements to the City for the future widening of Mt. Clinton Pike. This would include stormwater facilities, public utilities, and a shared-use path, all to be constructed by the City, along with necessary slope maintenance and temporary construction easements.

Mr. Fletcher stated staff offered a favorable recommendation and the Planning Commission unanimously voted to approve.

At 8:09 p.m., Mayor Jones closed the regular session and called the third public hearing to order. A notice appeared in the Daily News-Record on Monday, August 29, 2016 and Monday, September 5, 2016.

Michael Stoltzfus - 1048 College Avenue, stated he represents EMS and that he appreciates staff and planning commission working with EMS and is open for any questions.

At 8:09 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

**A motion was made by Vice-Mayor Baugh, seconded by Council Member Shearer, to approve the rezoning of 26.88 acres of property by amending EMS's existing Master Plan 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. Regular Items

- 7.a. Consider a request from Ikram U. & Shehnaz P. Khan to preliminarily subdivide two parcels totaling 0.721 +/- acres into three parcels; with a variance from the Subdivision Ordinance Section 10-2-42(c), on the R-2, Residential District zoned properties

Adam Fletcher, director of Planning and Community Development, presented a request to preliminarily subdivide two parcels totaling 0.721 +/- acres into three parcels located at 160 & 150 Ashby Avenue. A variance is also requested to deviate from the subdivision ordinance Section 10-2-42(c) to allow one lot to not have public street frontage. Mr. Fletcher reviewed the surrounding uses and noted the third parcel would be used to build two more single family homes although it has the lot area to build a duplex if chosen to do so. Mr. Fletcher stated there is some recognized flooding that occurs in the area although not in flood plain, and placement of units has been discussed with his department as well as engineering and the applicant. Mr. Fletcher advised the final plat will not be approved until the site plan is approved to insure proper grading, slopes etc. are all done according to regulations.

Mr. Fletcher stated as required by Section 10-2-43 of the subdivision ordinance, the applicant will dedicate public general utility easements along the frontage of proposed lots #1 and #2, and along the side lot line between proposed lot #1 and proposed lots #2 & #3. The public general utility easement can be used for general utility services (electric, cable, phone, etc.) to service any building including proposed lot #3.

Mr. Fletcher noted the plat shows dedication of public street right-of-way along the frontages to accommodate a future five-foot sidewalk and two-foot grass strip between the back of curb and sidewalk, and one foot of right-of-way behind the future sidewalk.

Mr. Fletcher stated staff recommends approval of the preliminary plat with that variance request and planning commission recommended approval as presented by staff with the one condition that the final plat not be approved until the city engineer has consented to a comprehensive site plan or some other plan that addresses the drainage and flooding issues.

**A motion was made by Council Member Degner, seconded by Vice-Mayor Baugh, to approve the subdivision with variance 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

## 8. Special Event Application Requests

- 8.a. Consider the special event application for the Veterans Day Parade on November 6, 2016

Jeremiah Jenkins, events coordinator for Harrisonburg Downtown Renaissance, presented the special events application for the Veterans Day Parade to be held on Sunday, November 6, 2016. Mr. Jenkins stated this is an annual event with no change from last year, using the same route and times. Mr. Jenkins noted the road closure will be along Main Street from East Grattan Street to East Gay Street.

**A motion was made by Council Member Degner, seconded by Vice Mayor Baugh, to approve the special event application 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

## 9. Other Matters

Mayor Jones noted the deadline to apply for the Environment Performance Standards Advisory Committee is Friday, September 16, 2016, more information can be found on the city website. City Manager Hodgen noted we have received three applications, and the board is established to have between seven or 11 members.

Mayor Jones noted the Virginia Municipal League (VML) recently named Harrisonburg a recipient of the 2016 Innovation Award in the communications category, for the "Safety Sally" campaign, and the award will be officially presented October 10th, 2016. Mayor Jones encourages everyone to watch our social media for how Safety Sally will make her grand debut.

Mayor Jones noted child passenger safety week is September 20, 2016 thru September 25, 2016, offering free car seat checks throughout the city, more information provided on the city's website.

Mayor Jones noted the annual International Festival will be held on Saturday, September 24, 2016 from 12:00 pm to 6:00 pm at Hillendale Park, which is a great diverse event that brings tourism to the city.

Council Member Byrd stated he has been contacted from concerned citizens regarding commercial pop-up signs that appear when students come back, but never disappear. Council Member Byrd stated he is hopeful that perhaps public works can help clean these up. Vice-Mayor Baugh stated community development should be contacted by any citizens with such concerns.

Council Member Byrd stated there have been concern about the noise ordinance and the application of it inside private multiple residences, such as townhouses and/or apartments. Attorney Brown stated the existing older ordinance applies in that situation.

Council Member Byrd noted the council has been approached several times regarding the coal tar applications for driveways, and wants to advise the community the city does not have the authority to regulate this, but if the community feels we should, then he highly recommends they contact Richmond to give us that authority.

Council Member Degner asked for a report from the police chief regarding the restorative justice cases, any suggested improvements, and thoughts on why the restorative justice cases are so low.

Council Member Degner stated the CCJB meeting was held last week and a number of concerns were raised, regarding how the city council participates in oversight now that we are owners of the jail, specifically when it comes to accreditation and pending litigation. Council Member Degner asked the city manager how the recent meeting with the Middle River Regional Jail (MRRJ) went. City Manager Hodgen stated there wasn't anything of significant substance finalized at that meeting, but discussion did take place regarding accreditation, specifically to the medical components. Council Member Degner stated he strongly encourages accreditation be obtained.

Council Member Degner noted that in 2012 council voted in favor of a resolution that had to do with the Transpacific Partnership (TPP), which was originally requested by the county to extend intellectual property rights for pharmaceutical and other companies. Council Member Degner requests this resolution be rescinded in a future meeting.

Vice-Mayor Baugh noted planning commission meeting on September 14, 2016, only has one item which is the water tower at Eastern Mennonite University (EMU).

Vice-Mayor Baugh spoke about Plan Our Park group, as there has been a change of structure for the group into one central board. Vice-Mayor Baugh stated since



this is now in the CIP and Parks and Recreation (P&R) is looking into this as a project, lines of communications between the group and P&R will take place. Council Member Byrd noted that city council has not taken official action on this project, but merely blessed the group to study and council accepted the report. A discussion took place about how to keep an eye out for competing interests and to make sure communications remain open.

Vice-Mayor Baugh noted there will only be one item for consideration by the Planning Commission on the November agenda. A discussion took place as to when to schedule November's council meeting with Election and Thanksgiving. It was intended that council will come to an agreement by next council meeting on September 27, 2016.

Mayor Jones stated he had some complaints regarding school bus transportation and the routes. Council Member Byrd asked if council should ask for a report or is this something the liaison committee could handle. Council Member Shearer stated the school board should be receiving these complaints so they can address any issues. Mayor Jones raised the question as to why the school busses are not under the school board rather than the city responsibility. A discussion took place that although in theory that would be logical, there are other factors to take into consideration such as maintenance, storage, government funding, budgeting, etc.

Mayor Jones asked about the diversity hiring report. City Manager Hodgen stated it will be presented at the next council meeting on September 27, 2016.

## **10. Boards and Commissions**

### **10.a. Planning Commission**

Vice-Mayor Baugh noted there are five really good candidates and hopes that everyone keeps their name on the list for future vacancies, and would like to nominate Brent Finnegan.

Council Member Shearer stated last time there were also several valuable candidates as well and hopes, as Vice-Mayor Baugh stated, they continue to be interested for future vacancies.

Council Member Shearer noted Mr. Finnegan was in his inaugural citizen's academy class.

**A motion was made by Council Member Byrd, seconded by Council Member Degner, to**

appoint Brent Finnegan to the Planning Commission. The motion carried with a unanimous voice vote.

**11. Closed Session**

Tony Brown, Daily News Record reporter requested the council consider holding the closed session as a public session, which would be at the option of the council.

Attorney Brown stated the council has the option to hold a closed session.

This was enter into closed session as authorized by the Virginia Freedom of Information Act,.

- 11.a. 2.2-3711(A) Subsection 3 Discussion or consideration of the acquisition of real estate for a public purpose and the disposition of publicly held real property where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body

At 8:41 p.m., a motion was made by Council Member Shearer, seconded by Council Member Byrd, 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 a discussion of the acquisition of real estate for a public purpose. 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 8:52 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 10:18 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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CLERK PRO TEMPORE

\_\_\_\_\_  
MAYOR

This was the closed session ended and the regular session reconvened.