



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

Tuesday, April 26, 2016

7:00 PM

Council Chambers

1. Roll Call

Present: 5 - Mayor Christopher B. Jones, Vice-Mayor Richard Baugh, Council Member Ted Byrd, Council Member Kai Degner and Council Member Abe Shearer

Also Present: 5 - City Manager Kurt Hodgen, Deputy City Manager Anne Lewis, City Clerk Erica Kann, City Attorney Chris Brown and Police Chief Stephen Monticelli

2. Invocation

Council Member Byrd 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)

Kathy Whitten, 560 South Mason Street, shared her concerns regarding student behavior in her neighborhood, stated the behavior needs to stop, the city needs to work with James Madison University, and challenged council to find a solution. Ms. Whitten asked members of the audience to stand who were here regarding this matter; several citizens stood up. Ms. Whitten stated she also felt that it is a landlord issue.

Mayor Jones stated even though her neighbors are students, they are considered residents and we need to treat them as that. Mayor Jones asked Ms. Whitten to leave her contact information with the city clerk.

Bill Farrar, Director of Public Policy and Communications for the American Civil Liberties Union of Virginia, stated he would be discussing the fatal police shooting of Michael Pierce Jr. that took place in September 2015. Mr. Farrell stated several people had requested copies of footage from the body cameras related to the incident through the Freedom of Information Act (FOIA) process. Mr. Farrell stated he had received a letter from the city attorney stating exemptions for the request. Mr. Farrell also stated that he had put in a FOIA request to several jurisdictions to obtain their policies for body cameras and noted he had obtained the city's policy, but not within the guidelines of FOIA. Mr. Farrell stated the city's policy doesn't

address how and when the footage from body cameras can be reviewed. Mr. Farrell read the one sentence that addresses the public interest. Mr. Farrell stated withholding information about a fatal shooting of a member of the community is not the way to build public trust and urged the names of officers involved and the footage to be released.

Mike Pierce, Sr. stated he wants the footage for closure and his request for the footage was denied.

Mayor Jones stated a follow-up conversation could be held in a more private setting.

Sherri Good, 246 Campbell Street, stated when she moved to the area she was aware of the student housing in her neighborhood, but never thought she would live close enough to be affected by the behaviors of the students. Ms. Good questioned the noise ordinance, submitted pictures from a March 26, 2016 gathering, suggested landlords need to be addressed, dialogue that happened last year did not work, and she wants something done.

It was suggested to the neighbors to call and report the situations to the emergency communications center so there would be documentation. Vice-Mayor Baugh stated at the moment the noise ordinance isn't being broken due to the hours the gatherings are occurring. Council Member Shearer stated he attended several meetings in October of last year regarding this matter, these neighbors have been trying to work to fix the issues, they are looking for another level of commitment from the city, and he would like the city attorney to review what other options we may have.

City Attorney Brown stated staff has obtained reports from the last few days and stated a meeting is being scheduled with the community development director, police chief, and the commander of the patrol unit in the area.

Bill Whitman, 110 East Weaver Avenue, stated his neighborhood is experiencing the same issues and he has the non-emergency number on speed dial. Mr. Whitman suggested the city look into the policy that is in place at William and Mary where the responsibility falls on the landlords.

Emily Westcamper, 154 West Wolfe Street, stated she had concerns with the operations of the Wolfe Street Brewing Company and requested council to review their special use permit. Ms. Westcamper stated over the past two months there has been disruptive behavior and noise from customers of the company past 10:00 p.m., particularly on Thursday evenings. Ms. Westcamper stated she has contacted both her landlord and the police regarding the concerns. Ms. Westcamper also noted during their last major event, parking was an issue in the area.

Vice-Mayor Baugh suggested speaking to Virginia ABC. Mayor Jones stated he

would get her Mr. Washington's contact information.

Kevin Edwards also a resident next to the Wolfe Street Brewing Company shared the same concerns as Ms. Westcamper, but also stated there are two business owners being affected. Mr. Edwards stated the issue is behind the business in the food truck area.

Mayor stated he would reach out to Virginia ABC.

Mark Shindyapin, Harrisonburg High School student, expressed his gratitude towards the council members who helped him with a project to get more students involved in local politics and looks forward to the continued relationship.

Dave Cason, 299 Franklin Street, stated a great loss will occur when Fire Chief Shifflett retires and noted both Council Member Degner's and Shearer's departure from council at the end of this year. Mr. Cason stated he felt the parcels in old town that were grandfathered in are leading to the issues being brought up tonight. Mr. Cason stated he is in favor of tough love to solve the problems.

Michael Zook, 484 South Mason Street, also shared his concerns with the issues that had already been addressed and noted that one of his neighbors, Roberta Fernandez, had addressed council in August 2015. Mr. Zook stated he knows that this isn't an issue that will be fixed overnight, but neighbors are willing to submit input and ideas to help address the issues. Mr. Zook noted that JMU removed certain groups from living on campus, which has caused them to move into neighborhoods within the city. Mr. Zook stated he didn't recall seeing the following bullet points in the downtown revitalization plans: orange construction fence, increased intoxication traffic, and increased foul language. Mr. Zook stated he would like to see our emergency personnel be able to focus on other items and thanked the police department for all they do.

Leo Cook, 120 West Street, stated he was the owner of Wolfe Street Brewing Company and noted he received notification from Hans Harman that complaints would be brought to council tonight. Mr. Cook stated 25 breweries were brought in for an event last weekend, which was a great event and to his knowledge there were no complaints received. Mr. Cook stated he lives out of state and since he has been in town he or staff has met with the police, fire departments, and other owners. Mr. Cook noted that their Thursday night events will be cancelled, they are aware of the ABC rules, and they are here to cooperate.

Mayor Jones stated he received complaints personally during the Saturday, April 16, 2016 event. Mr. Cook stated that was the 25 breweries event and stated the only activity he is aware of regarding police activity was the call reporting a husband had locked his wife in the bathroom. Mr. Cook noted to his knowledge there are no signs along Wolfe Street addressing parking and no one received tickets. Mr. Cook also stated he would be happy to speak with the two individuals who spoke tonight.

Candy Campbell, 205 Campbell Street, stated she hopes to get a response from council members in the next few days to an e-mail she had sent. Ms. Campbell also spoke about the increase of inappropriate behavior in her neighborhood. Ms. Campbell stated they have called the police and have tried to be neighborly. Ms. Campbell stated she has called the landlords and have e-mails from them stating they can do nothing unless the laws are enforced by the police or the fire departments. Ms. Campbell offered her assistance in any way she can.

James "Bucky" Berry, 30 West Washington Street, asked council to provide funding to the School Board to place a net up at the golf course so kids won't get hit with golf balls.

Panayotis "Poti" Giannakouros, 98 Emory, stated the direct approach to solving the issues being addressed tonight might not be the best solution and suggested to use economic development or planning and zoning techniques. Mr. Giannakouros noted citizens can call the Fairfield Center and not create a police paper trail and engage in a restorative justice solution. Mr. Giannakouros stated that he would like to see this many citizens attend Planning Commission meetings.

Joshua Cowderan, EMU student, stated he drove through Harrisonburg on April 16 and he saw police standing in groups waiting for something to happen, which they shouldn't have to do. Mr. Cowderan stated the first step of restorative justice is reviewing the victims' needs and feels there are measures that can be done.

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 Shearer, 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 Jones, Vice-Mayor Baugh, Council Member Byrd, Council Member Degner and Council Member Shearer

No: 0

5.a. Minutes

These minutes were approved on the Consent Agenda.

5.b. Consider a supplemental appropriation through interfund loans for the Harrisonburg City School Board in an amount up to \$2.1 million

This supplemental appropriation was approved on second reading.

5.c. Refer a request to Planning Commission for the city to vacate an alleyway located east of Collicello Street and south of 3rd Street

This alley closing request was referred to the Planning Commission.

6. Public Hearings

6.a. Consider amendment to the Community Development Block Grant (CDBG) Citizen Participation Plan

Kristin McCombe, grants compliance officer, stated a 10-day public comment period needed to be held to receive citizen input on the Community Development Block Grant Citizen Participation Plan (CPP), which is required to be reviewed every five years. Ms. McCombe stated this year the city was required to amend its CPP in order to comply with the Assessment of Fair Housing regulations. During this process, the city clarified its policy to encourage broad citizen participation separately for each document covered by the CPP. Ms. McCombe stated comments can be submitted through Monday, May 9 at 9:00 a.m., and staff will bring all comments received to the May 10, 2016 council meeting before final approval.

Mayor Jones stated all speakers are limited to three minutes for public hearing periods.

At 8:03 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 Friday, April 15.

There being no one desiring to be heard, Mayor Jones closed the public hearing at 8:04 p.m., and the regular session reconvened.

6.b. Consider amending and re-enacting Sections 5-2-18, 5-2-19 and, 5-2-20 of the Harrisonburg City Code on combustible landscape cover material (mulch)

City Attorney Brown stated that on April 14, 2015 several amendments to the Harrisonburg City Code 15-2-18, 15-2-19, and 15-2-20 collectively referred to as the mulch ordinance, were passed after a public hearing was held during the previous meeting due to a rash of mulch fires over the years, some of which had been very destructive. City Attorney Brown stated that the main purpose was to save properties and lives. City Attorney Brown stated mulch fires tend to be very insidious by nature, which can sometimes result in spontaneous combustion, but more often they result from a cigarette thrown into the mulch near the building, which smolders for awhile, then crawls up the side of the building inside and up into the roof where it burns, and without smoke or fire detectors, most occupants are unaware the building is on fire. City Attorney Brown stated that we have been lucky thus far as the majority of mulch fires have occurred during the day with no fatalities, although there have been injuries. City Attorney Brown stated that he was not aware that this was an issue until he met with Chief Shifflett a year ago, and was shown statistics and photographs of the frequency and damages and it was clear that if this type of fire occurred during the night, there would be fatalities. City Attorney Brown stated that council did pass an ordinance in 2015, which states mulch could not be placed within eighteen inches of a building that has combustible siding, and those eighteen inches needed to be filled with non-combustible material such as gravel, stone, or dirt. City Attorney Brown stated

that it provided property owners until July 1, 2016 to come into compliance. City Attorney Brown stated that both the fire department and he studied these recommended amendments thoroughly as well as other possible options, including cigarette containers and outdoor fire alarms, prior to drafting the current recommended amendments. City Attorney Brown stated that City Code Section 15.2.1102, which provides the city with a very broad power to protect the safety and the health of its citizens, as well as the Fire Code and more importantly Virginia State Code 27-97 were reviewed. City Attorney Brown stated they met with both the previous building official and the current building official, and after reviewing all building codes, determined that the recommended amendments to the mulch ordinance did not affect the manner of construction or the materials to be used in the erection, alterations, repairs, or use of a building and the building code did not regulate those sorts of things, and with that it was determined the city had full authority to adopt such an ordinance. City Attorney Brown stated that after the adoption of the 2015 ordinance, interested parties asked for and secured legislators of the General Assembly to submit legislation. City Attorney Brown stated the first version of the legislation would have changed Virginia Code Section 27-97, to read "landscape cover material shall be deemed to affect the manner of construction materials to be used in the erection, alteration, repair etc., of the building and shall not be permitted. City Attorney Brown stated that legislation did not pass in the General Assembly and it was amended. City Attorney Brown reviewed the amended passed legislation, specifically how it applied to the city, and noted that ironically the day the legislation was passed a very large mulch fire occurred in Lynchburg which severely damaged an apartment complex and left several homeless. City Attorney Brown stated that they once again looked in depth at the new legislation which applies to just the city of Harrisonburg, and drafted the current recommended amendments. City Attorney Brown reviewed the changes for council. City Attorney Brown noted that they have spoken with several local apartment managers, and some were not happy, with the changes and possible costs incurred to meet the ordinance requirements until the reasoning was made clear at which time they understood. City Attorney Brown noted that all of the occupancy classifications listed in the ordinance should remain and penalties were reviewed and are the same as the statewide building code fire violations, so no changes are recommended. City Attorney Brown stated the concept of grandfathering was reviewed, and noted that with student housing alone, there are over 12,000 bedrooms, which correlates to 12,000 people that would be at risk if a grandfather provision was permitted. City Attorney Brown stated he believes the proposed amendments are legal and in compliance with the new legislation.

Deputy Fire Chief Ian Bennett presented a call data study from 2008 to 2014 which showed the fire department responded to over 211 of these types of mulch fires, of which 16 damaged structures with nine involving multiple family dwellings, resulting in millions of dollars in property damage. Deputy Fire Chief Bennett noted that the problem continues and is getting worse, and presented updated data from January 15, 2015 thru April 26, 2016, reflecting the fire department responded to 45 of these types of mulch fires, 11 of which involved multiple family dwellings. Deputy Fire Chief Bennett noted the fortunate part is that they all occurred during

the day and were noticed quickly and only suffered about \$8,000 worth of damage, but does share his concerns about these occurring at night. Mayor Jones clarified the numbers of mulch fires and wanted to emphasize the number reflecting the increase in just the past two years. Deputy Fire Chief Bennett noted that on March 10, 2016 a multi-family housing complex in Lynchburg burned, with significant damage and loss of property, on March 24, 2016 a multi-family complex in Chesterfield burned with same result, and on March 29, 2016 a restaurant in Newport News was condemned due to a mulch fire. Deputy Fire Chief Bennett stated that Henrico County responded to 17 mulch fires since March 1, 2016 and Loudoun County responded to 23 mulch fires since March 24, 2016. Deputy Fire Chief Bennett explained how the fire spreads unnoticeably, and the great concern is that the residents are not aware of this. Deputy Fire Chief Bennett noted the recommendations for the property owners are at minimal or no cost to the property owners, and he believes these recommended amendments will help save lives and property.

Council Member Degner asked about the process on how this reached the state government and if any staff members were contacted by our local representatives at the state level before the decision to introduce legislation to the General Assembly to overturn something in the biggest city in their jurisdiction. Deputy Fire Chief Bennett stated the fire department nor was the city manager contacted regarding this prior to it reaching the General Assembly. Fire Chief Shifflett acknowledged that no contact was made by local elected representatives prior to it reaching the General Assembly and that the only contact made prior to it going to vote at the General Assembly was with the delegate that was initiated by him when they traveled to Richmond to meet with others regarding this legislation.

Council Member Shearer noted he was contacted the week prior to the General Assembly meeting, after the legislation was already in the works, and he recommended they reach out to the chief and city staff prior to doing anything. Mayor Jones noted he was not contacted.

At 8:25 p.m., Mayor Jones closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Saturday, April 16, 2016 and Saturday, April 23, 2016.

Patrick McCloud, CEO of the Virginia Apartment Management Association (VAMA), stated VAMA represents owners and operators for approximately 3,500 apartment homes in the Harrisonburg area. Mr. McCloud stated he isn't here to talk about fire safety as that was already done in April of 2015, but the action item tonight is about an ordinance that is not currently compliant with state law. Mr. McCloud stated the fire department's recommendation to change the language was invalidated by this year's General Assembly passage of State Bill 736. Mr. McCloud stated that VAMA believes that the city's original ordinance regulating the use of landscape materials exceeded the city's authority granted under Virginia Code, and VAMA requested legislation introduced in the 2016 General Assembly, and it was signed into law on March 1, 2016. Mr. McCloud stated that SB736, was

introduced specifically prohibiting the city of Harrisonburg from regulating the usage of landscape cover materials. Mr. McCloud and VAMA feels that in order to comply with SB736 the city would need to completely repeal its April 14, 2015 ordinance, the proposed amendment is non-compliant, and feels it could lead to costly litigation. Mr. McCloud stated that the issue shouldn't be about mulch, but the improper disposal of cigarette butts.

Eddy Aliff, Executive Director of the Virginia Assembly of Independent Baptist (VAIB) which represents four churches within the confines of the city, stated that he has been involved with the Department of Housing building code and fire prevention regulations, and has never heard mention of the mulch fire issue, and the first time he heard about it was when it hit the General Assembly. Mr. Aliff feels that many church organizations are not aware of this and will only be aware of this ordinance when a notice of violation is received. Mr. Aliff recommends the time-frame be extended to allow churches to have an opportunity to prepare, plan, and fix the problem.

Rick Jones, Vice-Chairman of Management Services Corporation, who owns and manages Sunchase Apartments which consists of 864 student bedrooms, stated that there is a huge economic factor despite what the fire marshal said. Mr. Jones noted that the asset is worth \$33M, and pays the city almost a quarter of a million dollars in real estate taxes. Mr. Jones stated 17 years ago a landscape plan was presented and was approved by the city. Mr. Jones stated if he has to change the landscape plan that had been approved it will have an economic impact on him to the tune of \$100,000. Mr. Jones feels this is an issue for the State Board of Housing, he admires the city in its attempts to assist, but feels this is not the venue and approval from state should be obtained.

Haley Springer, 255 West Wolfe Street, noted she wanted to thank the city attorney for his work to insure that the residents that live here are safe and to work with the heavy handed state General Assembly.

Chip Dicks, on behalf of a number of groups that were involved in the legislative process, stated that the focus is on the apartments, and listed all of the organizations that are affected by this ordinance. Mr. Dicks stated that every restaurant, hotel, apartment community, office building, and every kind of business in the city are affected by this ordinance except for single family houses. Mr. Dicks stated there was a concern for the overreach from their perspective of the current ordinance and feels the penalty is too severe for such an ordinance. Mr. Dicks stated that although this is a statewide problem not a single locality in Virginia, other than Harrisonburg, has this ordinance, the Fire Prevention Code hasn't seen it fit to adopt this to new construction, and has not adopted it for any retrofit and regulation of cover materials for any existing properties. Mr. Dicks suggested the new construction piece be removed, have the fire code work group work on it, remove it from the general legislation and make it a Section 1 Bill, which focuses only on the city's ordinance. Mr. Dicks stated that this issue is being looked at by the Virginia Housing Commission and is being studied at the request of fire folks

on a statewide basis. Mr. Dicks disagrees with City Attorney Brown's view on the retrofit issue. Mr. Dicks references the city's ordinance Section 10-3-20 and provided a few alternatives to accomplish the compliance of these recommended ordinance changes and avoid costs to the property owners, such as tax abatements, and feels that an open dialogue and constructive solutions can be met.

Michael Zook, owner of Great Outdoors Landscaping, LLC, 1120 Switchboard Road, stated he has been following this issue, and asked for clarification on the type of property and the building materials of the property this ordinance would affect. City Attorney Brown clarified his questions. Mr. Zook stated he was in favor of these recommended ordinance amendments.

Council Member Shearer stated that Mr. Zook made a good point about the misinformation about what types of buildings these ordinance amendments affect and reiterated what types of buildings that will be affected. Mayor Jones reiterated the change on City Code Section 5-2-20 as it references "new" material, not removal of material.

James "Bucky" Berry, 30 West Washington Street, stated he had a conversation with Mr. Steve Landis, and feels Richmond voted wrong, and he commended Chief Shifflett for his efforts.

Panayotis "Poti" Giannakouros, 98 Emory Street, stated he appreciated the comments from the landscaper, and although he received conflicting information from another landscaper, he would like to deeply thank Chief Shifflett and City Attorney Brown for protecting the citizens' health advocating for their safety and also for advocating for their democratic rights.

At 6:48 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

Mayor Jones wanted to clarify that the material does not need to be replaced immediately; however, new material must meet ordinance requirements. City Attorney Brown concurred and stated that you could do absolutely nothing and comply with the recommended amendments.

Council Member Degner stated he was angry that lobbyists are asking council to have a dialogue after state legislators and the Governor have told the city that the city's fire department can't protect people living in student housing. Council Member Degner stated he lived in Sunchase for four years, had friends living in The Commons when that fire took place, and finds it upsetting that the mulch seems to take precedent over the city's assets, its people. Council Member Degner stated a dialogue should have been engaged with the council, but that chance was missed after it was taken out of council's hands. Council Member Degner stated he understands the frustration regarding the overreach of the previous law.

Vice-Mayor Baugh stated this was not rocket science, just don't put new mulch within the eighteen inches of a building that has combustible siding, it is not complicated and it can't possibly be expensive to not put mulch somewhere.

Mayor Jones stated that students are citizens of Harrisonburg and we are responsible for their lives just as we are for the other thousands of individuals that live in the city. Mayor Jones stated that he and Mr. Berry agree that within the next few years a fire station needs to be placed in the Park View area, the city needs to be able to respond and if we can reduce the things that we are responding to, and increase protection of lives, we are being a wise council. Mayor Jones welcomed open conversation and noted the chief tried to have conversations, the door was open, but he feels there is an obvious agenda from some source. Mayor Jones stated we are the friendly city and we must maintain a certain level of care for individuals and is disappointed that this is becoming a political discussion.

Council Member Byrd stated he agreed with Council Member Degner regarding the over reach of the original ordinance, and it was delayed one year before implementation. Council Member Byrd thanked City Attorney Brown, Fire Chief Shifflett and Deputy Fire Chief Bennett for all their hard work. Council Member Byrd noted that on the issue regarding if the city has the authority, the only way to answer that question is there is a court house two blocks down the street.

Council Member Shearer stated he recalls an incident in 2004 when a 7,000 square foot house of a friend, burned down in less than 30 minutes. Council Member Byrd noted the point is that if something can be done to protect lives, then it should be done and this issue is pretty straight forward.

Mayor Jones acknowledged his appreciation for everyone's input.

A motion was made by Council Member Byrd, seconded by Council Member Degner, to amend and re-enact Sections 5-2-18, 5-2-19 and, 5-2-20 of the Harrisonburg City Code on combustible landscape cover material. 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. Presentation on the proposed FY2016-2017 budget

City Manager Hodgen presented the budget and stated a driving factor behind our budget is the city's population increase. City Manager Hodgen stated that by 2020 the population will most likely be doubled from population of 1990. City Manager Hodgen reviewed some comparables of other localities population, percent increase since 2010, and their real estate and personal property cost. City Manager Hodgen stated general fund revenues are projected to be \$104,868,385, which represents a 4.7% increase over the current adopted budget and includes

approximately \$1.6M in new local revenue growth and \$2.9M in real estate taxes that is proposed. City Manager Hodgen presented the general fund expenditures and noted non-departmental expenditures are shared services with Rockingham County, support civic and community groups, as well as the airport and library. City Manager Hodgen stated in addition to the general fund, there are 19 other funds which total \$235,791,660 and the water and sanitation fund are the only two reflecting changes this year. The Park View Water Tank project is included in the water fund costing approximately \$4M and a transfer station in the sanitation fund costing approximately \$2M to \$2.5M. City Manager Hodgen presented a slide representing the direct transfer of city funds to the Harrisonburg City Public Schools and additional funding that is contributed in support of education such as debt service on existing construction projects, transportation, and this year the city will be contribute approximately \$37M (\$29,895,539 direct allocations and \$7,735,045 additional funding). City Manager Hodgen shared the state required amount of \$18,770,434 for FY17-18. City Manager Hodgen presented the new cost for this year's budget and they included the following: debt services for the 2015 BQ \$7.6M loan (\$324,000); debt service for the 2016 \$44M GO Bond (\$1,200,000); staff additions (\$305,000); shared services, including the 2% COLA increase (\$1,200,000); data management/CAD system (\$500,000); salary adjustments, including the 2% COLA increase (\$757,000); and, the ECC (\$205,000). City Manager Hodgen reviewed the major capital projects for FY17-18, which included the following: Reservoir Street widening, Park View Water Tank, Bluestone Elementary School, Elon Rhodes Early Learning Center; records management/computer aided dispatch system; Pleasant Valley Road bridge replacement; Fire Station 1 renovations; replacement of the boiler at jail; court house renovation; solid waste transfer system; and, widening of Martin Luther King, Jr. Way, which will be funded by VDOT grants. City Manager Hodgen presented the following to balance the FY17-18 budget: an \$0.08/\$100 increase to real estate, bringing the proposed rate to \$0.80 and a \$0.15/1000 gal increase to water rates, bring the proposed rates to \$14.03. City Manager Hodgen stated a \$0.08 increase is not currently needed and believes that can be reduced by a half of a cent, but it was advertised that the city wouldn't exceed an \$0.08 increase. The proposed budget does not recommend the use of the city's fund balance or any of the excess above 18% of the fund balance, so the city is able to pay with cash on some projects versus borrowing. City Manager Hodgen presented the following items the city is looking at in the future: full year of debt service for 2016 bond issue; cost to staff and operate new school facilities; completion for the Eastern Raw Water Line; renovations to the Municipal Building; high school annexation project; self contained breathing apparatus for the fire department; new fire engine; Stone Spring/Erickson Phase 4; completion of Ramblewood and Smithland Parks; and, bicycle and pedestrian trails (Bluestone Trail 2, Northend Greenway, etc.). City Manager Hodgen stated the proposed budget provides the following: public safety, public works, and public utilities; public education; joint service obligations; general government administration; community development and planning; public transportation services; and, recreation and cultural facilities and programs. City Manager stated staff recommends council to approve the budget for its first reading tonight, a budget work session is scheduled for May 9,

and changes can be made during either the May 10 or May 24 meeting. City Manager Hodgen reminded council the budget needs to be adopted by May 31, 2016.

Mayor Jones provided a summary of what was presented during the last council meeting and council supplies funds to the School Board and they disburse the funds for salary increases and more. Council Member Shearer asked about the conversations between the city manager and the school board superintendent in regards to raises. City Manager Hodgen stated in a meeting, increases for the teachers were discussed and at that time he was unsure if he was going to be able to propose an increase for city employees and the superintendent generally suggested that an increase could occur regardless. Council Member Shearer asked if that was after the discussion of removing the \$583,000. City Manager Hodgen stated that amount was not discussed during that meeting, but that amount wouldn't even cover a 1% increase to teachers.

At 9:25 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 Saturday, April 16, 2016.

Gary Bridges, 423 Hickory Grove Circle, stated he lives on a fixed income and he is not in favor of the increase, the raises, and would like for other funding options to be explored.

Kathleen Holter, 928 Oak Hill Drive, asked all educators to stand that were in attendance tonight. Ms. Holter shared her story of why her family chose Harrisonburg home as well as how she enjoys living here. Ms. Holter stated schools need more money; they are obligated to educate every child in Harrisonburg; the increased funds requested are for trailers, transportation costs, and additional personnel; the 2015 survey that was completed by residents, concluded they strongly support funding for the school division; the schools weren't included in the salary survey and salary adjustments that were completed recently by the city; we need to attract and retain good teachers; Harrisonburg High School was recently ranked the 46 best high school in the commonwealth by US News and World Report and in the top 10% in the nation; and, asked council to continue to put children first.

James "Bucky" Berry, 30 West Washington, shared places and the numbers of families being served the places he mentioned for services and is concerned that the increase to taxes will lead to an increase of crime. Mr. Berry also noted when speaking to a city employee they stated their raise would just cover the increased cost of health insurance.

Dave Cason, 299 Franklin Street, feels the city has their spending priorities messed up such as the hotel and conference center, the new elementary school should have been placed in the middle of the golf course, and the golf course needs to be shut down.

Jay Deck, 1040 Wellington Drive, thanked council for their efforts for education and everyone has to do their part, understands taxes are difficult, and is happy to live here.

Jim Orndorff, 22 East Market Street, stated he is a member of the Valley Justice Coalition and he is pleased to see a new data system listed in the budget and it will help the Community Criminal Justice Board.

Panayotis "Poti" Giannakouros, 98 Emory, stated there are some city ordinances that would save money, such as the weeds ordinance, to help soften the tax increase.

Council Member Degner asked what the ordinance should allow the height of grass to be.

Mr. Giannakouros stated he suggested going back to the previous height of 15 inches and feels it would save citizens approximately \$200 per year.

Diane Orndorff, 22 East Market Street, stated she also is a member of the Valley Justice Coalition and she has been charged with researching accreditation. Ms. Orndorff stated she has found the deaths that occur in Middle River Regional Jail most disturbing and she wondered if there was a better way to address health care. Ms. Orndorff stated those deaths could cause law-suits which could possibly cost the city money.

At 9:52 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

Council reviewed the process of approving the budget and noted the approval tonight is to stay on schedule and a budget work session is scheduled for May 9, 2016 at 6:00 p.m. It was also suggested instead of accusing council of doing something, ask questions so council can address your concern.

Vice-Mayor Baugh mentioned that he noticed a lot of feedback on BeHeardHarrisonburg about the trash collection going to one stream and the city not recycling anymore. Vice-Mayor Baugh stated the contractor the city uses is Van der Linde and they are being used to get more participation in recycling and have to file and certify with the state of their disposals. City Manager Hodgen stated what the city previously burned was not recognized by Virginia Department of Environmental Quality as recycling. City Manager Hodgen stated 20% of recycling being collected prior to using this company was from city businesses and a 7% recycling rate from city residents.

A motion was made by Council Member Byrd, seconded by Council Member Degner, to approve the budget on first reading. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

At 10:01 p.m., Mayor Jones called the meeting into recess.

Mayor Jones called the meeting back into session at 10:10 p.m.

7. Regular Items

- 7.a.** Consider the approval of real estate tax refund for 2012, (2nd half only), 2013, 2014 and 2015 for Lamplighter, LLC

City Attorney Brown stated Lamplighter, LLC owns 7.334 acres, more or less, with improvements, located at 1680 Country Club Road, and was assessed for real estate taxes for this property for the tax years 2012 (2nd half only), 2013, 2014, and 2015 and paid \$55,260.86 for those years. During that time, the property was leased to Shenandoah Valley Community Church d/b/a Valley Church. The church and the landlord have now requested a refund of those taxes on the grounds that the property should have been exempt because it was leased by the church during that time period. City Attorney Brown stated after reviewing Virginia State Code Section 58.1-3617, it is recommended to refund the taxes collected.

A motion was made by Vice-Mayor Baugh, seconded by Council Member Degner, to approve the real estate tax refund 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 approval of a special event application for the Costume Bike Parade on Friday, April 29, 2016

It was announced that this special event request was postponed.

- 8.b.** Consider the approval of a special event application for the Shenandoah Valley Pride Festival on Saturday, July 23, 2016

Katie Yount, Harrisonburg Downtown Renaissance Director of Events, stated the Shenandoah Valley Pride Festival will be held on Saturday, July 23, 2016 on Court Square in downtown Harrisonburg. The festival set-up will begin at noon and clean-up will be completed by 8:00 p.m., Rockingham County has already approved the use of the Court House grounds, insurance is still needed, and organizers have been told to notify surrounding properties.

Mayor Jones asked if property owners have been notified. Ms. Yount stated she

has not heard if they had begun notifying property owners, but they had begun to advertise. There was discussion on the following: confusion on the road closure request; notification is part of the application, so notification should take place prior to coming before council; have time to work these questions out; the course falls under a festival, so it isn't one of the four pre-approved courses; the 90-day rule is for submission to HDR; and, this festival caused issues prior to the last event due to lack of notification.

Council Member Degner offered a motion, seconded by Vice-Mayor Baugh, to table the request until the May 24, 2016 council meeting. The motion was approved by a unanimous voice vote.

8.c. Consider the approval of a special event application for Valley Fourth on Monday, July 4, 2016

Ms. Yount stated Valley Fourth will be held on Monday, July 4, 2016 in downtown Harrisonburg with activities beginning at 7:00 a.m., and running throughout the day with a fireworks finale at 9:30 p.m. Ms. Yount stated there is an application attached for both the Valley Fourth event and the run. She stated the firework information and additional insurance information will be submitted when obtained.

Council Member Degner asked how HDR notified property owners about their events. Ms. Yount stated as soon as their general event card is available in early December they are given to all the businesses, a direct e-mail is sent, and she attends the merchants and dining association meetings. Council Member Degner asked for those who don't do events like this all the time, what is suggested to them to notify property owners. Ms. Yount stated she suggests to hand deliver flyers and e-mails if possible. It was clarified that those property owners are supposed to be notified when the special events would be going before council and that Ms. Yount should assist in those notifications.

Council Member Byrd offered a motion, seconded by Council Member Degner, to approve the request as presented. The motion was approved by a unanimous voice vote.

9. Supplementals

9.a. Consider a supplemental appropriation in the amount of \$18,245 for the Registrar's office for reimbursements from James Madison University for campus precinct

City Manager Hodgen stated the request for supplemental appropriation of \$18,245 reflects the Registrar's office expenditures for the first election that included the new James Madison University campus precinct. City Manager Hodgen stated this is for receiving the funds from JMU and transferring them into the appropriate line item for the Registrar's office.

A motion was made by Council Member Byrd, seconded by Vice-Mayor Baugh, that this supplemental appropriation be adopted. 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

10. Reallocations

- 10.a. Consider the reallocation of funds in the amount of \$400,000 to the Emergency Communications Center Capital Projects Fund

City Manager Hodgen stated that the adjustments made to the current year's budget, fund balance was transferred to the ECC fund in support of the P25 project and other ECC capital projects. City Manager Hodgen stated this reallocation is transferring \$400,000 of those funds into the ECC Capital Projects Fund for the P25 radio project, and involves no new funds, and staff recommends its approval.

A motion was made by Council Member Byrd, seconded by Council Member Shearer, that this reallocation be approved. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

11. Other Matters

Mayor Jones reported copies of proposed budget are available online at Harrisonburgva.gov/budget. Mayor Jones noted that a work session will be held on May 9, 2016 at 6:00 p.m., in council chambers, the agenda is always posted prior to the city council meeting, and comments about agenda items can be submitted through BeHeardHarrisonburg.org or attend the public hearings, or speak during our public comment period.

Mayor Jones reported there is a new drive through drop box location for bill payments in the parking lot at City Hall.

Mayor Jones noted there will be a Food Truck Rally at Simms on April 30, 2016 from 11:00 a.m. until 3:00 p.m., and noted his birthday is May 1.

Council Member Byrd stated that he agrees with Mayor Jones's comment regarding students being residents and with that said, the neighborhoods are sending to the city attorney good suggestions, and hopefully, even if it can't be changed per Virginia Law, some of these things can be put in place, and encouraged the city's liaison committee as they meet with JMU to encourage them to move the fraternities back onto campus and encourages JMU to prosecute the criminal behavior that occurs on campus that is charged by the JMU Police Department through our courts and not thru their justice system, since our officers are citing using the Virginia Code, and suggests a cultural change for the campus. Mayor Jones noted that all of the officers, whether JMU police or city police are citing using Virginia Code for underage drinking or public intoxication, but the difference is in how they are being prosecuted. Mayor Jones stated he will contact

Mr. Washington and see what he says, but wants to avoid a negative incident to happen in the neighborhoods. Mayor Jones noted that issues seem to occur when alcohol is involved and feels the ABC officers should be the ones turning in all of the citations related to that.

Vice-Mayor Baugh stated that his sympathy goes to the Pierce family and he understood that we had give access to the footage to Mr. Pierce. City Attorney Brown noted that relatively soon after the incident Mr. Pierce was shown some footage and was offered to be shown more, but he declined and there have been some efforts to reach out to him recently to make that invitation again. City Attorney Brown stated that a FOIA request was received from him for the footage. Vice-Mayor Baugh acknowledged the desire to not make the footage public but for closure for Mr. Pierce, his request should be met. Mayor Jones appreciated Vice-Mayor Baugh's acknowledgment and condolences to Mr. Pierce.

City Manager Hodgen reported that eight bids were received for the city's General Obligation Public Improvement Bonds, Series 2016 and the city sold a total of \$40,215,000 at a true interest cost of 2.67%, with James & Associates, Inc. being the lowest bidder. City Manager Hodgen stated the city was projecting between a 3% and 3.5% interest, but the range of bids was from 2.67% to 2.9%. Council Member Byrd asked if this was total all in costs and for 25 years, City Manager Hodgen confirmed.

12. Boards and Commissions

- 12.a. Consider appointing a nominee for election for the Executive Committee for the Central Shenandoah Planning District Commission

Council Member Degner offered a motion, seconded by Council Member Shearer, to nominate Council Member Byrd to stand for election for the Central Shenandoah Planning District Commission. The motion was approved by a unanimous voice vote.

13. Adjournment

At 10:44 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR