



# City of Harrisonburg

409 S. Main Street  
Harrisonburg, VA 22801

## Meeting Minutes - Final City Council

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

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Tuesday, November 25, 2014

7:00 PM

Council Chambers

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### 1. Roll Call

**Present:** 5 - Mayor Ted Byrd, Vice-Mayor Charles Chenault, Council Member Richard Baugh, Council Member Kai Degner and Council Member Abe Shearer

**Also Present:** 5 - City Manager Kurt Hodgen, Assistant City Manager Anne Lewis, City Clerk Erica Kann, City Attorney Chris Brown and Captain Tom Hoover

### 2. Invocation

Vice-Mayor Chenault offered the invocation.

### 3. Pledge of Allegiance

Mayor Byrd led the Pledge of Allegiance.

### 4. Comments from the public, limited to five minutes, on matters not on the regular agenda. (Name and address are required)

James "Bucky" Berry, 30 West Washington, updated council about the baskets that were provided this year by the Salvation Army and the food drive that took place last Thursday at JMU. Mr. Berry stated Council-Member Elect Jones will be doing the ribbon cutting for the Brent Berry Food Drive on December 11, 2014 at 10:00 a.m. Mr. Berry stated their goal is to collect \$47,000 worth of food and he appreciates city staff who help with the event.

Kim Sandum, Rockingham County resident, stated she came tonight representing Community Alliance for Preservation and wanted to thank council for their resolution supporting the banning of gas drilling and fracking, which had been noted in the forest plan that was released by National Forest.

Tom Domonoske, 461 Lee Avenue, stated that in February there were amendments made before the adoption of the Capital Improvement Plan which included the new jail as a proposed budget item. Mr. Domonoske stated he spoke during the public comment period stating there are continuum of decisions that are made as our criminal justice system interacts with our citizens and those decisions result in the current problem, which is there are too many people in the jail. Mr. Domonoske stated there are

alternatives and they need to be considered. Mr. Domonoske asked for a meeting to occur with all stakeholders to come up with effective solutions other than incarceration. Mr. Domonoske noted that Council Member Degner asked that the jail be downgraded in terms of priority that didn't gain support. Mr. Domonoske feels that the other things that were discussed during the February meeting haven't been done. Mr. Domonoske also noted a report that was released by Moseley Architects and the 2007 Community Based Corrections Plan report that identified there was an incarceration problem. Mr. Domonoske stated now there is a plan to build a \$60M jail that will cost \$10M a year to operate. Mr. Domonoske stated only 10% of the jail population need the maximum security and we should and can do better addressing the issue.

John Lutz, 1065 Hanley Drive, suggested a training program to help with the non-violent offenders. Mr. Lutz stated that he agreed with Mr. Domonoske's comments, but he also believes if you do a crime you need to do the time. Mr. Lutz stated as an investor he would be open to discussion.

**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 Chenault, seconded by Council Member Degner, that the Consent Agenda be approved as presented. The motion carried by the following vote:**

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

**No:** 0

**5.a.** Approval of minutes

**5.b.** Consider a supplemental appropriation for the Parks and Recreation Department in the amount of \$17,785.40

**Citizen advocacy group "Happy Dog's Unleashed" maintained an account with the Harrisonburg Rockingham Community Foundation to hold fund raising results. Funds from this account have been transferred to the City. This request is to place the funds back into the Parks and Recreation budget.**

**5.c.** Consider a supplemental appropriation for the Public Works Department in the amount of \$500,000

**5.d.** Consider a supplemental appropriation for the Public Works Department in the amount of \$292,244

**6. Unfinished Business**

**6.a.** Consider a request from WRockStreet, LLC, with representative Casey Stemper, for a special use permit per Section 10-3-85(1) of the Zoning Ordinance to allow

manufacturing, processing and assembly operations for a proposed brewery, on property addressed as 120 West Wolfe Street

Vice-Mayor Chenault stated he felt the applicant had addressed the issues with parking. It was noted that they added parking, are looking to add additional parking and addressed the adjoining property owners concerns.

Council Member Degner referenced the previous meeting to why he will vote against this request. Council Member Baugh stated this request isn't a food park; they are making an investment in a building.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that this Special Use Permit be approved with the stated conditions of the letter dated November 25, 2014. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh and Council Member Shearer

**No:** 1 - Council Member Degner

## 7. Special Event Application Requests

### 7.a. Consider First Night Harrisonburg for a special event request

Katie Yount, Director of Events for Harrisonburg Downtown Renaissance, stated First Night Harrisonburg will be held on December 31, 2014 through January 1, 2015, in downtown Harrisonburg. Ms. Yount stated the endorsement that was noted had been received and they are waiting on the fireworks permit.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that this Special Event Application be approved. The motion carried by a voice vote.**

### 7.b. Consider the First Night 5k supporting Generations Crossings for a special event request

Ms. Yount stated the First Night 5k will be held on December 31, 2014, in downtown Harrisonburg from 2:00 p.m. to 5:00 p.m., starting at the Turner Pavilion. Ms. Yount stated this had been approved by city staff.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that this Special Event Application be approved. The motion carried by a voice vote.**

### 7.c. Consider the 2014 Holiday Parade as a special event request

Ms. Yount stated the 2014 Holiday Parade will be held on Friday, December 5, 2014, at 7:30 p.m., in downtown Harrisonburg presented by the Harrisonburg Parks & Recreation Department. Ms. Yount stated this had been approved by city staff.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that this Special Event Application be approved. The motion carried by a voice vote.**

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

No: 0

## 8. Regular Items

### 8.a. Consider a request to proceed with Lease Negotiations for Hardesty-Higgins House Food Service Space

Mayor Byrd wished Mr. Shull a Happy Birthday.

Brian Shull, Economic Development Director, provided the history of the Hardesty-Higgins House food service space and stated a new RFP had been released. Mr. Shull stated the city received two proposals in response to its solicitation for a food service vendor to operate within the Hardesty-Higgins House. A city staff review team analyzed both proposals and interviewed both applicants to fully understand the opportunities available with each proposal. Mr. Shull stated staff recommends to City Council that the city proceed with negotiations with Heritage Bakery & Cafe, LLC to lease the delineated food service space within the Hardesty-Higgins House. Further, staff recommends that council authorize City Manager Hodgen to execute a three-year lease for this space with Heritage Bakery & Cafe, LLC at a lease rate of \$600 per month. It was noted that the space is 500 square feet.

Brenda Loewen and Isabelle Treciak stated they were excited to open and their goal is to be a warm welcoming place.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, to authorize City Manager Hodgen to execute a three-year lease for this space with Heritage Bakery & Cafe, LLC at a lease rate of \$600 per month. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

### 8.b. Report and recommendations on year ending 6-30-14 fund balance

City Manager Hodgen stated the city's Financial Management Policies requires the city maintain a fund balance of at least 18% of the amount of the General Fund budget. On July 1, 2014, the fund balance met that requirement amount and had an additional \$6,354,036 remaining. City Manager Hodgen stated staff and the Finance Committee members have met to discuss recommended allocations of the \$6,354,306 and known commitment recommendations are the following: architect and engineering services for new school (\$2M); acquisition of Thomas Harrison House (\$600,000); city share of jail studies (\$80,000); city share of predevelopment costs for the hotel and conference center (\$150,000); city share of emergency radio upgrade project, approved in May by council (\$748,000); move to "land acquisitions for park space" (\$390,000); move to North End Greenway project (\$254,000). City Manager Hodgen stated staff and the Finance Committee members have met to discuss recommended allocations of the

remaining amount of \$2,132,036 and recommended the following uses: move to "Reserve for State Budget Reductions FY15" (\$230,000); move to "Reserve for State Budget Reductions FY16 and 17" (\$520,000); implementation of modified pay study option 3d (\$300,000); move to Thomas Harrison House General Capital Project (\$200,000); move to Fire Station #1 Renovation General Capital Project (\$200,000); move to Smithland Road Park, field #4 (\$285,000); and move to Municipal Building renovations for architect and engineering services (\$250,000). The following discussion took place: funds and projects that council has adopted hoping the funding would be available to implement; recommendations aren't focused in one area; implementation of the pay study to address compression issues; don't want to rely on overage in budget cycles to fund things that we think are a priority; shouldn't have a decimate to this amount; not ready to discuss tonight, but would like to see the remaining \$147,000 to go towards the jail situation and resources; finance committee reviewed several times; some items listed weren't foreseen over a year ago; and we had to raise taxes.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, to approve staffs recommendations. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

**8.c. Consider ordinance to close a portion of Driver Drive**

City Attorney Brown stated this ordinance is to vacate the public right of way over the section of Driver Drive that abuts the city's Resource Recovery Facility located at 1630 Driver Drive in the city. This vacation will be a condition of the city's proposed sale of the Resource Recovery Facility to James Madison University. We have not yet received the plat showing the section of Driver Drive to be vacated, but should receive it in the next several days and can complete the ordinance. City Attorney Brown stated due to timing considerations regarding the anticipated closing of the transaction with JMU, this could serve as the first reading of the ordinance, with a public hearing to be held on the vacation at council's December meeting. Council can also accept public comments on the entire transaction at that time. City Attorney Brown stated after speaking with JMU last week they noted that they wouldn't have the environmental audit until the beginning of next year. Council Member Degner asked if waiting on approval would cause any delays. City Attorney Brown stated at this point he doesn't see a problem with delaying it until the first of the year when the agreement is done. Council favored waiting until after the first of the year when all the information could be presented.

**8.d. Report on state budget reductions**

City Manager Hodgen stated as expected, the Commonwealth had imposed reductions to their aid to localities for the current fiscal year. The city received notice that the direct

reduction totals \$148,463.00, which majority of that total comes from state support for the Regional Library, Comprehensive Serves Act and local Police Department (HP599). The city funds a number of "constitutional functions" jointly with Rockingham County; we will have a share in the reductions imposed on the county for court-related services, Sheriff, Jail Operations, Commonwealth Attorney's office, and Circuit Court Clerk. The city's share of the county reductions will be approximately \$82,000.00. City Manager Hodgen stated the total reduction amount for FY15 will be approximately \$230,463.00. As part of the report on use of the year ending June 30, 2014, fund balance, the Finance Committee recommended setting aside funds for the next several years to cover the anticipated state reductions, thus local funding is available to sustain these reductions. City Manager Hodgen stated this was a report, not a recommendation and we needed to submit a check most likely by mid-January 2015 or they will reduce the funds. City Manager Hodgen stated it is possible that there will be a \$30,000 increase next year, which we have set aside money for the following two years.

**8.e. Report and recommendation on solid waste disposal**

City Manager Hodgen stated with the closing of the Resource Recovery Facility, the city has been exploring options for the disposal of its solid waste. Staff has put together what we consider to be the three most viable alternatives. City Manager Hodgen stated the first two are more conventional options of collecting and placing items in a landfill. City Manager Hodgen stated staff has been in discussion with both Rockingham and Page Counties and the amounts provided seem to reflect what the actual costs would be. City Manager Hodgen stated at this time staff is recommending the non-conventional option, which also seems to be the low cost option and use van der Linde out of Goochland County, Virginia. City Manager Hodgen stated trash and recyclables would be collected in the same truck at the same time. From there, the combined trash would be taken to a transfer station, loaded onto tractor trailers and transported to the recycling center where all the recyclables would be separated and only the trash that couldn't be recycled would be landfilled. City Manager Hodgen stated the center we are considering projects that 75% of our waste collected could be recycled, which is a significant increase over our current recycling rate. City Manager Hodgen stated that this was a report and will ask action to be taken during the first meeting in December.

**9. Supplementals**

**9.a. Consider a supplemental appropriation for the Emergency Communications Center in the amount of \$1,893,485**

City Manager Hodgen stated in June 2014, the Harrisonburg City Council and Rockingham County Board of Supervisors approved moving forward with the ECC radio system upgrade. A portion of the financing was to be provided by using \$2.6M in ECC

fund balance with the city and the county each providing \$748,372 in FY16. This supplemental appropriation will transfer \$1,893,485 from ECC fund balance to a radio system upgrade capital project account. City Manager Hodgen stated staff recommended approval.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, to approve the transfer of funds. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

## 10. Reallocations

### 10.a. Consider a budget reallocation for the Emergency Communications Center in the amount of \$706,515

City Manager Hodgen stated this is moving additional funding into the same capital project account that council just approved. This budget reallocation will transfer \$706,515 from the ECC's capital outlay account that was budgeted for this project initially in FY15 to a radio system upgrade capital project account. City Manager Hodgen stated staff recommended approval.

**A motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, to approve the budget reallocation for the Emergency Communications Center in the amount of \$706,515. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

## 11. Other Matters

### 11.a. Consider special allocation of funds for fuel money for Social Services

City Manager Hodgen stated in past years we have done a special appropriation to Social Services for emergency fuel money. City Manager Hodgen stated this time of year, Social Services receives requests for heating assistance. City Manager Hodgen stated \$5,000 can be appropriated from the Reserve for Contingency budget amount.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, to approve the request as presented. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

### 11.b. Consider recommendation from Transportation Safety and Advisory Committee regarding truck traffic on Vine Street

City Manager Hodgen stated council had requested the Transportation Safety and Advisory Committee to review Vine Street after receiving a letter from a citizen regarding truck traffic. City Manager Hodgen stated the TSAC recommended council not change regulations on Vice Street.

**Council asked City Manager Hodgen to send the results of the survey to the citizen.**

**11.c.**

City Manager Hodgen stated the Community Criminal Justice Board will meet on Monday, December 8, 2014 at 4:00 p.m., at the Fire and Rescue Training Classroom in the Rockingham County Administration Building.

**11.d.** Consider cancelling the second council meeting in December

City Manager Hodgen stated in years past council has taken action to cancel the second council meeting in December. It was noted if the meeting needed to be held, that council could meet.

**A motion was made by Council Member Baugh, seconded by Vice-Mayor Chenault, to cancel the second council meeting in December. The motion carried by a voice vote.**

**11.e.**

Council Member Degner wished everyone a Happy Thanksgiving. Council Member Degner noted that the Salvation Army has put together 775 bags of food for qualifying individuals and families. Council Member Degner encouraged everyone to think of those who are less fortunate.

**11.f.** Consider following the state holiday schedule for Christmas

Mayor Byrd stated notification from the Governor was received about the upcoming holiday schedule. City Manager Hodgen stated state employees will have a half day tomorrow and all day Thursday and Friday for Thanksgiving. City Manager Hodgen stated Christmas had been previously changed to reflect the state schedule and city employees receive get off Christmas and the day after. However, the Governor has now added Christmas Eve as a day off. Vice-Mayor Chenault stated he would like the city to reflect the state schedule for the upcoming holidays. City Manager Hodgen stated in 2006 the city got away from following the state holiday schedule due to the generosity of the previous Governor giving more holidays off than normal. City Manager Hodgen stated emergency personnel will still be working.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, to follow the the state holiday schedule for Christmas. The motion carried by a voice vote.**

**11.g.**



City Attorney Brown stated Lutheran Family Services has withdrawn its alley closing request. No further action is needed by council.

#### 11.h. Consider disclosing mistakes to Securities and Exchange Commission

City Attorney Brown stated the Securities and Exchange Commission (SEC) several years ago realized that there were a lot of bad actors as far as municipal governments and their bond issues. The SEC created a Municipalities Continuum Disclosure Cooperation Initiative, to allow underwriters to review all deals and allow all municipalities to disclose all incorrect information that was given. City Attorney Brown stated there are some minor fines for the underwriters, but not the municipalities. City Attorney Brown stated in September 2014, we received a call from one underwriter who found the following things: in 2010 and 2011 the city was late notifying the SEC that our bond rate upgraded. Staff didn't feel that this was material, but suggested submitting a self reporting disclosing the findings to the SEC. City Attorney Brown stated the SEC would most likely suggest putting in place policies and procedures to address the issue, which the city has already done.

**A motion was made by Council Member Shearer, seconded by Council Member Baugh, to disclose the underwriter's findings to the SEC. The motion carried by a voice vote.**

### 12. Boards and Commissions

#### 12.a. Board of Equalization

**A motion was made by Council Member Baugh, seconded by Council Member Shearer, to re-appoint Gerald Bland, 339 Myers Avenue, to a second term on the Board of Equalization to expire December 31, 2017. The motion carried with a unanimous voice vote.**

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

**No:** 0

#### 12.b. Board of Zoning Appeals

No action taken.

#### 12.c. Building Code Board of Appeals

**A motion was made by Council Member Shearer, seconded by Council Member Baugh, to re-appoint John Sease, 4083 Walnut Hill Drive and Robert Landes, 11176 Morning Star Circle, to a fifth term on the Building Code Board of Appeals and appoint Mark Viola, 10314 Harvest Hill Lane, to a first term on the Building Code Board of Appeals to expire November 30, 2017. The motion carried with a recorded unanimous voice vote.**

#### 12.d. Harrisonburg Electric Commission

**A motion was made by Council Member Shearer, seconded by Vice-Mayor Chenault, to appoint Mr. James R. Aikens (Randy), 240 Fairway Drive, to a first term on the Harrisonburg Electric**

**Commission to expire December 31, 2017. The motion carried with a recorded unanimous voice vote.**

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

**No:** 0

#### **12.e. Harrisonburg Rockingham Community Policy and Management Team**

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, to re-appoint Ms. Mary Ellen Chewning and Mr. Dane Byers to the Community Policy and Management Team to expire on December 31, 2015. The motion carried with a recorded unanimous voice vote.**

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

**No:** 0

#### **12.f. Industrial Development Authority**

No action taken.

#### **12.g. Parks and Recreation Commission**

**A motion was made by Council Member Shearer, seconded by Vice-Mayor Chenault, to re-appoint Joseph Riley, 221 Divot Drive, to a second term on the Parks and Recreation Commission to expire December 31, 2018. The motion carried with a recorded unanimous voice vote.**

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

**No:** 0

#### **12.h. Planning Commission**

**A motion was made by Council Member Baugh, seconded by Council Member Degner, to re-appoint Judith Dilts, 346 Franklin Street and Debra Stevens Fitzgerald, 93 Middlebrook Street to second terms on the Planning Commission to expire December 31, 2018. The motion carried with a recorded unanimous voice vote.**

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

**No:** 0

#### **12.i. Transportation Safety & Advisory Commission**

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, to re-appoint Leonard VanWyk, 1065 S. Dogwood Drive (SW), and William Blessing, 1120 Meadowlark Drive (NE), and to appoint Joshua Humphries, 377 Pheasant Run Circle (at-large), to the Transportation Safety and Advisory Commission to expire December 31, 2017. The motion carried with a recorded unanimous voice vote.**

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

**No:** 0

**13. Adjournment**

At 8:05 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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City Clerk

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Mayor