



City of Harrisonburg

409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

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

Tuesday, July 8, 2014

7:00 PM

Council Chambers

1. Roll Call

Present: 4 - Mayor Ted Byrd, Vice-Mayor Charles Chenault, Council Member Richard Baugh, and Council Member Abe Shearer

Absent: 1 - Council Member Kai Degner

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

2. Invocation

Mayor Byrd 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)

No comments were heard.

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)

5.a. Approval of minutes

These Minutes were approved on the Consent Agenda.

5.b. Consideration of approval for alarm monitoring company and adoption of alarm ordinance

This Ordinance was approved on second reading.

5.c. Ordinance amending and re-enacting Section 16-10-7; Pawnbrokers, junk dealers, etc.

This Ordinance was approved on second reading.

- 5.d.** Consider a request for a supplemental appropriation to adjust the Fiscal Year 2014 budget to account for a recent bond issue.

This Supplemental Appropriation was approved on second reading.

- 5.e.** Consider an application for closing public street and alley right-of-way from James Madison University. The rights-of-ways include portions of South Mason Street and East Grace Street, an Alley between South Main Street and South Mason Street, and portions of Chesapeake Avenue near the former Rockingham Cooperative site.

This Action Item was referred to the Planning Commission.

6. Public Hearings

- 6.a.** Consider a request from Gerda with representative Richard Gallegos to amend the zoning ordinance to allow junk yards within the M-1, General District by special use permit.

Mayor Byrd reminded citizens that this agenda item has been postponed.

Postponed - This agenda item was advertised for a public hearing and since then we have been notified by Community Development that Planning Commission needs to revisit the action taken.

- 6.b.** Consider a request from Erica Lynn Dorsey for a special use permit to allow a Major Family Day Home within the R-1, Single Family Residential District. Major family day homes can have from six to 12 children under the age of 13, exclusive of any children who reside in the home. The property is located at 1214 Windsor Road.

Stacy Turner, Community Development Director, reviewed the surrounding properties of the request and the different definitions for a Minor Family Day Home, a Major Family Day Home and Child Day Care Center. Currently, the applicant qualifies as a Minor Family Day Home which is allowed by right. Mrs. Turner stated this request for a Major Family Day Home requires a special use permit (SUP). Mrs. Turner noted that the request doesn't get too specific due to the licensing standards for Major Family Day Homes are proposed and enforced by the Virginia Department of Social Services (VDSS). Mrs. Turner reviewed the applicant's property and noted hours of operation are not being proffered; however, drop off and pick up of the children are generally at staggered times and guardians are able to use the driveway during those times. It was noted that the applicant does plan to employ an additional person as permitted. Mrs. Turner stated there were no objections received from staff other than it was noted that the street was narrow and the guardians needed to avoid parking on the side of road. Mrs. Turner stated both staff and Planning Commission recommended approval of the SUP with the following condition: if in the opinion of Planning

Commission or City Council, parking becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Mayor Byrd asked if buses pick up children along Windsor Road. Mrs. Turner stated she wasn't sure, but the applicant would be able to address that question.

At 7:08 p.m., Mayor Byrd closed the regular session and called the first public hearing to order. A notice appeared in the Daily News- Record on Monday, June 23 and Monday, June 30, 2014.

Erica Dorsey, 1214 Windsor Road, said she is the applicant and buses pick up children on Nelson Drive and then back into Windsor Road to turn around. Ms. Dorsey stated the primary purpose for the request is to expand the allowable children in her home beyond five. Ms. Dorsey reviewed the information that was provided during the public hearing at the Planning Commission meeting. Ms. Dorsey added that she is an EMT and plans to employ one individual, if approved, who is CPR and First Aid certified.

Neil Menefee, 1165 Nelson Drive, thanked Council for the opportunity to speak about the SUP. Mr. Menefee stated he had concerns about the SUP which are those that follow: collective property rights; public safety; commercial use in a neighborhood; permit allows up to 12 children and an employee; safety and the width of road; additional traffic; both emergency and city personnel have to back out of the street; school buses don't use the road; and parking is a challenge along the street. Mr. Menefee also noted that his neighbor spoke in opposition to the request during the Planning Commission's public hearing.

Ms. Dorsey stated she spoke to Mr. Hopkins and resolved a few of his concerns. She also stated she has lived in her house for 2.5 years and feels the road is safe and guardians can use her driveway to turn around safely. Ms. Dorsey noted that the road is wider until her driveway and then narrows further down the road.

Gerry Edlind, 1172 Nelson Drive, also spoke in opposition due to traffic, road conditions, and speeding that occurs on the road. Mr. Edlind asked Council if they approved this, what vision would it set for future requests?

At 7:20 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

Vice-Mayor Chenault stated he doesn't feel enough information was received by the Fire Department and the Rescue Squad. Mrs. Turner noted that the HFD returned the request with "no comments" and the Rescue Squad has never been asked to review a request. Council would like input from both the HPD and the Rescue Squad about this request.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer to table this Special Use Permit.

- 6.c. Consider a request from Northside, LLC and Joseph and Linda Moore with representative Balzer & Associates, Inc. to rezone 6.69 +/- acres of property from R-2, Residential District to B-2C, General Business District Conditional

Mrs. Turner reviewed the property and the surrounding property of the request. Mrs. Turner stated the rezoning triggered the need for the applicant to perform traffic impact analysis (TIA), which has already been reviewed by the Public Works Department, the Virginia Department of Transportation (VDOT), and the applicants' engineer. Mrs. Turner reviewed the applicants' proffers which are those that follow: cross access easements as generally shown on Exhibit A; the following uses would be prohibited: the sale and repair of vehicles, recreation equipment and trailers and tractor trailer fueling stations; a shared use path along Mt. Clinton Pike; a westbound and eastbound left turn lane into Technology Drive; a signal design and installation of infrastructure for a future traffic signal at Technology Drive/Mount Clinton Pike; the construction of Technology Drive; and stormwater will be managed for any sidewalk and curb and gutter along public streets. Taking into consideration that the Comprehensive Plan designates much of the adjacent land for commercial use and also given the larger transportation/traffic picture, staff feels it is appropriate to recommend approval of this rezoning. Although recommending in favor of the requested rezoning, staff does not believe this sets a precedent to look favorably upon further B-2 rezoning requests along the Mt. Clinton Pike corridor. At this time, staff believes the appropriate limit to the B-2 zoning district is at the planned extension of Technology Drive. Mayor Byrd suggested to consider wiring for crosswalks at the future intersection especially at the 10ft shared use section. Mrs. Turner stated the applicant will not have to do improvements to the Main Street signal, but it could be a discussion to have with the Public Works Department and for them to possibly work with applicant with their improvements. Planning Commission and staff both recommend the request for approval.

At 7:35 p.m., Mayor Byrd closed the regular session and called the second public hearing to order. A notice appeared in the Daily News- Record on Monday, June 23 and Monday, June 30, 2014.

H. McNeish, MVP Development, stated he was with the developers who have the property under contract and thanked staff for their professionalism. Mr. McNeish stated the site provides tremendous opportunity for the tenant. Mr. McNeish noted that he was bound by a non-disclosure agreement that prohibits him from naming the tenant at this time. Mr. McNeish reviewed items that he stated during the Planning Commission's public hearing and stated the grocery store would bring 95 full time employees and he hopes he can gain the support of Council tonight.

James "Bucky" Berry, 30 West Washington Street, stated this would be an improvement for the north end of town and he supports the request.

At 7:40 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

Vice-Mayor Chenault stated that the law firm he works for has performed work for the applicant. In accordance with the Virginia Conflict of Interest Act, Vice-Mayor Chenault stated he has not performed any work on the project or clients involved and he is able to vote on the request.

Brief discussion was held about the following: good location for a grocery store; Economic Development Director is in favor because a good transition of land use in the area; concerned with not knowing the company of the grocery store; voting on land use and not the company's name; in favor of the proffers; and around 23 years ago Mount Clinton Pike was extended, so it is good to see the investment years ago is paying off.

A motion was made by Council Member Baugh, seconded by Council Member Shearer, that this rezoning be approved on first reading. 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: 0

6.d. Consider adopting the City of Harrisonburg Downtown Streetscape Plan

Brad Reed, Transportation Planner, reviewed the Streetscape Plan objectives which are to provide a unified vision for the public streetscape to support a vibrant downtown and to streamline improvement projects. Mr. Reed reviewed the implementation for the Plan and reviewed the timeline that began on January 8, 2014 as a public hearing at Planning Commission. Mr. Reed stated since the beginning of the process the scope of the Plan has been clarified, committees and staff agreed to a number of other small edits, and no comments were received from the general public following the public hearing in January. Mr. Reed asked Council to consider adopting the Plan.

At 7:56 p.m., Mayor Byrd closed the regular session and called the third public hearing to order. A notice appeared in the Daily News- Record on Monday, June 23 and Monday, June 30, 2014.

There being no one desiring to be heard, Mayor Byrd closed the public hearing at 7:57 p.m., and the regular session reconvened.

Brief discussion was held regarding Vine Street. Vice-Mayor Chenault invited citizens to review the document.

A motion was made by Council Member Baugh, seconded by Vice-Mayor Chenault, that the Downtown Streetscape Plan be approved as presented. 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: 0

6.e. Consider an Option and Structure Lease Agreement City of Harrisonburg Virginia Tower Street Water Tank

City Attorney Brown stated the Director of Public Utilities has been negotiating a lease agreement with NTELOS for them to use the water tank located at 525 East Washington Street as a space for an antenna and base system for their federally licensed communications business. City Attorney Brown noted the water tank was built to be used for this purpose. NTELOS plans to lease 180 square feet of the elevated platform for five years and will be paying \$1,250.00 per month. The antenna that will be placed on the tank will be slightly less than the elevation of the water tank.

At 8:02 p.m., Mayor Byrd closed the regular session and called the fourth public hearing to order. A notice appeared in the Daily News- Record on Monday, June 30, 2014.

There being no one desiring to be heard, Mayor Byrd closed the public hearing at 8:03 p.m., and the regular session reconvened.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that the lease agreement be approved. 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: 0

7. Regular Items

7.a. Consider a request of the removal of delinquent taxes from current collections accounts

Jeff Shafer, City Treasurer, stated as stipulated in City Code Section 4-1-36 and the Code of Virginia 58.1-3940, he is requesting that 1993-1994 real estate taxes, and 2008 personal property taxes be removed from the current collection accounts. Mr. Shafer stated a large amount of judgments have been recorded at the Court House for personal property taxes and will continue to be collected. Mr. Shafer noted the 1993-1994 uncollected real estate taxes come to \$1,739.22.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, to approve the request to remove the delinquent taxes from current collection amounts. 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: 0

- 7.b. Consider a request to advertise delinquent Real Estate taxes for the years 2010-2011 & 2011-2012.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, to advertise the delinquent real estate taxes for 2010-2011 and 2011-2012. 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: 0

8. Other Matters

Vice-Mayor Chenault noted that it is important to know that matters coming from Planning Commission have been reviewed in great depth and, if there are issues, they have already been addressed by the time it comes before Council. Council is provided a report by both staff and Planning Commission prior to the meeting which allows Council to act quicker on those matters.

Council Member Baugh stated there is a Planning Commission meeting tomorrow night and four of the matters will be coming before Council.

Mayor Byrd reminded citizens that Thursday, July 10 is the Annual Free Pizza and Smoke Alarm Night.

9. Boards and Commissions

No action was taken.

10. Closed Session

A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh to enter into closed session as authorized by the Virginia Freedom of Information Act, Subsection 7 for consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel and Subsection 3 for the discussion and consideration of disposition of publicly held real property. 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: 0

11. Adjournment

At 8:30 p.m., the closed session ended and the regular session reconvened. City Attorney Brown read the following statement, which was agreed to with a unanimous recorded vote of Council: I hereby certify that to the best of my knowledge (1) only public business matters lawfully exempted from open meeting requirements under Chapter 37 of Title 2.2 of the Code, of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting by the City Council.

At 8:31 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR