



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Draft City Council

Mayor Christopher B. Jones
Vice-Mayor Richard Baugh
Council Member Ted Byrd
Council Member Kai Degner
Council Member Abe Shearer

Tuesday, June 14, 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: 4 - City Manager Kurt Hodgen, City Clerk Erica Kann, City Attorney Chris Brown and Police Chief Stephen Monticelli

2. Invocation

Vice-Mayor Baugh offered the invocation.

3. Pledge of Allegiance

Mayor Jones led the Pledge of Allegiance.

4. New Agenda Items Added During Meeting

4.a. Update regarding the Finance Committee

Mayor Jones announced that he owes the IRS approximately \$58,000 and he is working towards satisfying the debt with an accountant. Mayor Jones announced he was stepping down from the finance committee and suggested appointing Vice-Mayor Baugh to fill the vacancy.

4.b. Moment of silence

Mayor Jones called for a moment of silence for the victims and families involved with the Orlando shooting.

Mayor Jones acknowledged a candle light vigil that was held the night prior at Court Square.

4.c. Presentation from the Moms Demand Action for Gun Sense America group

Lauren Huber, member of the local chapter of Moms Demand Action for Gun Sense in America, thanked Mayor Jones for recognizing June 2, 2016 as National Gun Violence Awareness Day. Mrs. Huber reviewed what the group stands for, noted last year 103 mass shootings and 32,000 gun deaths occurred, this year 45 children have accessed unsecured guns, and that this is a public health issue.

Kelly Brady, member of the local chapter of Moms Demand Action for Gun Sense in America, stated she is a local educator, a mom of two boys, and runs a program called Be Smart. Mrs. Brady stated more conversation regarding guns need to be held because toddlers in America are 11 times more likely to be shot by firearms than any other undeveloped nation and in 2013 more toddlers were killed by firearms than on-duty police officers. Mrs. Brady noted teenagers are impulsive, guns need to be locked, ammunition needs to be stored separately, and more conversations need to be held.

Jim Atwood, retired minister and gun owner, feels guns have determined the character and the direction of this country. He doesn't want to take guns away, but feels that discussion needs to occur regarding responsible gun laws. Mr. Atwood noted that mass shootings are only a small portion of gun deaths in this country and noted statistics from terrorists' acts compared to firearm deaths in the United States. Mr. Atwood invited citizens to attend a vigil that will be held Thursday night beginning at 6:30 p.m., at the Court House.

4.d. Consider a resolution honoring Lee Foerster for his service

Mayor Jones read and presented a resolution to Lee Forester, director of the Department of Parks and Recreation, honoring him for his 40 years of service.

Mr. Foerster stated he has been privileged to have worked at the city for 40 years, appreciated the cooperation and resources that both council and citizens have provided, and is humbled and honored to be recognized. Mr. Foerster stated he looks for the continued success for both the department and the city as a whole in the future.

Council Member Shearer stated as a member of the Parks and Recreation Committee Lee has been a leader. He recognized over the years how people recreate, commended his leadership, and thanked him for his service. The other council members and the city manager concurred and thanked Mr. Forester for his services and wished him well.

A motion was offered by Council Member Degner, seconded by Vice-Mayor Byrd, to approve the resolution. The motion carried with a unanimous voice vote.

5. 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 Street, stated approximately 900,000 individuals are going to bed hungry in the state of Virginia, we need to reduce taxes, and people will do desperate things if they can't eat. Mr. Berry announced ABC Supply is going to do a one week food drive beginning on June 24, 2016 with a BBQ from 11:00 a.m. until 2:00 p.m. Mr. Berry also stated things would be better if each business contributed a little towards hunger issue, guns aren't the issues, it is the issue of the mentally ill, and he stated that he hopes to never see a situation like Orlando here in Harrisonburg, and asked the mayor to step down.

Brent Berry, 30 West Washington Street, invited everyone to participate in the ABC Supply food drive to benefit the Salvation Army from 7:00 a.m. until 4:00 p.m. daily beginning on Friday, June 24, 2016 through Friday, July 1, 2016.

6. 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 offered by Council Member Degner, seconded by Vice-Mayor Baugh, 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

6.a. Minutes

These minutes were approved on the consent agenda.

6.b. Consider a request from Miguel Hernandez Aguirre and Maria Perez Rebollar to close 1,610 +/- square feet of an undeveloped public alley located perpendicular to and off of East Johnson Street, between 135 and 147 East Johnson Street

The closing of the undeveloped public alley was approved on second reading.

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

This supplemental appropriation was approved on second reading.

6.d. Consider an amendment to Section 15-2-24 of the Harrisonburg City Code, Chicken Ordinance

This ordinance was approved on second reading.

6.e. Consider an amendment to Section 7-4-1 of the Harrisonburg City Code increasing water rates

This ordinance was approved on second reading.

6.f. Consider a supplemental appropriation in the amount of \$39,710,416.60 for the General and School Capital Project Funds

This supplemental appropriation was approved on second reading.

7. Regular Items

7.a. Consider a public utilities request from Randy Cosner of Cosner Construction, Inc. per Section 7-2-4 of the City Code, to extend city water and sewer services for a

new development within Rockingham County

Adam Fletcher, director of the Department of Community Development, stated the property is a 7.73 +/- acre tract of land located within the 300 block of Vine Street, but the applicant desires to subdivide and purchase a 2.5 +/- acre portion of the larger tract in order to construct up to 28 townhomes. Mr. Fletcher noted that this request comes before council due to Section 7-2-4(b) of the Harrisonburg City Code and it is recommended for approval by both staff and Planning Commission. Mr. Fletcher stated the applicant understands there are still some obligations he needs to fulfill in Rockingham County and the developer would be responsible for all engineering calculations and improvements to the water and sewer system to facilitate the requested services. The applicant will have to work closely with Public Works to obtain a public access permit in order to construct an entrance onto Vine Street and to ensure that all requirements regarding the construction of sidewalk along the Vine Street frontage are met.

A motion was offered by Vice-Mayor Baugh, seconded by Council Member Shearer, to approve the public utilities request 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.b. Update on the changes to the Virginia Employment Commission

Sharon Johnson, Shenandoah Valley Workforce Development Board (SVWDB) CEO, stated the current Virginia Employment Commission (VEC) will be co-locating its operations with the Valley Workforce Center located at 160 North Mason Street in Harrisonburg on August 1, 2016. Ms. Johnson noted a press release was issued on May 6, 2016 announcing the relocation and stated this is required due to changes in the federal Workforce Innovation and Opportunity Act. Ms. Johnson stated the SVWDB has a service region that includes 16 localities, which includes five valley workforce centers and three VEC offices and noted where the other VEC offices would relocate. Ms. Johnson reviewed the setup of the new location and noted they are doubling their office space. Ms. Johnson noted concerns regarding parking and access from 81 have been addressed and they eased concerns with those that hold job fairs. Ms. Johnson stated she feels that it is a good change and it provides an opportunity to eliminate duplicative services. Ms. Johnson made herself available to address any questions and/or concerns.

Mayor Jones thanked Ms. Johnson for her service. Council Member Degner thanked Ms. Johnson for the update, noted that these resources are sought after, and knows there is dedicated staff to provide training to help get individuals the jobs that are available in the area. Ms. Johnson stated she would like to provide an update after the move occurs. Mayor Jones noted that the Valley Workforce Development has come to several community meetings he had attended and asked if that would be something with which the board would partner. Ms. Johnson

stated the SVWDB has the valley workforce centers brand, on the job training (OJT) which offers approximately \$9M to businesses for OJT registered apprenticeships and incumbent workers, and their service provider is Goodwill of the Valley.

- 7.c.** Presentation on the K9s For Warriors event that will be held in Harrisonburg on Saturday, July 23, 2016

Chad Layman, Harrisonburg K9s for Warriors event coordinator, provided an overview of the upcoming K9s for Warriors event that will be held on Saturday, July 23, 2016 in partnership with the Harrisonburg Police Department/SWAT team at the Harper/Presgraves Training facility to raise money for veterans struggling with post-traumatic stress disorder (PTSD). Mr. Layman stated to date \$133,000 had been raised. Mr. Layman reviewed why the event and program is important and invited everyone to come out and participate. Mr. Layman noted veterans get in free to the event, the guest speaker would be Jim Kuiken, and noted funds will stay here in the valley. Mr. Layman thanked the city of Harrisonburg for allowing the use of the training grounds and asked the city to help promote the event and provide any equipment the event might need.

Captain Tom Hoover, Harrisonburg Police Department, stated it has been an honor to work with Mr. Layman on the event and requested the council's attendance and support.

- 7.d.** Consider a request to advertise delinquent Real Estate taxes for the years 2013-2014 & 2014-2015

Jeff Shafer, city treasurer, stated this is a collection tool the city uses to collect delinquent real estate taxes. Mr. Shafer stated notices will be sent out the first of August to all delinquent real estate accounts and 30 days is provided for those amounts to be collected. If those taxes aren't collected, the delinquent real estate accounts will be advertised in the Daily-News Record for years 2013/2014 and 2014/2015.

A motion was made by Vice-Mayor Baugh, seconded by Council Member Shearer, to approve the request to advertise as requested by the city treasurer. 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.e.** Consider a request of the removal of delinquent taxes from current collections accounts

Mr. Shafer stated Virginia and City Code's limit the duration in which local taxes can be collected. He noted the city has obtained judgments on several personal property accounts that will allow continued efforts to collect taxes for an additional 20 years. Mr. Shafer noted that the request is to write off 1995/1996 real estate taxes, \$769.42, and 2010 personal property taxes, \$112,413.

A motion was made by Council Member Byrd, seconded by Vice-Mayor Baugh, to approve the request to remove delinquent taxes from current collections accounts. 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.f. Consider the approval of Business, Professional and Occupational License (BPOL) refunds for 2016

City Attorney Brown stated there are four business, professional, and occupational licenses (BPOL) refunds due. City Attorney Brown noted three of the businesses paid in full and then their businesses closed and the other overpaid when making an estimated payment. City Attorney Brown noted that the refunds are not due to errors made by the Commissioner of the Revenue office.

A motion was made by Council Member Byrd, seconded by Vice-Mayor Baugh, to approve the Business, Professional and Occupational License (BPOL) refunds for 2016. 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.g. Consider expansion of Harrisonburg Arts & Cultural District Boundaries

Brian Shull, director of the Department of Economic Development, stated the city was the first Arts and Cultural District in the state. He stated he has been working with Swartz Photography who is looking to open a business at 40 West Washington Street, which lies directly outside the arts and cultural boundary and they are requesting the expansion of the boundary. Mr. Shull stated when this request was made, staff decided to review the boundaries that were last adjusted in 2001 to see if other venues could be identified. After consultation with the Arts Council of the Valley staff, it is recommended to bring the Spitzer Art Center, the Lucy F. Simms Continuing Education Center, and the existing building located at 40 West Washington Street into the current district. Mr. Shull reviewed the new proposed boundaries. Mayor Jones noted that a new historical exhibit just opened up at the Simms Center. Mr. Shull stated the building Swartz Photography is looking to purchase has an existing business called Claudia Hand Painted Yarns, which is another arts related business. Mr. Shull noted the ordinance would also need to be amended to reflect a few new street names. Mr. Shull stated this district is to help market arts and culture businesses and a few incentives were available. Mayor Jones asked if the proper signage and badging would be displayed within the district. Mr. Shull stated it would be addressed, but currently there isn't a lot of signage. Mayor Jones stated during the last few months there have been several different entities recognizing that the city has a signage and marketing issue and suggested to guide Public Works to coordinate efforts.

A motion was made by Council Member Degner, seconded by Vice-Mayor Baugh,

to approve the expansion of the Arts and Cultural District as presented.

Clay Clark, owner of Clementine's, applauded efforts supporting and encouraging arts and culture in downtown Harrisonburg; however, he asked council to examine the ordinances that are currently in effect as to how they affect the businesses in downtown Harrisonburg and what the proposed ordinance will actually accomplish other than establishing bragging rights. Mr. Clark continued by asking council to review the ordinance of how it would support those local businesses making efforts to support arts and cultural, such as certain tax exemptions. Mr. Clark asked council to table this request until further review of the impact of the arts and cultural district, the exemptions that are provided, and whether or not they actually accomplish anything as far as encouraging local businesses to encourage arts and cultural activities.

Mr. Shull stated he has been in conversation with Mr. Clark and others downtown regarding the admissions tax. Mr. Shull commented that the two requests aren't mutually exclusive.

The motion was amended by Council Member Degner, seconded by Vice-Mayor Baugh, to approve the district expansion and ask the director of economic development to report back to council on the effectiveness of the ordinance and recommend how it might be improved. 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.h. Consider a Restated and Second Amendment to the Memorandum of Understanding for the development, ownership, and financing of a hotel and conference center

City Attorney Brown reviewed the history of the hotel and conference center beginning with the approval of a memorandum and other documents on October 14, 2014 and noted the James Madison University (JMU) Foundation discovered the structure jeopardized its 501 (3)(c) status. City Attorney Brown stated over the last several months stakeholders involved have met to restructure the transaction and noted the main change is how the money flows from the Foundation to the developer. City Attorney Brown reviewed how the Industrial Development Authority (IDA) is involved and noted the repayment to the Foundation of the conference center financing funds will remain as previously approved by council. City Attorney Brown also noted the conference center will now be owned by the developer and that JMU will now lease the real property occupied by the conference center to the developer. City Attorney Brown clarified that JMU will own the property, but the developer will own the buildings. City Attorney Brown stated if approved, a public hearing will be held by the IDA on this matter. City Attorney Brown stated the city only has obligations to this request if there are tax revenues for 21 years from September 1 after the certificate of occupancy is issued. He also noted that there is a provision in the development agreement that if at the end of 21 years the Foundation hasn't been repaid this council suggests that the future council renew

the agreement.

Council Member Byrd asked if the city has complied 100% with the current MOU. City Attorney Brown replied, yes. Council Member Byrd stated with this new agreement they have agreed to reduce the current cap of the interest rate granted. Council Member Byrd stated even with the numbers presented by the developer paying the Foundation in 11 years, the Foundation wants the city to guarantee them 21 years. City Attorney Brown stated with the moral obligation the financing won't count against the city's debt. City Attorney Brown stated the Foundation voted on and approved the restated and second amendment to the MOU last week and it doesn't change the financial liability of the city or the IDA. Council Member Byrd feels that now council is partnering with the developer instead of the Foundation which is an entity that the city knew and had received their audited financial statements. Council Member Shearer also feels that this isn't a minor change, there are significant implications, and council shouldn't vote before a public hearing is held. Council Member Byrd offered the following three suggestions: do nothing and continue operating under the current MOU, accept the changes as presented, or see if other changes can be made within the proposed MOU. Council Member Byrd noted staff originally recommended not going past 11 years for repayment. Council Member Degner clarified that the city has no liability in terms of paying anything back unless it collects taxes on the buildings that it would otherwise not get. City Attorney Brown stated that was correct. Council Member Shearer and Byrd noted that it is an incentive that we don't provide for any other entity. Council Member Degner noted several things that the facility would be providing. Mayor Jones stated prior to him being on council he remembers the repayment was estimated at a maximum of 14 years. Vice-Mayor Baugh stated the repayment amounts have always been estimates and the 21 years just means if the debt hasn't been repaid, then this body has to revisit it. City Attorney Brown noted that if the debt is repaid before the 21 years, this agreement is fulfilled. There was further discussion on why each member of council was for or against the project. City Attorney Brown noted the main disagreement of the original MOU was the length of repayment. Vice-Mayor Baugh noted that he is open to speak with anyone about other projects that might be at the interest of the city to support. City Manager Hodgen stated he and the city attorney approached this as the vote had already been taken, the city was asked to reconsider the MOU, and both felt they weren't substantial amendments that significantly changed where the city was going to begin and end after the process is complete.

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

Yes: 3 - Mayor Jones, Vice-Mayor Baugh and Council Member Degner

No: 2 - Council Member Byrd and Council Member Shearer

- 7.i.** Consider appointing Pam Ulmer, administrative specialist, as clerk pro tempore during the absence of the city clerk

City Attorney Brown stated by appointing Pam Ulmer as the clerk pro tempore the clerk duties would resume during the absence of the city clerk.

A motion was offered by Council Member Byrd, seconded by Council Member Shearer, to appoint Pam Ulmer as clerk pro tempore. The motion carried with a unanimous voice vote.

8. New Special Event Application Requests

- 8.a. Consider the special event application for the Explore More Discovery Museums Farm to City event on Saturday, June 25, 2016

Andrea Dono, executive director for Harrisonburg Downtown Renaissance (HDR), stated the event will be held from 9:30 a.m. until 5:00 p.m., they have notified surrounding property owners, there is a street closure on Newman Avenue from Main Street to Federal Street, and the insurance has been obtained. Ms. Dono noted there would be a combine coming in and out of downtown early in the morning and late in the evening using the truck route.

A motion was made by Council Member Byrd, seconded by Vice-Mayor Baugh, that this Special Event Application be approved. The motion carried with a unanimous voice vote.

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

No: 0

9. Reallocations

- 9.a. Consider a budget reallocation in the amount of \$13,766.59 for the General Capital Projects fund

City Manager Hodgen noted \$13,766.59 remained from the Stone Spring Elementary School Safe Route to Schools project and the city had the option to return the remaining funds back to the state or transfer it to another state approved project. The amount noted will be used to complete the Carlton Street Roundabout project without any additional city funds.

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

- 9.b. Consider a budget reallocation in the amount of \$200,000 for the School Fund

Tracy Shaver, finance director for Harrisonburg City Public Schools, stated this procedure is normal for this time of year to reallocate funds available to where they are needed within the school's fund. Mr. Shaver noted the transfer doesn't require any additional city funds. Mr. Shaver stated this year city schools received \$82,000 of e-rate funding, which isn't built into the school's budget. He stated \$68,000 is for the replacement of three computer labs that were originally purchased with federal

stimulus dollars back in 2008. Mr. Shaver also noted anti-virus software needed to be updated.

A motion was made by Council Member Degner, seconded by Vice-Mayor Baugh, 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

9.c. Consider a budget reallocation in the amount of \$40,000 for the Public Transportation Department

City Manager Hodgen stated at the end of the fiscal year funding needed to be reallocated within the Public Transportation fund. City Manager Hodgen noted the department added a new cost allocation plan that was implemented due to the Federal Transit Administration.

A motion was made by Council Member Byrd, seconded by Vice-Mayor Baugh, 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

10. Other Matters

City Attorney Brown noted that a motion and a second for Mr. Foerster's resolution wasn't obtained earlier in the meeting. Mayor Jones called for a motion and a second; the vote was recorded with the appropriate agenda item.

10.a. Consider appointing Mary-Hope Vass, public information officer, as the Freedom of Information Act (FOIA) officer for the city of Harrisonburg

City Attorney Brown stated the General Assembly passed an amendment to the Freedom of Information Act (FOIA) during the past assembly and each locality is required to appoint a FOIA officer that is listed on the locality's website and to oversee the FOIA process. He stated it is recommended to appoint Mary-Hope Vass our public information officer as the FOIA officer.

A motion was offered by Council Member Shearer, seconded by Council Member Byrd, to appoint Mary-Hope Vass as the city's FOIA officer. The motion carried with a unanimous voice vote.

Other Matters Continued

Vice-Mayor Baugh asked if council would be interested in having a joint work session meeting with Planning Commission on the Comprehensive Plan. Council showed no objection and the city manager would communicate with the director of Community Development to set a date for that meeting.

Council Member Degner asked if staff had any communication regarding a

Community Criminal Justice Board meeting. City Manager Hodgen stated he had received an email about a potential August meeting. City Manager Hodgen stated an agenda is being created with reports back from items discussed and requested for during the last meeting. Mayor Jones noted he did make contact with Secretary Moran's office.

Mayor Jones stated the African American Festival will be held Saturday, June 18, 2016 beginning at noon at Ralph Sampson Park.

11. Boards and Commissions

11.a. Community Services Board

A motion was made by Council Member Byrd, seconded by Council Member Shearer, to reappoint Judy Bland, 43 Fry Avenue, to a first term on the Community Services Board to expire June 30, 2019. The motion carried with a unanimous voice vote.

A motion was made by Council Member Degner, seconded by Vice-Mayor Baugh, to appoint Abdelrahman Rabie, 1366 Sparrow Court, to a first term on the Community Services Board to expire June 30, 2019. The motion carried with a unanimous voice vote.

12. Closed Session

At 9:14, a motion was made by Vice-Mayor Baugh, seconded by Council Member Degner, to enter into closed session as authorized by the Virginia Freedom of Information Act, Virginia Code Section 2.2-3711(A), under: Subsection A for discussion concerning an expansion of an existing business or industry where no previous announcement has been made. 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

13. Adjournment

At 9:33 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 9:34 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR