



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, July 12, 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: City Manager Kurt D. Hodgen; Acting Deputy City Manager Ande Banks; City Attorney G. Chris Brown; City Clerk Erica S. Kann; and Captain Dan Claytor. Absent: None.

2. Invocation

Mayor Jones offered the invocation and a moment of silence for those who lost their lives in Dallas, Texas.

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)

Reverend Marilyn Smith-Heishman, 973 South College Avenue, stated she and her neighbors are concerned about the Park Hill subdivision and noted the piece of property was included as part of the annexation and it had been maintained as a cattle pasture until Mr. Shank sold it. Reverend Smith-Heishman stated when a meeting was held by Planning Commission regarding the Park Hill subdivisions many of the neighbors in attendance had concerns about the excess number of dwellings being proposed, which Planning Commission reduced, and the water run-off issues. Reverend Smith-Heishman also noted that when it was a pasture the neighborhood had water run-off and noted the run-off has increased since the subdivision had been developed. Reverend Smith-Heishman stated Planning Commission indicated an earthen berm had to be placed on the downside of the hill where all the new development was built, which did not occur and snow fences were not installed causing rubbish to come onto neighboring properties. Reverend Smith-Heishman stated there are very few sidewalks, curbing, or storm drains within the 800 to 900 block on College Avenue and none further down toward Virginia Avenue. Reverend Smith-Heishman stated she contacted the city engineer who then contacted some of the builders about inserting earthen berms on the property, which have helped a little. She noted the standard since 1924 has been curbing or sidewalks and wondered why the Park View area hadn't been a

concern since they are now included within city limits. Reverend Smith-Heishman stated someone from Public Works shared with her that the city has a sidewalk cost-sharing program, which she isn't interested in due to not feeling like she should have to pay for something that is a standard. Reverend Smith-Heishman closed by asking how the neighborhood could get on the agenda.

Daniel Mead, 989 College Avenue, stated he has been at his residence for over ten years and the first eight years his basement had been bone dry and since they have broke ground for the Park Hill subdivision his basement has been wet. Mr. Mead feels that the project wasn't completed properly to deal with water run-off and asked where the money goes that is collected for stormwater fees. Mr. Mead stated he contacted the city and the city engineer came out and at that time he offered a deeded access on the north property line of his property to run a drain line and if pipes were installed on the subdivisions property, they could run a pipe through his property that could lead to the culvert in front of his house. He also feels that when the city came out to inspect the berms they were insufficient, noted that one of his neighbor's driveway gets washed out every time a heavy rain is received, and another one had to install French drains on their property. Mr. Mead also asked about getting on the agenda and stated he is concerned about the foundation of his house and his neighbor's houses. Mr. Mead stated council approved the construction and asked if council would approve repairs to his house.

Ray, 687 East Market Street, stated he feels that businesses downtown are failing due to traffic not being two ways on South Main Street. He feels that if the city would remove parking along the sides of the street and make the street a two-way street it would help business.

James "Bucky" Berry, 30 West Washington Street, stated he is concerned with the flooding that occurs during heavy rains near Blacks Run and is fearful that someone is going to lose their life. He also stated he feels council should change the city of Harrisonburg's Charter so the mayor is voted in, not appointed by other council members.

It was noted that the issues that were brought before council tonight regarding the Park Hill subdivision do not need to be an agenda item and can be brought to council's attention at any time. Council members encouraged Reverend Smith-Heishman and Mr. Mead to email them with their concerns.

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 offered by Council Member Byrd, 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.

6. Public Hearings

6.a. Consider issuing a Certificate of Convenience and Necessity to Checkered Cab

Reggie Smith, director of Harrisonburg Public Transportation, stated the Taxi Committee met, the applicant submitted insurance information, a background check was completed, the applicant obtained his permit from DMV, and the taxi committee recommended approval of the Certificate of Convenience and Necessity to Checkered Cab to Christian E. Maragni.

At 7:22 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 Saturday, July 2, 2016.

There being no one desiring to be heard, Mayor Jones closed the public hearing at 7:23 p.m., and the regular session reconvened.

A motion was offered by Council Member Byrd, seconded by Council Member Degner, to approve the Certificate of Convenience and Necessity. 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.b. Consider an ordinance granting a franchise to use streets and other public lands of the city of Harrisonburg for operation of a fiber optic network

Mayor Jones read the following statement: the Virginia State and Local Government of Interests Act requires that I make a disclosure, to be recorded in the city records, in any matter in which I am prohibited by law from participating. Therefore I make the following disclosure. The transaction involved is agenda item 6.b., an ordinance granting a franchise to use streets and other public lands of the city of Harrisonburg for operation of a fiber optic network. My personal interest affected by this transaction is that I am employed by WHSV TV3 and in that capacity I transact business with one of the franchise bidders, Shentel. I affirmatively state that I will not vote or in any manner act on behalf of City Council in this matter.

Vice-Mayor Baugh introduced agenda item 6.b. and turned it over to City Attorney Brown.

City Attorney Brown stated this request came to the city by Shentel and an

agreement has been made with the city to connect various city owned office buildings and various traffic signals located throughout the city together through a fiber optic network. The agreement includes very favorable user rates for the city for an extended period of time. City Attorney Brown stated as a part of the requirement for installation of the lines, Shentel will need access to our public streets and public property.

Council Member Byrd brought attention that maps should be provided from Shentel of where lines are installed, specifically for city owned alley ways, so if in the future they are closed we have a deeded easement for those lines.

Vice-Mayor Baugh asked if there were any other bids to be received at this time, seeing none, he closed the regular session at 7:26 p.m., and called the second public hearing to order. A notice appeared in the Daily News-Record on Saturday, July 2, 2016 and Saturday, July 9, 2016.

There being no one desiring to be heard, Vice-Mayor Baugh closed the public hearing at 7:27 p.m., and the regular session reconvened.

City Attorney Brown stated staff recommended approval of the ordinance presented before council.

A motion was offered by Council Member Shearer, seconded by Council Member Degner, to approve the ordinance as presented with Shentel as the franchisee. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

Abstain: 1 - Mayor Jones

- 6.c.** Consider a request from Rockingham County School Board, with representative John Hash of Timmons Group for a special use permit per Section 10-3-97 (9) to allow an educational use within the M-1, General Industrial District at 215 and 311 Pleasant Valley Road

Mayor Jones presented agenda item 6.c.

Adam Fletcher, director of Community Development, stated if this request is approved, the existing school would become compliant with zoning regulations, an additional learning facility could be constructed on the site, and it would allow for expansion of both uses as necessary in the future. Mr. Fletcher reviewed the history of the property, and the surrounding properties. Mr. Fletcher noted one concern during Planning Commission was that the property would lose recreational space and he clarified that wasn't the case. Mr. Fletcher noted that Planning Commission approved the applicant's off-site parking layout. It was noted that Pleasant Valley Elementary School would have up to 50 employees and approximately 376 students; the proposed Learning Center is looking to have 15 to

20 employees and up to 150 students, and at this time it is unknown if the existing Dayton Learning Center would continue as an Alternative Learning Center. Mr. Fletcher stated if the special use permit (SUP) is approved tonight, the Alternative Learning Center would be required to go through a comprehensive site plan review prior to construction to ensure compliance with all development regulations, which would include all necessary street improvements that would be required along the frontage of Pleasant Valley Road and possible dedication of right-of-way, the extent of this work would be determined during the comprehensive site plan review process. Mr. Fletcher stated staff and Planning Commission both recommended approval of the request as presented.

At 7:34 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 Tuesday, June 28, 2016 and Tuesday, July 5, 2016.

John Hash, representative for Rockingham County School Board, stated Rockingham is interested in getting these properties in conformance, make improvements as stated, and made himself available for questions.

Council Member Shearer asked what the cost per square foot for this building would be. Mr. Hash stated he was the civil engineer and did not know that information.

At 7:35 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

A motion was offered by Vice-Mayor Baugh, seconded by Council Member Shearer, to approve the SUP 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.d.** Consider a request from the Trustees BPO Elks 450 to rezone three parcels from R-3, Medium Density Residential District to B-2C, General Business District Conditional

Vice-Mayor Baugh read the following statement: the Virginia State and Local Government of Interests Act requires that I make a disclosure, to be recorded in the city records, in any matter in which I am prohibited by law from participating. Therefore I make the following disclosure. The transaction involved is agenda item 6.d., a request for rezoning. My personal interest in this transaction relates to the ethical requirements to which I must adhere as a licensed member of the Virginia Bar. I affirmatively state that I will not vote or in any manner act on behalf of City Council in this matter.

Mr. Fletcher reviewed the three parcels that are being requested to be rezoned to B-2C, General Business Conditional. Mr. Fletcher stated this request came after

the property owners were considering to allow a restaurant on the property, which staff informed them that such a use was not permitted under the R-3 district even though the structure has an existing commercial kitchen and was operating as a restaurant only for members of the Elks club. Mr. Fletcher reviewed what could be allowed on the property in the future if the property remained under the R-3, Medium Density Residential District and what would be permitted by right. He stated a rezoning that changes a property's zoning from a residential district to a business district often increases the intensity of the permissible uses; however, if this rezoning request, with the submitted proffers is approved, the allowable uses under the B-2 district would be quite limited and less intensive than the current R-3 district allows. The applicant has proffered the following: the following B-2 uses would be permissible on the site: i. restaurants contained within the existing structure in the two rooms shown on the provided drawing as "dining," and the area shown as "kitchen," specifically not including drive through food service; ii. religious, educational, charitable or benevolent institutional uses, which do not provide housing facilities; iii. accessory buildings and uses customarily incidental to any of the above listed uses; iv. public uses; and, v. concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells; telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by article CC; the property owner could apply for any special use permit allowed in the B-2 district; and, all freestanding signs shall be no taller than ten feet in height, no freestanding sign shall be larger than 100 square feet in area, and any signage may not be LED or contain scrolling message boards. If approved, the submitted proffers significantly limit the permissible B-2 uses and would limit the restaurant use to within the existing structure and only within the areas as indicated meaning that no outside dining may occur on the site that is associated with the public restaurant. It was noted outside dining may occur, for events associated with the Elks club and for any events held by individuals or groups that rent the Elks club facility as is permitted. Mr. Fletcher stated in regards to signage, the property would only have approximately 131 square feet of sign area available for use as the property's street frontage along South Main Street and since the site is near residentially zoned property the applicant is aware that the only advertising wall signs may only be permitted toward South Main Street. Mr. Fletcher explained that if approved, the existing building could become non-conforming to setback regulations. Mr. Fletcher brought attention to the minimum number of parking spaces and stated staff does not believe the existing marked parking spaces, or even the size of the existing parking lot, will be sufficient for the Elks club use as well as for the planned restaurant. It was noted prior to the restaurant opening to the public, the property owners must confirm with the Department of Planning and Community Development that minimum parking requirements for all uses have been met and staff would also need a more accurate representation of the square footage of the space that will be used by the restaurant. Mr. Fletcher reviewed several options that the applicant could consider and noted a traffic impact analysis was not required for this rezoning application. Mr. Fletcher stated that staff recommended to Planning Commission to review this area during the upcoming review of the Comprehensive Plan regarding whether they would like to

maintain this section of the city as professional designation. Mr. Fletcher stated when staff reviewed the application given the rezoning and strict proffers on the property, it was the best scenario for this property and it eliminates concerns of how the site could have been redeveloped with high density residential uses. Mr. Fletcher stated both staff and Planning Commission recommended approval of the request with the stated proffers.

Council Member Degner asked if by-right a parking lot could be installed along South Main Street in front of the building. Mr. Fletcher stated yes.

At 7:51 p.m., Mayor Jones closed the regular session and called the forth public hearing to order. A notice appeared in the Daily News-Record on Tuesday, June 28, 2016 and Tuesday, July 5, 2016.

Douglas Bowman, representative of Elks Lodge, stated the following: the Elks Lodge provides a lot of community service; noted the decline in their membership; the lodge hired a chef who has been fixing meals for members and guest, but is interested in opening to the public; looking for the restaurant to increase membership; the facility will remain in its current condition; the rezoning will eliminate the possibility of dense housing units; would like to keep the looks of the front of the building; John Mather is working on the parking and other drawings as staff requested; thanked staff and others for their help during this process; and, if anyone wants to know more about the Elks to contact him or any other Elk member.

James "Bucky" Berry, 30 West Washington Street, stated the Elks do a lot to help the community, helps to feed several families, and he is looking forward to a new restaurant downtown.

At 8:00 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

A motion was offered by Council Member Byrd, seconded by Council Member Shearer, to approve the rezoning as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Mayor Jones, Council Member Byrd, Council Member Degner and Council Member Shearer

No: 0

Abstain: 1 - Vice-Mayor Baugh

- 6.e.** Consider a request from Harrisonburg OB/GYN Associates, LLC to rezone a parcel from R-3, Medium Density Residential District to B-2C, General Business District Conditional

Mr. Fletcher reviewed the property located at 2205 Evelyn Byrd Ave and the surrounding properties. Mr. Fletcher reviewed the applicants three submitted proffers and they were the following: the site shall only permit business and

professional office uses; all uses allowed by an approved special use permit shall be permitted; and, the existing vegetation parallel to and within 45 feet from the southern property boundary shall be maintained to provide a vegetated buffer to protect the adjacent residential uses from uses on the subject site; or, an evergreen vegetative buffer shall be created parallel to and within ten feet from the existing shared access driveway, with the intent to create a dense screen, where such evergreens shall be planted at no less than five feet on center and six feet in height at the time of planting. Mr. Fletcher explained that the site would be encumbered by additional minimum building setback regulations due to the surrounding properties and the buildable area of the lot will be more restrictive than typically permitted for B-2 zoned properties that are adjacent to other B-2 parcels. Mr. Fletcher also noted the site is also relatively limited given all of the easements and drainage areas that a development will have to accommodate. Mr. Fletcher noted staff believes that this request is in line with the Comprehensive Plan and both staff and Planning Commission recommended approval of the request with the stated proffers.

At 8:09 p.m., Mayor Jones closed the regular session and called the fifth public hearing to order. A notice appeared in the Daily News-Record on Tuesday, June 28, 2016 and Tuesday, July 5, 2016.

There being no one desiring to be heard, Mayor Jones closed the public hearing at 8:10 p.m., and the regular session reconvened.

A motion was offered by Vice-Mayor Baugh, seconded by Council Member Shearer, to approve the rezoning 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

- 6.f.** Consider a request from H2 Investments, LLC with representative Balzer and Associates, Inc., to close 1,814 +/- square feet of an undeveloped public alley located between 634 Collicello Street and 113 & 123 Third Street

Mr. Fletcher stated agenda items 6.f. and 7.a. will be presented together. Mayor Jones noted the public hearing will only be for agenda item 6.f.

Mr. Fletcher presented a request to close an undeveloped alley of approximately eighteen hundred square feet, between 634 Collicello Street and 113 & 123 Third Street to accommodate the additional lot area to supplement the adjacent parcels owned for subdivision. Mr. Fletcher noted there are no existing water, sewer, HEC easements, but staff recommends a general public utility easement be placed on the alley. Mr. Fletcher presented a request to subdivide two existing parcels into six parcels to construct two duplex units with the rear property of 632 and 634 Collicello Street, provided the above alley way closure is approved. Mr. Fletcher provided a plat showing the six parcels to be created for new duplex units,

off-street parking spaces for the units, private access street for ingress and egress to/from Collicello Street, and noted that a Subdivision Ordinance Variance to Section 10-2-41(a) and 10-52-42(c) would be required. Mr. Fletcher stated staff recommended the following conditions: on street parking be removed from Collicello Street; no parking signage installed on Collicello Street; off-street parking be provided for Lots 1 and 2; entrance to private street will be 24 feet at entrance and may narrow to 20 feet; a 5 foot hard surfaced sidewalk be provided from Collicello Street to the duplex units; and signage must be provided at the end of the private street to help restrict vehicular access to the public alley. Mr. Fletcher stated both Planning Commission and staff recommended approval with the stated conditions.

Council Member Shearer noted an opposition letter from a neighbor that noted the concern for fire and rescue access to the new buildings and wanted to confirm that fire and rescue are comfortable with the ingress and egress to the property and the turnaround availability. Mr. Fletcher confirmed.

At 8:20 p.m., Mayor Jones closed the regular session and called the sixth public hearing to order. A notice appeared in the Daily News-Record on Tuesday, June 28, 2015 and Tuesday, July 5, 2016.

Hans Harman, applicant, stated he and city staff worked through many things to get to this point and he made himself available to answer any questions.

At 8:21 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

A motion was offered by Vice Mayor Baugh, seconded by Council Member Shearer, to approve the alley closing as presented. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

7. Regular Items

- 7.a.** Consider a request from H2 Investments, LLC with representative Balzer and Associates, Inc., to preliminarily subdivide two parcels into six parcels with variances from the Subdivision Ordinance Sections 10-2-41 (a) and 10-2-42 (c)

Agenda item 7.a. was presented along with agenda item 6.f

A motion was offered by Vice Mayor Baugh, seconded by Council Member Shearer, to approve the 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. Presentation from the local Re-entry Council

Daryl Simpson, of Harrisonburg Rockingham Community Services Board and the Strength in Peers Organization also serves as case manager for the Local Reentry program, thanked the council for the invitation to speak. Mr. Simpson noted he also serves on the Harrisonburg, Rockingham, and Page Reentry Council (HRP Reentry Council) and chairs the Public Relations and Fundraising Committee. Mr. Simpson introduced the chair of the council Mr. Don Driver, director of Rockingham County Social Services. Mr. Simpson presented May 2016 Virginia Department of Corrections statistics. Mr. Simpson reviewed some of the urgent services and needs that his position meets through the Reentry Council and those the local reentry program addresses which included the following: housing, transportation services, help restoring driving privileges restored, employment services, mental health, physical health, and substance abuse services. Mr. Simpson stated on May 11, 2010, Governor McDonnell signed Executive Order #11 which established the Virginia Prisoner and Juvenile Offender Reentry Council and established a local reentry council, the HRP Reentry Council, which was originally to be led by chiefs of local probation and directors of social services. Mr. Simpson reviewed the goals, responsibilities, and initiatives of that council and its committees. Mayor Jones asked if the initiatives to date were well attended. Mr. Simpson replied they were attended by good Samaritans and people working through the council, but have had difficulty earning the trust of some of the family members, but they continue to build that trust. Mr. Simpson reviewed the impact the reentry programs have caused throughout Virginia.

Vice Mayor Baugh referenced an ongoing project to improve the data base on information and one of the issues that has complicated it has been trying to get all the stakeholders involved; therefore, the question arose if this is the type of data provided in this presentation expected to be integrated in that project or is that another challenge.

City Manager Hodgen stated that offender data tracking needs to be and is planned to be a part of the Computer Aided Dispatch (CAD) project. A consultant has been hired to do the study, which includes the identification of all the stakeholders.

Mr. Simpson stated he does not have any doubt that any and all information collected will benefit his specific program, the local reentry council and the criminal justice system in the city and county.

Council Member Degner stated he was on the committee that reviewed the proposals and ultimately selected the consultant. He noted that there is a robust process that the contractor used, and recommends the slide showing the Recidivism Snapshot should be sent to Jim Junkins to make sure this is the type of data that could be produced from what is in the system.

Vice Mayor Baugh stated he just wants to make sure that all stakeholders be integrated.

Council Member Byrd noted that the numbers presented are on a statewide level, not just Harrisonburg, Rockingham, and Page.

Mayor Jones questioned the recidivism rates and if there is something that can be done to lower the percentages shown.

Mr. Simpson stated that he has come to learn that if an offender can be released for roughly 36 months, his chances of being re-arrested, re-convicted, or re-incarcerated decrease. Mr. Simpson also noted his Community Ex-Offender Program, through Strength in Peers and the Community Services Board, is a 33 month grant program designed to work with offenders released from jail and prison to return to the community that have served at least a 90-day sentence on a 90-day sentence and have a plan to live in Harrisonburg or Rockingham County with documented history of substance abuse or addiction to lower their chances of recidivism. Mr. Simpson noted that only our jurisdiction was granted this specific grant, but there are reentry councils in every jurisdiction in the state and each has their own agenda. Mr. Simpson noted the Action Committee for the Reentry Council meets the first Tuesday of every month at the Social Services building, family building, at 8:30, and the Reentry Council meets quarterly with the next meeting being held on July 14, 2016, from 4:00 to 5:30 p.m. at the Rockingham County Government building and encourages anyone to attend as they are open to the public.

Mayor Jones requested information regarding the program be emailed to him so he can share the data and that Mr. Simpson's contact information be shared amongst groups that can use the information. Mayor Jones also mentioned upcoming meetings and events in the community to include the upcoming NAACP meeting on July 18, 2016, at 6:00 p.m., at the Rockingham County Government building.

Council Member Degner stated the Criminal Justice Board has a meeting scheduled on August 29, 2016 at the Rockingham County Government building and suggested that Mr. Driver be at that meeting.

7.c. Consider a public utilities request from Virginia Mennonite Retirement Community (VMRC) to provide water service onto property within Rockingham County

Mr. Fletcher reviewed the undeveloped property and stated the land is used for growing food that is then served to residents at VMRC. Mr. Fletcher stated the applicant desires to install an irrigation system to provide water for the gardens from the water infrastructure within Harmony Drive. If approved, the applicant would install a new 1" irrigation service, meter, and frost proof hydrant on the VMCA property within Rockingham County and they would be required to install a backflow prevention device on the property and should work with staff to ensure property installation. Mr. Fletcher stated both staff and Planning Commission recommend approval.

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

8. Other Matters

8.a. Consider financing packages for the proposed hotel/conference center project

Thomas Schaeffer, JMU Foundation CEO, stated Paul Gladd from dpM Partners and the JMU Foundation have been working together on a joint financing package for the proposed hotel/conference center project. Mr. Schaeffer stated that Union Bank and Trust's team, led by Mr. Greg Godsey, has presented the Foundation with several favorable financing options to fund the \$10,974,895 construction costs for the conference center portion of the project. Mr. Schaeffer stated the Board has a scheduled meeting this Friday to determine which financing option they would choose. Mr. Schaeffer stated that those options were sent to council earlier in the day and although he couldn't state which term sheets the Board would accept, he did note that it would be one of the proposed options. Mr. Schaeffer stated the city supported agreement requires approval of the Foundation's financing plan by council and requested council's favorable consideration. Mr. Schaeffer stated if council had any questions both he and Mr. Godsey would be available to address them.

Council Member Byrd asked if his suggestion was received to note in the term sheet that there is a restated and amended Memorandum of Understanding (MOU). Mr. Schaeffer stated yes those changes would be made.

Council Member Shearer noted the terms paper were dated June 6, 2016 and questioned why council just received the terms today prior to the meeting and asked when city staff was in receipt of the document. City Manager Hodgen stated he received the document on Friday evening. Council Member Shearer stated it would have been nice to have received it prior to today. Council Member Shearer asked how long the term of the loan between the Foundation and the bank is in the agreement. City Attorney Brown stated the loan is for 15 years. Council Member Shearer asked how long the term is between the city and the Foundation per the MOU. City Attorney Brown stated 21 years or until the loan is paid off from the receipt of the certificate of occupancy. Council Member Shearer asked what the rate of return that the city has guaranteed the Foundation for the intermediary term of this deal. City Attorney Brown stated for the Foundation advancements it would be a floor of 2% and a ceiling of 5% based on the rolling average of returning investments. Council Member Shearer stated the question was asked during the previous meeting and was never confirmed of how we got to 21 years when the term reflects 15 years. City Attorney Brown stated in negotiations everyone hoped to have the project paid off in 15 years and the Foundation wanted extra years for protection. Council Member Shearer stated the additional years are to compensate for the rate of return that we will be paying and the differences between the cost of borrowing funds that will be reimbursed to the

bank in the form of debt service payments and what potentially we might fall short and we will be paying on a compounded basis that interest overtime. Council Member Shearer asked that while the Foundation obtains the loan and the city reimburses them plus the rate of the return during the additional six years, potentially longer who would own the conference center. City Attorney Brown stated the underlined real estate would be owned by James Madison University and the conference center would be owned by the developer. Council Member Shearer asked how much will the developer pay for the conference center. City Attorney Brown stated the developer won't have paid anything, but feels there is most likely a ground lease between the developer and JMU. Council Member Byrd stated it would have been nice to have had a little more time to review this matter. Vice-Mayor Baugh stated in the MOU that was approved, council already agreed to having to take steps such as these.

A motion was offered by Council Member Degner, seconded by Vice-Mayor Baugh, to approve options a, b, or c financing options 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

Other Matters Continued

Mayor Jones announced there will be an NAACP on Monday, July 18, 2016, at 6:00 p.m., at the Rockingham County building where several community stakeholders will be in attendance to collaborate on how the city can continue to be a model to others in the nation during these troubling times.

Mayor Jones also announced on Tuesday, July 19, 2016, a special meeting hosted by the Northeast Neighborhood will be held at the Simms Center.

Council Member Degner announced a Community Criminal Justice Board meeting will be held on August 29, 2016 at 4:00 p.m., and he hopes there is a public input built into the agenda, which was part of the recommendation of the Mosley's Report.

Vice-Mayor Baugh announced Planning Commission will meet tomorrow night and two agenda items will be coming before this body.

Mayor Jones reminded citizens of two events taking place on Saturday, July 23, 2016 which were the Pride Festival and the K9 for Warriors event.

9. Boards and Commissions

9.a. Consider appointing one council member to the Finance Committee

No action was taken on this matter.

10. Closed Session

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

At 9:11 p.m., a motion was made by Vice-Mayor Baugh, seconded by Council Member Byrd, to enter into closed session as authorized by the Virginia Freedom of Information Act, Virginia Code Section 2.2-3711(A), under subsection 3 for the discussion of acquisition of real estate for a public purpose and the disposition of publicly held real property where discussion in an open meeting would adversely affect the bargaining position or negotiation strategy of the public body.

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

No: 0

11. Adjournment

At 9:45 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 9:46 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR