



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, October 14, 2014

7:00 PM

Council Chambers

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 Police Chief Stephen Monticelli

2. Invocation

Council Member Shearer offered the invocation.

3. Pledge of Allegiance

Mayor Byrd led the Pledge of Allegiance.

Delegate Wilt read and presented House Joint Resolution 413, commending June W. Hosaflook for her service as Harrisonburg's Commissioner of the Revenue.

Mrs. Hosaflook thanked everyone for the opportunity to be the Commissioner of the Revenue and stated she loved serving local government. Mrs. Hosaflook thanked council for their support and for the support of constitutional officers.

Mayor Byrd presented a Red Ribbon Week Proclamation to the Shenandoah Valley Young Marines. Lance Corporals Thomas Buck, Michael Jeziorowski and Bryan Buck gave a presentation about Young Marines and Red Ribbon Week.

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 Street, stated applications were due this past Monday and they plan to help between 700 and 800 families. Mr. Berry stated baskets will be handed out November 25, 2014 between 9 a.m. and 1 p.m. Mr. Berry reported the baskets will contain enough food to last three to four days. Mr. Berry also

requested council focus on getting more jobs and affordable housing.

5. Consent Agenda (any item placed on the consent agenda shall be removed and taken up as a separate matter, if so requested by any member of Council, otherwise all items will be voted on with one (1) motion)

A motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, to approve the Consent Agenda. 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

5.a. Approval of minutes

These minutes were approved.

5.b. Consider a resolution authorizing the conveyance of a portion of Chesapeake Avenue, East Grace Street, a portion of South Mason Street, and a 10 foot alley located between South Main Street and South Mason Street to JMU

This resolution was approved.

5.c. Consider a supplemental appropriation for the Police Department in the amount totaling \$52,887.50

This supplemental appropriation was approved on second reading.

6. Public Hearings

6.a. Consider the City entering into agreements related to the development, financing, construction, and operation of a 205 room hotel and associated conference center project (the "project")

City Manager Hodgen provided the history of the hotel and connected conference center that began in April 2012. City Manager Hodgen reviewed the roles of the project partners which were those that follow: JMU, provide the land for the project and build 1,000-vehicle parking deck; dPM Partners, pay to construct the hotel; JMU Foundation, pay to construct the conference center; dPM Partners, operate and manage both facilities; City, implement an economic development program to provide annual grants to JMU Foundation which will be used to reimburse the Foundation for its cost in construction of the conference center. City Manager Hodgen stated the annual grant amount is based only upon the revenues generated by the hotel and conference center during each fiscal year. City Manager Hodgen stated the estimated cost is \$30 million for the hotel, \$10 million for the conference center and between \$15 million and \$16 million for the parking deck. City Manager Hodgen reported on the anticipated incremental increase in tax revenues associated with the project which totals \$922,529 for the first year of operation and \$1,214,420 during year ten of operation. City Manager Hodgen stated there were three similar projections obtained

from the developer; third-party entity, PKF; and another third-party, HLNA. City Manager Hodgen presented the ancillary benefits which included the following: job creation, construction, hosting meetings that previously couldn't be accommodated, increased retail and restaurant purchases, development is located on JMU-owned property, parking needs will be accommodated on site, synergies with JMU and other local businesses, and continued revitalization downtown. City Manager Hodgen reviewed the steps of the project schedule with no dates attached to the steps, but stated late fall 2016 is the earliest the project would be completed. City Manager Hodgen showed pictures of the layout and artist renderings of the project.

At 7:20 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, October 6, 2014.

John Lutz, 1065 Hamlet Drive, stated he understood that when the Convocation Center opened it was going to handle these types of events and is concerned with this project taking business away from other hotels in the area. Mr. Lutz stated JMU still hasn't reached their projection in enrollment and feels that this project is a little early. Mr. Lutz asked council to look at the bottom line and if it is going to benefit the businesses that are currently here.

Dave Briggman, Keezletown resident, stated he came to speak against the project and to follow-up on an e-mail he had sent to council prior to the meeting. Mr. Briggman stated in articles he has read "white elephants" (tax supported conference centers) are failures to taxpayers. Mr. Briggman also noted the conference center that opened on the George Washington University campus failed and closed within four years of opening. Mr. Briggman stated if we needed this project, the developer would be funding it.

Orden Harman, 650 Stonespring Road, spoke in opposition to the project and stated he was part owner of the Best Western Hotel in Harrisonburg. Mr. Harman stated he receives tax bills for each room at his hotel and stated Harrisonburg already has more hotel rooms than needed. Mr. Harman stated he had no problems with JMU being involved with a conference center, but he opposes the hotel portion. Mr. Harman also noted that JMU has land on the south end of the city, which would be a better place to build a conference center.

Joshua Huffman, 211 Dixie Avenue, stated he spoke to many citizens that have reservations about the project. Mr. Huffman brought attention to and read Article 10, Section 10 of the Constitution of Virginia. Mr. Huffman stated with the city granting tax credits, it is unfair to those who already own and operate hotels. Mr. Huffman stated he has no objection to having the center here, but doesn't want the city to be involved.

Jeremiah Jenkins, 449 West Bruce Street, stated he feels that a conference center downtown is necessary and it will benefit downtown businesses. Mr. Jenkins noted that he has helped with large scale events downtown, feels that a hotel downtown is needed and he is 100% behind the project. Mr. Jenkins noted some events that Harrisonburg could accommodate to put Harrisonburg on the map.

Steven Blatt, 755 South Dogwood Drive, stated he is not in favor of the proposals and knows the project looks attractive. Mr. Blatt stated the following: the city isn't going to receive any money from the project, all the tax money generated for the next 21 years is going to be given to JMU, believes JMU has the ability and funding to build the facility, every square foot JMU purchases decreases our tax base, the city has a school and ongoing needs that aren't easily affordable, the governor is going to cut the state budget, taxes are going to be raised for this project, and he doesn't have a problem with JMU building a conference center, but he just knows they have the funding.

Pankaj Patel, 1252 Sparrow Court, stated he opposed the project not just because it is a hotel but for the following reasons: economically not viable, feels that if it was the money would be raised in the private sector and no other offer was received; 80% of public/private partnership in hospitality industry fail and close down after losing money and council will be morally obligated to keep it up and running; and government doesn't get involved with other hotels.

Andy Perrine, 320 West View Street, thanked council for BeHeardHarrisonburg.org. Mr. Perrine stated that he is President of Harrisonburg Downtown Renaissance Board of Directors and presented the resolution the board passed in support of the project. Mr. Perrine stated the Associate Director of Main Street also sent a letter of support. Mr. Perrine also noted a survey completed by the Rockingham-Harrisonburg Chamber of Commerce in the summer of 2014 that showed business leaders favored a conference center 2-1. Mr. Perrine noted the Comprehensive Plan that was approved in 2011 and referenced Objective 14.4 of Chapter 13. Mr. Perrine also spoke in his role as Associate Vice-President at JMU and stated we are at a time that the city and the university can forge a relationship to set a precedent to move the entire municipality forward in a way that can benefit our children.

Wade Luhn, 1126 South Dogwood, stated he owns Bella Luna and previously lived in downtown Staunton and owned a restaurant and music venue. Mr. Luhn stated the developer that was behind the Stonewall Jackson Hotel is the driving force behind this project and downtown Staunton would not be the same without that hotel and brings a great deal of revenue. Mr. Luhn stated the following about the Stonewall Jackson Hotel and his dealings with them: it was a high quality and well run hotel, sensitive to the needs of the community, and brought people in who were interested in exploring the city. Mr. Luhn stated he just experienced parents' weekend hosted by JMU and it was the first time a lot of them got to experience the downtown area and a lot of them were pleasantly surprised to what Harrisonburg has to offer. Mr. Luhn feels that a hotel and conference center is what the city needs in the downtown area.

Michael O'Fallon, 2130 Whispering Springs Road, stated he is the director of JMU's Hospitality and Sports Recreation Management Program and informed council he brought along some current students of the program. Mr. O'Fallon stated they are in support of the project because they believe it will have a positive impact on their program. Mr. O'Fallon provided a brief history of the program and stated schools that

are nationally recognized for their programs all have one thing in common and that is a hotel. Mr. O'Fallon stated he was not looking to run the hotel, that is what dPM is for, but he would like to have a working relationship with them and benefit from them. Mr. O'Fallon stated that a conference space is needed in the Harrisonburg area and it will not only benefit JMU, but the entire community.

Work Arefaine, Real Estate Owner and Blue Nile Owner, stated he has seen downtown die and revived again and he would like to have council think outside the box. Mr. Arefaine stated JMU has done a lot for Harrisonburg, has put us on the map and a conference center would make the city more attractive. Mr. Arefaine stated he is in support of the project and it would benefit all institutes.

Jeremy Hawkins, 1311 Greystone Street, stated he was speaking on behalf of his role as the Associate Director of the Festival Conference and Student Center and provided information about the business they host and business they turn away for the past fiscal year for medium to large events and it was as follows: hosted 1,825 events (253,000 individuals), denied 277 (38,920 individuals); summer events hosted 86 conferences with 27,552 bed nights and turned away 153,000 potential bed nights which is about \$9.4 million in revenue. Mr. Hawkins stated that it is important to note that in-house events are favored and are about 70% of the events. Mr. Hawkins stated they don't market their facility, because they currently run at capacity. Mr. Hawkins stated a typical year excluding statistics from last year, the center will deny around 21,500 bed nights totaling approximately \$1.3 million in revenue.

Kathy Whitten, 560 South Mason Street, stated she feels the city has done well in looking toward the future. Mrs. Whitten stated she had asked Tourism in the early 1990's to share the number of requests they had received for meetings and conferences in our area. Mrs. Whitten stated she was informed that there were approximately 100 inquiries in a year from groups that were looking for a facility that was close to D.C. Mrs. Whitten stated those who attend conferences will venture out into the community and when they return they will look for different places to stay. Mrs. Whitten stated the plan goes along with the Comprehensive Plan and asked council to continue to pursue this opportunity. Mrs. Whitten closed by asking council to look at the past, present and future of our city.

Eddie Bumbaugh, HDR Executive Director, spoke in favor of the conference center and stated in the latest addition of Virginia Business Magazine there were articles and advertising focused on meeting and conference planning available in the Commonwealth. Mr. Bumbaugh stated Staunton, Roanoke, Charlottesville, and more were all noted, but not Harrisonburg. Mr. Bumbaugh stated there is a need for a 500+ person facility in Harrisonburg that includes onsite lodging. Mr. Bumbaugh stated facilities such as these usually have benefits for other hotels, dining establishments and generate a need for shuttle service. Mr. Bumbaugh stated tourism does an excellent job of marketing our area, but they get inquiries regarding meeting spaces and conference centers that currently can't be accommodated. Virginia Tourism Corporation markets Virginia as a premiere destination for meetings and conferences on a regional and national basis and in 2013 over 110 companies and non-profit

organizations showed interest in the Shenandoah Valley and noted Harrisonburg is located in the middle of the state. Mr. Bumbaugh stated when the deal ceased in the summer he had several business leaders and owners state how disappointed they were. Mr. Bumbaugh added a personal story and his findings when talking to business owners in Winchester.

Lindsay Denny, 641 Ott Street, stated she is the Arts Council of the Valley Marketing Manager and manages First Friday's downtown. Mrs. Denny stated arts are vibrant in Harrisonburg and that it was named the first Arts Cultural District in Virginia. Mrs. Denny stated the hotel and conference center could provide a larger audience on a regular basis and serve as a link between campus and downtown arts districts.

Jeff Hill, 56 West Gay Street, stated he is a Managing Partner for the Local Chop House and he didn't know all of the information in regards to the tax and financial setup of the agreement, but he would speak on the perception of the concept of the hotel and conference center. Mr. Hill stated he respects those who are in the hotel industry, but this project opens up an opportunity for diversity of accommodations that we currently don't have. Mr. Hill stated there isn't a full-service hotel and feels that this will bring clientele that we currently can't get here. Mr. Hill stated with his traveling experiences he can see the potential revenues it will bring to both downtown business owners and the city. Mr. Hill stated this project will bring a better skilled workforce if they have a chance to train and work at the hotel and possibly stay when they graduate. Mr. Hill stated he looks at paying his meal taxes as an investment and the future of the city. Mr. Hill asked council to vote in favor of the request.

Aaron Ludwig, 430 Boyers Road, stated he is a dedicated business owner and has been in Harrisonburg since 1993, when the downtown area was quiet. Mr. Ludwig stated there are currently nationwide revitalization efforts to help build downtowns. Mr. Ludwig stated he has started traveling to explore options to open new locations for his business and reported he had opened a new location in Roanoke and when conferences are being held he sees a 20% increase in sales. Mr. Ludwig sees this project as a great partnership, little to no upfront investment for the city, construction being paid for with no tax revenues from the revenue generated by the conference center, revenue generated land that at one point would generate nothing and an increase in jobs and job revenues. Mr. Ludwig closed by saying the city has made progress in downtown revitalization and the conference center would help solidify our downtown as a place to dine, shop and conduct business and urged council to vote in favor.

David Ehrenpreis, 22 Franklin Street, spoke in strong support of the proposal and noted the lack of downtown spaces to hold meetings and lodging. Mr. Ehrenpreis stated that this project was a partnership between JMU, the city, and the private sector but it would serve as a physical connector. Mr. Ehrenpreis used the Farmers Market as another example of a transformative site.

Josh Humpries, 377 Pheasant Run Circle, stated he was a student at JMU and he is originally from Botetourt County near Roanoke and the conference center there is a

wonderful opportunity in promoting economic development and investment in the Roanoke community. Mr. Humpries stated there wasn't any reason that the city couldn't be the model for an engaged community and he sees this project as an opportunity for students, growth, tourism and strengthening of bonds. Mr. Humphries stated that he hopes that JMU isn't seen as an encroaching entity but a vital partner for economic growth and vitality. Mr. Humpries hopes council enters into this partnership with the university.

Felice McKenzie, Port Republic, stated she had concerns about food at the conference center. Ms. McKenzie stated JMU only allows cakes to be brought in and stated the conference center would be a great place for the local catering businesses to serve.

Mr. Heizner, resident, stated he wasn't aware of what this project is about, but if it was such a good idea why wouldn't we get a hotel company to do it and suggested contacting them.

Helen Shibut, 319K Rockingham Drive, stated the designs are beautiful and we have heard compelling arguments, but feels that is profoundly unfair to hotel owners and the developer should put his own money and credit on the line.

Lauren Penrod, 171 Franklin Street, stated she has seen a lot of changes that have improved downtown. Mrs. Penrod stated downtown is so close to being on the same par as other downtown cities that have so much to offer, but we are lacking a downtown hotel. Mrs. Penrod stated all her wedding events were held downtown, but she had to spread her guests on the other side of town. Mrs. Penrod stated she owns a retail shop and it is very apparent when events are happening downtown and visitors are here and this would help retail owners survive and lead to more businesses downtown.

James "Bucky" Berry, 30 West Washington, stated there are budget cuts, raises and Station 1 that have been put on hold and feels the developer should go to the bank and get the money. Mr. Berry stated we shouldn't raise taxes again, because he doesn't see the economy turning around anytime soon.

Paul Gladd, Hotel Developer, stated it was great to see the number of people that came out to share their concerns and it shows him how much this community cares. Mr. Gladd wanted to clarify a couple items that were addressed tonight and they were as follows: he met with those individuals in the hotel industry and they said to build as many meeting rooms as possible so the overflow comes to their hotels; there were concerns JMU has agreed to not build another one according to their Ground Lease Term; the hotel industry has asked for an independent hotel, because they didn't want to share their reservation system with them; there are two brands, Hotel Madison and Shenandoah Valley Conference Center; JMU is providing the land and parking; he went to the bank for \$30 million for the hotel portion; 60 jobs is a conservative number; and feels that it is a great location due to the I-81 corridor and it will be a value play.

At 8:35 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

Mayor Byrd asked for clarification as to who owns the conference center after the end of the satisfaction with the Foundation. City Manager Hodgen stated it is leased to the Foundation by dPM. The following discussion between council took place: the studies that are out there don't compare to the size conference center that is being proposed; our community is innovative and collaborates; PPEA is offered through the state and the process was explained; feel compassion for current hotel owners and workers, but feel tourists will continue to stay at those facilities; JMU is building a hotel and tonight we are just voting on the location of that hotel; will build a bridge between JMU and downtown; the city isn't borrowing money; the risk is about as diffused as it possibly could be in any type of project like this; the city isn't giving a square inch of land from the city to make this happen; the money that is being reallocated is being collected from the hotel portion that will be built to pay off the loan that JMU Foundation borrows to build the conference center; the motivating factor for the city is economic development; if you think we are being unfair, then make a proposal; JMU owns all the property in this location and are a state body who are in their rights; usually find out what JMU is doing through the media and this time we have been able to sit at the table; if a proposal is good for the city, then support will be received; it is a rare opportunity to provide feedback in a public hearing setting for this type of project; part will not be taxable (JMU portion) and the other part will be, and the city and JMU have worked together to smooth things over; you become a place people want to come and then you build it and the city has become that; the developer usually gets more from localities; the city doesn't have to do this project, the city isn't risking anything except for tax revenue that would not exist in the absence of the development; we don't know if it is going to be successful, but we have to make the best assessment we can; JMU and the developer are going to go ahead with the project; competition for attractive commercial properties between local governments is only going to increase; Harrisonburg continues to have a strong tax base, quality services, and the lowest tax burden of any comparable city in Virginia; these are the types of projects Harrisonburg can do to help nurture and develop our positive sense of community; no one can predict the future and there are always going to be decisions that were made that will receive feedback; consistent with the type of forward thinking and it is the best we can do to ensure the continued quality of life in the community; exciting project and can't argue it won't be great for downtown, but have to look at the city as a whole; incentives are good to attract industries to our city, but the project indirectly subsidizes a hotel by funding a conference center complimentary to its business, neither of which is unique to the city; have to separate incentives and a more direct involvement in the project; one group of investors won't

proceed with a planned hotel if the project is approved and that could be real tax revenue; not convinced that the lifetime ROI on funding a conference center downtown will outweigh the opportunities we would have in the interim; project has been sought for over 12 years and not just in downtown Harrisonburg; there has been a previous conference center discussed, but it was located in an R-1 neighborhood and they weren't interested in moving it; JMU is the bulk of our economy and we wanted JMU to be located here; JMU is one of the biggest employers, purchaser of goods and services; JMU provides education and many more benefits; the developer does have a lot of money in this project; the developer and his organization are successful throughout the entire east coast and he chose to come back to a community he loves; everything possible has been done to insulate the city and its taxpayers from personal and institutional exposure to this project; project is worth it even if it becomes tax neutral from an economic standpoint for the city; we need all the economic development we can get in this community; southeast connector is an infrastructure marvel for the city and county, but it isn't the greatest thing for the business community, so we need to come up with ways to counter these diversions and this is going to be one of them; state encourages us to use PPEA; the developer has been approached by other entities to try and get this project away from us; reviewed it financially, are we owning the conference center or are just providing incentives for it; when running the numbers for incentives through the state program on how they view these types projects, it is worth close to \$3 to \$3.5 million; and will support in role, but can't support in role of representing taxpayers and hope that it is successful.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, that the city enter into an agreement related to the development, financing, construction and operation of the 205 room hotel and associated conference center including but not limited to the execution of a memorandum of understanding, a project resolution, and IDA resolution providing conduit for the transfer of the tax revenues back into the project. The motion carried with a recorded roll call vote taken as follows:

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

No: 2 - Mayor Byrd, and Council Member Shearer

At 9:06 p.m., the meeting went into recess.

At 9:13 p.m., the meeting reconvened.

6.b. Consider an ordinance granting a franchise to use the streets and other public lands of the City of Harrisonburg for the operation of a fiber optic network

City Attorney Brown stated this is an invitation for bids for a franchise to use Main Street between Bruce Street and East Market Street for installation and operation of a fiber optic network. City Attorney Brown stated this invitation is issued in conjunction with the city's Main Street Streetscape Project. City Attorney Brown read a brief summary of the bid received from Shentel, which was the following: Shentel would

agree to contribute \$39,819.00 for the installation of Conduit System consisting of approximately nine hundred (900) feet of a single four (4) inch conduit running along the west side of Main Street between Bruce Street and East Market Street with a single four (4) inch conduit lateral crossing under Main Street at each of the following four intersections: Bruce Street, Newman Avenue, Water Street and East Market Street. In return, Shentel shall have a license to use the Conduit System for twenty (20) years. This license shall renew for additional five (5) year terms unless the city provides Shentel with a one year written notice of its intent not to renew the license.

At 9:14 p.m., Mayor Byrd called for any additional bids and no additional bids were received.

At 9:15 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 October 6, 2014 and October 13, 2014.

There being no one desiring to be heard, Mayor Byrd closed the public hearing at 9:16 p.m., and the regular session reconvened.

A motion was made by Council Member Baugh, seconded by Vice-Mayor Chenault, to accept the high bid and the ordinance with the bidders name and bid inserted. 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

- 6.c.** Consider a request from Eastern Mennonite University to amend their master plan by rezoning 26.6 +/- acres of property located along Park Road, West Dogwood Drive, and Hillcrest Drive, with minimal street frontages along College Avenue and Smith Avenue and zoned R-3, Medium Density Residential District and I-1, Institutional Overlay District

Stacy Turner, Community Development Director, showed pictures of EMU's property and where it lays within the city and stated EMU is requesting to amend their master plan which was previously updated in 2010. Mrs. Turner stated with the plans being presented tonight, they are introducing green technology in the form of solar panels to their overall plan. Mrs. Turner reviewed the rezoning request to allow increased allowable height of their previously approved multi-panel array of solar cells resting on carport style structures located on the University Commons parking lot. The amendment also includes eliminating a single width solar cell carport style structure that was previously approved and planned to be located up to 5-feet from the property line along Dogwood Drive. Furthermore, solar panels will now be located on portions of the University Commons building rather than on the roof of the Hillside building. All other specifics of the master plan would remain the same. Mrs. Turner stated both Planning Commission and staff recommended approval.

At 9:21 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 September 29, 2014 and

October 6, 2014.

John Lutz, 1065 Hamlet Drive, stated he was in favor of the project, but was concerned about the height of the solar panels for safety reasons.

Hughes Stone stated the solar panels will be located off the roof, but they aren't above the peak of the building.

At 9:23 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

A motion was made by Council Member Baugh, seconded by Vice-Mayor Chenault, to approve request as presented be approved on first reading. 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

- 6.d.** Consider a request from Lutheran Family Services of Virginia, Inc. (LFSVA) the sole "member" of Massanutten Street, LLC to close approximately 700 +/- sq. ft. of an undeveloped public alley right-of-way adjacent to 780 North Liberty Street and 779 Massanutten Street

Vice-Mayor Chenault stated in accordance with Section 2.2-2115(h) of Virginia State Code, he could vote on this matter since he had not been in contact or hadn't completed any work for the applicant.

Mrs. Turner stated this request has been heard at Planning Commission two different times and there are neighbors in opposition. Mrs. Turner stated after the first public hearing the applicant has amended their request to only close 700 +/- square feet of the alley. Mrs. Turner reviewed the property and stated the school has been in operation since 2007 when they obtained a special use permit to operate in an M-1 industrial zoning classification. Mrs. Turner provided the following information about the alley: a sewer line is located in the middle of the property and it is requested to obtain a 20-foot wide centered easement on the utility line; an easement for the 2-inch gas line that runs the entire length of the alley; a structure could never be built on the alley, but the fence that is being requested would be allowed. Mrs. Turner stated during the public hearing the Showalter's stated they use the alley to access the back of their lot. Mrs. Turner stated there are two other alleys that could be utilized, but aren't currently feasible. Mrs. Turner stated several options have been discussed with Mr. Showalter, but an agreement between the parties hasn't been reached. Mrs. Turner stated both staff and Planning Commission recommended approval due to lack of public reason the alley was needed. Mrs. Turner pointed out that prior to the second reading of this request, if approved; the survey would need to be amended to demonstrate how the area is to be distributed among the applicant's and the surrounding property owners' property and a note on the plat describing the easements that were discussed. Mayor Byrd asked if the alley off of Washington Street was passable. Mrs. Turner stated there were several trees in the area.

At 9:33 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 September 29, 2014 and October 6, 2014.

Jay Litten, Attorney for Lutheran Family Services, provided a background of the facility, their connections to the public schools and introduced all those present. Mr. Litten reviewed the location of the school and stated the three reasons for the request were traffic control, to create boundaries, and aesthetics. Mr. Litten stated the fence would not only help control traffic, but to provide a visual barrier for the students. Mr. Litten stated one of the fences that was shown is to replace a fence that they took down thinking it was on their property. Mr. Litten stated the alley vacation is central to this request for the following reasons: no vehicular traffic allowed, allows the school to maintain the number of parking spaces the city requires, green areas in other places and allows for continuous fence. Mr. Litten stated there is an objection to the request from the adjacent property owners. Mr. Litten stated the owners were very quick to respond to getting their tenants cars moved off their property when asked. Mr. Litten stated with the alley closing, the question is how the tenants would get to the back of their lot. Mr. Litten stated the school was going to provide them with an easement at the corner of their property, but Public Works denied the request. Mr. Litten stated the alley from Washington Street is passable and showed a video. Mr. Litten stated when communicating with staff, a curb cut would be permitted on the south side of the home and the school has agreed to pay for that which they estimated at 9-foot wide. Mr. Litten stated the proposal is an improvement to the neighborhood and would be able to access their property with the Washington Street alleyway as well as the curb cut. Council Member Baugh asked Mr. Litten if the Showalters just found out about the offer for the curb cut. Mr. Litten stated the group had just decided that prior to him speaking.

John Lutz, 1065 Hamlet Drive, stated he helped clear the area when the poultry plant took over the property and did feel that the area was dangerous for kids. Mr. Lutz asked if there had been any problems with the poultry plant or if they disagreed with the plans.

Julie Swanson, CEO of Lutheran Family Services of Virginia, stated they had worked hard with the poultry plant and have made them aware of the curbing project. Mrs. Swanson stated she felt that the surrounding property owners were surprised to how much property the school actually owned in the area. Mrs. Swanson stated that it is important to create a safe and contained space.

Russell & Jamie Showalter, adjacent property owners, stated they were opposed to closing the alley because of the following reasons: they use the alley and it is a public access; have owned the property for 10 years and it has been in the family for 20 years; Lutheran Family Services has been at the location for 7 years and haven't maintained the alley; the applicant put up no parking and towing signs when the property doesn't belong to them; the fence that was located on their property was removed with one point being 6-foot on their property; the curb was cut and poured

without obtaining correct permission; confused on exact reason for the closing due to reasons constantly changing; and just found out they would pay for curb cutting, but feel that space is not feasible to drive through along with the other alleys noted. Mr. and Mrs. Showalter felt it is necessary for Vice-Mayor Chenault to recuse himself and asked council to vote against the request.

David Pruett, Chief Financial Officer of Lutheran Family Services, stated it was an error on their part for taking the fence down and an offer has been made to replace it with a 6-foot high vinyl fence to run the length of the property, but was told that was unacceptable solution. Mr. Pruett stated in regards to the tree that was taken down is still in debate of whose property it was on, but it seems that the tree was right on the property line and with removing portions of the roots to put pavement down the tree would have died. Mr. Pruett stated LFS did offer to replace the tree. Mr. Pruett responded to the curb and gutter comment stating it was poor planning on their part and it was removed when they heard that it had been tabled. Mr. Pruett noted that there have been two fences in the plans since the beginning and this request came to be after the poultry plant moved in last fall. Mr. Pruett stated prior to the poultry plant, children did bike in the parking lot, but now a paved bike path has been put in place. Mr. Pruett stated they traveled the alley from Washington Street two different times in two vehicles without any problems.

Vice-Mayor Chenault recused himself at the request of the adjoining property owners.

Allison Stine, Principal, stated traffic has increased due to the poultry plant, the addition of the curbing has helped to create boundaries. She asked council to approve the request to increase safety on their property and so the children can feel that they have something special.

Tina Smith, parent, stated her son attends the school and wants as much normalcy for him as possible. Ms. Smith stated she would like something to keep the children safe and look more presentable.

Mrs. Showalter stated she wanted to clarify that there is already curbing in place that separates their parking lot and the alley doesn't need to be closed for them to do what they are trying to do. Mrs. Showalter said the poultry plant doesn't use the alley, the space is being used for landscaping, and two parking spaces could possibly be moved somewhere else. Mrs. Showalter stated she doesn't feel that it is a safety concern to leave the alley open for their tenants to access the back of their property.

At 10:04 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

Mayor Byrd stated he felt that this request was being driven by parking spots and asked if a variance or reduction had been asked for. Mrs. Turner stated they have been in operation and in compliance with parking spaces for the last seven years and the applicant doesn't need the alley to get to 57 parking spaces. Mrs. Turner stated if

they are trying to make the area different, they might need that area to get to 57 spaces. Mayor Byrd asked if the parking spaces were reduced would some of the issues go away. It was noted they could request a reduction in parking spaces. Council Member Shearer asked if the applicant would be interested in changing the parking requirements. Mr. Litten stated the proposal for closing the alley is still what they are looking for due to safety concerns and the flow of traffic. The following discussion took place: Planning Commission just recently unanimously voted against a street closing that had some of the same elements; historically, if there were no opposition the request of closing an alley would be approved; public interest is limited; what position does council want to take on these type of requests; a new offer is on the table and would like the parties involved to be able to discuss; impervious taxes are going to soon take place; the house was purchased with that public access; and hope the parties involved can reach an agreement.

A motion was made by Council Member Baugh, seconded by Council Member Shearer to approve the request as presented.

A motion was made by Council Member Degner, seconded by Council Member Shearer to table this request until the next meeting. The request was approved with a voice vote with Vice-Mayor Chenault abstaining.

6.e. Consider a resolution of support for the Harrisonburg Streetscape Project Phase III

Tom Hartman, Assistant Director of Public Works, reviewed the grant application process for this request and stated the Transportation Alternatives Program (TAP) Grant process requires that any locality requesting funds through a TAP grant submit a resolution of support for the project. It was noted, the Metropolitan Planning Organization has already signed a resolution of support. Mr. Hartman stated the Harrisonburg Streetscape Project III will be along Main Street from Elizabeth Street and to Wolfe Street, and includes new curb and gutter, brick paver sidewalks, and upgraded signals with pedestrian facilities. The TAP grant is an 80/20 program requiring a 20% match from the locality. This phase of the project is estimated to cost \$586,665, and will require an \$117,333 local match. Mr. Hartman provided the projection date of both the notification of award in July 2015 and funds to be available in October 2015.

A motion was made by Council Member Degner, seconded by Council Member Baugh, that this Resolution 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

7. Special Event Application Requests

7.a. Consider the Sherry Burcham Anderson Memorial 5K Run/Walk and Kids Fun-Run for special event request

Katie Yount, Director of Events Harrisonburg Downtown Renaissance, reviewed the Sherry Burcham Anderson Memorial 5K Run/Walk and Kids Fun-Run that will be held this Saturday, October 18, 2014. Mrs. Yount stated a lot of discussion happened between departments and the organizers of the event and that is why it is coming to council so close to the event. Mrs. Yount stated the amended plan will allow Linda Lane to be open in the far lane so traffic can access the Smithland Soccer Fields due to an activity being held there.

A motion was made by Council Member Degner, seconded by Vice-Mayor Byrd to approve the special event application request. The vote was approved by a voice vote.

7.b. Consider the Halloween on the Square for a special event request

Mrs. Yount stated Halloween on the Square will be held on Saturday, October 25 from 10:00 a.m. until 2:00 p.m. in downtown Harrisonburg. Mrs. Yount stated that Main Street between Bruce Street and Elizabeth Street will be closed due to the sidewalk that is happening in the area.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that this Special Event Application be approved. The motion carried with 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 Memorandum of Understanding for the Harrisonburg Police Department and the James Madison University Police Department to expand concurrent jurisdiction

City Attorney Brown stated if council agreed to the agreement between the Harrisonburg Police Department and the James Madison University Police Departments, then a Petition and Order would need to be filed at the court house. City Attorney Brown reviewed history of the current agreement that began in 2003 and showed the current area the agreement affects. City Attorney Brown noted there are several housing units and JMU property that aren't listed within the current area. City Attorney Brown stated after discussions between the two departments, it has been requested to have an agreement of concurrent jurisdiction. City Attorney Brown noted that this agreement would take affect that one an officer qualifies as a JMU officer he would qualify for the concurrent jurisdiction. City Attorney Brown stated the JMU Police Chief wants his officers to stay close to campus and to the student housing complexes. City Attorney Brown stated the officers receive the same training and we have had a good working relationship between the departments. The following discussion took place: would like to see protocols of how this will be used in action to help alleviate some citizen concerns; agreement is to allow flexibility, so they would have to be very general; safety concerns; receive same training; currently have mutual aid agreement; Sherriff commissions a small portion of County for investigators, but hope with more property in the County that police officers can be deputized; protection liability for the officers; partnership has strengthened in the last couple years; JMU

student activity has expanded into more sections of the city and has been harder to police all of it; agreement is needed; the actual area of housing is slightly expanded from current line now and it will be the exception more than the rule for JMU officers to be in more areas of the city; in Columbia, MO the same type of agreement was in place and it worked; and other local jurisdictions with large university's use this type of agreement.

A motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, authorized City Attorney Brown to file a petition with the Circuit Court approving the concurrent jurisdiction agreement. The motion carried by a voice vote.

9. Supplementals

- 9.a. Consider a supplemental appropriation for the Police and Fire Departments in the amount of \$218,390.96

City Manager Hodgen stated these appropriations are from money received from various grants in the prior fiscal year.

A motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, that these Supplemental Appropriations be approved. 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. Other Matters

Council Member Baugh reviewed the upcoming Planning Commission items.

Mayor Byrd stated council received a letter from Mr. Reverend Buie asking council to take direct action about truck traffic on Vine Street. Vice-Mayor Chenault requested the Traffic Safety Commission review the request.

City Manager Hodgen reported the burn facility hasn't been burning trash since June of this year due to the lack of paying trash that would allow us to keep at least half of the facility operating. City Manager Hodgen stated in order to continue operating the facility we are looking at \$8 million to \$10 million in capital outlays that would need to concur between now and 2024. City Manager Hodgen stated the city has received an offer from JMU to purchase the facility and underlying property from us. City Manager Hodgen stated he is asking for the authority to schedule a public hearing to be set on the matter during the October 28 council meeting. During that meeting the offer from JMU will be discussed as well as other alternatives. The city has been taking trash to the county landfill operating under the provisions of our current contract. City Manager Hodgen stated there are two portions of the facility which are the chiller portion that provides A/C to east side of campus and the burner that creates steam to feed the chillers.

11. Boards and Commissions

No action was taken.

12. Adjournment

At 10:52 p.m., there being no further business and on motion adopted, the meeting was adjourned.