



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

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

Tuesday, November 11, 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

Mayor Byrd offered the invocation.

3. Pledge of Allegiance

Mayor Byrd led the Pledge of Allegiance.

3.a. Recognition of the 2014 Citizen Academy graduates

Mayor Byrd provided a brief history of Citizen Academy and the outline of this year's program, stated a graduation ceremony had taken place prior to the meeting and recognized the participants.

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, requested a proclamation from council to be presented to JMU during the food drive event next week. Mr. Berry stated the Fire Department and the Fire Chief are the most giving department. Mr. Berry stated they want to collect \$47,000 worth of food this year and George's has donated 400 chickens. Mr. Berry invited council members to attend the event at JMU.

Stan Maclin, 117 High Street, stated that he continues the campaign concerning inclusiveness and would like council to adopt a policy and culture to reflect inclusion in hiring. Mr. Maclin stated during the last election the community embraced inclusion of diversity on council. Mr. Maclin encouraged council to work with them.

John Lutz, 1065 Hamlet Drive, stated there are just as many people against diversity as there are for it. Mr. Lutz brought attention to Martin Luther King Jr. being against homosexuality and it isn't the color of your skin, but your character.

Isabelle Casteel, 1050 Chicago Avenue, echoed Mr. Maclin's comments and stated the city is diverse and it should be reflected.

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

A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, that this 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

5.a. Approvals of minutes

These Minutes were approved on the Consent Agenda.

5.b. Consider amending and re-enacting Section 4-2-23 of the Harrisonburg City Code granting real estate tax exemption.

This Ordinance was approved on second reading.

6. Public Hearings

6.a. Consider a request from WRockStreet, LLC, with representative Casey Stemper, for a special use permit per Section 10-3-85(1) of the Zoning Ordinance to allow manufacturing, processing and assembly operations for a proposed brewery, on property addressed as 120 West Wolfe Street

Stacy Turner, Director of Community Development, reviewed the property and surrounding property, provided history that began with a rezoning in March 2009 from M-1 to B-1C and reviewed the proffers that went along with that request. Mrs. Turner stated when the request came in for an industrial use as a brewery manufacturer; staff recognized that this use operates more as a commercial use. Back Bay Brewery currently operates in the Virginia Beach area and desires to establish a remote brewery location where they would brew approximately one barrel of beer a month. Along with selling the beer manufactured on site, the brewery would sell beer brewed at their Virginia Beach location as well. A floor plan submitted by the applicant shows the 1,710+/- square foot brewery will consist of brewery equipment, bar, tasting room and seating areas. The applicant has included both parcels with this request, in anticipation of accommodating outdoor patio seating for the brewery on the rear lot in the future. Mrs. Turner stated because the proposed brewery is a SUP request, it does not have a proffered parking requirement that must be met and that any future additions to the uses on site may cause additional parking concerns. The applicant has provided a drawing indicating that eight parking spaces are proposed for the site. In addition, there is some on street parking close to the location and a parking lot on the corner of Wolfe and Liberty Street, which is owned by a different party, but the applicant has been in discussion with them. Mrs. Turner noted the applicant also owns property to the rear of

the site where they could have a private parking lot. Staff proposes a different approach to the condition stating the applicant shall provide the proffered condition of one space per 300 square foot of gross floor area. Therefore, if the area goes above the proposed square footage, the applicants still supply parking based on the one space per 300 square foot of gross floor area. This gives the applicants the flexibility to not have to be too concerned about coming back to ask for an additional special use and gives them the flexibility to add the patio space without the need for a new SUP. Staff views the patio space as part of the gross floor area because it is how we view a restaurant with outdoor dining. Mrs. Turner stated staff and Planning Commission recommended approval of the special use permit to allow manufacturing, processing and assembly operations when not employing more than fifteen (15) persons on the premises in a single shift and providing that all storage and activities are conducted within a 21,400+/- square foot building on property zoned B-1C, Central Business District Conditional and identified as tax map parcels 35-O-4 & 5, with the following conditions: 1. One parking space per 300 square foot of gross floor area and parking spaces shall be clearly delineated and; 2. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the SUP can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Vice-Mayor Chenault questioned the applicant only brewing one barrel of beer a month. Mrs. Turner stated that is what the applicant has indicated to staff. Mrs. Turner stated these uses are treated differently by the state than restaurants. Mrs. Turner stated this is something that might need to be addressed in our zoning ordinances as far as parking requirements because they are more like a commercial use. Council Member Shearer asked if staff has developed a plan about parking and food trucks since there are food trucks on-site. Mrs. Turner stated a staff committee is reviewing a plan for food trucks, but they currently don't have anything. Mrs. Turner stated as long as they don't take up a required parking space, they can currently park in commercial zoning classifications. Mrs. Turner stated we don't have a requirement for food trucks anywhere else so staff didn't single this property out. Council Member Baugh stated there aren't parking requirements in B-1, but with it being on the edge of B-1, it made sense to review.

At 7:25 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 October 27, 2014 and November 3, 2014.

Casey Stemper, 120 West Wolfe Street, thanked Stacy and staff for their work on this request. Mr. Stemper stated the Virginia ABC law requires manufacturing of 1 or 2 barrels per month. Mr. Stemper stated most of the product will be brought in. Mr. Stemper stated they hope the project is successful and they have made revisions to make both clients and neighbors happy. Mr. Stemper noted the operation won't operate past midnight and noted that overflow parking could be maintained by adjacent property which is zoned M-1 and parking can be built by-right. Mr. Stemper thanked council for considering the request and made himself available for questions.

Abbas Rawoot, 167 N. Liberty (Allstate), stated he was concerned about the parking issues. Food trucks have been around and their customers have been using his

property to park and cause traffic issues. Mr. Rawoot stated the plan shows eight parking spaces and the brewery will have 12 employees. Mr. Rawoot suggested council consider the adjacent property be developed for parking.

John Lutz, 1065 Hanley, stated he had been in a similar situation, he is happy to see more business coming to Harrisonburg and feels that the option of adding parking is worth reviewing.

At 7:32 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

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

A brief discussion took place on the following: legal and allowed; support small businesses; restaurants downtown have sale requirements that breweries can manage without; state law is new and is being reviewed and needs to be reviewed; concerned about parking issues; B-1 doesn't have parking requirements; something can be done about the parking issue; majority view parking as an issue, causing them to want to table the request; land use issue; and no opposition was shown at Planning Commission; it was staff being proactive to the situation.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, that this Special Use Permit be tabled. The motion carried with a recorded 4-1 voice vote.

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

No: 1 - Council Member Degner

7. Regular Items

7.a. Presentation of Proposed Stormwater Utility Ordinance and Fee

Thanh Dang, Transportation & Environmental Planning Manager, stated on September 23, 2014 a stormwater ordinance was presented to council and since then the Stormwater Advisory Committee and city staff have been working to refine the projected MS4 Stormwater budget. Mrs. Dang stated the stormwater utility fee will fund the following: Stormwater Improvement Plan, design and construction of capital projects to meet Chesapeake Bay TMDL requirements, pollution reduction efforts, maintenance of city-owned stormwater facilities and utility administration. Ms. Dang stated for FY15-16 the city is looking at approximately \$2M in stormwater utility fee collection revenue. Ms. Dang stated it is also proposed that the entire MS4 Stormwater program would be covered by both the utility fee of \$2M and from the general fund that is currently being used to manage stormwater. Ms. Dang stated the proposed billing rate is \$10.50 per year for every 500 square feet of impervious area. Impervious areas include the following: roof, driveways, parking lots, streets, and other hard surfaces. Ms. Dang stated staff and the committee came to the proposed rate by dividing the revenues needed by the billing units within the city. Ms. Dang stated it is not being proposed at

this time, but due to the increased regulations and the permit being renewed again in FY18/19, the billing rate is projected to increase to \$14.50 per year. Ms. Dang noted two open house meetings for the public that would be hosted on November 12 at Thomas Harrison Middle School and on December 2 at Spotswood Elementary School. Both meetings will take place from 5:30pm-7:30pm. Ms. Dang stated information about the proposed Stormwater Utility Ordinance and Fee is available on the website and public comments will be taken until December 20, 2014. In early 2015, another presentation to council will occur once all comments are received and reviewed. Ms. Dang noted the following capital improvement projects being looked at: a stormwater regenerative conveyance channel to be done in the medians near Kohl's, which the city has applied for a grant to help with the cost; bio-retentions at Simms Center; and proposals at Ralph Sampson Park. Ms. Dang stated a stormwater retrofit study will be available at the public meetings. Ms. Dang stated another proposal is to partner with the private industry to help get an increased infusion reduction. It was noted that it is important for citizens to see what they will be getting for their money and it is an EPA requirement that is being administered by DEQ. The city is mandated to meet certain measurable objectives and we have connected fees to those impervious surfaces that are causing the run off.

8. Supplementals

- 8.a. Consider a supplemental appropriation for the Parks and Recreation Department in the amount of \$17,785.40

City Manager Hodgen stated this is placing funds back into the Parks and Recreation Department budget that have been provided to the city from the citizen advocacy group "Happy Dog's Unleashed" who maintained an account with the Harrisonburg Rockingham Community Foundation for their fundraising results. It was noted that if anyone is interested in contributing money towards the dog park, or any other items at the city, they can write a check to the city and note where they would like the funds to go.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, that this Supplemental Appropriation 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

- 8.b. Consider a supplemental appropriation for the Public Works Department in the amount of \$500,000

City Manager Hodgen stated these funds represent additional funding above the original budgetted amount that will be received from the Virginia Department of Transportation's Revenue Sharing program for the city's Annual Pavement Overlay program. City

Manager Hodgen stated \$450,000 was originally budgeted for fiscal year 2015; however, an additional \$450,000 has been approved by VDOT. City Manager Hodgen stated these are not new amounts because we were already going to use over a half million dollars above the first \$450,000 match.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that this Supplemental Appropriation 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

8.c. Consider a supplemental appropriation for the Public Works Department in the amount of \$292,244

City Manager Hodgen stated these funds represent monies that will be received from the Virginia Department of Transportation's Safe Routes to School grant program for new sidewalks and a new traffic signal at Stone Spring Elementary to improve pedestrian safety to and from school.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, that this Supplemental Appropriation 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

9. Other Matters

Council Member Baugh reviewed upcoming Planning Commission items.

Council Member Degner stated he hasn't seen anything from the research dealing with the increase at the jail over the last 18 to 20 months and asked for an update. City Manager Hodgen stated Michael Jones did a follow-up and attempted to explain the last 18 months and he would forward the information. Council Member Shearer stated the information provided didn't answer the questions they were seeking. Council Member Degner stated whatever happens in the overall planning process we still have an immediate overcrowding issue at the jail.

Council Member Degner congratulated Mayor Byrd and Christopher Jones, Council Member-Elect on their wins.

Mayor Byrd thanked Vice-Mayor Chenault for handling the cannon ceremony for the veterans earlier in the day.

10. Boards and Commissions

10.a. Board of Equalization

No action taken.

10.b. Building Code Board of Appeals

No action taken.

10.c. Central Shenandoah Emergency Medical Services Council

A motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, to appoint Travis Karicofe to a first term on the Central Shenandoah Emergency Medical Services Council to expire November 22, 2017. The motion carried with a recorded voice vote.

10.d. Harrisonburg Redevelopment Housing Authority

A motion was made by Council Member Shearer, seconded by Council Member Baugh, to re-appoint Elroy Miller, 1604 Hillcrest Drive, to a second term on the Harrisonburg Redevelopment and Housing Authority to expire November 29, 2018. The motion carried with a recorded 4-0 voice vote. Vice-Mayor Chenault recused himself.

10.e. Harrisonburg Electric Commission

City Manager Hodgen stated three different names needed to be provided for each current opening. City Manager Hodgen stated another slate could be submitted for the second opening. Mayor Byrd noted another upcoming vacancy. Vice-Mayor Chenault stated he would like to see another slate be submitted this year, if council is going to make the appointment this year. No action was taken on the request.

A motion was made by Council Member Baugh, seconded by Council Member Shearer, to appoint Ms. Daphyne S. Thomas, 1112 Sharpes Drive, to a first term on the Harrisonburg Electric Commission to expire December 31, 2017. The motion carried by a voice vote.

10.f. Industrial Development Authority

No action taken.

10.g. Parks and Recreation Commission

No action taken.

10.h. Planning Commission

No action taken.

10.i. Transportation Safety & Advisory Commission

No action taken.

11. Closed Session

11.a. Closed Session

At 8:07 p.m., a motion was made by Vice-Mayor Chenault, seconded by Council Member Shearer, to enter into closed session as Authorized by the Virginia Freedom of Information Act, Virginia Code Section 2.2-3711(A), under: Subsection 1 for discussion of the performance of specific public employees and Subsection 7 for consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel. 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

12. Adjournment

At 8:42 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.

A brief discussion was held regarding the potential award of a salary increase as part of the compensation study that was partially implemented in July 2014.

At 8:46 p.m., there being no further business and on motion adopted, the meeting was adjourned.

City Clerk

Mayor