



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

Tuesday, March 26, 2019

7:00 PM

Council Chambers

1. Roll Call

Present: 4 - Vice-Mayor Sal Romero, Council Member Richard Baugh, Council Member Christopher B. Jones and Council Member George Hirschmann

Absent: 1 - Mayor Deanna R. Reed

Also Present: 4 - City Manager Eric Campbell, City Clerk Pam Ulmer, City Attorney Chris Brown and Police Chief Eric English

2. Invocation

Council Member Jones offered the invocation.

3. Pledge of Allegiance

Vice Mayor Romero led the Pledge of Allegiance.

4. Special Recognition

4.a. Resolution honoring Reggie Smith for his service as director of the Harrisonburg Department of Public Transportation

Vice Mayor Romero presented a resolution honoring Reginald "Reggie" Smith for his service with the city as the director of the Harrisonburg Department of Public Transportation.

Mr. Smith stated he is humbled, there are a lot of achievements on the resolution but there are a lot of people that helped. He stated he is an idea person, he made a lot of things happen, it has been an evolving job, he learned on the job, made mistakes, but he couldn't have done it without the good people he worked with. He stated it hasn't been the same job for the 42 years as six schools were built, he has seen six school superintendents and five city managers and the growth of James Madison University from 3,000 to 20,000 people. He stated he sincerely thanks Marvin Milam, Dr. Carrier, and the City Council in 1976 who chose him for the mission. He thanked the current Council.

Vice Mayor Romero thanked Mr. Smith for all that he has done for the city.

A motion was made by Council Member Baugh, seconded by Council Member Hirschman, to approve the resolution as presented. The motion carried with a unanimous voice vote.

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)

Agenda Item 5b was removed from the consent agenda for a separate discussion and vote.

5.a. Minutes from March 12, 2019 City Council Meeting

A motion was made by Council Member Baugh, seconded by Council Member Hirschman, to approve the minutes as presented. The motion carried with a recorded roll call vote taken as follows:

5.b. Consider two options for multiple Zoning Ordinance amendments and modifications to Title 4 Finance, Taxation, Procurement, which are all associated with proposed regulations to allow for "homestays" and "short term rentals" (i.e. Airbnbs, VRBOs, etc.).

City Attorney Brown stated council asked the staff of Community Development to provide a roll-out for the short-term rental ordinance. He stated staff provided the information to the city manager, which would make changes to the original suggested amendment as follows: Section 10-3-13(2)(a) the words "effective August 1, 2019" would be added; and Section 10-3-204(4) the words "effective August 1, 2019" would be added. He stated the result would be that although the ordinance goes into effect there would be no penalties until August 1, 2019 which will allow individuals to obtain the permits required and staff to educate the community.

A motion was made by Council Member Baugh, seconded by Council Member Hirschman, to approve the ordinance as amended as presented. The motion carried with a recorded roll call vote taken as follows:

6. Public Hearings

7. Regular Items

7.a. Presentation of Empower HR

Laura Toni-Holsinger, executive director of United Way of Harrisonburg and Rockingham County, stated a recently established network has been created in the Harrisonburg/Rockingham County community called Empower HR. She played a short video that explained how there was a need for a more connected community to services offered and what the Empower HR system accomplished for that need. She reviewed what a coordinated network was, how it works, the platform of the network, the privacy and security of the network, the data that can be used for impact, performance and efficiency, and the current community partners. She stated they would love to have the City as part of the network, thanked Council Member Jones for

his support and thanked Mayor Reed, Mr. Banks and Mr. Campbell for the conversations regarding the network.

Council Member Jones thanked Ms. Toni-Holsinger for the presentation and noted he would like to encourage the City to be a part of this network especially when it comes to mental health and referrals from the police department as well as the city being a partner and being aware of the least of those and those individuals that are vulnerable in our city. He stated there has been a lot of conversation about it, but the right systems are not in place all the time, and this system seems to be the best available. He applauded United Way and the community partners for getting the information on line.

Vice Mayor Romero asked what resources are available for other organizations that might not have the capacity to pay for the license but have services available to still be involved and part of this network. Ms. Toni-Holsinger stated the sponsorship they have for the first year is enough to purchase 50 licenses this year and discussions are taking place for possible sponsorship next year for more.

This Presentation was received and filed.

7.b. Discussion regarding the memorialization of Charlotte Harris

Steven Thomas, provided printouts to council and stated that all of council, except for Vice Mayor Romero, are familiar with this matter. He stated Charlotte Harris was an African American woman who was abducted from the Harrisonburg/Rockingham County jail by a mob and subsequently lynched on March 6, 1878. He stated beginning in 2017 the Northeast Neighborhood Association (NENA) began working with James Madison University (JMU) professor, Dr. Gianluca De Fazio, who is also a member of the Virginia Dr. Martin Luther King, Jr. Memorial Commission, to learn more about the lynching and to memorialize the life and the memory of our ancestor, Charlotte Harris. Dr. De Fazio and his team have compiled narratives and in-depth information about nearly 100 lynching's that took place in Virginia which can be found on the JMU's website. He stated on the approximate 130th anniversary of the lynching of Charlotte Harris in 2018 NENE was invited to participate as a part of the discussion about lynching in the American South on the campus of JMU. He stated it was announced that NENA will be working with local officials and partners to appropriately acknowledge and memorialize this traumatic event on our community. He stated this began the initial outreach to City Council and Rockingham County Board of Supervisors regarding the objective. He stated after the opening of the National Memorial for Peace and Justice in Montgomery, Alabama in April 2018 NENA began communications with the administration supervising the memorial to Charlotte Harris found there and sought to return that memorial back to her native Harrisonburg and Rockingham County. He stated this process is encouraged and supported by the administration at the National Memorial for Peace and Justice which was founded by the Equal Justice Initiative and it includes the following four pillars: A community remembrance project which was officially launched by NENA on the JMU

campus; a soil collection at the approximate site of the lynching; a historical marker project; and the memorial monument placement initiative. He stated NENA will be making available all the necessary documentation involved in this endeavor to the City Council following this meeting. He stated last month the Virginia General Assembly unanimously passed a resolution to acknowledge the existence and acceptance of lynching in Virginia and called for reconciliation among all regarding the racial terror, segregation and other forms of discrimination faced by African Americans during the Jim Crow era. He stated lynching's will be documented online and with historic markers with the stated goal to develop programming to bring awareness and recognition of this history to communities across the state to help healing and reconciliation. He stated Dr. De Fazio's information on the JMU website references a Caucasian woman who was hung in Rockingham County approximately 20 years after the lynching of Charlotte Harris and the circumstances surrounding her death may have also been racially motivated. He stated he mentions this event so that it can be investigated as well.

He stated NENA is requesting City Council to make a verbal commitment to work with NENA on the community remembrance project that includes partners at JMU.

He stated our community is not immune to racial terrorism and our elected officials must be proactive to ensure that nothing approaching racially motivated violence takes place in Harrisonburg again. He stated City Council would be sending a strong and resounding message to every resident in the city that we are dedicated to be a welcoming and safe locality where the human rights of all our residents are valued and protected.

Council Member Jones thanked Mr. Thomas for bringing this to council and noted it is less known about how many women were lynched in addition to white females that were sympathizers. He asked what the name of the group that NENA and JMU are a part of. Mr. Thomas stated it is the Harrisonburg Community Remembrance Project Committee. Council Member Jones stated he would propose council would have one or two open seats at the table of this committee. Mr. Thomas stated seats would be available and the hope is that City Council will soon be hearing from the Committee directly.

Further discussion took place amongst council members regarding participation in the committee.

A motion was made by Council Member Jones, seconded by Council Member Baugh, to partner and have a seat at the table with the Harrisonburg Community Remembrance Project Committee. The motion carried with a unanimous voice vote.

7.c. Consider a refund for a portion of the 2018 Business, Professional and Occupational License (BPOL) tax

Chris Brown, city attorney, stated there was a business within the city that paid for the full year of the Business, Professional and Occupational License (BPOL) tax for 2018 and in May of 2018 the business relocated from the city so that business is entitled to

a partial refund in the amount of \$24,291.41. He stated under State Code, anything in excess of \$2,500 must be approved by Council.

A motion was made by Council Member Baugh, seconded by Council Member Hirschman, to approve the BPOL refund as presented. The motion carried with a unanimous voice vote.

7.d. Consider adopting a resolution enacting Section 16-6-61 Restriction of Pedestrians Within Public Rights of Way at Designated Locations to the Harrisonburg City Code

Council Member Jones asked if this item could be tabled for public hearing at a later date or at least opened for public comment during this meeting. Chris Brown, city attorney, stated he needs to present it to Council before any action can be taken. He stated staff is recommending it be postponed until a public hearing can be held.

Mr. Brown stated this ordinance is in collaboration with the Harrisonburg Police Department and the Department of Public Works. He stated the City identified seven intersections that have a fairly high rate of traffic accidents, that have median strips, and have more than four lanes of traffic. He stated the ordinance will prohibit a person from sitting, standing, lying or squatting in the median strip, but it would not apply to anyone crossing the street, working on behalf of the city, or for emergency purposes.

Council Member Baugh stated he agrees with Mr. Brown's recommendation to set a public hearing.

Mr. Brown stated the first meeting on April 9, 2019 will be unusually heavy, so it is recommended to set this meeting for April 23, 2019.

Council Member Baugh stated if individuals can't make the public hearing they can always reach out by other means such as email, phone etc.

This item is moved to the 2nd meeting on April 23rd for Public Hearing and second reading.

8. Special Event Application Requests

8.a. Consider the event application request for the Downtown Dinner Party on Saturday, May 18, 2019 from 7pm-11pm.

Erin Smith, events manager for 2nd Annual Harrisonburg Downtown Renaissance (HDR), presented a Special Event application request for the Downtown Dinner Party to be held on Saturday, May 18, 2019 at Turner Pavilion and Park from 7:00pm to 11:00 pm for HDR's spring fundraising event. She stated 300-350 people are expected to attend, some Harrisonburg Police Department and Public Works support is needed, and the total costs of the event is estimated between \$630-\$730, with HDR responsible for payments made to off-duty officers.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the request as presented. The motion carried with a unanimous voice vote.

- 8.b.** Consider the special event application request for the EMU Spring Commencement Ceremony on Sunday, May 5, 2019

Erin Smith, events manager for Harrisonburg Downtown Renaissance (HDR), presented a Special Event application request for the Eastern Mennonite Spring Commencement Ceremony to be held on Sunday, May 5, 2019 from 12:45 pm to 3:00 pm. She stated the event organizer, EMU, is requesting the closure of Park Road between Mt. Clinton Pike and Parkwood Drive. She stated minimal support is requested of Public Works and Harrisonburg Police Department for the road closure and the total cost of the event is estimated between \$205-\$305. She noted the event organizer is responsible any applicable payments to off-duty officers.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the request as presented. The motion carried with a unanimous voice vote.

- 8.c.** Consider the special event application request for Friendly City Fourth on Thursday, July 4, 2019 from 4pm-9:30pm.

Erin Smith, events manager for Harrisonburg Downtown Renaissance (HDR), presented a Special Event application request for the 18th Annual Friendly City Fourth, formerly Valley Fourth, to be held on Thursday, July 4, 2019 from 4:00 pm to 9:00 pm. She stated HDR is requesting the use of the Turner Pavilion and Park, the City Hall parking lot, the Municipal Building parking lot and the closure of Warren Street. She stated 7,000-10,000 people are expected to attend throughout the day, support is requested from Public Works, Harrisonburg Police Department, Harrisonburg Fire Department and the Parks and Recreation and the total cost of the event is estimated between \$650-\$1,100. She noted HDR is responsible for all payments to off-duty officers managing the beer garden.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the request as presented. The motion carried with a unanimous voice vote.

- 8.d.** Consider the event application request for the Friendly City Fourth Run on Thursday, July 4, 2019 from 8:30am-11am.

Erin Smith, events manager for Harrisonburg Downtown Renaissance (HDR), presented a Special Event application request for the 8th Annual Friendly City Fourth Run, formerly Valley Fourth Run, to be held on Thursday, July 4, 2019 from 8:30 am to 11:30 am. She stated the event organizer, Virginia Momentum, is requesting the full closure of Main Street, between Gay Street and Martin Luther King, Jr. Way, as well as a single lane closure of Liberty Street for the duration of the run. She stated 1,200 participants and spectators are expected to attend, support is requested from Public Works, Harrisonburg Police Department, and Harrisonburg Fire Department and the total cost of the event is estimated between \$1,050-\$2,550. She noted the organizer is responsible for all applicable payments to off-duty officers.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the request as presented. The motion carried with a unanimous voice vote.

9. Other Matters

9.a. 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 that in a ten-year period Mr. Reggie Smith has helped 36,000 families from going hungry. He stated he and his son, Brent, were at the Walmart during the recent shooting for a food drive. He stated he is worried about affordable housing in the city, and that we need to get the homeless off the street and stop hunger. Wanting to know when council will take action.

Kim Kenyon, city resident, representative of Faith in Action, stated she is a former inmate of both the local and regional jail, but beat the odds after she was released by obtaining a job and housing and now being a tax payer. She stated in reference to a resolution calling for the elimination of the daily keep fee in the jails that there has been a lot of discussion regarding the financial loss this elimination would create. She stated the Sheriff has reported a variety of different figures representing the actual amount of income the keep fee generates annually. She stated this lack of transparency is concerning. She stated what would be a benefit is transparency from the Sheriff as to the actual amount of income and profit generated from commissary sales and phone calls and how that revenue is used. She stated based on her own experience of the price and quality of items out of the commissary she feels knowing where the generated profit goes is something the tax payers deserve to know. She stated the Sheriff doesn't understand the impact the keep fee has on the families of the people who cannot afford their bail, and it is also important to remember that people who are in jail are people that have been charged but not necessarily convicted of a crime, so this hardship is being place on people who haven't had their day in court yet.

Sue Clawson, city resident, representative of Faith in Action, stated in the last month all the women in the Harrisonburg/Rockingham Regional Jail had been moved to the Middle River Regional Jail during renovation work. She stated the daily fee these women are being assessed is \$3.00 per day and tripling the daily fee is a hardship for these women and their families. She asked if the City of Harrisonburg will commit to advising the Sheriff to eliminate the daily fee and if the city will make up the difference for these women.

Abdelrahman Rabie, city resident, representative of Faith in Action, thanked Vice Mayor Romero and Council Members for sending representation to the vigil at the Islamic Center and the community appreciated Council's sympathy and compassion. He stated on March 14, 2019 the Citizen published an article on the number of incarcerated people and the number has increased faster than projected in 2014. He stated there were comments in the article from the Commonwealth Attorney, Marsha Garst, Sheriff Bryan Hutchison and Chief of Probation Josh Lutz that referenced possible issues driving this increase, but no one is quite sure. He stated he couldn't

agree more with Ms. Garst when she said we need a community approach to find out how we can reduce the incarcerations. He asked council when will they begin this community approach as he and other community members stand with council to walk with them to find approaches to reduce the number of incarcerated people.

Dennis Showalter, city resident, stated on March 14, 2019 the Albemarle Jail Board approved their annual budget with the elimination of the \$1.00 per day keep fee. He stated the jail superintendent said it is not the inmates that pay the fee but their families, spouses, friends, and organizations that try to help and support them. He stated the superintendent said that repealing the fee is the right thing to do. He stated this was achieved by renegotiating with the vendor of the commissary to make sure the elimination of the fee was income neutral to the jail's budget. He asked if this was possible at our jails. He thanked Council for listening.

Johann Zimmerman, city resident, representative of Faith in Action, stated at the Community Criminal Justice Board meetings, the board and the public received helpful statistics about the local jail populations. He stated at this point the demographic data only includes categories for white, black, and Asian, and we all know one of our community's strengths is the rich ethnic diversity. He asked as the new data system is developed will a broader range of ethnic racial identity be included, as when we know who is being incarcerated different responses may arise from our varied ethnic communities. He stated as a welcoming community let's begin tapping the wisdom that already exists.

Kent Davis Sensing, Switchboard Road, county resident, representative of Faith in Action, stated in since 2009 the city budget has increased from \$2.7M to \$6.8M for jail and judicial administration which equals a 250% increase when the crime rate has reduced, which shows that something in the system itself is generating incarceration. He stated a portion of the overall city budget has increased from 2.7% to 5.3%. He stated we have the choice of slowing down the rate of incarceration or continuing the trend of increasing incarceration rates and costs. He asked if this is how we want to spend our tax dollars. He stated in recent conversations with Chief English it was learned that in the City of Richmond the Richmond City Justice Center was created, which allowed everyone from law enforcement, Commonwealth Attorney, court services, and community services was working together to reduce incarceration rates and costs. He stated the community is focusing their energy and funds on services that make a difference in the lives of person impacted by the criminal justice system and jail becomes a last resort. He stated working together we can get where we need to be when it comes to reducing incarceration.

Hadley Jenner, 525 Hickory Grove Circle, representative with Faith in Action, thanked council for their services and it feels good to have a place to speak openly. He stated council has received a resolution advising the elimination of the daily fees and the hiring of a community justice planner. He asked council when will they vote on this resolution and take action on these matters. He stated this is the opportunity for the

city to move toward criminal justice reform along with the rest of the country.

Pamayotis "Poti" Giannakaouros, city resident, stated he was grateful to hear the first few members of Faith in Action who provided sensible compelling testimony regarding the keep fee, in which he supports. He stated it is continually repeated that the incarceration rate is increasing, but this is not the case in the city. He stated the Commonwealth Attorney has seen in great detail the numbers he is talking about that reflect the difference in the city incarceration rates versus the county's. He stated the numbers show the rates increasing in the county and remaining steady in the city. He stated there are many people that would love to talk to Faith in Action directly.

9.b. City Council and Staff

Council Member Baugh stated a dialogue has taken place with the charging authority in regard to keep fees and it has been discussed with council members who support providing the funds if needed. He stated we are not the ones charging the fee and we are not the impediment to removing the keep fees.

Council Member Jones stated it has been said before that the city is more than willing to pay the difference of the keep fee, but it is a mandate from the General Assembly that the fee can be charged, and we are not the controller or the keeper of who charges that fee. He stated council cannot force the charging authority. He stated staff has been directed by Council to see how and if the Justice Planner position can be incorporated into the budget and they are working on it.

Council Member Hirschmann stated he fails to see if we are in a position to make up the difference without hurting our budget why are they not accepting the money. Council Member Baugh stated discussions took place with the charging authority in regard to who ought to pay the fee and the perception in the argument is that it is appropriate that the fees be paid by the people who were incarcerated as opposed to the general public. He stated he hasn't researched to see when the keep fee first started but is pretty sure it was in the late 1990's when it was considered good politics at every General Assembly session to increase penalties, cost shifting etc. He stated this has impact on the entire community and it should be re-evaluated.

Council Member Jones stated only the General Assembly and the charging authority have the power to change it. He stated individuals complain about the budget increasing now, if the city pays for the fee, the budget will increase more.

Vice Mayor Romero stated the city could come up with the funds although he feels it wouldn't be the right thing to do to pay with public money, but he would like the Sheriff to understand the hardships that he isn't seeing. Vice Mayor Romero stated he talks with this families that are impacted, he sees the hardship, and it would be nice for the Sheriff to acknowledge there is a hardship.

Council Member Jones encourages anyone to attend the Community Criminal Justice

Board meetings, which is more of an appropriate setting for these types of conversations. He stated we must keep in mind the victims of these crimes ultimately have a huge hardship as well. Further discussion took place amongst council members regarding this issue.

Eric Campbell, city manager, stated the superintendent traditionally presents the School Board's proposed budget to the council, however, it was overlooked that the date selected was during spring break and the superintendent was out of town. He stated it has been transmitted and is available to council now. Council Member Baugh stated after discussions via the School Liaison Committee, what is submitted is consistent to what has been discussed.

Mr. Campbell stated staff moved the effective date of the short-term rental ordinances to August 1, 2019 so city staff has time to work on an education program, enforcement prior to the actual effective date. He stated staff has been working on interpretation services and are in the process of creating a one-year pilot program that will offer interpretive services for City Council and Planning Commission meetings. He stated details are still being worked out and will present council with the details once it is ready. He stated Bird scooters are back and Bird has purchased a franchise agreement and will be redistributing scooters in the community beginning March 27, 2019 with 150 scooters. He stated their increase in inventory will be based on the usage in 25 increments. He stated they are working with staff on approved staging areas in the downtown area. He stated Lime has not purchased a franchise agreement, therefore Bird is the only scooter company in the city.

Vice Mayor Romero stated the city clerk is now accepting applications for the Towing Advisory Board and for the Economic Development Authority. Please visit the website for the application and additional information; Business taxes are due by March 31st, 2019, please visit our website for more information and forms; the Harrisonburg Easter Egg Hunt will take place on Saturday, April 13th at the Westover Park at 10:00 am, it is suggested you get there early. Everyone will meet in the Community Activities Center prior to heading to their designated location and the Easter Bunny will be on location for pictures, so bring your cameras! This event is open to city residents only; and the Blacks Run and Downtown CleanUp day will be held April 13, 2019 and you can pre-register online. The kick-off will be at 9:30 at the Ice House Roundabout.

10. Closed Session

11. Adjournment

At 8:22 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR