



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

Mayor Deanna R. Reed
Vice-Mayor Richard A. Baugh
Council Member Ted Byrd
Council Member George Hirschmann
Council Member Christopher B. Jones

Tuesday, September 11, 2018

7:00 PM

Council Chambers

1. Roll Call

Present: 5 - Mayor Deanna R. Reed, Vice-Mayor Richard Baugh, Council Member Ted Byrd, Council Member Christopher B. Jones and Council Member George Hirschmann

Also Present: 3 - City Manager Eric Campbell, Deputy City Clerk Pam Ulmer and City Attorney Chris Brown

2. Invocation

Mayor Reed offered the invocation and asked for a moment of silence for the lives lost 17 years ago, September 11, 2001

3. Pledge of Allegiance

Mayor Reed led the Pledge of Allegiance.

4. Special Recognition

Mayor Reed recognized the attendance of students and the principal, Mr. Layman, from Eastern Mennonite School as well as students from Eastern Mennonite University.

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 Baugh, seconded by Council Member Byrd, to approve the consent agenda as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

5.a. Minutes from August 28, 2018 City Council meeting

These minutes were approved on the Consent Agenda.

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

- 5.b.** Consider a supplemental appropriation for the Fire and Economic Development Departments in the amount of \$402,940.78

This supplemental appropriation request was approved on second reading

- 5.c.** Consider a supplemental appropriation for various departments in the amount of \$218,097.00

This supplemental appropriation request was approved on second reading

6. Public Hearings

- 6.a.** Consider a request from TSU Holdings LLC with representative Steven Ugrlavitch to rezone a parcel zoned B-1C, Central Business District, by amending regulating proffers at 245 East Water Street.

Adam Fletcher, director of Planning and Community Development, presented a request to rezone a parcel located at 245 East Water Street, containing 2,300 square feet, from B-1C to amend existing proffers and to establish a new proffer. He reviewed the adjoining properties and zoning classifications and noted the property has been operating for over a year and would like to do an upgrade to the business to include indoor and outdoor seating. He stated the intent is to remove existing proffer which requires parking, remove the parking spaces and extend dining into that space. He reviewed the curbing distances and restrictive parking in the area.

He reviewed the history of this property beginning in May 2016, when it was rezoned from B-2 to B-1C and noted the existing parking spaces sufficed, however, the safety concerns of backing in and out of the parking spaces were not considered. He reviewed an architectural rendition of the improvements envisioned by the owners, what the applicant would like to improve and noted the applicant is submitting a new proffer to install new curb, gutter and sidewalk across the frontage of the existing parking lot to match and tie-in with the existing curb, gutter and sidewalk, and such improvements shall be completed within twelve months of rezoning approval. He stated staff and Planning Commission (6-0) recommend approval of the conditional rezoning as requested.

Council Member Byrd stated after researching this, a suggestion on Water Street traffic flow was sent to the Transportation Safety Commission in February 2017. Mr. Fletcher stated he was not aware of that. Mr. Byrd stated he did not see any action taken and asked if changing Water Street to a one-way traffic flow was taken into

consideration by Mr. Fletcher's department. Mr. Fletcher stated he spoke to Mr. Hartman, interim director of Public Works, and asked if there was a desire for an evaluation of one-way traffic and how long it would take, and he was told a traffic study would need to be done and that could take between 2-3 months. Public Works Department had mixed feelings on establishing a one-way on Water Street, but could see benefits.

Eric Campbell, city manager, stated the impact of the surrounding neighborhood would need to be evaluated on considering one-way traffic.

Council Member Byrd stated currently there is a narrow street with parking with two-way traffic, and asked regardless of backing out of the parking spot or not, do we have a downtown street that has two-way traffic with parking on this small of a footprint. He stated he is only mentioning this since this was brought up in February 2018 and it doesn't look like anything had transpired.

Council Member Hirschmann stated he feels this should be looked into.

Council Member Byrd asked if when staff recommended approval of the B-1C, were they comfortable having the parking spots to alleviate the spot zoning concept. Mr. Fletcher stated at that time staff was.

At 7:14 p.m., Mayor Reed closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Monday, August 27, 2018 and Monday, September 9, 2018.

James "Bucky" Berry, 30 West Washington Street, stated he is pleased with the operation of the business, as they offer discounts to first responders, and noted anytime a small business offers to support safety staff he is all for it and hopes council approves.

Michael Layman, attorney of Michael Layman Law Group, P.C., adjoining property owner, stated he welcomed this business when it first opened, however, the real concern is safety with the backing out of the parking spots. He stated his business has nine spaces, three spaces on the side and an extra lot on Ott Street which is shared with the Lutheran Church. He stated the safety issue is that there have been as many as five cars during lunch time that would park in his lot, they speed in the lot and many would turn around in his lot to park on the urban exchange side of the street. He feels the traffic patterns need to be studied before removing the parking spaces of the applicant's business. He stated he would like to see council put this on hold in order for the traffic committee to study this area. He stated he spoke with property owners and some would like to see it become a one-way, but cannot agree on which direction. He stated there may be a way to increase enough parking and to perhaps place limited parking times for safety, however, this needs more study. He stated signage is not enough. He stated another issue to consider would be the noise,

hours of operation and traffic that would occur due to outdoor dining.

Steve Urglavitch and Tom Urglavitch, applicants, stated they acquired the property in January 2018 with a lease / option to purchase agreement and purchased the property outright in June 2018. Mr. Steve Urglavitch stated during that period they were operating outside, with the support of the Planning Commission and city staff, and business grew with almost 50% of the business being take-out. He stated during this time as business increased parking safety issues increased, they witnessed a number of near misses due to limited visibility, and customers began to complain. He stated by removing the parking spots he feels the take-out business would decrease, however, pedestrian traffic would increase and encourage a cultural shift. He believes removing these spaces would be in the best interest of the city, the community, and downtown. Mr. Tom Urglavitch stated they would address any concerns the council may have, he has years of experience in this business, they want to be a destination for the city and want to be a part of this community.

Council Member Jones asked what would the operating hours be. Mr. Urglavitch stated they hope to be open seven days a week, with weekend hours open until midnight with the take-out business open until 1:00 am, however, these hours are not set in stone as it will have to be gauged by demand, especially for weeknights. Council Member Jones asked if there will be projectors and televisions outside. Tom Urglavitch stated indoor seating for up to 26 people will be available, they are not looking at having major raves, parties or DJ's until midnight on a weeknight. Council Member Jones asked will customers be able to watch sports outside as he is envisioning a group of people outside until 1:00 am, in a partially residential area, possibly with sound and noise projected outside while serving alcohol. Mr. Tom Urglavitch stated he cannot truly say that none of that will happen, however, he has a lot of experience in this type of business and this type of location and has always followed regulations with no complaints. Mr. Stephen Urglavitch stated they will abide by city ordinances on noise and volume control and they want to be friends with the community and neighbors and will work with them and the city, and noted they have not received any complaints to date and have been open late. Council Member Jones stated the reason he asks these questions is because this may be allowing something he has tried to rectify with another ordinance.

Mayor Reed asked what the capacity would be. Mr. Urglavitch stated there will be indoor seating for 25, could be as high as 45 standing depending on fire code.

Council Member Byrd asked if they are trying to develop a neighborhood bar. Mr. Urglavitch stated yes, but on a small scale.

Council Member Hirschmann asked where do they think people will park. Mr. Urglavitch stated there is plenty of parking spots downtown and they will ultimately educate their customers as to where to park.

Further discussion took place regarding occupancy, activities and traffic flow.

Ledhu Tynes, Newman Avenue, stated she has no objections to making Water Street a one-way street, however, they were not aware this property was going to be an eatery and bar. She stated she feels the parking needs to be addressed as it is dangerous to wait to respond until something happens.

At 7:40 p.m., Mayor Reed closed the public hearing and the regular session reconvened

Council Member Jones stated the parking will get addressed in a greater way when we look at the downtown Master Plan, but having some objective eyes looking at that will help make the right decision. He stated he feels there is plenty of parking spaces in the city, but Harrisonburg Downtown Renaissance stated they receive a lot of complaints from customers about parking, as they want to park close to where they are going. He stated he has some trepidation with this request as it cannot be revisited once approved.

Vice Mayor Baugh stated the discussion is over three parking spots, the applicants tried to make it work with the current parking and they determined that it is unsafe. He stated it seems to him there are a lot of things being thrown around, but ultimately the only things catching his attention is that the number of spots being discussed are not enough to make any difference if there are problems with people trying to drive to the location. He stated it is obvious there is a safety concern with backing out of these spots and the discussion of changing the traffic flow has nothing to do with that. He stated the question should be would staff look at this down the line with the thought of wishing they had retained the parking spaces. He stated council's job would be to figure out if it hurts the community for that business to not have these onsite parking spaces.

Council Member Jones stated the question should be if the neighborhood can handle the capacity of another outdoor eatery. Vice Mayor Baugh stated that has already been approved with the current zoning. Council Member Jones clarified he meant additional outdoor capacity.

Council Member Hirschmann stated if these spaces are removed a lot of the safety issues are eliminated, and perhaps the direction of traffic wouldn't matter as much at that point either.

Council Member Byrd stated there are no proffers being offered regarding time of operation, usage, noise, etc. He stated this is very similar to a business on Wolfe Street. He stated our job is to play worst case scenario.

Vice Mayor Baugh stated that is true, the one establishment up against residential the city has there have been problems. He stated, however, with all the activity we have

had downtown, we have only had one property that was a problem. He stated these applicants seemed to identify their intentions, and I think they realize not to upset the neighbors.

Council Member Byrd stated the establishment on Wolfe was operating under a Special Use Permit, and could be reviewed or revoked, in this case, if we approve, we lose all recourse, and it is what it is and residents be damned. He stated proffers for a shared parking area were not even offered, so this is basically converting to a B-1 in a B-2 area.

Vice Mayor Baugh stated we allowed the rezoning previously, at which time would have been the best opportunity to require additional proffers. He stated we now have that opportunity again, however, proffers cannot be negotiated openly, but we can vote for or against this.

Council Member Byrd stated by accepting the original proffers we eliminated outdoor activities on that property because it was set up for parking. He stated now the parking goes away ergo any outdoor activity authorized under B-1 can now go full force. Council Member Jones stated perhaps we should table this until safety issues are reviewed and traffic studies can be done.

Chris Brown, city attorney, stated proffers must be voluntary and in writing before the public hearing starts and if additional proffers are offered that were addressed to the Planning Commission, it will have to be reviewed by Planning Commission.

Further discussion took place about possibly tabling this item and the time line before it would be presented to council again.

Council Member Jones stated the only reason he is suggesting tabling is he doesn't want to set up council for the exact same thing, the only issue he has ever had against the noise ordinance was with one of the business's and it would be hard for him to help build the four things that council was fighting against on Wolfe Street.

Vice Mayor Baugh stated the ordinance could be changed to address any issues and if we sit around waiting for the solution to be perfect we will be sitting here till midnight.

A motion was made by Vice Mayor Baugh, seconded by Council Member Jones, to approve the rezoning request as presented. The motion carried with a recorded roll call vote taken as follows:

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

No: 2 - Council Member Byrd and Council Member Hirschmann

- 6.b.** Consider a request from Gabriel and Justice Kreider for a special use permit to allow a major family day home in the R-4, Planned Unit Residential District, located at 661 Northfield Court. A major family day home can have up to 12 children under the age of

13, exclusive of any children who reside in the home.

Adam Fletcher, director of Planning and Community Development, presented a special use permit request for a Major Family Day Home located on 661 Northfield Court, containing 2,300 square feet, per Section 10-3-52(4). He reviewed the definition of Major Family Day Home versus Minor Family Day Home, reviewed surrounding properties, reviewed the operating hours, parking availability, and check-in/out procedures for safety provided by applicant. He noted there are three entities the applicant must be approved through: the city for the Special Use Permit; the Virginia Department of Social Services (VDSS) Child Daycare Regulations and licensing; and the Northfield Estates Homeowners Association.

He stated staff is only evaluating this request on a land use basis not on specifics of regulating the business and noted the Northfield Estates Homeowners Association has not yet met or made a decision. He stated the applicants plan to have their daycare licensed by the VDSS by March of 2019, and plan to have the maximum number of children (12). He stated this is the first time the city has entertained a major family daycare in a townhome unit and staff's biggest concerns are the maneuvering of parking and traffic around peak demands and to ensure no additional burdens be placed on the townhome community.

He stated staff recommended denial and Planning Commission had a split vote, therefore Planning Commission did not make a recommendation to Council. He stated if there was a desire to approve the request staff had two suggestions: During operating hours at least one parking space in front of the home is dedicated for pick up and drop off; and if the city feels parking or traffic has become a nuisance the permit can be recalled for further evaluation and conditions.

At 8:06 p.m., Mayor Reed closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Monday, August 27, 2018 and Monday, September 3, 2018.

Amber Hess and Jarel Hess, co-owners of Creative Hearts Daycare, and Justice Kreider, homeowner and applicant, stated Ms. Hess will be the sole provider in the home once its licensed. Ms. Kreider stated she spoke with neighbors and now has access to three more parking spaces during the peak hours as well as two unmarked spots they are renting. Ms. Hess stated the neighbors are on board and have signatures of those, however the HOA still needs to approve. She stated they need approval by both the city and the HOA in order to proceed further and obtain licenses through VDSS. Ms. Hess stated they now have seven spots available for parking and they hope this is a short-term plan as they want to open a daycare center in the coming year.

Mayor Reed stated the only issue she has is that the HOA has not yet met to make their decision on if they will allow this or not.

Council Member Jones stated he is in favor of this business from an economic development standpoint as there is a high demand for daycare as many are on waitlists and at capacity. He stated there is no major risk in approving this as it still has to go through the HOA and if any complaints are received it can be reviewed in the future.

Jessica Conway, 1871 Rhiannon Lane, stated she is very aware of the statistics of childcare in our area and studies have shown Harrisonburg to be a childcare desert. She stated she has first-hand knowledge of this as she has two children under the age of five and had trouble finding daycare, noting that a new daycare recently opened and already has a waitlist of 85 children. She stated she feels a good way to frustrate a developing economy is to neglect child care and in her assessment, it's not just about this specific case but also sets a precedent that the city will set. She stated a no vote will encourage other to not obtain licenses as the obstacles are too great.

Diana Stresser, Northfield neighborhood resident, stated these are well meaning people doing a well-meaning cause and has no doubt that good affordable childcare is needed in the city. She stated in this neighborhood, there has been difficulty in the past with cars that parallel park, the community put in fire lanes and people continue to double park on fire lanes. She stated there are three separate, independent entities that have to be navigated in order for the daycare to go forward as mentioned earlier. She stated the intent in this is that they are independent decisions and she would hope that what council will do in no way rests upon any assumption about what the HOA will do and hopes this will be council's decision as it may be precedent setting. She stated it is not clear if the HOA is empowered by the State Statute to make a decision on this matter.

Vonda Wilk, manager of Northfield Estates, stated she spoke with the applicant and said that they could operate a business out of their home, however, she could not put it in writing until the board approved it. She stated she later received notification that it will be a major homecare facility, she spoke with the board, and the board came back with the statement that they could not make a decision until they brought it before all of the homeowners at the annual HOA meeting on September 19, 2018. She reviewed the Virginia State Code Section 55-513.2, and feels the concern the HOA would have would be the amount of traffic, the number of children, and available parking.

At 8:22 p.m., Mayor Reed closed the public hearing and the regular session reconvened

Vice Mayor Baugh stated this is straightforward and it is a judgment call, and he could conceive areas in town that a request like this would be denied because of safety concerns. He stated there is a tremendous need in the city and this body has received a lot of request and those that were approved have never had to be revisited.

Council Member Hirschmann stated he is familiar with the situation because it existed in his neighborhood. He stated he has major concerns of safety because of the mixture of kids and traffic. He stated he is concerned because it's a townhouse community and with comings and goings in such close proximity.

Council Member Jones stated that 58% of people in the city are asset limited and income constrained and need affordable childcare. He stated the special use permit is not a vacuum, and this decision has nothing to do with the next and if it isn't approved by the HOA it doesn't go through. He feels the right precedent is to approve it, and because its special use permit there is no precedent.

A motion was made by Vice Mayor Baugh, seconded by Council Member Jones, to approve the special use permit request with the added conditions recommended by staff. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

- 6.c.** Consider multiple Zoning Ordinance amendments and modifications to Title 4 Finance, Taxation, Procurement, which are all associated with Short Term Rentals (i.e. Airbnbs, VRBOs, etc.). The proposed Zoning Ordinance amendments consist of allowing the short term rental of dwelling units only via approval of a special use permit while the modifications to Title 4 are to establish appropriate taxing of such uses.

Adam Fletcher, director of Planning and Community Development, presented a request to amend multiple zoning ordinances and modifications to Title 4 Finance, Taxation and Procurement, associated with short-term rentals. He stated these amendments are to allow short-term rentals only via a Special Use Permit and then properly tax for this type of use. He stated staff has been working on this for approximately two years and reviewed the recommended amendments and enactments to the ordinances. He stated there was an original proposal from State Legislation referred to as the Limited Residential Lodging Act which was created in 2016, that allowed the rentals of primary residences for less than 30 days, required a minimum liability insurance, must be registered, rental platforms would be responsible for collecting taxes and paying the localities and the localities were pre-empted from adopting zoning regulations or ordinances to regulate short-term rentals. However, during that legislation there was a re-enactment clause that was proposed and the Virginia General Assembly asked the Housing Commission to review and study the matter and bring it back up during the 2017 General Assembly in order to make the determination to either move forward with the legislation or not. He stated the amendment was not re-enacted in 2017 and we now have the codified section in the Virginia State Code Section 15-2-983. He reviewed the code section and noted retaining ability for local zoning authority was kept in the legislation. He stated staff had their first draft of the proposed ordinance amendments completed in May 2017, they have reviewed every possible way to look at short-term rentals including regulations and different approaches, and discussed whether they should be allowed

in the city, how should they be taxed, be allowed by-right or special use permit, should we require the property to be occupied by the proprietor at all times, should it be the principal residence of the owner, allowed only in certain zoning districts or types of dwelling units or number of bedrooms, maximum rental days per year, maximum number of contracts, minimal parking requirements and sign regulations. He stated other localities regulations were researched and provided findings of that research and noted there is no one size fits all policy.

He stated Planning Commission discussed short-term rentals in the public realm in March, 2018, April 2018, May 2018 and August 2018, there were three separate public hearings, different ideas proposed, and ultimately two different versions were proposed: Option One is being proposed this evening; Option Two was similar but a slightly different take where there was a totally different use that was proposed called Limited homestays, and it would only allow rentals at peak times during the year, associated with graduations etc,. He stated ultimately Planning Commission followed staff's recommendation to go only with allowing them by special use permit with a 6-0 vote. He reviewed the proposed zoning ordinance amendments and enactments.

Council Member Byrd asked why staff recommend requiring a special use permit. Mr. Fletcher stated staff had concerns over affordable housing and what the hidden impacts could be when individuals are able to buy up multiple short-term rentals and in turn, drive up housing costs. Council Member Byrd asked how many short-term rental properties exist in the city. Mr. Fletcher stated he has not been on the websites to find out. Council Member Byrd stated regulations were developed without knowing exactly how many will be impacted in the city. Mr. Fletcher stated that is not completely accurate, if he knew then he would have to begin enforcement. Council Member Byrd asked if localities with major state universities were researched. Mr. Fletcher stated many were researched. Council Member Byrd stated he would hope that comparable localities were researched and to understand special use permit versus the registry where the state did allow us the by-right use that the majority of other localities of same size seem to be going with. Mr. Fletcher stated staff's concerns were also over neighborhood protection, a special use permit is required for Bed and Breakfast facilities and there have been concerns about people coming in and out of neighborhoods that are not readily known. Mr. Fletcher stated by requiring a special use permit the neighbors have a say in what goes on in their neighborhood.

Mr. Fletcher continued to review the proposed ordinance amendments and noted penalties will be civil penalties which is new to the zoning ordinance and may require additional changes to some of the language in the ordinance before the second reading. He reviewed the definition of special use permits and potential conditions that could be placed. He reviewed the Plan Framework Comprehensive Plan map and stated the city should be concentrating on programs to facilitate home ownership and improve the quality of rental housing as well as programs to reduce pressures to convert single-family houses and lots to other uses. He stated this is why they

decided to require short-term rentals be done under the special use permit application process.

He stated staff and Planning Commission (6-0) recommended to approve the zoning ordinance amendment as presented and staff recommends approval of the amendments to Title 4 Finance, Taxation and Procurement. He reviewed the enforcement procedures and staff suggests a 30-day grace period be allowed to educate people of the new regulations once the amended ordinances are approved.

Council Member Jones asked if staff could change regulations so that complaints can be submitted anonymously. Mr. Fletcher reviewed the normal enforcement of violations. Mr. Brown stated, under the zoning enforcement state law, anonymous complaints can be received and under FOIA they can request anonymity. He stated the theory behind that is you don't want to discourage people from reporting violations of the law and to keep the peace with neighbors.

Mr. Fletcher stated staff has not gone on any AirBnB sites yet, but if council approves, violations will be investigated actively and handled accordingly.

At 9:07 p.m., Mayor Reed closed the regular session and called the third public hearing to order. A notice appeared in the Daily News-Record Monday, August 27, 2018 and Monday, September 3, 2018.

Pamayotis "Poti" Giannakaouros, stated this issue has gone back and forth quite a bit in Planning Commission, and he can't speak strongly enough against what has been presented. He stated this is an innocuous use, it does not warrant the extreme heavy-handed approach that has been outlined. He stated he doesn't feel that having these types of businesses will deplete our stock of affordable housing or raise property taxes as housing markets are limited by the salaries and available credit to purchase. He stated regarding residential character, neighborhood protection, and 2 reports of concern regarding strangers in neighborhoods could be misconstrued as racial issues however, he feels this is not a concern in the city. He stated Vice Mayor Baugh did mention this issue during a Planning Commission meeting and cited one of the most significant deliberations he has seen regarding the neighbor waiver on back yard chickens, where staff thoroughly evaluated this issue of residential character that has come up on many cases such as business gardens, tall grass and weeds, stormwater, etc. He stated a break-through discussion led by Professor Fitzgerald concluded that the city doesn't have a neighbor waiver because that is not the kind of community that we are. He stated this type of targeting were mechanisms for potential discrimination and harassment leading to segregation and with the diversity we have in our neighborhoods we don't like that and we don't want to encourage that. He stated a Class 1 Misdemeanor for running an AirBnB seems heavy, as we have moved other ordinances away from criminalization, and if you look at how one can lose their license, per Section 10-3-206, it reflects a three strikes rule, determined by staff, from substantiated complaint but does not say guilty of a

violation. He stated we have notoriously vague code, that has been arbitrarily enforced and we have had to rewrite some of the ordinances. He stated he strongly speaks against these ordinance amendments and requests council send this item back to Planning Commission.

Jeff Hill, managing member of the Joshua Wilton House, stated he came to this meeting to listen and try and get an understanding of what is going on, how it effects his business and how it effects the city. He stated he was concerned when Bed and Breakfast businesses got grouped into the same genre as AirBnB or Vacation Rentals, and feels his business is more of a dedicated business and inn, similar to a boutique hotel rather than anything else. He stated staff does not live there, but yet could still fall under short-term rental per the recommended amendments presented, they are not a part time revenue stream business.

Mike Stolfus, 981 Summit Avenue, stated he has been interested in the business of AirBnB and has been eagerly watching and listening to this process hoping that there will be a legal way to do it soon. He stated he has held off on beginning the business because he wanted something to be in place within the bounds of the ordinances. He stated he is in favor of the special use permit requirement because he values the neighborhood he lives in and doesn't want it to change significantly as he has seen a number of neighborhoods he has lived in the past where housing was purchased by landlords as rentals and those properties sometimes aren't kept as well as owner occupied properties. He stated if it was a by-right use it might encourage landlords to continue buying single family homes.

At 9:19 p.m., Mayor Reed closed the public hearing and the regular session reconvened

Mr. Fletcher stated Section 10-3-206(1)(C) proposes three or more substantiated complaints can be changed to show three or more violations. Mr. Brown stated that would follow Section 10-3-207 more closely. He clarified that inns fall under more of a hotel category and even though this is permitted in the B-1 zoning category by-right, these amendments would take it out of the B-1 by-right category and place under a special use permit required category

Vice Mayor Baugh stated normally he would go with what Planning Commission recommends; however, it seems as if this needs to be discussed a bit more.

A motion was made by Vice Mayor Baugh, seconded by Council Member Jones to approve the ordinance amendments and enactments with the specific changes mentioned.

Council Member Byrd stated if we have 400-500 operating illegally in the city, it seems to be very similar to our taxi regulations and then Uber or Lyft operates in the city without the required Certificate of Use permit. He stated the State recognized

this when giving municipalities the option of the registry. He stated there are two ways we can go: Registry by-right will give citizens, who have already accepted this economy and the use of their property, the ability to operate legally by giving them a time frame to get on the registry; or require a special use permit which he feels is somewhat of a heavy hammer to get people into compliance. He stated he would prefer the use of the registry, a lot of the work in the definitions still apply, but with that said he would like time to look at other similar localities to make sure we are comparing apples to apples. He stated he feels 400-500 people trying to go through the special use permit, likely a 3- month process, could cause many of these businesses to continue to operate illegally.

Mayor Reed asked if it was clarified as to why certain localities similar to ours were not researched. Mr. Fletcher stated he does not have the complete file, but Blacksburg and Abingdon were reviewed. Council Member Byrd stated we need to look at Charlottesville, Richmond, Lynchburg, Farmville and Fredericksburg. Vice Mayor Baugh stated we are in unchartered waters, and feels that each council member needs to feel comfortable on this decision and reach their own conclusions. He stated Planning Commission agreed with some of the points Council Member Byrd raised, and we keep coming back to the fundamental point of what does this body think is best for the community. Further discussion took place regarding what could and could not happen and enforcement.

Mayor Reed stated she is agreeing partly with Council Member Byrd and would like to see information on other localities. Council Member Jones stated this should be looked at from an economic development side as well and stated it is already happening and is being well self-governed.

Council Member Hirschmann stated it is interesting at how this is developing and blossoming, he feels we are in the process of catching up, so let's catch up right and take a moment to research other localities.

A motion was made by Vice Mayor Baugh, seconded by Council Member Jones to approve the ordinance amendments and enactments with the specific changes mentioned. Vice Mayor Baugh withdrew his motion. A motion was made by Vice Mayor Baugh, seconded by Council Member Jones to table this agenda item. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

6.d. Consider the issuance of up to \$5,285,000 in general obligation bonds to finance the purchase of land for the new high school

Larry Propst, director of Finance, presented a request to approve a resolution authorizing the city manager to sign bond documents related to the land purchase for the new school. He stated the Virginia Public School Authority Fall Bond Sale will take place the first week in October and close on those bonds the first week in

November, 2018 at which time we will have funds to reimburse the expenditure. He stated staff recommends approval.

At 9:44 p.m., Mayor Reed closed the regular session and called the fourth public hearing to order. A notice appeared in the Daily News-Record Tuesday, August 28, 2018 and Tuesday, September 4, 2018.

There being no one desiring to be heard, Mayor Reed closed the public hearing at 9:44 p.m., and the regular session reconvened.

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

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

Recess

At 9:39 p.m., Mayor Reed called the meeting into recess.

At 9:42 p.m., Mayor Reed called the meeting back into session.

7. Regular Items

7.a. Consider adopting the City-Wide Branding Initiative

Mary-Hope Vass, Harrisonburg public information officer, Brenda Black, Harrisonburg director of Tourism, and Peirce Macgill, assistant director of Economic Development presented an update on the branding and marketing initiative.

Ms. Vass recapped the progress made in the past year, noting they had secured grant money through tourism, a consultant was hired, conducted focus groups with various stakeholders, input meetings with the public were held, and ultimately the consultant provided a presentation to the general public. She stated since the presentation city departments worked together to edit and create the vision, the consultant, Arnet and Muldrow, came up with the design and brand as a whole. She stated the brand statement is long but the point of including it in the presentation is to show that a brand is much more than a graphic or color palette, but also includes the feelings and memories people get when they see the images. She stated in the past the city has had several different brands and graphics so we are striving for consistency with a visually appealing look across city departments.

Ms. Black stated in January 2018 the tourism office began implementing some of the

brand strategy and launched the “Friendly by Nature” tagline. She stated regional collaborations as well as digital platforms have been updated and have received positive feedback.

Mr. Magill stated the consultant provided individual logos for each department, which have their own personality but the logo is still a consistent and versatile. He stated staff is now looking for direction from council on what to do with the city seal.

Ms. Vass stated the consultant updated the city seal to fall more in line with the new city brand and to make it more timeless and to stay current for the next 50 years. She stated city code has a section stating the specific requirements for the city seal and reviewed those requirements. She stated the only part missing from the code is the text that goes on the top ribbon stating “founded” and “incorporated”. The group is looking for direction for this version of the seal and direction as to potentially updating the city code. She stated the last time the code was updated was in 1973.

Mayor Reed inquired about why the wording on the seal is situated as it is. Ms. Vass said it was to mirror the city and also to add the established date.

Mr. Macgill stated the implementation of the logos would be gradual, you could easily change the digital platforms and print items would be changed as soon as one runs out of the old documents.

A discussion took place about the orientation of the wording and the color palette.

Council Member Jones thanked staff for all their hard work.

A motion was made by Council Member Jones, seconded by Council Member Byrd, to approve the branding and marketing as presented, amend the city code and provide additional proofs of the seal. The motion carried with a unanimous voice vote.

- 7.b.** Consider a resolution to approve the final percentage of personal property tax relief for the year 2018 to be 26.4%

Chris Brown, city attorney, presented a resolution setting the final percentage of personal property tax relief for the year 2018 to 26.4% and noted each year council reviews this after the state sends a chunk of money and the commissioner of the revenue and the director of finance allocates those funds across the personal property tax.

A motion was made by Council Member Byrd, seconded by Council Member Hirschmann, to approve resolution as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

8. Other Matters

8.a. Comments from the public, limited to five minutes, on matters not on the regular agenda.
(Name and address are required)

Anne Neilson, 1935 Apt. A Park Road, stated there are warnings about the hurricane and the worst part is the likelihood of flooding again. She stated in the western states they have problems with draught and fire, and there are similar problems globally. She presented to council a copy of a recent article from Time Magazine entitled Paying for Climate Change that encapsulates perfectly in a single page her concerns about what is going on around us and has been for many years. She asks council to read it and think about it.

Pamayotis "Poti" Giannakaouros, stated we are staring down a very serious situation, it is inevitable that many of us will face severe losses over this weekend. He stated each year he does a survey in the middle of July regarding grass heights in 24 different yards to monitor how people are responding to our tall grass and weeds ordinance. He reviewed his findings and feels the unprecedented flooding seen in the city this year, and saturated soil, due to residents scalping their yards to a mere 4-inch height. He stated with that in mind it may be an appropriate time to appeal the tall grass and weeds ordinance.

8.b. City Council and Staff

Council Member Jones advised residents to call if they need anything and hope and pray this storm moves passed us. He asked everyone to pay attention to the news, be prepared and check on your neighbors.

Vice Mayor Baugh stated there will be two items on the Planning Commission agenda that may be coming to this body: a request for sewer in the county and a continued public hearing on a proposed rezoning on Lucy Lane.

Council Member Byrd asked council to remember the city went for RFP's for nutrient credits, with a low bid at \$14,000 per pound of nitrogen, and the reason he is bringing that up now, as projects come forth, it provides a base line as to what these credits can be purchased for on a permanent basis versus the cost to construct. He stated he was at the Virginia Municipal League meeting last week, FCC issued preemption on small cell facilities in public right of way which makes null and void any and all action we have taken about siting, hiding etc. He stated the Community Service Board (CSB) is looking at short falls in the current operating year in current funding coming from the state due to the change in Medicare, and CSB will be asking for support. He stated JMU will be playing football on Thursday.

Council Member Hirschmann stated if anyone was planning on buying a boat it's a

little late, he suspects we will have problems in the area with minor flooding and possibly major flooding in some areas, so call if help is needed.

Eric Campbell, city manager provided an update on Hurricane Florence, which is currently a category four storm moving west/northwest at about 15 MPH, it is on track to approach the coast of North Carolina and South Carolina late Thursday afternoon into Friday morning, maximum sustained winds are approaching 140 MPH, the impact on our area is still uncertain at this time, city department heads are meeting daily to coordinate operations and assure adequate resources are available when needed. He stated a staff plan is being created should the need arise to physically activate the emergency operations center, Governor Northam has declared a State of Emergency for the Commonwealth, and the paperwork locally has been prepared should a state of emergency need to be declared in the city. He stated staff is watching it, monitoring and putting things in place if there is a need to act.

Council Member Byrd welcomed police chief English to his first meeting.

Mayor Reed stated the dog park is closed due to flooding, stay tuned to local media for information on pending storm and be sure to follow the city social media sites.

9. Closed Session

- 9.a. Virginia Code Section 2.2-3711(A), under: Subsection 3 for a discussion of the acquisition of real estate for a public purpose

At 10:15 p.m. a motion was made by Council Member Jones, seconded by Vice Mayor Baugh, to enter into closed session. :

A motion was made by Council Member Jones, seconded by Vice Mayor Baugh, to enter into closed session as authorized by the Virginia Freedom of Information Act, Virginia Code Section 2.2-3711(A), under: Subsection 3 for a discussion of the acquisition of real estate for a public purpose. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

10. Adjournment

At 10:23 p.m., the closed session ended and the regular session reconvened. City Attorney Brown read the following statement, which was agreed to with a unanimous recorded vote of Council: I hereby certify that to the best of my knowledge (1) only public business matters lawfully exempted from open meeting requirements under Chapter 37 of Title 2.2 of the Code, of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting by the City

Council.

At 10:23 p.m., there being no further business and on motion adopted, the meeting was adjourned.

DEPUTY CITY CLERK

MAYOR