



City of Harrisonburg

409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes - Draft City Council

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

Tuesday, June 10, 2014

7:00 PM

Council Chambers

1. 7:00p.m. Roll Call

Present: 5 - Mayor Ted Byrd, Vice-Mayor Charles Chenault, Council Member Richard Baugh, Council Member Kai Degner, and Council Member Abe Shearer

Also Present: 5 - City Manager Kurt Hodgen, Assistant City Manager Anne Lewis, City Clerk Erica Kann, City Attorney Chris Brown, and Police Chief Stephen Monticelli

2. Invocation

Council Member Shearer offered the invocation.

3. Pledge of Allegiance

Mayor Byrd led the Pledge of Allegiance.

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

Byrd reminded those present that only items not on the agenda can be addressed at this time.

Bucky Berry, 30 West Washington Street, spoke on the poverty rate in the City and County and would like Council to work on creating more jobs.

John Serrell, 109 Fairway Drive, spoke about his property as he did during the May 27, 2014 meeting. Mr. Serrell also asked if there was an engineer present and available for questions when the floodplain agenda item would be discussed.

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

A motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, that the Consent Agenda was approved as presented. The motion carried by the following vote:

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

No: 0

5.a. Approval of minutes

These Minutes were approved on the Consent Agenda.

- 5.b. Consider a supplemental appropriation in the amount of \$451,000 for joint jail services with Rockingham County.

This Supplemental Appropriation was approved on the Consent Agenda.

- 5.c. Consider a supplemental appropriation in the amount of \$95,991.58 for the Fire Department.

This Supplemental Appropriation was approved on the Consent Agenda.

6. Public Hearings

- 6.a. Consider ordinance amendment Section 7-4-1 of the Harrisonburg City Code increasing water and sewer/authority rates

City Manager Hodgen stated this ordinance will incorporate the rate increase for water and sewer that were included in the budget proposal that was adopted last month. City Manager Hodgen noted a correction needed to be made in the ordinance to the "rural water over 250,000 gallon" category rate to reflect the \$0.07 increase.

At 7:07 p.m., Mayor Byrd closed the regular session and called the first public hearing to order. A public hearing notice appeared in the Daily News-Record on Tuesday, May 27 and Monday, June 2, 2014.

At 7:08 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

It was noted that these costs are costs to manage various services that are directly related to water and sewer. It is not to raise funds for other City functions.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, that this Ordinance be approved with the change noted. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

- 6.b. Consider a request from the City of Harrisonburg to amend the Zoning Ordinance Article Y Floodplain Zoning District by replacing the entire article with new and updated Floodplain regulations

Stacy Turner, Director of Community Development, stated the City participates in the National Flood Insurance Program (NFIP) and we are required to follow their rules and regulations in order to participate. This program allows property owners to obtain flood insurance to recover cost if there was ever a flood. Mrs. Turner noted if the City

doesn't participate as they require, they have the authority to remove us from the program and property owners would be unable to purchase flood insurance. Mrs. Turner reminded Council that changes were made in 2007 along with map changes. This past winter, the Virginia Department of Conservation and Recreation (DCR), on behalf of FEMA, performed an onsite visit and identified some changes that needed to be made within Article Y in order to maintain compliance with the NFIP requirements. After evaluating the needed changes, rather than trying to modify the existing text, staff chose to adapt FEMA's 2011 Virginia Model Floodplain Ordinance text specific to the City's needs, ensuring all current requirements would be met. There were several questions asked, but only two items were able to be removed, *Coastal A Zone* under the definitions section and Section 10-3-173(e).

Vice-Mayor Chenault asked how many property owners have to purchase flood insurance. Mrs. Turner said she didn't bring the information with her, but they know approximately how many structures there are. However, she didn't know how many actually had to purchase flood insurance. Vice-Mayor Chenault asked if property owners could be grandfathered in. Mrs. Turner stated if we didn't approve this ordinance the City wouldn't be able to participate in NFIP and property owners wouldn't be able to obtain flood insurance.

At 7:17 p.m., Mayor Byrd closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Tuesday, May 27 and Monday, Tuesday, June 3, 2014.

At 7:18 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

Council Member Baugh stated there is an engineer on Planning Commission and this matter was discussed at length. Also, it was noted during Planning Commission, property owners could apply for a letter of map revision (LOMR), so that FEMA could recognize the property as out of the flood plain, which was clear in the Planning Commission minutes. City Attorney Brown stated a letter would be sent in morning to Mr. Sellers.

A motion was made by Council Member Baugh, seconded by Council Member Shearer, that this Zoning Ordinance be approved as presented with the noted changes. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

6.c. Consider a request from Northside, LLC with representative Balzer & Associates Inc. to close two separate streets: Wilson Avenue and Boulevard Avenue

Mrs. Turner stated Northside, LLC (the applicant), a family owned LLC, is requesting to close 62,004 +/- square feet of public street right-of-way (ROW) of two separate

streets: Wilson Avenue and Boulevard Avenue. The closure request is the first step of a multi-step process the applicant is initiating so they can enter into contract with an interested buyer to construct what they hope is commercial development-conceptually, a grocery store. After this month's review of the ROW closing, a preliminary plat and rezoning request are planned to be simultaneously reviewed. The reason the closure request is occurring first, is because if the City is not interested in closing the ROW, then the interested buyer does not want to move forward as their conceptual building layout utilizes areas that are now public street ROW. Mrs. Turner reviewed the property and the adjacent properties involved in the request. Mrs. Turner noted as is standard practice, all property owners adjacent to the requested areas for closure will have the opportunity to purchase up to 50 percent of the ROW width along the entire length adjoining their property. In all, 16 parcels are adjacent to the ROW requested for closure; nine are owned by the applicant, two are owned by Joseph and Linda Moore, two are owned by GSW Investors, one is owned by Harrisonburg Rockingham Community Services Board, one is owned by Harrisonburg Rockingham Community Mental Health and Others, and one is owned by Richard and Betty Sampson. Mrs. Turner stated staff and Planning Commission recommend approval with the following conditions: 1. public easements shall be reserved for all public utilities; 2. the recording of the street closing shall not occur until, or simultaneously with, the dedication of the extension of Technology Drive; and, 3. all lots shall have public street frontage. Mrs. Turner stated Mr. Sampson informed the applicant this week that he is in favor of the request with the conditions, but no official letter has been received. CSB had the request reviewed by their board and they are also in agreement with this development plan provided they retain an access easement to the rear of the property. Mr. Sampson was also in favor of the access easement. City staff is recommending an additional recommendation that the vacation not occur until consent has been reached between adjoining property owners that will provide a 30 ft wide public access easement to the public street ROW at the intersection of Wilson Avenue and Technology Drive. Mrs. Turner stated that CSB, Mr. Sampson, and GSW are in agreement with the request and conditions presented.

At 7:29 p.m., Mayor Byrd closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Tuesday, May 27 and Monday, Tuesday, June 3, 2014.

Bucky Berry, 30 West Washington Street, stated he knew the applicant and would like Council to consider approving this request.

At 7:31 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

A motion was made by Council Member Baugh, seconded by Vice-Mayor Chenault, that this Planning Case be approved with the conditions as presented. 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

7. Special Event Application Requests

7.a. Consider the 2014 Alpine Loop Gran Fondo for a special event request

Katie Yount, Harrisonburg Downtown Renaissance Events Director, stated Alpine Loop Gran Fondo will be held on Sunday, September 28th from 6:30 a.m. until 7:30 p.m. and a finish line festival at the Turner Pavilion. Ms. Yount stated this is the fourth year this event has been held and it has been reviewed by all city departments.

A motion was made by Council Member Shearer, seconded by Vice-Mayor Chenault, that this Special Event Application be approved. The motion carried by a voice vote.

7.b. Consider the Valley Fourth 2014 for a special event request

Ms. Yount stated Valley Fourth will take place on Friday, July 4th with a full day of activities in downtown Harrisonburg from 8:30 a.m. until 9:30 p.m. Ms. Yount stated this is the 13th year of this event and all items have been reviewed by city departments. Ms. Yount stated the Fire Department has approved this request. However, approval of the firework display is pending approval of the permit, which should take place later this week.

A motion was made by Council Member Shearer, seconded by Vice-Mayor Chenault, that this Special Event Application be approved. The motion carried by a voice vote.

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

No: 0

8. Regular Items

8.a. Consider request to proceed with Public Safety Radio System Upgrade

Jim Junkins, Emergency Communications Center (ECC) Director, reported the Public Safety Radio System requires an upgrade and it has been in the long range plan to spread the expenses over two fiscal years. Mr. Junkins stated the radio manufacturer, Harris, has offered a significant incentive. Mr. Junkins stated that he sought approval through the Administrative Board consisting of City Manager Hodgen and County Administrator Paxton and they suggested bringing the proposal before Council and the Board of Supervisors. Mr. Junkins stated the list price of the upgrade is \$6,291,220.00 and the City was already given approximately \$1M off for being a Harris customer. Harris has offered an addition \$788,083.00 if we sign a contract before June 20, 2014. Mr. Junkins stated over the past several years, ECC has developed a fund balance of \$2.6M that can be offered towards the cost of the upgrade, but there still is a net of \$1,496,744.00 remaining, which brings the amount to \$748,372.00 that both the City and County would need to provide. Mr. Junkins

stated this upgrade is not requiring to replace the entire radio system. The additional funds being requested will not be needed prior to July 1, 2015, even though the money would be committed by June 20, 2014. Mr. Junkins stated he recommended approval of this request.

A motion was made by Council Member Degner, seconded by Council Member Baugh, that an additional \$748,000.00 for the Radio System Upgrade be approved.

City Manager Hodgen stated the Board of Supervisors will also have to approve this request for their portion of the funding.

Vice-Mayor Chenault stated he wasn't sure moving it into next years budget is the best thing to do, because there are a lot of financial responsibilities coming forward in the next years budget. City Manager Hodgen stated if anything was done in advance, it would be reserving those funds in advance. City Manager Hodgen reported the County is not planning to pay their portion of the bill until FY2015.

The motion was amended by Council Member Degner, seconded by Council Member Baugh, to include directing the City Manager to execute the contract for the upgrade. 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. Report on Hotel-Conference Center Project

City Manager Hodgen stated a framework is coming together for the development of the Hotel and Conference Center. This is a project that has been in discussions for over two years. Both the City and JMU received unsolicited proposals from dPM Partners to construct a 205-room Hotel and a 21,000 sq ft. Conference Center on land owned by James Madison University (JMU) at the corner of South Main and Martin Luther King, Jr. Way.

Under the proposed project parameters, JMU would provide the land for the project, and would build a 1,000-vehicle parking deck adjacent to the Hotel/Conference Center to support those facilities. dPM partners (the Developer) will pay to construct the Hotel and the JMU Foundation will pay to construct the Conference Center. dPM will operate and manage both facilities upon their completion. The City, through its Industrial Development Authority, will implement an economic development program to provide annual grants to the JMU Foundation which will be used to reimburse the Foundation for its cost in constructing the Conference Center. The annual grant amount would be based only upon the revenues generated by the Hotel and Conference Center during each fiscal year. The estimated costs for the project include \$30 million cost for the Hotel; \$10 million for the Conference Center, and

\$15-16 million for the parking deck. City Manager Hodgen stated the next step is to finalize contract and then schedule a public hearing. It was noted that if the contract was received in the next week, a public hearing would be scheduled at the next meeting.

8.c. Consider a resolution establishing the City's VRS contribution rate

City Manager Hodgen stated staff recommends that the board-certified rate 12.76% be selected by the City.

A motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, that this Resolution 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.d. Consider approval of a resolution concurring with the School Division's VRS Contribution Rate for Harrisonburg City School Division

City Manager Hodgen stated this is similar to the action just approved for the City, but it is for the Harrisonburg School Boards certification rates. This resolution and rate is for non-professional staff because their professional staffs rate is set by the Commonwealth.

A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, that this Resolution 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.e. Consider resolution supporting "Marketplace Fairness" legislation being considered by Congress

City Manager Hodgen state the City has been asked to join our regional neighbors, including Roanoke City and Roanoke County, as well as the Chambers of Commerce in Augusta, Rockingham, and Amherst in supporting the resolution being presented. Other localities considering the resolution include: Rockingham, Botetourt, Bedford and Allegheny Counties and the City of Lynchburg. The resolution seeks Congressional legislation that "equalizes the playing field", relative to the application of sales tax, between internet business and traditional "bricks and mortar" businesses.

A motion was made by Council Member Degner, seconded by Council Member Baugh, that this Resolution 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.f. Consider a request to amend and re-enact Section 7-1-9 of the Harrisonburg City Code

City Manager Hodgen stated the Public Utilities Department is requesting to amend Section 7-1-9 to reflect that no payment arrangements or extensions shall be accepted by the City. City Manager Hodgen stated that Public Utilities didn't currently do this, but some citizens questioned the code since it does not clearly state it. It also adds how the City will address returned payments. City Attorney Brown recommended that the word "accepted" be changed to "granted".

A motion was made by Council Member Shearer, seconded by Vice-Mayor Chenault, that this Ordinance be approved with the suggested change on first reading. The motion carried by a voice vote.

8.g. Consider amending and re-enacting Section 13-1-15 of the Harrisonburg City Code

City Manager Hodgen stated the ordinance being presented is reflecting the changes that were made when the fiscal budget was approved.

A motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, that this Ordinance 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.h. Consider request to write off delinquent utility accounts and accounts receivable accounts

City Manager Hodgen stated the Director of Public Utilities is requesting approval to write off 260 utility accounts that the City incurred as accounts receivable between January 1, 2012 and December 31, 2012. The total value of these accounts is \$40,841.08 or 0.283% of the total billings for that period. Also, they are requesting approval to write off two uncollected accounts receivable accounts with a total value of \$938.87 or 0.5% of the total billings during the period January 2010 through June 2012. City Manager Hodgen stated these write offs are for accounting purposes only as these accounts will still be pursued by the collection agency. All amounts can be re-entered into the system should they become collectable.

A motion was made by Council Member Shearer, seconded by Council Member Degner, that this Action Item 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.i. Consider enacting Title 7, Chapter 6, Illicit Discharge and Connection Ordinance, to the Harrisonburg City Code

City Attorney Brown stated this is a smaller step to the ordinance that was passed a few months ago regarding stormwater and the City is required to pass for the new MS4 regulations. This ordinance prohibits the dumping or discharge of non-stormwater in our stormwater management system. However, there are exceptions that are listed in the ordinance. This ordinance would create the discharge as a class 1 misdemeanor and would subject someone to civil penalties. City Attorney Brown stated some of the elements are already listed in our current ordinances and that is why a section was added that this ordinance doesn't affect those.

A motion was made by Council Member Degner, seconded by Council Member Baugh, that this Ordinance 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. Supplementals

9.a. Consider a supplemental appropriation for the Public Works Department in the amount of \$290,656.41

This supplemental appropriation is to cover additional snow and ice removal expenses incurred in FY 2014. As shown in the attached report, the City experienced 11 different snow and ice events, which cost \$527,207.97. The FY 2014 budget included \$236,551 for snow and ice removal. The Public Works Department is requesting this supplemental appropriation to cover this budget deficit.

A motion was made by Council Member Baugh, 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

9.b. Consider a supplemental appropriation for the Police Department in the amount of \$58,548.58

These funds would be transferred from JMU Overtime Reimbursement into Operations Salaries/Wages OT.

A motion was made by Council Member Degner, seconded by Council Member Baugh, 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

- 9.c.** Consider a supplemental appropriation for the Police Department in the amount of \$15,564.18

These funds would be transferred from the Internet Crimes Against Children Grant award to the investigation line items for overtime, training, equipment, supplies, hardware, software and service contracts.

A motion was made by Council Member Degner, seconded by Council Member Baugh, 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

- 9.d.** Consider a supplemental appropriation for the Police Department in the amount of \$5808.53

These funds were used for overtime saturation patrols through a reimbursement grant, Drug Free Communities, provided by Sentara/RMH.

A motion was made by Council Member Degner, seconded by Council Member Baugh, 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

- 9.e.** Consider a supplemental appropriation for the Police Department in the amount of \$5,823.48

These funds will be reimbursed through a DOJ Bullet Proof Vest Grant. The City received the maximum amount of funding available to us for the 2013-2014 grant period.

A motion was made by Council Member Degner, seconded by Council Member Baugh, 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.f. Consider a supplemental appropriation for the Police Department in the amount of \$3,711.04

These funds are provided through the ATF VIPER Task Force to reimburse overtime, training, travel and equipment expenses associated with work on the Roanoke Field area task force.

A motion was made by Council Member Degner, seconded by Council Member Baugh, 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

10. Reallocations

10.a. Consider a re-allocation for the School Board in the amount of \$350,000

DD Dawson, Director of Finance for Harrisonburg City Schools, requested Council to consider transferring funds out of the operations and maintenance, transportation, and the administration, attendance, and health line items into the areas of instruction and technology. Mrs. Dawson reported that the transfer does not require any new money. Mrs. Dawson stated without coming to Council, the School Board was able to offer an employee bonus in December, so the function would be overdrawn at the end of the fiscal year. Mrs. Dawson stated the schools did receive funds from the E-Rate discount from the Federal Communications Commission (FCC), which was not known during the time the budget was produced, and those funds need to be shown both as an expense and a credit in the technology function.

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

11. Other Matters

Council Member Shearer warned citizens of a scam that his family was recently involved in about a family member being in jail and the caller asking for money to get them out.

Vice-Mayor Chenault asked for a status of the sidewalk on Wolfe Street between Broad and Mason Street. City Manager Hodgen stated he would get that information.

Council Member Baugh reported the upcoming Planning Commission had a full agenda.

12. Boards and Commissions

13. Closed Session

13.a. Closed Session

At 8:07 p.m., a motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, to enter into closed session as Authorized by the Freedom of Information Act, Virginia Code Section 2.2-3711(A), under Subsection 3 for the discussion and consideration of disposition of publicly held real property and Subsection 7 for consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel. The motion was approved by the following roll call vote:

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

No: 0

14. Adjournment

At 8:49 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 8:50 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR