



# City of Harrisonburg

409 S. Main Street  
Harrisonburg, VA 22801

## Meeting Minutes - Draft City Council

*Mayor Christopher B. Jones*  
*Vice-Mayor Richard Baugh*  
*Council Member Ted Byrd*  
*Council Member Kai Degner*  
*Council Member Abe Shearer*

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Tuesday, October 25, 2016

7:00 PM

Council Chambers

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### 1. Roll Call

**Present:** 10 - Mayor Christopher B. Jones, Vice-Mayor Richard Baugh, Council Member Ted Byrd, Council Member Kai Degner, Council Member Abe Shearer, City Manager Kurt Hodgen, Acting Deputy City Manager Ande Banks, City Attorney Chris Brown, Police Chief Stephen Monticelli and Clerk Pro Temp Pam Ulmer

**Absent:** 1 - City Clerk Erica Kann

### 2. Invocation

Council Member Byrd offered the invocation

### 3. Pledge of Allegiance

Mayor Jones 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)

Raymond Zigler, student at Eastern Mennonite University, employed by Nexus, an ambassador for the Harrisonburg community and a representative of Americans Resisting Minority and Ethnic Discrimination (ARMED), held up a poster and stated he is as an African American male, he is appalled that bigotry which continues to be pouring into the community. Mr. Zigler stated since he has been here just over a year, the city and residents have been very kind to him, but for a government official (referring to Mr. Ergenbright) to continue to spread meanness, he is hurt as an African American male.

Andrew Jones, production manager for Breaking Through, 2 North Main Street, stated he has been a resident of the city for 18 years and is appalled that local government is using hate driven emoji's in city emails. Mr. Jones stated 100,000 men have been arrested as homosexuals, of which 50,000 were arrested under Adolph Hitler, and after the war the treatment of homosexuals in concentration camps went unacknowledged by most countries. Mr. Jones stated it was not until the 1980's that governments began to acknowledge this episode and the German government didn't apologize to the gay community until 2002. Mr. Jones stated he certainly hopes it doesn't take the city of Harrisonburg that long.

Christopher Wilmore stated he is the manager of the local petition drive calling for the removal of Karen Rose due to the racist emoji's sent out of her office. Mr. Wilmore believes the people of this city should not stand for this and has obtained over 2000 signatures on the recall petition and will continue to collect signatures for 2 more weeks.

Dave Briggman, stated while he is a resident of Rockingham County he works in the city and is no stranger to serving city government when it works and in this case it appears that part of it does not work. Mr. Briggman stated he initiated the Freedom of Information Act (FOIA) request, which caused Augusta County to disclose the emails transmitted by Mr. Ergenbright and was deeply offended and disappointed in Mr. Ergenbright's actions with no apparent sanctions by Mrs. Rose against her employee for actions performed while being paid by tax payers and using tax payer funded computer equipment. Mr. Briggman stated on October 15, 2016 Mr. Ergenbright posted a photo on Facebook a post that both contains the Confederate battle flag and the following accompanying text: "In the US you are free to live as you wish unless you're white, straight, republican, a gun owner or southern" . Mr. Briggman is troubled that while under scrutiny for transmitting a Hitler emoji, Mr. Ergenbright Ergenbright's posted such things on Facebook and seems quite willing to continue to express himself in a way that can be construed as anti-gay and/or anti-minority. Mr. Briggman hopes the council, in the upcoming budget process, considers de-funding the office of the Commissioner of the Revenue in an amount approximately equal to Mr. Ergenbright's salary, and allows Mrs. Rose to the discretion on how she will make up for that funding shortfall. Mr. Briggman stated he was embarrassed that Harrisonburg ended up on the DRUDGE Report for the appalling actions taken by Mr. Ergenbright. Mr. Briggman stated since it seems that Mrs. Rose is either unwilling or unable to clean up her department and Mr. Ergenbright lacks the willingness to resign to spend more time on social media, he hopes council takes this matter seriously enough to monetarily penalize the office occupied by Mrs. Rose to incentivize her from having an office environment where this sort of conduct is apparently condoned.

Evan Ajin, Vice President of Operations for Libre by Nexus, 2 North Main Street stated he was a previous resident of the city and agrees with Mr. Briggman. Mr. Ajin stated being a Hispanic male in this area has been welcoming for the most part, however the reality of having individuals in our local government that are able to exchange some of these extremely hurtful ideologies and continue to exchange them after significant concern was made by the community, is concerning. Mr. Ajin stated he believes, even though Harrisonburg is known as the Friendly City, this issue should be allowed to continue.

Mike Donovan, Nexus Services, 2 North Main Street, reviewed the poster that had been presented earlier and provide more context than may have been given. Mr. Donovan stated Mr. Ergenbright has maintained a public Facebook account, one showing the Confederate battle flag with a firearm with text stating "try to take it from me" and reviewed the details of the post Mr. Briggman referred to earlier. Mr.

Donovan stated he is white and southern and has never been discriminated against for either of these things, and has seen privileges that come with that. Mr. Donovan stated he is openly gay, but was abused and harassed in high school when he came out and has seen much discrimination for being openly gay. Mr. Donovan stated the Facebook post being published publicly by someone who is already under fire for sending Hitler emoji's demonstrates a wanton hubris that he believes is a result of the city's failure to hold this person accountable the first time. Mr. Donovan stated he hopes the council will understand that although they may not be able fire this employee, they do have a responsibility and cannot turn a blind eye to it. Mr. Donovan pleaded to the council to do something about this.

Stan Maclin, stated they are here again and on the standpoint that this issue needs to be revisited is sad. Mr. Maclin had a meeting with the commissioner and Attorney Brown with the expectation of having a serious meeting of the minds; he trusted and believed them that an understanding of a reconciliation or joint press conference to show what was accomplished could be done. Mr. Maclin stated nothing was done, that was three weeks ago, he quoted Martin Luther King, Jr. regarding why they can't wait. Mr. Maclin noted when it comes to racism he is tired of waiting and is now taking a stand and cannot allow any form of intolerance to exist in this city, as it is giving place for other things to happen. Mr. Maclin stated they care as a city and referenced thousands of Africans that were killed on an African island by Hitler. Mr. Maclin asked the council to do what they can do, let the people know this city will not allow racism or intolerance that could divide our city and thanked council for listening since the council can set an example and make a difference.

King Salim Khalfani, founding managing director of ARMED, 16 South Main Street, stated what Mr. Ergenbright has done has had state wide impact; the friendly city has now gone viral as a friendly city that has people who work for them that are not so friendly. Mr. Khalfani stated any employee that sends images of Adolph Hitler on a city owned computer emails has no discretion and has to go. Mr. Khalfani stated the Virginia Attorney General, the Virginia General Assembly, etc. help fund the office of the Commissioner of the Revenue, and has an impact on the entire city and it should not be tolerated. Mr. Khalfani stated on behalf of ARMED, he implores council to show this is not acceptable, in Harrisonburg or the surrounding counties and thanked council for their time.

Reverend Frank Jackson, founding managing director of ARMED, Chicago, Illinois, stated he was deeply honored to be here and thanked council for their time. Rev. Jackson stated he has done some research and Harrisonburg is a great city, but in spite of all the city has going for it most Americans hadn't heard of Harrisonburg a year ago. Rev. Jackson stated today they know of the city, but for all the wrong reasons, and referenced the receipt incident, the First Lady being insulted by a car dealership employee, fortunately they understood that whenever an entity is driven by profit generated from the community, we must hold that entity to a higher standard, likewise, when a public office is funded by and represents the general population we are left with no choice but to hold that office to a higher standard.

Rev. Jackson stated with today's cyber technology passionate messages of both truth and lies, messages of love and hate, and messages of anti-Semitism circle the globe at the speed of light. Rev. Jackson stated a year ago most Americans didn't know what an emoji was, or knew just as a smiley face, but now people all over the country are now familiar with the term Hitler emoji. Rev. Jackson noted Mrs. Rose stated that anyone can pull up a Hitler emoji through a Google search. Rev. Jackson stated it was crystal clear, after visiting Mr. Ergenbright's Facebook page, that he wants the government to hold the democratic nominee Hillary Clinton responsible for her poor judgment and for the content of her emails, it would be hypocritical for Mr. Ergenbright to expect not to be held responsible for his poor judgment and the content of his emails. Rev. Jackson stated Mr. Ergenbright has not offered any apologies or indications of remorse and providing sanctuary for Mr. Ergenbright, he wonders if the commissioner had checked to see if either of them had violated hostile work environment harassment law. Rev. Jackson stated this incident is a national embarrassment, and reminds Mrs. Rose that free speech often comes with consequences. Rev. Jackson stated that on this 25th day of October, 2016 we as a people, standing united, also choose to exercise our first amendment right and demand the immediate resignation of either the Commissioner Karen Rose or Harrisonburg city auditor, Gene Ray Ergenbright or both, and closed by saying the people have spoken.

James "Bucky" Berry, 30 West Washington Street, stated his son Brent has problems with vision, and has concerns about the capacity of the high school, and noted that if people want services in the community the people will have to pay taxes for another school, it is obvious Harrisonburg is growing. Mr. Berry stated the trailers for students are not safe and feels the need to take action about the high school should be done immediately.

Beth Bland, Valley Program For Aging Services extended an invitation to an event on November 2, 2016 entitled "State of the Older Adult: The Time is Now", being hosted by the James Madison University (JMU) Social Work Department and the ElderAlliance, Inc., to start a community conversation on the impact of the age wave on a community. Ms. Bland stated it is estimated that 10,000 people are turning 65 every day, and by the year 2029 over twenty percent of the population will be 65 or older. Ms. Moran stated the event will begin with the exhibit hall opening at 8:30 a.m. and the forum beginning at 10:00 a.m. at the JMU Festival Conference Center. The event is free and open to the public, and the keynote speaker will be James Rothrock, commissioner for the Virginia Department for Aging and Rehabilitative Services.

Pamavotis "Poti" Giannakaouros, 98 Emory Street recognized the high school and JMU government students in attendance, and extended an invitation to the Grafton-Stovall Auditorium event entitled "Washington Budget Battles - Angry Bird Style", on October 26, 2015 at 4:00 pm, with key speaker Stephanie Kelton who served as Chief Economist on the U.S. Senate Budget Committee and then became an Economic Advisor to Bernie Sanders. Mr. Giannakaouros noted she is one of the 50 people across the country that is most influencing the political

debate.

Steven Thomas, 158 East Johnson Street, stated he is a 40 year resident of Harrisonburg, community organizer, and a member of the Northeast Neighborhood Association (NENE). Mr. Thomas stated he is here to give an indented perspective on the Commissioner of Revenue. Mr. Thomas stated he has gotten to know the local politicians, and even though they don't always agree, most of the politicians are men of integrity, they stand up for what they believe in, and believe in the politics they espouse. Mr. Thomas stated that Mrs. Rose has always participated in community events in the most diverse communities and has always treated every race and nationality in this city fairly and justly, proven to him by his own interactions with her as a subcontractor. Mrs. Rose was not and is not one of those that are racist. Mr. Thomas questioned Mr. Maclin if he was present in June 2016, along with the CEO of NEXUS, Mike Donovan and others of Nexus during the NENA meeting at which time it was mentioned that a law suit was going to be filed in regard to the Middle River Regional Jail (MMRJ) issue, and after that meeting Mr. Thomas noted he was approached by Mike Donovan and offered \$600 a week to lead a petition to have Mrs. Rose fired. Mr. Thomas stated this was not an ARMED initiative, nor a SCARE initiative, it was NEXUS and Mike Donovan. Mr. Thomas stated Mr. Donovan stated it was a personal issue against Mrs. Rose. Mr. Thomas stated he spoke about it to the Daily News Record (DNR) and stands by everything he said. Mr. Thomas stated everyone is aware that Mr. Donovan and others have pending litigation in Augusta County, and the people involved in this case are those they seek to terminate. He stated that the ARMED group is a store front civil rights organization masquerading as elitists bought and paid for by NEXUS. Mr. Thomas questioned the mayor regarding the weekend of October 8 and 9, 2016, in which he was in Orlando, Florida, with NEXUS, Reverend Jackson and King Salim Khalfani and two weeks after his return the commercial calling for the termination of Mrs. Rose started running on WHSV and ESVF, where the Mayor is the account executive of advertising. Mayor Jones interjected and stated he was one of the account executives of advertising. Mr. Thomas stated the weeks leading up to that trip the Mayor had been on the television show Breaking Through, which is sponsored by NEXUS, along with these same gentlemen on at least three different occasions. Mayor Jones interjected and asked if Mr. Thomas is willing to share what he called the mayor last week. Mr. Thomas stated the mayor is just trying to deflate the information. Mr. Thomas stated Mrs. Rose is one of the most outstanding members of this community, she is not a racist and she is a person of integrity.

Tim Pifer, resident of Harrisonburg and philanthropy director for the Village at Orchard Ridge in Winchester and the Legacy in Staunton, which are retirement communities in service for over 125 years. Mr. Pifer stated he is in support of Mrs. Karen Rose, who he has known for over 17 years, she has a strong character rooted in faith and sound moral values, she has admirable family beliefs principled by love and discipline, her professional career is unblemished and she takes great pride in her civic duty for her office and for the people of Harrisonburg, and is guided by sound ethical principles. Mr. Pifer stated the event of Mr. Ergenbright is

unacceptable for the comments and the actions he had, and more unacceptable being a city employee. Mr. Pifer stated based on the information he read and heard, when this was discovered Mrs. Rose sought council immediately from the Human Resources Department as well as the city attorney, and acted with the advice provided within the policy and procedure of the city. Mr. Pifer stated we must have faith in those policies, no matter what the outcome may be, and although we certainly can't stand for the actions of this employee, one must have faith in those policies that work and he believes in the integrity of Mrs. Rose in acting within those policies. Mr. Pifer stated he stands behind and with Mrs. Rose on the decisions she made and supports her in her role with the city.

Sallie Strickler, 1015 Smithland Road, stated there has been negative news in the media and spoken tonight regarding the Commissioner of Revenue, Karen Rose. Ms. Strickler met Mrs. Rose in 1993, they were fortunate to have children the same age, they watched them grow and become part of the community. Ms. Strickler stated Mrs. Rose has been involved in many civic organizations, volunteered countless hours for the school PTA's, supportive of James Madison University activities as much as possible, active in her church, treasurer and active participant of the United Methodist woman's group and a member of the woman's circle that supports this community as well as communities throughout the world. Ms. Strickler stated Mrs. Rose is, loyal, dedicated, dependable and trustworthy with high integrity, and she always goes above and beyond with any activities she is involved with. Ms. Strickler stated Mrs. Rose has her continued support and appreciation for a job well done.

Tom Mendez, 14 Diamond Court, stated he has served eight and a half years as an elected official on the school board, is an appointed official on the Harrisonburg Electric Commission, served as president of the local Chamber of Commerce, served as president of the local United Way, and has dedicated much of his free time over the past two decades volunteering in the community as a Rotarian, at the colleges and schools and numerous non-profit agencies. Mr. Mendez stated through this experience he feels he is a pretty good judge of character, knows firsthand how difficult it can be to serve in a public leadership capacity while acting in the confines of the laws of the state and country. Mr. Mendez stated he stands up to the highly orchestrated ARMED insurrection, people who have good intentions of bringing to light racial bigotry and insensitivity in the world and in the valley; however, their message and actions are deeply misguided. Mr. Mendez stated he detests all forms of discrimination and does not condone anything Ergenbright has said, done or believes, but the bullhorns and chants of paid picketers do not represent the citizens of the city of Harrisonburg, especially on the attack of the character of one of the hardest working public servants do not further their cause unless it is to assassinate the spirit of individuals like Mrs. Rose who heed the call to serve the community as each of the council members has done. Mr. Mendez stated his children were raised in the same school in which Mrs. Rose's children were raised, one of the most racially and ethnically diverse school systems in the state, and one of the best, and knows Mrs. Rose to be an ethical, honest, kind and fair servant, leader to all people of all colors and to suggest

anything else, let alone compare her to Hitler is either patently ridiculous or merely a political ploy to stir up controversy and tension in our friendly city before election day. Mr. Mendez noted he is aware council has zero jurisdiction over this matter, and thanked them for listening, and recommends the ARMED organization bring their collection of signatures to the proper authorities, and it's time to put up or shut up and implores them to find another path of civil discourse with a far more appropriate outcome than trying to oust one of our finest civic leaders.

Richard "Rick" Nagel, 95 Bluestone Hills Drive, chief government affairs officer of NEXUS, stated he was very upset with Mr. Thomas' actions towards the Mayor. Mr. Nagel stated he is speaking on behalf of NEXUS and the gentleman (Mr. Thomas) that spoke violently towards council and disrespected the process is a convicted felon with charges of strong armed robbery and malicious wounding, and hopes the council, the audience and the media saw that his actions spoke louder than his words. Mr. Nagel stated Mr. Thomas called elderly civil rights activists fried chicken loving "n" words, which is unacceptable and NEXUS supports the efforts to recall Karen Rose, which is a matter for the courts, but also brought forth to the city since she is a constitutional officer within the city, and condemning Ergenbright is appropriate and necessary. Mr. Nagel stated he feels economic development is a big part of attracting business to the area, and feels this incident may hurt those opportunities and shared a few scenarios he had seen in other localities.

Mayor Jones clarified that any trips or places he has gone that were paid for are always disclosed in his economic statements of interest, with the next one due in December. Mayor Jones stated that only twice in his life, as African American, was he ever called the "n" word, when he was 15 years old and the second time was last week at the NAACP meeting by Mr. Thomas.

## Recess

At 7:56 p.m., Mayor Jones called the meeting into recess.

At 8:03 p.m., Mayor Jones called the meeting back into session

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

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

**No:** 0

**5.a.** Minutes from October 11, 2016

**These Minutes were approved on the Consent Agenda.**

**5.b.** Consider amending and re-enacting section 7-2-19(b)(4), 7-2-19(b)(6), 7-2-19(b)(7) and 7-2-19(b)(8) of the Harrisonburg City Code, conservation of water during emergencies or drought

**This Ordinance was approved on second reading.**

**5.c.** Refer a request to Planning Commission for the city to vacate Villa Drive, Pine Court, Spruce Court, Hawthorne Circle and Shank Drive, all east of Park Road

**This Action Item was approved on the consent agenda**

**6. Public Hearings**

**6.a.** Consider amendments to the 2014 and 2016 CDBG Action Plans

Kristin McCombe, grants compliance officer for the city, presented amendments to the 2014 and 2016 Action Plans for the Community Development Block Grant, or (CDBG). Ms. McCombe stated \$14,104 of CDBG funding that had previously been allocated to the 2014-2015 Mercy House Small Mercies Expansion project will be moved to the 2016-2017 Fire Department's AED project. Ms. McCombe asked that council open the required 30 day public comment period to solicit input from citizens. Ms. McCombe stated comments may be made and submitted to her in writing at 409 South Main Street, Harrisonburg, Virginia 22801, email at [kristinm@harrisonburgva.gov](mailto:kristinm@harrisonburgva.gov) <<mailto:kristinm@harrisonburgva.gov>> or by phone at (540) 432-8926 by 9:00am on November 28, 2016 to be considered at (540) 432-8926. Ms. McCombe stated she will attend council meeting on November 29, 2016 for councils consideration of approval.

At 8:05 p.m., Mayor Jones closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Monday, October 10, 2016.

There being no one desiring to be heard, Mayor Jones closed the public hearing at 8:05 p.m., and the regular session reconvened.

**7. Regular Items**

**7.a.** Consider a resolution for VDOT Revenue Sharing Grant - Grace Street Extension Project

Tom Hartman, assistant director of Public Works, presented two resolutions to council. Mr. Hartman stated the first resolution is for a Revenue Sharing Grant



application, which is a 50/50 grant program for the Grace Street extension. Mr. Hartman stated this grant was applied for last year in the amount of \$2.5M total, and were awarded just under half of that amount. Mr. Hartman stated this request is to complete the funding. Mr. Hartman stated they are working with James Madison University (JMU) as they are providing the match for the project, and it has been expanded from just being the Grace Street extension to extending Grace Street down Mason to Mr. Chips, and also adding a component of extending the Blue Stone Trail from Mr. Chips to Duke Drive, by the bookstore and connect it to Carrier Drive, which will connect the Blue Stone Trail that leads out to Port Republic Road. Mr. Hartman stated the city's responsibility is administration of the projects since the city is the manager of the funds, however, the administration costs and time are calculated into the grant proposals.

Mr. Hartman stated the Highway Safety Improvement Project grant is for audible pedestrian signals and will provide funding enough to do 50 more intersections within the city.

Council Member Byrd asked if a traffic impact analysis had been done for the Grace Street extensions since the new parking deck has been erected. Mr. Hartman stated one had been done prior to the building of the parking deck which led to the improvements on South Main Street and Martin Luther King Jr. Way. Mr. Hartman stated another traffic impact study was done two weeks ago that studied the intersection of Grace Street and Mason Street, which is exactly where this new project will begin. Mr. Hartman stated the study recommended a signal that JMU would install at the intersection of Grace and Mason as well as some turn lanes on those roads leading to and from the parking decks. Mr. Hartman stated this last study confirmed the improvements that are being planned for Martin Luther King, Jr. Way and South Main Street will improve the congestion on those roads.

Council Member Byrd asked if JMU is involved in controlling who uses the parking deck, as the use by students may increase and the use of public transportation may decrease. Mr. Hartman stated that was being discussed.

Mr. Hartman stated a portion of these projects will be done next summer, the signals at Grace and Mason as well as the turn lanes, medians and the following summer the remainder of the improvements will be completed.

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

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

**No:** 0

- 7.b.** Consider a resolution of support for VDOT Highway Safety Improvement Grant - Audible Pedestrian Signals

Agenda item discussed and approved with item 7A

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

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

**No:** 0

**7.c. Report on Harrisonburg's Zoning Regulations and its Application toward Limited Residential Lodging Uses**

Adam Fletcher, director of Planning and Community Development presented an update on the Limited Residential Lodging Act, often called the Airbnb Bill, State Bill 416 and House Bill 812, reflecting recent state legislative rulings. Mr. Fletcher stated the three different terms used for limited residential lodging: Airbnb's, general and short term rentals, are all the same, used interchangeably and mean the same thing. Mr. Fletcher explained the Airbnb Bill regarding dwelling units across the state, and how, if the legislation passes, citizens could rent out dwelling spaces, specifically for renting our rooms or houses for less than 30 days and may have the ability to use a hosting platform to facilitate the rental and advertising. Mr. Fletcher stated localities will be specifically preempted from adopting zoning regulations prohibiting such uses, but gives localities to require operators to do a few things such as hold a minimum of \$500,000 liability insurance, prohibit the use if the operator does not pay applicable taxes for those uses, and the operator must register with the locality. Mr. Fletcher noted another key component to the legislation is that the hosting platform must register with the Department of Taxation. Mr. Fletcher stated there was a reenactment clause, as part of this legislation, to allow the Virginia Housing Commission to further study the issue throughout 2016 and then offer recommendations to the General Assembly for the 2017 session.

Mr. Fletcher reviewed the definitions and examples of Limited Residential Lodging and hosting platforms. Mr. Fletcher noted that currently short term rentals are not permitted in the city's residential districts, however are allowed in B-1 zoning districts. Mr. Fletcher reviewed the zoning ordinances for both transient occupancy and nontransient occupancy for all dwelling units and notes the only way to have a transient occupancy in any residential district is to have a special use permit for a Bed and Breakfast, but they are allowed in the B-1, B-2 and M-1 Districts.

Mr. Fletcher reviewed the three ways his office enforces zoning ordinance violations and notes some of the difficulties with reviewing hosting platforms for any violations.

Mr. Fletcher stated that if the General Assembly implements the legislation as is written, the city must allow short term rentals by right within any residential district and within any dwelling unit, and feels that allowing the type of operation could be

detrimental to the framework of our zoning ordinance and how it protects neighborhoods from undesirable uses and activities.

Council Member Degner asked what Virginia Municipal League (VML) committee has been looking at this issue. Mr. Fletcher stated the Housing Commission appointed a subcommittee that includes hotel leaders, local government, hosting platform providers, state and local tax officials, property owners and any other interested parties.

City Attorney Brown stated the land use issue mentioned is just one prong of this, the other prong is the taxation, although we would be able to tax these just as we would hotels, B&B's, etc, but the taxes are not be collected by the city, the hosting platform will collect the taxes and then pays the Department of Taxation(DOT), and then after determining what part of the taxes are to be held by the DOT, the remainder is forwarded to the city, without right to audit. Mayor Jones asked if that meant we wouldn't get our regular rate. Attorney Brown stated we should get our regular rate but it would just take longer. Council Member Shearer noted we would be dependent upon the hosting platforms to collect and allocate the correct rate. Mayor Jones has concerns on how the hosting platforms will break up the area to insure the correct rate is collected.

Council Member Byrd stated he is aware of other localities enacting legislation and asked if Mr. Fletcher knew what they were doing. Mr. Fletcher stated there are several different approaches, but redefining what Bed and Breakfasts are, specifically calling out a term of something and requiring a special use permit. Attorney Brown noted he did not see any grandfathering provision in the legislation, so any changes made now could all be for naught. Additional conversation took place regarding grandfathering provisions and what may need to be done. Mr. Fletcher suggested a joint public hearing with Planning Commission and City Council be considered if need be. Council Member Degner stated if we need to make a clear statement on this issue to VML to let council know before the end of the year. Attorney Brown stated it's similar to Uber, but affecting neighborhoods. City Manager Hodgen stated it is not unprecedented for the state to take away a source of funding normally set for localities such as they did with cell phone tax.

**7.d. Preliminary Report on Financial Implications of High School Addition**

City Manager Hodgen stated with the increase in the media coverage regarding the need for an addition or annex to Harrisonburg High School costs have been thrown about but there hasn't been any attention paid to the impact to the city budget. City Manager Hodgen presented what the financial impact would be to the city, in particular to the tax rate based on some of the costs projected. City Manager Hodgen noted estimated tax rates are based on no new growth, new expenses due to growth or new revenue and reviewed the projected rate increase worksheet. A conversation took place regarding estimated tax increase percentages and if any projects were included in the estimate. Council Member

Shearer spoke about his concerns of how this could affect our bond rating, etc.

City Manager Hodgen noted the school board is still early in their deliberations, obviously the need is there sooner rather than later. Council Member Shearer asked if there has been much conversation about what position the city is in to incur additional debt at the level they are asking. City Manager Hodgen stated there has not been much discussion nor a meeting with the city and school liaison committee as of yet, but it is still in the preliminary stages.

Additional conversation took place about the impending turnover of council, projects that may come up due to that, and prioritizing those projects.

**7.e.** Consider request from Build Our Park to place a fundraising sign on City property.

City Manager Hodgen stated four years ago permission was given to another entity to place a fund raising sign on the property we acquired that fronts on Liberty Street, which is now being used for a reserve parking lot. City Manager Hodgen stated that entity is no longer in existence and Build Our Park has asked if they could put their sign on that property. Mayor Jones stated this is in line to proceed to the next step. Council Member Shearer noted for the record that we have a new Parks and Recreation Director looking at the entire park system, Parks and Recreation Commission met last week, and the new park is not recommended to be in our Parks and Recreation's Commissions five year CIP primarily because there are millions of dollars in other expenditures that take precedence in terms of true need, such as outdated playground equipment. Council Member Shearer stated we would be fooling ourselves if we think placing a new park in the downtown area would not be at the detriment of the other CIP items. Council Member Shearer stated that although this should not hamper the new park project but should serve as a reality check that substantial private funds would need to be raised to make it viable. Council Member Degner noted the plan for the organizations involved is to raise the bulk of the funds needed for the project. Mayor Jones stated there is no need to advocate or deter this project until it moves forward and private funds are raised.

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

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

**No:** 0

**7.f.** Consider revising City procedures for administering project proposals under the Virginia Public-Private Education Facilities and Infrastructure Act of 2002

Brian Shull, Economic Development Director, presented the original Procedures for Administering Project Proposals under the Virginia Public-Private Education Facilities and Infrastructure Act of 2002, adopted in 2004 and revised in 2008. Mr.

Shull asked the assistant city attorney, Wesley Russ to compare our current procedures to the current state guidelines and Mr. Russ found a few administrative details that needed corrected as follows: an item in the Virginia Freedom of Information Act (FOIA) on Page 4 Section D, had been repealed and replaced and therefore corrected in our document; The term RPE (responsible public entity) was changed to "the city" in places it had not been changed previously; and the removal of one of the sentences that was repeated on Page 7.

**A motion was made by Council Member Degner seconded by Vice Mayor Baugh to approve the revisions to the PPEA. The motion carried with a unanimous voice vote:**

## **8. Other Matters**

Mayor Jones read a Proclamation for the Northeast Neighborhood Association's 10th anniversary on October 29, 2016, and a Proclamation for November 1, 2016 being recognized as Extra Mile Day

Council Member Byrd asked if the council or staff had been approached by the property located on Waterman Drive and Eastman when the property was annexed. City Attorney Brown stated we have been contacted and staff is taking care of the request.

Council Member Degner stated in regard to the issues brought up at the beginning of the meeting, he spent last weekend at the National Conference for Dialogue and Deliberation in Boston, which highlights resources for discussing difficult issues. Council Member Degner feels the city does not have a good structure on how to have a constructive dialogue on these issues. Council Member Degner stated he has resources he can share, in particular, one organization called Everyday Democracy, who has a structure that a community can use over a period of a few months involving stakeholders and citizens in a community wide discussion to educate on issues, learn how to seize opportunities for improvement and how to propose changes to the governing body. Council Member Degner stated on the issues tonight in particular, he has served on council for eight years and during that time has gained an appreciation that the city has 58 different languages spoken in the school system, teachers and business owners that are very diverse, passed a resolution in support of the Dream Act, renamed a road after Martin Luther King, Jr., allocated funds for a historic African American cemetery, has voted to ban the box, approved the most inclusive hiring policies, is a designated refugee resettlement community for decades, has become a Welcoming America Community, and referenced a few incidences when he had witnessed a very supportive community. Council Member Degner acknowledges racism is real, and something should be done moving forward by providing a structured community wide conversation based on best practices, used by other communities, to have a substantive dialogue that is not just about one issue or one person, but is about how as a community can acknowledge issues that are present and how to make improvements and to build trust in the community. Council Member Degner stated infrastructure of a community includes the people, and with

effort a broad coalition can be organized using those structured models. Council Member Degner provided the website address of [www.everyday-democracy.org](http://www.everyday-democracy.org).

Vice-Mayor Baugh presented a resolution created after talking to several individuals from earlier this evening, at their request, and edited by Vice-Mayor Baugh. Vice-Mayor Baugh stated the level of acrimony expressed by the people on both sides on an issue not even on the agenda is staggering and he is having a hard time thinking this is just about issues addressed in the resolution. Vice-Mayor Baugh stated he was interested in hearing comments from fellow council members, as he is overcome with sadness of the things that were expressed earlier, and hopes council can try to look for avenues for dialogue and reconciliation well beyond anything that is in an email. Vice-Mayor Baugh stated he had originally hoped there was at least a possibility that council could act on the resolution as a statement affirming sentiments council previously expressed, however, after earlier comments, he has doubt this resolution will be viewed as such and acknowledges many of the council members are seeing this resolution for the first time. Council Member Byrd stated he agrees with the ideas of Mr. Degner in regard to open dialogue and supports that endeavor. Council Member Degner stated he would have additional information for the next meeting. Council Member Shearer echoed Council Member Degner's comment and stated he is a proud citizen and proud of the community, every community has a few bad apples. Council Member Shearer stated he feels there needs to be some sort of structure for looking at these types of things, as this is the first he is seeing this resolution, and feels this body has no oversight over the particular issue at hand or that office and passing this resolution doesn't change that. Council Member Shearer stated staff needs to set some sort of protocol to vet these things before it hits council. Mayor Jones agreed with Council Member Degner regarding procedures and a precedent needs to be made. City Manager stated a process is in place in which all agenda items submission are required one week prior to council meeting and noted council members can request items be placed on the agenda within the submission guidelines. Further discussion took place regarding procedure and policy.

Vice-Mayor Baugh asked if other municipalities have policies that council cannot present items for which they don't have authority over. City Attorney Brown stated he will do some research, but feels it is one of those things that are handled just as we have handled them or perhaps vetted through the Mayor or City Manager.

Mayor Jones read part of the resolution and stated he feels this needs to be re-addressed at next meeting.

Council Member Degner stated he was running out of meetings and wanted to know if there has been any progress made on the accreditation information requested at last meeting for the Middle River Regional Jail (MRRJ). City Manager Hodgen stated the Board of Corrections certifies jails, they do not accredit and if a jail is accredited the state waives the auditor review. Council Member Degner stated this is done presuming that if a jail remains accredited then the facility is

meeting all the requirements that its certification would call for. City Manager Hodgen stated he is aware of general discussions about becoming accredited, but at this point the board as a body has not felt it is something they want to pursue and they are satisfied with the state certification. City Manager Hodgen stated Mr. Ordnoff provided information last week regarding the accreditation of medical facilities within jails, but has not yet followed up with the entity that does that, but will have more information at the next council meeting. City Manager Hodgen stated the next MRRJ Board meeting is tentatively scheduled for November 30, 2016 and will convey the city's plan to seek additional information on accreditation.

Vice-Mayor Baugh stated at the last Build Our Park meeting there was a request for some sort of dialogue with this council. Council Member Byrd stated he thinks there is a working group meeting coming up between Build our Park members and city staff. Acting Deputy City Manager Banks stated they have reached out to city staff, and staff is in need of additional direction from council in order to feel comfortable with moving forward with discussions as to next phases or plans of the downtown park.

Council Member Byrd requested from staff to make sure our future uses and needs fit into the design of the park and in particular access to the old municipal building, service delivery entrance, and the Warren Street connection. Further discussion took place regarding the city's needs being conveyed to Build Our Park, and further conversations to be had between the city and the organization along with a list of the city's requirements. Council Member Shearer stated Mr. Banks has done a fantastic job conveying staff's message to Build our Park and these issues should not be new to that organization as Mr. Banks has shared staff's concerns. City Manager Hodgen stated the park will not be able to satisfy all requests, and the organization should be careful when fundraising for specific projects within the park.

Council Member Degner noted the Veterans Day Parade will be on Sunday, November 6, 2016 with activities from 2-6pm and the parade will begin at 2:00pm downtown.

## 9. Adjournment

At 9:40 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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CLERK PRO TEMPORE

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MAYOR