



# City of Harrisonburg

409 S. Main Street  
Harrisonburg, VA 22801

## Meeting Minutes - Draft City Council

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Tuesday, May 10, 2022

7:00 PM

Council Chambers

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### 1. Roll Call

**Present:** 4 - Mayor Deanna R. Reed, Vice Mayor Sal Romero, Council Member Christopher B. Jones and Council Member Laura Dent

**Absent:** 1 - Council Member George Hirschmann

**Also Present:** 4 - Deputy City Manager Ande Banks, City Attorney Chris Brown, City Clerk Pam Ulmer and Mayor Matthew Tobia

### 2. Invocation

Council Member Jones offered the invocation

Mayor Reed asked everyone to send blessings of healing to Council Member Hirschmann as he is still recovering from back surgery.

### 3. Pledge of Allegiance

Mayor Reed led the Pledge of Allegiance

### 4. Special Recognition

#### 4.a. Proclamation Recognizing the Week of May 15 Through May 21, 2022 as National Police Week

Mayor Reed presented a proclamation recognizing May 15 - May 21, 2022, as National Police Week to Lt. Grubbs, Harrisonburg Police Department.

#### 4.b. Proclamation recognizing May 21st, 2022 as Kids to Parks Day

Mayor Reed read a proclamation recognizing May 21, 2022, as Kids to Parks Day.

### 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 Romero, seconded by Council Member Dent, to approve the consent agenda as presented. The motion carried with a recorded vote as follows:

**Yes:** 4 - Mayor Reed, Vice Mayor Romero, Council Member Jones and Council Member Dent

**No:** 0

**Absent:** 1 - Council Member Hirschmann

**5.a.** Minutes from the April 26, 2022 City Council Meeting

**These minutes were approved on the consent agenda.**

**6. Public Hearings**

**6.a.** Consider a request from Bradley M. Cohen for a special use permit to allow short-term rental at 293 Newman Avenue.

Adam Fletcher, director of Community Development, presented a special use permit request for a short-term rental within the UR residential district for property located at 293 Newman Avenue, in a detached existing garage. He reviewed the property, the land use for the area, the surrounding properties, the parking requirements.

He stated staff and Planning Commission (4-3) recommend approval with the following condition:

1. Accommodations shall be within the detached structure.
2. No more than 1 accommodation space.
3. The number of STR guests at one time shall be limited to 3.
4. Submit a completed Short-Term Rental Pre-Operation Form and maintain compliance with the items identified in the form.
5. Parking spaces do not need to be delineated and can be accommodated in the driveway.
6. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the SUP can be recalled for further review, where additional conditions, restrictions, or the revocation of the permit could occur.

Vice Mayor Romero asked if there have been any other applications previously approved similar to this request. Mr. Fletcher stated there haven't been any that he recalls that have a detached structure to be used as short-term rental. Vice Mayor Romero asked what the community engagement was for this request. Mr. Fletcher stated they received a few emails in opposition to the request.

At 7:22 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, April 25, 2022, and Monday, May 2, 2022.

Bradley Cohen, applicant, shared his history with Harrisonburg and the reason why he would like to have the short-term rental and noted that 9 of the 18 homes on Newman Street are businesses or rental units and it is a great location for downtown access. He stated he hopes that after the zoning ordinance re-write he would be able to convert the unit into a permanent rental dwelling.

Vice Mayor Romero asked Council Member Dent for information on the Planning

Commission meeting when this request was voted on. Council Member Dent stated some of the discussion was in regard to the path from short-term rental to long-term rental, some discussion about the parking, and a no vote because short-term rentals will drive up the property values for everyone around. The applicant responded to the parking concerns.

Frank Gordon, stated he is in favor but questioned the water/sewer connections.

Panayotis "Poti" Giannakouros, asked Council to reflect on the lessons learned and lessons still to be considered over the past few years in regard to short-term rentals. He spoke on exclusionary housing and public participation and inclusivity.

At 7:35 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Jones stated he believes the intent of the applicant is to build a better Harrisonburg the best way he can, he is very philanthropic and genuine in his non-profit efforts. it would be very counter productive in his business if he were a bad short-term rental owner and operator.

Council Member Dent stated it was questioned at Planning Commission if any of the approved short-term properties ever received complaints enough to revoke the permit, and it was determined it has never had to happen. Further discussion took place regarding what would cause a special use permit to be revoked.

**A motion was made by Council Member Jones seconded by Council Member Dent, to approve the special use permit request as presented. The motion carried with a recorded vote as follows:**

**Yes:** 4 - Mayor Reed, Vice Mayor Romero, Council Member Jones and Council Member Dent

**No:** 0

**Absent:** 1 - Council Member Hirschmann

- 6.b.** Consider a request from Devon Lane LLC for a special use permit to allow reducing required parking areas at 716 & 722 Foley Road.

Adam Fletcher, director of Community Development, presented a special use permit request to allow for the reduction of required parking for property located at 716 and 722 Foley Road. He reviewed the current ordinance, long term plan and zoning for the area, the surrounding properties, the existing gravel area parking, and the conceptual plan and noted, the property has the physical space to have 17 parking spaces. He stated the applicant is planning on creating 11 1-bedroom or efficiency units, but if he were to create 2-bedroom units 28 parking spaces would be required. He reviewed the conditions previously approved in another special use permit request for this particular property. He spoke on the affordable housing proposed of this property and the desire for sidewalks in this area by staff. He reviewed the

recommended conditions by staff as follows:

1. Reduction in required parking shall only be permitted for efficiency or one-bedroom multi-family units up to a total of 11 such units, where one parking space per unit may be provided.
2. Prior to issuance of any certificate of occupancy for multiple-family dwellings, the property owner shall construct a five-foot wide public sidewalk along the entire length of the property frontage. The sidewalk may be located within dedicated public street right-of-way or within a deeded public sidewalk easement so long as 0.5 feet of right-of-way or easement area is provided beyond the width of the sidewalk infrastructure. Furthermore, the property owner shall be responsible for engineering design to ensure that the sidewalk is constructed at the appropriate grade and location for future construction of curb and gutter and any other street widening by the City.
3. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within three years from the approval date of the special use permit.

He stated staff and Planning Commission (6-0) recommend approval of the request with the recommended conditions 1 and 3 only.

At 7:51p.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, April 25, 2022, and Monday, May 2, 2022.

Frank Gordon, representative of the applicant, stated if Council at any time feel the parking needs to be increased, they can do so by contacting the property owner or himself. He stated he is pleased that Planning Commission did not agree to condition #2 as nothing has changed on the ground since the original special use permit was granted, and the applicant is still planning on creating one-bedroom efficiency units. He stated he hopes Council agrees with the Planning Commissions recommendations.

At 7:55 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Jones seconded by Council Member Dent, to approve the special use request with Planning Commissions recommended conditions, as presented. The motion carried with a recorded vote as follows:**

**Yes:** 4 - Mayor Reed, Vice Mayor Romero, Council Member Jones and Council Member Dent

**No:** 0

**Absent:** 1 - Council Member Hirschmann

- 6.c.** Consider a request to close a public alley located between East Fairview Avenue and Port Republic Road.

Adam Fletcher, director of Community Development, presented a request to close a 20' alley located East Fairview Avenue and Port Republic Road. He reviewed the surrounding zoning and land use, the property, surrounding properties and noted all the surrounding properties are owned by James Madison University.

He stated staff and Planning Commission (7-0) recommended approval of this request.

Vice Mayor Romero asked if there was a particular purpose to close the alley. Mr. Fletcher stated JMU is hopefully they can just take over the maintenance of it for now.

At 7:59 p.m., Mayor Reed closed the regular session and called the third public hearing to order. A notice appeared in the Daily News-Record on Monday, April 25, 2022, and Monday, May 2, 2022.

Panayotis "Poti" Giannakouros, asked Council not to close the alley, he is hoping the city can maintain the principle that they do not give away city land unless there is a compelling reason.

At 8:01 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Jones asked city attorney Brown if there is normally a fee when the city sells the alley. Mr. Brown stated if the city initiates the alley closing there is no fee, but if a landowner requests a closure and initiates the application the fair market value of the area is determined and the applicant is charged. He stated the city initiated this request so no charge to JMU. Council Member Jones asked why the city requested this closure. Mr. Brown stated the city has absolute no use of this alley and would prefer to transfer to JMU than to continue maintaining it. Further discussion took place regarding other alley ways in the city versus this one.

Vice Mayor Romero stated he was surprised Planning Commission voted unanimously knowing that others have opposed alley closings in the past. Council Member Dent stated the property surrounding this alley way is all owned by the same entity and is non-residential, and there was much more discussion on the parking lot and the egress and ingress of the parking lot on part of the alley. She stated it was mentioned that closing the alley would make it great for redevelopment, and perhaps in the future JMU will use it for a building.

Vice Mayor Romero stated it would be great to have a strategic plan moving forward to address alleys in the city in a more holistic approach.

Council Member Jones asked how this request came about. Tom Hartman, director of Public Works, stated JMU reached out to the city wanting a schedule of maintenance from city staff. He stated this alley is used to access the parking lot, and there are potholes and in need of asphalt replacement etc. He stated his reply was that it was not currently in our state inventory and funds had not been allocated to work on the alley at this time. He stated JMU did not feel comfortable maintaining the alley unless they owned it. He stated this alley solely services JMU properties and JMU parking lots, and staff decided it be best to convey the alley to JMU so they can maintain. He stated this would take the alley off the maintenance burden for the city. Council Member Jones stated he feels that if JMU can't wait until we have time to maintenance the alley they should pay to purchase it. Mr. Hartman stated the city has a really good working relationship with JMU, with all the projects, and there is a lot of give and take of both parties, so if an alley that they are willing to maintain it would relieve the burden of the Public Works department.

Mayor Reed stated when it comes down to something like this it feels like because JMU needs it they get it, where there are other alleys in other areas that have been requested to close and it becomes a bigger process. Mr. Hartman stated it is not that JMU wants it to own it, they want to be able to provide a driving surface to their parking lot that is adequate and can be maintained by them based on their needs and schedule. Further discussion took place.

Council Member Dent stated Planning Commission was not aware that the city would not receive payment for the closure of the alley. Mr. Brown stated this was a mutually beneficial request and Mr. Fletcher does not get involved in the compensation or consideration involved in the alley closures, and he would have no reason to question whether it is being paid for or not.

Vice Mayor Romero asked if the city is required to maintain all alleys. Mr. Hartman stated that is not an easy answer. Mr. Brown stated the city is not under any obligation to initiate maintenance but once the city starts maintaining an easement (as in this situation) it must be continued. Vice Mayor Romero stated the closure of this alley makes sense, no one else is using it other than those affiliated with JMU, it doesn't make sense for the city to continue to maintain it, the process followed the typical guidelines of any alley closing request, and asked Council what is the real issue, is it because we aren't getting paid for it or that we are closing the alley. Council Member Jones stated it was presented as the city initiated it but in reality JMU initiated, and will we make up for the loss of the possible revenue. Mr. Brown stated we will save approximately \$25,000 a year in maintenance costs.

**A motion was made by Council Member Dent, seconded by Vice Mayor Romero, to approve the request as presented. The motion carried with a recorded vote as follows**

## **7. Regular Items**

### **7.a. Planning Commission Annual Report 2021.**

Adam Fletcher, director of Community Development, presented the 2021 Planning Commission's Annual Report and reviewed the report.

Council Member Dent stated the data and graphics are great, this could be valuable input for the new housing coordinator, Liz Webb. Mr. Fletcher stated he has already met with Ms. Webb who is interested in learning the processes of planning and zoning and plans on more meetings with her.

**This Report was received and filed.**

**7.b.** Virginia Department of Transportation (VDOT) Project Funding and Signature Resolution

Tom Hartman, director of Public Works, presented a request to adopt a resolution for VDOT grant submissions, providing delegation of signature authority to either the city manager or deputy city manager, when a grant is awarded, as well as a providing a funding commitment.

**A motion was made by Council Member Jones seconded by Council Member Dent, to the resolution as presented. The motion carried with a recorded vote as follows:**

**Yes:** 4 - Mayor Reed, Vice Mayor Romero, Council Member Jones and Council Member Dent

**No:** 0

**Absent:** 1 - Council Member Hirschmann

**7.c.** Blacks Run Stream Restoration PPEA Comprehensive Agreement

Tom Hartman, director of Public Works presented a Comprehensive Agreement for the Blacks Run Stream Restoration Project and noted one competing proposal was received on the PPEA. He stated unlike other PPEA's the competitor was selected, Momentum Earth Works, design is now completed, permits have been approved and the last step would be to approve the Comprehensive Agreement and authorize the Ande Banks, interim city manager, to sign.

He reviewed the Comprehensive Agreement and noted it reflects the guaranteed maximum price. He stated no comments were received during the 30-day public comment period on the Comprehensive Agreement. He reviewed the area encompassing the stream restoration, reviewed specific details and the next steps, noting an estimated completion date of June 2023.

**A motion was made by Council Member Jones, seconded by Council Member Dent, to approve the request as presented. The motion carried with a recorded vote as follows:**

**Yes:** 4 - Mayor Reed, Vice Mayor Romero, Council Member Jones and Council Member Dent

**No:** 0

**Absent:** 1 - Council Member Hirschmann

**7.d.** Update of the Harrisonburg Public Utilities Long Term Financial Model (LTFM)

Mike Collins, director of Public Utilities, presented an update of the Long-Term Financial Model for public utilities. He reviewed the following:

- Rate Benchmark
  - Current rates
  - Comparisons of other water authorities
- Future Rate Management Strategies
  - Estimated increases from 2023-2036
- Asset Management Priorities
  - 10-year Water Capital Fund
  - 10-year Sewer Capital Fund
  - Costs of Water and Sewer Replacement Plan
  - Riven Rock Park to

Mayor Reed and Council Member Jones stated this was a great presentation. Council Member Dent asked if the steep climb from 2022 to 2023 in the cash position, which means we don't have enough cash flow now, is that why the rate increase will build up. Mr. Collins stated the only way to fix that is a huge rate increase now, but a delay in spending and a slow increase of reserves will get us to even in the 2030s.

**This Presentation was received and filed.**

**7.e.** Consider adopting the Fiscal Year 2022-2023 budget and approving the Appropriation Ordinance

Ande Banks, interim city manager, stated there is nothing new to present to Council regarding the proposed FY 2022-2023 Budget since the April 2022 meeting other than the amendments per the budget work session earlier. He stated he and the finance director are available for any questions.

Larry Propst, finance director, stated the personal property tax rate is set at \$3.50 in the proposed ordinance.

Mayor Reed read the Conflicts of Interest Act disclosure.

Vice Mayor Romero read the Conflicts of Interest Act disclosure

Vice Mayor Romero asked how does the fact that the state has not passed their budget impact our process. Mr. Banks stated there are mechanisms in place that if our local revenues are reduced, we can bring recommendations to Council to amend the FY22-23 Budget.

Council Member Dent stated that one of the larger scope questions she had was about housing, once a housing coordinator was hired, we could look into the



incentives the city can offer, so there may be budget impacts later on if we decide on fee waivers that reduce revenues, etc., is that a similar process where the budget would be adjusted as needed. Mr. Banks stated depending on when Council considers those mechanisms to be approved and their use, we would have to adjust the budget to address the loss of those revenues or expenditures on incentives for affordable housing.

Council Member Jones asked if the holiday for Juneteenth considered in the budget and considered a permanent holiday. Mr. Banks stated it is.

**A motion was made by Council Member Jones, seconded by Council Member Dent, to adopt the FY 2022-23 Budget, approving the appropriation ordinance reflecting changes requested the Community Contributions and reduction of Personal Property Tax as per the work session prior to this meeting. The motion carried with a recorded vote as follows:**

- 7.f.** Consider enacting an ordinance increasing the salary of each City Council member to \$18,000 per year and the Mayor to \$20,000, Section 2-4-2 of the Code of Ordinances, City of Harrisonburg, Virginia

Chris Brown, presented an ordinance amending the salary to Council Members at staff recommendation. He stated the last time the pay was increased for Council Members was on July 1, 2004. He stated the increase would reflect the maximum allowed by state code to \$18,000 per year for Council Members and \$20,000 for Mayor.

Vice Mayor Romero asked how this increase compares to other localities of our size. Mr. Brown stated it varies but many localities pay the maximum.

**A motion was made by Council Member Dent seconded by Vice Mayor Romero, to approve the ordinance amendment as presented. The motion carried with a recorded vote as follows:**

## **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)**

Sheila Enos, Commerce Village, stated she submitted a letter to each of the Council Members regarding the attempt of the Harrisonburg Redevelopment and Housing Authority (HRHA) to evict her from her home. She shared the information with Council on her health history, income, and attempts to fight the eviction. She asked Council to review the documents and intercede the attempts to evict her prior to the end of the month.

James "Bucky" Berry, stated he wants to know what happens to the homeless once Open Doors closes on June 6, 2022. He stated he would like to see some of the ARPA funding help these people. He stated he heard the Christmas Parade will not happen again this year and wants to know why.

Panayotis "Poti" Giannakouros, stated the public is watching, and words said regarding people being treated equitably and fairly, and thanked the Council. He spoke on the ARPA Funding community engagement he attended and shared that he was challenged by a facilitator outside of the school building for leafletting to fellow residents, felt that the assistant to the city manager was nudging people to choose the desires of the city, city's priorities were stressed, the presence of a uniformed police office was intimidating, and the carbon dioxide level in the building and masks were not mandated. He stated we are missing out on no-mow May.

#### **8.b. City Council and Staff**

Council Member Jones stated a program called "First Responders First" started running on local TV, highlighting our public safety workers throughout the valley. He asked staff to consider moving the special event application requests normally near the end of the agenda to the consent agenda unless there are concerns. He stated Matt Little, special events coordinator, has an extremely busy schedule, and having to wait until almost the end of the meeting to present, when Council very rarely has any questions seem inefficient. He wished Mayor Reed a happy birthday (May 11).

Council Member Dent stated the Planning Commission has adopted an option to go to a second meeting when it looks like a meeting will be a long one. She stated staff will provide a preview of the agenda to Planning Commission members and then a decision can be made to set up a second meeting if necessary. She stated she and staff met with some of the representatives of HEC to discuss how HEC can work as part of the community to reduce our greenhouse gas emissions as foreseen by the Environmental Action Plan. She stated EPSAC's focus area on transportation will be at the first meeting in June proposing the transportation targets over five-year increments. She stated later in the summer the 2021 greenhouse gas inventory will be done at which point EPSAC will present to Council the overall targets given that the Intergovernmental Panel on Climate Change (IPPC) has predicted certain targets need to be met.

Vice Mayor Romero stated he had the honor to join the Mayor at the new sight for Rocktown High School (2nd Harrisonburg High School) and signed the beam, he is very proud of the work that is going into it and it feels good for it to be alive. He stated he made an announcement last week that he would not be seeking re-election on City Council, but he will remain committed to the city for the rest of his term, he has learned a lot.

Mayor Reed stated it hasn't been a good week for her, the loss of Donna Brock, a long-term resident, Elon Rhodes' daughter, and former city employee; the loss of a classmate with TC Curry; and another classmate that is not doing well. She stated this is a time for prayer, there is a lot of hurt out there, and she asks everyone to take time and love on one another.

Ande Banks, interim city manager, asked if there was a consensus amongst Council

to move the special event applications to the consent agenda. Further conversation took place amongst Council Members. Mr. Banks offered the suggestion that he present the agenda items rather than Mr. Little having to attend.

## 9. Boards and Commissions

### 9.a. Harrisonburg Rockingham Regional Sewer Authority

A motion was made by Vice Mayor Romero, seconded by Council Member Dent, to reappoint R. Bradley Chewing, Matthew Light, the director of Public Utilities, and the City Manager to the Harrisonburg Rockingham Regional Sewer Authority. The motion carried with a unanimous vote.

### 9.b. Community Policy and Management Team

A motion was made by Vice Mayor Romero, seconded by Council Member Dent, to reappoint Kira Newman, to the Community Policy and Management Team. The motion carried with a unanimous vote.

## 10. Closed Session

### 10.a. 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, where the discussion in an open meeting would adversely affect the negotiating strategy or bargaining position of the public body and Subsection 1 for discussion of specific employees or officers

At 9:37 p.m., a motion was made by Vice Mayor Romero, seconded by Council Member Dent, 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, where the discussion in an open meeting would adversely affect the negotiating strategy or bargaining position of the public body and Subsection 1 for discussion of specific employees or officers. The motion carried with a recorded roll call vote taken as follows:

**Yes:** 4 - Mayor Reed, Vice Mayor Romero, Council Member Jones and Council Member Dent

**No:** 0

**Absent:** 1 - Council Member Hirschmann

## 11. Adjournment

At 10:15 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 10:15 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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CITY CLERK

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MAYOR