



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Draft City Council

Tuesday, August 27, 2019

7:00 PM

Council Chambers

1. Roll Call

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

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

2. Invocation

Council Member Joes offered the invocation.

3. Pledge of Allegiance

Mayor Reed led the Pledge of Allegiance.

4. Special Recognition

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 Baugh, seconded by Council Member Hirschmann, that the consent agenda be adopted. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

5.a. Minutes from the August 13, 2019 City Council meeting

These Minutes were approved on the consent agenda

5.b. Consider an amendment to Section 15-3-3 - Noise permit for Mass Outdoor Social Gatherings, to the Code of Ordinances City of Harrisonburg, Virginia.

This Ordinance amendment was approved on the consent agenda

5.c. Consider a supplemental appropriation for various departments in the amount of \$228,402.75

This Supplemental Appropriation was approved on the consent agenda

- 5.d.** Consider a supplemental appropriation for the Fire Department in the amount of \$326,583.11

This Supplemental Appropriation was approved on the consent agenda

6. Public Hearings

- 6.a.** Consider the reappropriation of encumbrances that were outstanding at the end of Fiscal Year 2019 in the amount of \$6,893,770.40

Larry Propst, director of Finance, stated the re-appropriation request is for the last encumbrances of FY 2018-19, for goods and services that have been contracted for prior to the end of the fiscal year but not yet paid for. He stated this is an annual process and the total is for \$6.9M.

At 7:02 pm Mayor Reed closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Tuesday, August 20, 2019.

There being no one desiring to be heard, Mayor Reed closed the public hearing at 7:02 p.m., and the regular session reconvened.

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

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

No: 0

- 6.b.** Consider a supplemental appropriation for the General Capital Projects Fund in the amount of \$6,016,863.60

Larry Propst, director of Finance, stated the supplemental appropriation request is for the bond issue the city did for the Community Services Board. He stated this was a very successful borrowing that we did for a total of \$6M and borrowed at 2.4% for 15 years. He stated staff recommended approval.

At 7:03 pm Mayor Reed closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Tuesday, August 20, 2019.

There being no one desiring to be heard, Mayor Reed closed the public hearing at 7:03 p.m., and the regular session reconvened.

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

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

No: 0

6.c. Consider approval of the disposition of publicly held real estate located at 640 Merlins Way, Harrisonburg, Virginia

Chris Brown, city attorney, presented a resolution to authorize the sale of a piece of city owned property for a purchase price of \$90,000 and approve a settlement agreement. He stated this parcel is a leftover from the Reservoir Street Improvement Project. He stated before the project began the city went to the landowner of 640 Merlins Way, which was an end unit of a row of townhouses very close to Reservoir Street and the city needed a substantial piece of the front of the parcel to use for the sidewalk and other improvements and utility easements. He stated the parking for that parcel would have been lost and the property would have been much closer to Reservoir Street after the improvements were done. He stated the city felt out of the fairness to the landowner it should just buy the unit and the City reached an agreement to purchase the parcel for \$132,000.00. He stated the city has owned and rented for the past several years.

He stated as part of this improvement project the owners of the townhouse next to 640 Merlins Way, Eddie and Pamela Abrams, were affected by a utility easement and the street location as well. He stated the city and the property owners were not able to reach an amicable settlement and the city paid \$34,000 into the court pursuant to a Certificate of Take. He stated in addition, the Abrams claimed damages to the residue of their property in the amount of \$40,000. He stated since then, litigation proceedings have been taking place and staff has continued to negotiate with them, and a tentative settlement agreement has been reached whereby the city will sell the townhouse on 640 Merlins Way to the Abrams for \$90,000 which assessed for \$96,000.00. He stated in exchange for the sale of the property to the Abrams they would enter into a settlement agreement and dismissal order of all the claims they have against the city in litigation for the taking of their property. He stated it would get the city out of the residential landlord business and back on the tax roll. He stated staff recommends approval of the resolution.

At 7:07 pm Mayor Reed closed the regular session and called the third public hearing to order. A notice appeared in the Daily News-Record on Monday August 19, 2019.

There being no one desiring to be heard, Mayor Reed closed the public hearing at 7:08 p.m., and the regular session reconvened.

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

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

No: 0

7. Regular Items

7.a. Consider approving the State Performance Contract with the Community Services Board

Ellen Harrison, executive director of the Harrisonburg Rockingham Community Services Board (CSB), thanked Council for their very generous support of their endeavors of building the new building, they are extremely excited. She stated every year she presents to Council the State Performance Contract, provides a bit of history and the construct of it, and then seeks approval in order to continue to do business in the city. She stated all 40 CSB's in the state are doing the same thing. She stated the State Performance Contract identifies the funding resources that are budgeted to the CSB and outlines the responsibilities to provide those services. She stated they have approximately a \$13.6 budget which was very similar to last year, with no substantive changes. She stated the Code of Virginia identifies four constructs for the Performance Contract, it establishes the Virginia Department of Behavioral Health and Developmental Services (DBHDS) as the state entity that holds the publicly funded service delivery system for mental health, developmental services and substance use services. She stated it requires the city and the counties to establish CSB's for delivering those services. She stated the Code of Virginia also requires the CSB to be the single point of entry into this publicly funded system, and it establishes the Performance Contract that basically states the funding received, the quality of services and delivery expected.

She stated staff is excited about how they will be able to grow into the new building with some of the deliverables from the System Transformation Excellence and Performance (STEP VA) program. She stated the CSB's revenues for 2019 came very close to budget but with an 8% vacancy rate. She stated the Medicaid Expansion started in January 2019 with a price tag to the CSB of \$127,000 which can be earned back by Medicaid billables. She stated the CSB has implemented three of the nine core steps for STEP VA: Same day access; primary care screenings; and expanded outpatient services which is therapy for both children and adults. She stated the next step is Children's Mobile Crisis which will also extend to Adult Mobile Crisis but may take time and funding to get that one done. She stated the initiatives the CSB is still working on include the Drug Court Services.

Vice Mayor Romero stated in his roll with the city schools they have learned this year that a lot of their students that receive Therapeutic Day Treatment (TDT) are no longer eligible. He asked Ms. Harrison if she has seen any cuts as well and any changes that will limit people from being able to qualify for services through the CSB. Ms. Harrison stated the change came with the Medicaid's six managed care organizations rewriting and reinterpreting the regulations now. She stated there is a huge movement to rewrite the whole behavioral health care system by 2024 that will make it more efficient, effective and community oriented.

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

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

No: 0

7.b. Report on the Senior Community Needs Assessment for the City of Harrisonburg, Rockingham County and Augusta County from Bridgewater Retirement Community (BRC) and Valley Program for Aging Services (VPAS)

Carrie Budd, vice president of Development and Community Relations for Bridgewater Retirement Community (BRC), stated a study is being done by BRC and the Valley Program for Aging Services (VPAS) to assess the needs of the 65 and over population in Harrisonburg, Rockingham County and Augusta County. She stated both organizations are always concerned about the needs and what it takes to age well in the area, and one of the things that BRC is thinking of doing would be doing community outreach, but the best thing to do before that would be to do survey to find out what the needs of those 65 and older would be. She stated they are following the format of a survey done in Richmond/Henrico County and are right in the middle of that survey process. She stated they are working with Holleran Consulting which specializes in surveys and data analysis. She reviewed the steps taken to date and noted in September 2019 they will be going directly to the 65 and over population to ask them what their concerns are and what types of things that make it difficult to age well in the area, so they have a voice. She stated caregiver's needs will also be included in this study. She stated they have made a big push of outreach with churches, elderly care homes, local organizations etc. She stated the completed report should be done in January 2020 and would like to come back and present to council the results at that time.

Vice Mayor Romero stated it has been nice to see Ms. Budd around the community and thanked her for taking the evening time. Ms. Budd stated she did take Vice Mayor Romero's suggestion and are in the process of translating the survey into Spanish.

This Report was received and filed.

7.c. Consider adopting a resolution for VDOT Transportation Alternatives Program Grant - North Main Street Sidewalk

Tom Hartman, director of Public Works, presented a resolution for a Virginia Department of Transportation (VDOT) Transportation Alternatives (TAP) Grant for a sidewalk project on North Main Street from Holly Hill to Vine Street. He presented a map of the proposed project, which would not only be sidewalk improvement but also curb, gutter and storm drain improvements. He stated all the work will be done within an existing right-of-way. He stated the engineering estimate is about \$900,000 and

the TAP is an 80/20 split with 20% match provided by the city which would be \$175,847 and these funds have already been allocated in a capital project line item. He stated if approved by council, they will submit the grant application on October 1, 2019 and should know by June 2020 if awarded. He noted start date of project will depend on grant funding allocation date. He stated a benefit to this would be that Rockingham County has a VDOT project to bring sidewalks from the county up to Vine Street.

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

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

No: 0

7.d. Consider adopting a resolution for VDOT Revenue Sharing Grant - University Boulevard Realignment Project

Tom Hartman, director of Public Works, presented a resolution for a Virginia Department of Transportation (VDOT) Revenue Sharing Grant to be used for the University Boulevard Realignment Project. He stated this project was entered into the Capital Improvement Plan (CIP) last year and staff has been working with James Madison University (JMU) for the past year and a half to two years. He stated JMU started with funding a feasibility study to determine the benefits of the project, potential alignments, cost, and timeframes. He stated the feasibility study was completed earlier this year, 2019, and the alignment presented is the best way to proceed. He stated the project starts at the intersection of Port Republic Road and Forest Hills Drive, proceed directly through the Forest Hill Drive neighborhood, with a shared use path on the west side and sidewalks on the east side. He stated a new intersection will be created at Forest Hill Drive and University Blvd. which will feed into the old convocation center, UREC and tennis courts and noted it can be signalized later if needed. He stated JMU will donate all right of ways to the city. He stated at that intersection the road improvements would stop but the shared use path would continue all the way to Carrier Drive. He stated in the study it was determined that 17% of the usage of the area turn into Forest Hills, whereas 58% of that 17% go all the way to Reservoir Street which represents it being used as a corridor.

He stated the engineers estimate is just a little over \$9M with a 50/50 split and JMU providing the matching funds. He stated the only cost to the city would be the administrative time from design to acquiring any right of ways needed. He stated if approved by council, they will submit the grant application on October 1, 2019, should know by June 2020 if awarded and construction may be completed by December 2023.

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

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

No: 0

7.e. Consider amending Section 15-3-2(d)(4) Noise Violations; penalties to exempt non-road-related construction noise only during the daytime

Eric Campbell introduced Melody Barger, a graduate intern that worked for the City Manager's Office over the summer and has done a lot of great work and research for the departments. He stated this is one of the projects she worked on.

Melody Barger, stated in response to concerns from a constituent she was tasked in researching construction and residential noise ordinances in other localities. She stated the city already has a fairly comprehensive noise ordinance and defines day time and night time noise maximums as 65dB and 55dB respectively. She stated daytime is defined as being between the hours of 7:00 am and 10:00 pm and nighttime as 10:00 pm to 7:00 am. She stated there are several exceptions to this rule such as school sponsored activities, officially sanctioned activities, bells and carillons, public and private transportation and construction on both real property and roads. She stated all these activities are exempt from the noise ordinance.

She stated she reviewed construction noise ordinances with several similar localities in the state and reviewed her findings. She stated staff is recommending an additional line be added to the exemption section of the current ordinance which limits the exemption of construction noise to the daytime hours only.

Mayor Reed thanked her and stated she appreciates all the time and work put in through her internship, in particular to the mental health research she did for her and wished her good luck as she goes forward in her college career.

Vice Mayor Romero stated he found it interesting that 10:00 pm was the standard time that all localities had as the end of daytime, but he feels that time is a bit late, especially in areas that have children.

Council Member Jones stated that he hopes this will be enforced, as we haven't always been completely able to enforce the current noise violations.

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

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

No: 0

7.f. Discussion of FY 2019-2020 Community Contributions

This Action Item was tabled.

8 Reallocations

- 8a. Consider a reallocation of budgeted funds for the Water Capital Projects Fund in the amount of \$167,076.69

Larry Propst, director of Finance, stated the budget reallocation request is from the director of Public Utilities to move funds leftover from an old Smithland Road Project which has been closed out and move it to the tanks and storage capital line item. He stated staff recommends approval.

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

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

No: 0

9. Other Matters

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

Luke with Keystone Mountain Lakes Regional Council of Carpenters, stated the banners at James Madison University that have been up since July 2019 are regarding the issues of labor brokers. He stated their concern is regarding labor brokers being used for state funded projects. He stated what happens is a general contractor is awarded a bid, who then hires a subcontractor, who also hires a subcontractor etc., eventually labor brokers get involved who use undocumented workers, do not pay unemployment, do not pay state taxes and workers are being paid cash. He stated some contractors cannot compete in the bidding process because these labor broker contractors because they can bid so much lower. He stated he feels it is important that the city and its constituents are aware of the concerns of KML.

Zach Germroth, 1182 Nelson Drive, stated he wanted to comment on the noise ordinance amendment and wanted to know when public input will be accepted on this topic. Chris Brown, city attorney stated a public hearing is not required for this type of ordinance amendment. Mr. Germroth stated he submitted a letter to all the council members regarding his concerns. Mayor Reed stated he can always come to the Community Conversations and speak to Council Member Jones with any concerns. Council Member Baugh stated this can be discussed anytime it is not on the agenda. Council Member Jones stated Mr. Germroth's concerns are on the record from the last meeting he attended, and council voted in favor of what Mr. Germroth was asking for.

Jim Orndoff, 22 East Market Street, stated his property is right in the middle of a

construction project since late spring but the improvements will be both aesthetic and to deliverables of water, sewer etc. He stated he commends the staff of Public Works, Public Utilities and members of Partners Excavating for keeping everyone affected informed, and they have been amazing to work with. He stated they did a fantastic job during the recent Block Party to make sure everything was clean, security fences were realigned, new safety fences were installed, highway barriers were put in place so that all were able to move around unimpeded. He thanked everyone on how the project was handled.

Pamayotis "Poti" Giannakaouros, he stated he sent information to Council regarding new incarceration numbers and feels they need a bit of interpretation. He stated since February we have been sending women for the county jail to Middle River Regional Jail (MRRJ), which represents a sharp rise in the number of people at MRRJ. He stated the figures represented for Rockingham County showed a spike down and then back up to previous level is due to this transfer as well. He stated the city's incarceration rates are still slowly creeping up. He stated this is representative of the health of our city, and although it could be worse, he is hearing that people are feeling under pressure, and we should be trying to get back to the brighter days we had which could be by creating "Victory Lawns" coined by Bernie Sanders in his Green New Deal.

9.b. City Council and Staff

Vice Mayor Romero stated at the last Planning Commission meeting a discussion took place about how difficult it has been recently for the commission to continue to evaluate applications for Short Term Rental (STR) Special Use Permits (SUP), as Council approved every application and six of which were presented to council with recommendation of denial. He stated as he sits on both bodies he feels it is important to consider a joint meeting soon. He stated if Planning Commission is the vetting process it would only make sense for Council to provide some visioning of where we want to go. He stated he would like Council to consider a joint meeting with Planning Commission.

Council Member Jones asked what the purpose of a joint meeting would be. He stated Council decides on SUP's and in his opinion, he is not sure what the meeting would be about. He stated if we are going to set a rubric that Council will never go outside of what the Planning Commission recommends, a SUP should never be required.

Vice Mayor Romero stated every application for STR's except for two, have been approved. Council Member Baugh stated there was one that was recommended denial that Council denied. Vice Mayor Romero stated the Planning Commission is in need of a better understanding of what Council is expecting. He stated there is a lot of time spent from Staff and Planning Commission on each application to make a

determination. Council Member Baugh stated he believes it might be useful if Planning Commission needs more guidance from Council, but their job is to vet and make recommendations to Council, which Council can follow or not. He stated he is aware staff is looking at tweaking the process and we crafted how to deal with STR's knowing there may be some adjustments needed. Further discussion took place regarding a joint meeting with a general consensus of holding one provided a clear agenda of what will be talked about.

Council Member Hirschmann stated Council Member Jones and himself attended the Block Party in the 'Burg and is a real positive event for the city on introducing the students to the city and familiarity of downtown.

Council Member Baugh asked the city manager if there was anything that should be reported on the School Liaison meeting. Mr. Campbell stated it is still a work in progress, so no updates to report. Council Member Jones noted the JMU and City Liaison meeting will be in two weeks.

Mayor Reed stated she attended a matriculation ceremony at Eastern Mennonite University where they honored Haley Green, today her and Council Member Jones attended a ceremony at Harrisonburg Highschool where they honored Coach Roger Bergey and dedicated the basketball court after him. She stated it was a phenomenal event and the Sampson Family Foundation engineered the dedication. She stated she reached out to the city manager and hopes an EMU and City Liaison can be created before the end of the year. Mr. Campbell stated a meeting has been set. She stated the deadline to submit an application for the Harrisonburg Citizens Academy is August 28, 2019; the public meeting for the Downtown Parking study will take place on August 28, 2019 at 6:00 pm at the Ice House; the ribbon cutting ceremony for the Northend Greenway will be on Wednesday, September 4, 2019 at 11:00 am; a public forum will be held Thursday, September 5, 2019 at 7:00 pm at the Simms Center on the Purcell Park Master Plan and residence feedback is needed on the future of the park; and a survey is currently available on our website about the future of the South Main Street corrido and can be taken through September 7, 2019.

Eric Campbell, city manager, stated a schedule will be emailed to Council on the invitation only focus groups for the Purcell Park Master Plan and requests Council Members advise him of their plans to attend.

10. Adjournment

At 8:08 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR