



City of Harrisonburg

409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

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

Tuesday, August 12, 2014

7:00 PM

Council Chambers

1. Roll call

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

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

2. Invocation

Council Member Shearer offered the invocation.

3. Pledge of Allegiance

Mayor Byrd led the Pledge of Allegiance.

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

Panayotis "Poti" Ginnakouros, 98 Emory Street, reminded Council that a year ago tomorrow Council participated in a momentous decision in the history of Harrisonburg. Mr. Ginnakouros also mentioned that the listening session last night pertaining to the jail was also filled with the same moral voice.

Jim Orndoff, 2 North Main (resides Bridgewater), thanked staff for putting together last night's listening session regarding the jail. Mr. Orndoff spoke in opposition of the expansion and in support of other alternatives.

James "Bucky" Berry, 30 West Washington Street, spoke about his concern about the power outage last week and the emergency lines being down. Mr. Berry feels that the Emergency Communication Center (ECC) needs a better back up in case the same types of instances reoccur.

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 Chenault, seconded by Council Member Degner, that these matters were approved on the Consent Agenda. The motion carried by the following vote:

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

No: 0

5.a. Approval of minutes

These Minutes were approved on the Consent Agenda.

5.b. Consider a request to amend Section 15-3-2 of the Harrisonburg City Code by expanding subsections containing definitions and specific prohibitions to further define excessive noise and noise violations.

This Ordinance was approved on second reading.

6. Public Hearings

6.a. Public Hearing - Consider an application for closing public street and alley right-of-way from James Madison University. The rights-of-ways include portions of South Mason Street and East Grace Street, an Alley between South Main Street and South Mason Street, and portions of Chesapeake Avenue near the former Rockingham Cooperative site.

Stacy Turner, Community Development Director, provided an overview of the property and surrounding properties. Mrs. Turner stated JMU is requesting to close and vacate three public street right-of-ways (ROWs) and one public alley. Mrs. Turner stated since JMU owns the adjacent properties, this is an unusual situation. Mrs. Turner stated the applicant explained the purpose for closing East Grace Street and Mason Street is to make these areas more pedestrian and bicycle friendly in association with their Grace Street corridor plans and to better accommodate these areas in connection with the Student Success Center. The intent for closing the public alley is to incorporate this ROW within their adjacent property to accommodate a planned parking deck to be located at the corner of Martin Luther King, Jr. Way and South Mason Street, which would support the Student Success Center. The reasoning to close the identified portions of Chesapeake Avenue is to incorporate that ROW within their adjacent property to make way for a 20,000 square foot annex for Facilities Management. Mrs. Turner reviewed utilities located along the property and stated before any plats are recorded Public Works will work with the City Attorney to get proper easements for infrastructure. Mrs. Turner stated both staff and Planning Commission recommend approval with the condition that appropriate easements be reserved for all utilities and infrastructure.

Mayor Byrd asked if there are other areas in the City that JMU owns property on both sides of the road. Mrs. Turner stated there probably are but she couldn't think of any at the moment. Mayor Byrd asked if the same reasoning for recommendation here, go for other request like this. Mrs. Turner stated it would be a case-by-case basis. Mrs. Turner stated information was sent out to all departments for review and were given opportunity to provide feedback. Vice-Mayor Chenault stated they are not recommending this closure just because JMU owns both sides of the street. Mayor Byrd showed concern towards traffic flow for students accessing the parking deck

when the street closure took place. It was noted that JMU is not proffering their Master Plan in this request. Mrs. Turner stated JMU and Public Works have been in communication for several months regarding this closure.

At 7:16 p.m., Mayor Byrd closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Monday, July 28, 2014 and August 4, 2014.

Gary Beatty, 131 West Grace, stated he didn't oppose the closing of Chesapeake; he wanted to know the plans for the end, such as a cul-de-sac. Mr. Beatty also stated prior to JMU obtaining the property, there was parking allowed on that street. Mr. Beatty suggested a cul-de-sac to help traffic turn around and parking to be reinstated for property owners.

Vice-Mayor Chenault stated there shouldn't be any other traffic than those going to the facility, but if there are, they could use the parking lot. Suggestions were made to add signage that it was a dead end.

Steven Blatt, 755 S. Dogwood Drive, stated he was opposed to the closing of Grace Street and the Mason Street access. Mr. Blatt also opposed to Chesapeake Drive due to his concerns of a serious fire and the fire department needing access to it. Mr. Blatt stated it was unprecedented for the land owner to close streets such as these. Mr. Blatt asked if there was something wrong with the traffic lights on Mason Street and Grace Street and do they serve the function of which they were designed to do for the City as a whole not just for the private interest of adjoining land owners. Mr. Blatt stated if it is so critical, why hasn't this closing been in the plan and why is it happening now? Mr. Blatt stated that the road for Costco being moved that was mentioned in the Planning Commission minutes were for different reasons. Mr. Blatt stated he wants to be able to drive on those roads that are being requested to be closed and JMU isn't paying one penny. Mr. Blatt suggested Council to delay the decision so it would give a chance for people to understand and also give the chance for voters to vote during the upcoming election. Mr. Blatt stated there had been a request about Franklin Street to be closed and it was turned down. Mr. Blatt stated closings of streets can't be undone.

James "Bucky" Berry, 30 West Washington Street, stated he would like this item tabled so an traffic impact analysis (TIA) can be done and reviewed. Mr. Berry stated he too wants to be able to use the street and feels like JMU gets whatever they want.

Panayotis "Poti" Ginnakouros, 98 Emory Street, stated there was a new street that is now called Martin Luther King, Jr. Way.

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

The following discussion took place: this is a closing of a street with a sale attached to it; no traffic analysis has been done and if it has would like to see information; no

proffers stating that it will remain a road; if information has been shared with Public Works, they should provide; letting the public vote on this should not be attached to an election; JMU is a state entity; Fire Department did not oppose this request; Public Works supports this request; this would improve the safety for both students and personnel; private entities don't do traffic counts if they aren't needed; wouldn't want JMU to proffer, they have their own Master Plan; could make it into a pedestrian way; Public Works doesn't want to maintain it if they don't have to; reduced traffic at the intersection would improve the pedestrian traffic; if the street had been closed a fatality might have not occurred; the use for these streets has been changed since JMU purchased the old hospital; half the roads have been blocked off due to work being completed and no complaints have been received; Chesapeake will be a public street until turning private further back; and more development on the corner of Chesapeake is possible.

A motion was made by Council Member Baugh, seconded by Vice-Mayor Chenault, to close a portion of Chesapeake Avenue, East Grace Street, and a 10-foot alley located between South Main Street and South Mason Street with the recommended easements be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Vice-Mayor Chenault, Council Member Baugh, Council Member Degner, and Council Member Shearer

No: 1 - Mayor Byrd

- 6.b.** Consider a request from Carmel Quinn Falls, Leon Nelson, and HGC, Inc. with representative Ed Blackwell of Blackwell Engineering for a special use permit to allow multiple family dwellings of up to 12 units per building within the R-3, Medium Density Residential District on property addressed as 2475 & 2477 Reservoir Street.

Council Member Degner stated he has listed several properties in this area so he will be abstaining.

Mrs. Turner stated the proposed development is shown to contain three structures; two 12-unit apartment buildings and a 1,440+/- square foot clubhouse facility. The apartment buildings are described as three stories, with four bedrooms in each dwelling; for a total of 96 bedrooms. Parking is provided throughout the remainder of the property. Mrs. Turner noted the applicant demonstrated that a TIA is not needed with this project. Mrs. Turner reviewed the property and surrounding properties of the request. The applicant has expressed a desire to have a temporary construction entrance off Reservoir Street during the construction phase for this project and Reservoir Street widening; as well as a possible future gated, emergency access into the site from Reservoir Street which can be addressed during the comprehensive site plan review phase. Mrs. Turner reviewed the property line between the existing Campus View Apartments and the proposed new apartments would be vacated, the setbacks change as well. Staff has discussed with the applicant that the setbacks should all conform to the existing phase of Campus View. Also, a shared parking agreement would not be necessary once the property line is vacated. Mrs. Turner reviewed why staff and Planning Commission believe the proposed development has

met several conditions to justify the development. Mrs. Turner stated both staff and Planning Commission recommended for approval.

Vice-Mayor Chenault asked if this development had any stormwater runoff issues. Mrs. Turner stated that there was a property near this one, but she doesn't remember having any problems with this property.

At 7:57 p.m., Mayor Byrd closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Monday, July 28, 2014 and Monday, August 4, 2014.

Dick Blackwell, Blackwell Engineering, stated Mrs. Turner described the request well and made himself available. Mr. Blackwell stated a building that originally showed touching the line has been changed. Mr. Blackwell stated the joint access for the construction between the applicant's contractor and the City's contractor will have to be worked out. He mentioned the road will have to be maintained for the Fire Department to have second access to the property.

At 7:59 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

Council Member Baugh stated he usually is not a fan of this type of development, but this one is consistent with the surrounding areas. Vice-Mayor Chenault stated there was a lot of work and coordination that will need to happen with this development.

A motion was made by Council Member Baugh, seconded by Council Member Shearer, that this Special Use Permit be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Mayor Byrd, Vice-Mayor Chenault, Council Member Baugh, and Council Member Shearer

No: 0

Abstain: 1 - Council Member Degner

- 6.c.** Consider a request from Rawley Enterprises LC with representative Evaristo Antonio-Perez-Tomas for a special use permit to allow religious, educational, charitable, or benevolent institutional uses which do not provide housing facilities within the M-1, General Industrial District. The property is located at 206 Charles Street.

Mrs. Turner stated that they became aware of the property when the church applied for a sign permit for the subject property. Mrs. Turner reviewed the property and surrounding properties and stated the church has 48 members. Mrs. Turner stated based on that number they would need 10 on-site parking spaces and currently they only have four. However, Section 10-3-25 (11) allows Planning Commission to modify these requirements and the church has already received permission from Valley Implement Sales, located approximately 70 feet west of the church property along the same side of Charles Street, to borrow parking spaces. Mrs. Turner stated staff has also discussed with the applicant that the existing four, on-site parking spaces, which

back out directly into Charles Street, create an unsafe maneuver and that the applicants would be responsible for any issues that arise from their use of the parking area. The applicant is also aware if the request is approved, they would be able to apply for a change of use permit from the Building Inspections Division. Mrs. Turner stated both staff and Planning Commission recommended for approval.

At 8:05 p.m., Mayor Byrd closed the regular session and called the third public hearing to order. A notice appeared in the Daily News-Record on Monday, July 28, 2014 and Monday, August 4, 2014.

There being no one desiring to be heard, Mayor Byrd closed the public hearing at 8:06 p.m., and the regular session reconvened.

Council Member Degner stated he was glad that the ordinance allowed flexibility and that the neighboring property was nice enough to allow the applicant to use their parking space.

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

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

No: 0

- 6.d.** Consider a request from Lantz-Eby Enterprises with representative Ken Kline of Cottonwood Commercial for a special use permit to allow financial institutions and offices within the M-1, General Industrial District on property addressed as 130 Mt. Clinton Pike and 302 Acorn Drive.

Mrs. Turner reviewed the property and surrounding properties. Mrs. Turner stated the applicant is requesting up to five years to begin construction, which Council can approve per Section 10-3-130(c). Mrs. Turner stated the applicant's submitted letter describes several details related to the SUP plan of development; the submission expressed in the letter are part of the SUP, which if approved, must be adhered. The submitted details are as follows: financial institution and office uses will be restricted to utilizing no more than 8,000 square feet of building space; if additional square footage for any other permitted use on the property may require the performance of a TIA; the property owner would construct, and, if necessary, dedicate right-of-way, for a right turn lane along Mr. Clinton Pike for vehicles turning onto Acorn Drive; two entrances; applicant is reserving an area that is 30 feet in width along the entire length of the subject property's eastern boundary line for a potential public street, for a 10 year period; the applicant acknowledged staffs suggestion and if they do not accommodate an entrance further to the north at this time, they would be financially responsible for relocating their entrance along the potential public street; the property owner will be required to construct sidewalk along the property's Mt. Clinton Pike and Acorn Drive street frontage; and it will likely require extension of a public sanitary sewer main as the closest mains are located about 400 feet to the east and roughly 500 feet to the west of the property. Mrs. Turner stated both staff and Planning

Commission recommended approval of the request with the five year extension. Mrs. Turner noted that the applicant should understand that because the property is surrounded by M-1 zoned lots, the financial use could be adjacent to intense industrial operations, which they may deem as undesirable neighbors.

At 8:12 p.m., Mayor Byrd closed the regular session and called the fourth public hearing to order. A notice appeared in the Daily News-Record on Monday, July 28, 2014 and Monday, August 4, 2014.

Dick Blackwell, Blackwell Engineering, stated again Mrs. Turner covered the request well. Mr. Blackwell stated a TIA was completed, although not official. Mr. Blackwell noted a 30 foot reserved strip that the applicant will not build on and would be made available and dedicated to the City for 10 years if the City decides to build a street. Mr. Blackwell also noted about the right-turn lane on Acorn Drive. He stated that DuPont Credit Union hasn't proffered the building provided in the drawings, but they do nice buildings. Mr. Blackwell stated this request would be beneficial to the area. Mr. Blackwell also noted that the sewer line is planned to be brought from where the Rockingham County School Board property is. Mr. Blackwell made himself available for questions.

At 8:15 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

It was noted that this request has been in the works and it is a great example of the parties' involved showing cooperation.

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

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

No: 0

- 6.e.** Consider a request from Gerdau to amend the Zoning Ordinance to allow junk yards within the M-1, General District by special use permit. The amendment would add text within Section 10-3-96 (8) & (20), add junk yards as an available special use within Section 10-3-97, add additional text within Section 10-3-99 (c), add parking regulations for junk yards within 10-3-25 and correct language within Section 10-3-24

Mrs. Turner stated junk yards would be added as an available special use within Section 10-3-97 and Section 10-3-99 (c) would be amended to allow materials (i.e. at junk yard operations) to not have to be completely enclosed within structures when specifically permitted. Mrs. Turner stated the City originally inherited properties such as these through annexation. Mrs. Turner reviewed other changes that included the following: adding off-street parking regulations within Section 10-3-25 specifically for junk yards and making a correction to Section 10-3-24 within the junk yard definition by adding "or". Mrs. Turner stated that other discussions are taking place and staff

might have additional changes. Mrs. Turner stated both staff and Planning Commission recommended approval to amend and reenact Sections 10-3-24, 10-3-25, 10-3-96, 10-3-97, and 10-3-99 of the Harrisonburg Zoning Ordinance.

Vice-Mayor Byrd asked if these changes will have any impact on existing recycling facilities. Mrs. Turner stated that is why staff might be coming back with additional modifications that deal with building types.

At 8:25 p.m., Mayor Byrd closed the regular session and called the fifth public hearing to order. A notice appeared in the Daily News-Record on Monday, July 28, 2014 and Monday, August 4, 2014.

Jodi Salyards, 290 Campbell Street, stated he wanted to make sure that staff was aware of the type of company that was proposing these changes. He stated they have eight operating centers across the commonwealth and two of which were in the Shenandoah Valley. Mr. Salyards suggested checking their records to see what type of company they are. Mr. Salyards stated he is open to competition and with the changes being proposed, but to make sure all are being treated equally.

Paul Tharp, Information Officer, Smith Industries, Inc., Windsor Mill, MD, stated he serves as the government liaison for scrap metal locations in Maryland, Virginia, Delaware, and Pennsylvania. Mr. Tharp reviewed some other organizations on which he serves and stated he was speaking on behalf of Smith Industries, Inc. Mr. Tharp was in favor of the SUP still being employed to permit this type of operation, but he feels that another category other than "junk yards" should be used. He stated it is time to recognize the benefits and environmental advantages of metal recycling by establishing it as specific identity under our zoning classifications as a 21st Century use and stop trying to paste it into an old 20th Century definition. Mr. Tharp stated scrap metal recycling centers can operate in a clean and safe environment as long as it has its own operating guidelines; hence the need to create its own zoning use definition with its own criteria requirements. Mr. Tharp offered the following basic requirements as a prerequisite for consideration of a SUP application: site size, environmental, noise, screening, and metal theft. Mr. Tharp closed by requesting Council send this matter back to Community Development for review.

At 8:40 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

The following discussion took place: staff has acknowledged the ordinances need further review; these amendments are just to get started; this request isn't for the SUP, but came due to a possible future request; Community Development can take suggestions; learned a lot and would like staff to continue to review; manufacturing will be unique; and good points were made and heard.

Vice-Mayor Chenault asked Mrs. Turner to pass on to staff that the visual presentations were very helpful.

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

Zoning Ordinance be approved on first reading. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

6.f. Consider reappropriation of encumbrances requested by department heads that were outstanding at the end of fiscal year 2014

City Manager Hodgen stated at the end of the fiscal year 2014 there were some outstanding encumbrances for purchase orders which were issued prior to June 30, 2014. These purchase orders were carried forward to the fiscal year 2015 budget; however, the budgeted funds lapsed as of June 30, 2014. The purchase orders were for goods and/or services which were contracted for but not received prior to June 30, 2014. City Manager Hodgen stated approval of this request will increase the Fiscal Year 2015 budget by \$3,487,508.11, which increases the budget over 1% of the total city budget and requires a public hearing for these budget amendments. City Manager Hodgen noted that no new funds are being presented and they are made up funds through the General Fund and School Funds.

At 8:46 p.m., Mayor Byrd closed the regular session and called the sixth public hearing to order. A notice appeared in the Daily News-Record on Monday, August 4, 2014.

There being no one desiring to be heard, Mayor Byrd closed the public hearing at 8:47 p.m., and the regular session reconvened.

A motion was made by Council Member Degner, seconded by Vice-Mayor Chenault, that this Supplemental Appropriation be approved. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

7. Regular Items

7.a. Report on Northend Greenway Unsolicited PPEA Proposal.

City Manager Hodgen stated an unsolicited PPEA proposal to construct the Northend Greenway Shared Use Path was received. Per guidelines of this process, city staff has reviewed the proposal and would recommend to Council that is not in the interest of the City to proceed with the proposal. Such recommendation is based on the following: (1.) the proposed project exceeds the scope of work anticipated by Council; (2.) the proposed project exceeds the amount of available funding for the project; and (3.) the proposal included no viable alternatives to overcome the exceeding of available funding. City Manager Hodgen shared the following options available at this time relative to the project and believe we essentially have three possibilities: (1.)

revert to a "traditional" engineering design, right-of-way acquisition, and construction bid process for Phase 1 of the project; (2.) do nothing at this time. This would not be a preferred option as the City is under time constraints from VDOT to spend the \$600,000 in Revenue Sharing funds that were made available for the project. It is possible that the Revenue Sharing Funds could be moved to a different project, subject to VDOT approval; or (3.) consider an alternative project. With the pending construction of the new grocery store project at the intersection of North Main and Mt. Clinton Pike and its requirement to construct a bike and pedestrian path along the road frontage, the City could consider continuing that path along Mt. Clinton Pike to its intersection with Virginia Avenue. There is existing city ROW along most of this route, along with existing street lighting. Preliminary, in-house cost estimates indicate that the work could be done at or near the amount of existing available funding. It is recommended that Council refer these options back to the Bike and Pedestrian Subcommittee for consideration and recommendation of one of the above alternatives. City Manager Hodgen stated the City has a good working relationship with VDOT and they would keep them posted. Council would like a recommendation by October 28, 2014.

Council Member Degner stated after a trip he took several years ago the group collectively decided where to prioritize future bike projects which were connectivity of existing bike lanes to each other and neighborhoods to schools. Council Member Degner stated he would like the Subcommittee to recommend to Council what is the best bang for our buck in short term for encouraging ridership City wide that can make the most impact that isn't only project specific but has the whole bike system involved in it.

Vice-Mayor Chenault offered a motion to refer this item to the Bike and Pedestrian Sub-Committee to make recommendations of one or more of the possibilities presented or any other possibilities to Council within 60 days of receiving the request. Council Member Shearer seconded the motion and approved by a voice vote.

8. Other Matters

Council Member Shearer stated he met with a group concerned about the low adoption rate at SPCA. Council Member Shearer stated the group would be coming to Council at some point to provide recommendations to help increase those rates.

Council Member Baugh reviewed items that were on the Planning Commission agenda for tomorrow night. Council Member Baugh stated that after comments that were heard last night, it was unclear what the makeup is of the incarcerated population at the jail currently. Council Member Baugh stated he was requesting for information about the demographics of those in jail and what they are in for. Council Member Baugh also would like to see numbers showing how we got to the number we are at and how long did it take us to get there. Not only where we are now, but what was our composition at 250/300. Has it been an across the board general expansion or has it been particular categories?

City Manager Hodgen stated he felt that was information that the consultant or jail

needed to provide. City Manager Hodgen stated most that spoke believe that there are a certain percentage of people that don't have to be jailed and he doesn't have anything that supports that. It was suggested a point-in-time survey be conducted and to submit a list of questions to the consultant.

Council Member Degner stated he got a request regarding surcharges for taxi cabs and would like a report and recommendation at the next meeting. Also, he would like an update of what is being done by the Emergency Communications Center (ECC) in regards to the power outage and the generator failure last week.

Vice-Mayor Chenault stated a plan for the Farmers Market bathrooms and office space in the Municipal Building have been received and suggested to get with the people involved to get comments. Vice-Mayor Chenault stated hopefully they are satisfied, because that is all we can do.

Vice-Mayor Chenault stated he would like the "ban the box" item be placed on the next agenda.

Mayor Byrd also announced that Harrisonburg has been selected by the Kennedy Center as the 15th national site for Ensuring the Arts for Any Given Child.

Council Member Degner stated National Night Out was another great night.

Vice-Mayor Chenault stated there has been a lot of talk about LEED certification with different facilities. Vice-Mayor Chenault stated the dedication for the Transportation Department facility recently took place and the facility is an environmental model.

City Manager Hodgen announced that there was one last listening session about the jail to take place on Thursday at Turner Ashby High School.

9. Boards and Commissions

No action was taken.

10. Adjournment

At 9:13 p.m., there being no further business and on motion adopted, the meeting was adjourned.

City Clerk

Mayor

