



# City of Harrisonburg

409 S. Main Street  
Harrisonburg, VA 22801

## Meeting Minutes - Final-revised City Council

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Tuesday, August 13, 2019

7:00 PM

Council Chambers

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### 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

Vice Mayor Romero 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, to approve the consent agenda as presented. The motion carried with a recorded roll call vote taken as follows:

#### 5.a. Minutes from July 23, 2019 City Council meeting

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

#### 5.b. Consider enacting Ordinance - Title 6, Chapter 1, Article F of the City Code, "Small Cell Wireless Facilities in the Public Right-of-Way."

**This ordinance enactment was approved on the consent agenda.**

#### 5.c. Consider approving an ordinance authorizing the City Manager to enter a new Shenandoah Valley Chief Elected Officials Consortium Agreement for the operation of the local Workforce Development Area.

**This ordinance was approved on the consent agenda**

### 6. Public Hearings

#### 6.a. Consider a request from the Northeast Neighborhood Association for a special use

permit to allow for a community building at 481, 491, and 505 Broad Street.

Adam Fletcher, director of Planning and Community Development, reviewed a special use permit request per section 10-3-40(5) to allow for a community building. He reviewed the property, the surrounding properties, current zoning, land use guide, and noted it was previously owned and used by the Broad Street Mennonite Church who, in October 2018, donated the property to the Northeast Neighborhood Association (NENA). He reviewed the mission of NENA and the organization's hopes to create a community center where residents of the community and city come for special gatherings, as well as recreational, educational and cultural activities. He stated they also have plans for a music room, art room, meeting space and to host special occasions such as weddings, church concerts and special programs. He stated per the zoning ordinance, Section 10-3-130(C) that unless City Council provides additional time for a property owner to begin construction the use must be established within 12 months. He stated given circumstances around how NENA plans to use this building, they would not be at the principal use, community center, within 12 months, but the plan is that within the coming years it would be. He stated the applicant has been working with staff on establishing Certificate of Occupancy issues, and in effort to work with NENA without having any concerns about their planned operation staff is offering a recommendation to Council to grant a five-year window of opportunity to establish the principal use and obtain a new Certificate of Occupancy as the change of use changes.

He stated staff recommended approval and the Planning Commission recommended approval (6-0) with the following conditions: Any community building shall operate substantially the same as the use proposed within the application; and if, in the opinion of Planning Commission or City Council, parking, noise or other issues associated with the community building becomes a nuisance the application can be further reviewed and if necessary provide any additional conditions, restrictions or revoke the permit.

Mayor Reed stated she had a meeting at the location with staff and board members of NENA, and if the five-year window is approved it will give NENA the time to raise the money they need to create the community center, however, in the meantime, the church will stay as church use.

Mr. Fletcher stated there were issues with the current occupancy, but staff is continuing to work with NENA on those issues.

At 7:07 pm Mayor Reed closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Monday July 29, 2019 and Monday August 5, 2019.

Karen Thomas, president and founder of NENA, thanked council for the approval of the special use permit and noted that next year will mark the 75th anniversary of the opening of this historical building. She stated this is a cornerstone institution of the

northeast community and is honored to be blessed with the responsibility to continue to work in the mission of this institution. She stated they want to work to transform the hearts, minds and lives of all city residents. She thanked the Harrisonburg Planning Commission for the vote of approval. She stated in regard to the special conditions requested, she believes it is important to keep in mind that NENA has provided the community with responsible, principle, and organized leadership for well over a decade and they do understand the rules and regulations for what must be done. She stated it is NENA that continues to set the tone ablaze and the path towards self-sufficiency, self-determination and empowerment. She stated they will always remain open and receptive to any concerns that the City Council may have as it relates to the usage of a community center. She stated they are confident that the work there in the past will largely speak for itself. She thanked council and staff for time and advised they are always welcome to the NENA's community center at any time.

At 7:10 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Jones, seconded by Council Member Hirschmann, to approve the special use permit request with the stated conditions. 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 request from Hans Kline for a special use permit to allow short-term rental at 168 Pleasant Hill Road.

Adam Fletcher, director of Planning and Community Development, reviewed the Short-Term Rental (STR) common conditions recommended for each of the applications which include:

- All STR accommodations shall be within the principal structure.
- Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. The operator shall maintain compliance with the Pre-Operation Form when short-term rental guests are present.
- Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property OR the STR has no minimum off-street parking requirements.
- If in the opinion of Planning Commission or City Council the STR becomes a nuisance, the SUP can be recalled for further review, which could lead to the need for additional conditions restrictions, or revocation of the permit.
- The site shall be the operator's primary residence and the STR shall occur within the operator's dwelling unit.
- If the operator is not the property owner, then the operator shall be present on the site during the lodging period within any dwelling unit.

Mr. Fletcher presented the request for property located at 168 Pleasant Hill Road. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the plan is for two accommodation spaces for a total of up to four guests, the property is the applicant's primary residence and they plan to be present during any lodging period.

He stated staff recommended approval and the Planning Commission recommended denial (6-0) as the property was not the applicant's primary residence, but a co-operator resides in the 2nd floor. He stated the applicant has since decided to move to the property and it will be their primary residence. He stated should City Council approve the application it is suggested by staff to approve with the following conditions:

- The site shall be the operator's primary residence;
- If the operator is not the property owner, then the operator shall be present on the site during the lodging period within any dwelling unit.
- There shall be no more than two accommodation spaces;
- There shall be no more than four guests at one time;
- Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.

At 7:16 pm Mayor Reed closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Monday July 29, 2019 and Monday August 5, 2019.

There being no one desiring to be heard, Mayor Reed closed the public hearing at 7:16 p.m., and the regular session reconvened.

Vice Mayor Romero stated he was not at the Planning Commission meeting but now that the operator will be residing in the property he is in favor of approving.

**A motion was made by Vice Mayor Romero, seconded by Council Member Jones, to approve the special use permit request with the stated conditions. 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 a request from Victor and Patricia Landis for a special use permit to allow short-term rental at 72 East Weaver Avenue.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 72 East Weaver Street. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated

the plan is for one accommodation space for a total of up to two guests, the property is the applicant's primary residence and they plan to be present during any lodging period.

He stated staff recommended approval and the Planning Commission recommended approval (6-0) with the following conditions:

- The site shall be the operator's primary residence;
- If the operator is not the property owner, then the operator shall be present on the site during the lodging period within any dwelling unit.
- There shall be no more than one accommodation space;
- There shall be no more than two guests at one time;
- The STR has no minimum off-street parking requirements.

Vice Mayor Romero asked if any public comment had been received regarding this request. Mr. Fletcher stated no.

At 7:20 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 July 29, 2019 and Monday August 5, 2019.

Patricia Kennedy and Victor Landis, applicants, thanked Council for their consideration, they have lived in the neighborhood for over 31 years and are advocates of the neighborhood and would never propose anything that would harm the neighborhood.

At 7:21 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Jones, seconded by Council Member Hirschmann, to approve the special use permit request with the stated conditions. 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.d.** Consider a request from Glenn Loucks with representative David Sloop for a special use permit to allow short-term rental at 111 Campbell Street.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 111 Campbell Street. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the plan is for two accommodation spaces for a total of up to six guests. He stated the initial application requested to have the building in the rear of the property known as the carriage house as an STR but were also looking at having the ability to have the principal structure as an STR as well. He stated after a lengthy discussion at the

Planning Commission, the applicant amended their request removing the idea of having any STR in the principal structure and just focus on only allowing STR in the carriage house.

He stated staff recommended approval and the Planning Commission recommended approval (6-0) with the following conditions:

- The site shall be the operator's primary residence;
- If the operator is not the property owner, then the operator shall be present on the site during the lodging period within any dwelling unit.
- All STR accommodations shall be within the accessory building ("the carriage house").
- There shall be no more than two accommodation spaces;
- There shall be no more than six guests at one time;
- Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway and parking area on the property.

At 7:24 pm Mayor Reed closed the regular session and called the fourth public hearing to order. A notice appeared in the Daily News-Record on Monday July 29, 2019 and Monday August 5, 2019.

Dave Sloop, purchaser pending the STR, stated he currently resides in the neighborhood, is excited to restore the house, and the income from this STR will help with that. Council Member Jones asked if he will be moving to the property. Mr. Sloop stated yes.

Roberta McCorkle, 95 Campbell Street, stated she is looking forward to having Mr. and Mrs. Sloop as neighbors and is ok with the request.

At 7:25 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Hirschmann, seconded by Council Member Jones, to approve the special use permit request with the stated conditions. 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.e.** Consider a request from Jeryl David and Mary Ann Krieder for a special use permit to allow short-term rental at 443 Lee Avenue.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 443 Lee Avenue. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the plan is for three accommodation spaces for a total of up to nine guests, the property is the

applicant's primary residence and they plan to be present during any lodging period.

He stated staff recommended approval and the Planning Commission recommended approval (5-1) with following conditions:

- The site shall be the operator's primary residence;
- If the operator is not the property owner, then the operator shall be present on the site during the lodging period within any dwelling unit.
- All STR accommodations shall be within the accessory building ("the carriage house").
- There shall be no more than three accommodation spaces;
- There shall be no more than nine guests at one time;
- The STR has no minimum off-street parking requirements.

Council Member Jones asked if the concern from the one denial vote was due to the number of guests allowed. Mr. Fletcher stated that was the concern.

At 7:29 pm Mayor Reed closed the regular session and called the fifth public hearing to order. A notice appeared in the Daily News-Record on Monday July 29, 2019 and Monday August 5, 2019.

Ann and David Krieder, thanked Council to allow Airbnb to remain a viable option for visitors in the community, she reviewed Airbnb's mission, and noted they have whole-heartedly embraced the powerful social entrepreneurial model that offers opportunities for affordable lodging and a more personal human touch in hospitality. She stated they have been very sensitive to the current concerns of STR's by choosing how they operate as hosts and members of the community, which they care very much about and have invested in over the past 44 years. She stated they have checked with most of the neighbors and they are very supportive and approving. She stated they have set specific rules for their guests regarding noise and parking. Mr. Krieder stated they appreciate Airbnb's commitment to social justice, diversity, inclusion, non-violence, equal treatment, to all of those that are part of their global membership as both guests and hosts. He stated regarding the concern of one of the Planning Commission members had of the number of guests allowed, the spaces are set up for two people but if there is a request for two adults and children, the lodging can be accommodated.

At 7:32 pm Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Jones stated this particular property is in the corridor where one STR has already been approved and feels it is a prime location due to the walkability and accessibility to the downtown area.

Vice Mayor Romero thanked the applicants for being proactive in speaking with the

neighbors in advance.

**A motion was made by Council Member Jones, seconded by Council Member Hirschmann, to approve the special use permit request with the stated conditions. 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.f.** Consider a request from Rachel Whitmer for a special use permit to allow short-term rental at 519 Green Street.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 519 Green Street. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the plan is for two accommodation spaces for a total of up to six guests, the property is the applicant's primary residence and they plan to be present during any lodging period. He noted this is the third request for an STR on Summit Avenue.

He stated staff recommended approval and the Planning Commission recommended approval (6-0) with following conditions:

- The site shall be the operator's primary residence;
- An operator shall be present during the lodging period;
- There shall be no more than two accommodation spaces;
- There shall be no more than six guests at one time;
- Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.

At 7:35 pm Mayor Reed closed the regular session and called the sixth public hearing to order. A notice appeared in the Daily News-Record on Monday July 29, 2019 and Monday August 5, 2019.

Mike Goertzen, 990 Summit Avenue, speaking on behalf of the applicant as the property owner was not available due to a medical emergency.

At 7:36 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Vice Mayor Romero, seconded by Council Member Hirschmann, to approve the Special Use Permit request with the stated conditions. 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.g. Consider a request from Elizabeth and Michael Goertzen for a special use permit to allow short-term rental at 990 Summit Avenue.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 990 Summit Avenue. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the plan is for two accommodation spaces for a total of up to six guests, the property is the applicant's primary residence and they plan to be present during any lodging period.

He stated there was some discussion at the Planning Commission meeting about how many STR's might to too many STR's. He stated staff recommended approval and the Planning Commission recommended approval (4-2) with following conditions:

- The site shall be the operator's primary residence;
- An operator shall be present during the lodging period;
- There shall be no more than two accommodation space;
- There shall be no more than six guests at one time;
- Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.

At 7:39 pm Mayor Reed closed the regular session and called the seventh public hearing to order. A notice appeared in the Daily News-Record on Monday July 29, 2019 and Monday August 5, 2019.

Mike and Elizabeth Goertzen, applicant, stated they appreciate Council's consideration.

Vice Mayor Romero asked if they have received any feedback from neighbors especially considering this is the third request on the same street. Mr. Goertzen stated they are very pleased to have had many conversations with the neighbors and everyone seems very supportive, there were some preferences regarding parking, and they have planned accordingly.

Pamayotis "Poti" Giannakaouros, city resident, stated he feels he needs to weigh in on the economic issue of the number of STR's. He stated he reminds Council that a STR is a commercial enterprise and this reasoning should also apply to the scooters as well. He stated if we think of putting in too many STRs we need to be thinking that they are all going to be used, it is not reasonable to expect that there is an unlimited supply of people wanting to rent STRs, and he feels what would happen if we got too many is that people would find pricing would have to be decreased and some people would decide not to have guests, potentially. He stated this is not sound reasoning and this is an example of where we don't have to be particularly worried.

At 7:43 pm Mayor Reed closed the public hearing and the regular session

reconvened.

**A motion was made by Council Member Jones, seconded by Council Member Hirschmann, to approve the Special Use Permit request with the stated conditions. 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.h.** Consider a request from Jonathan and Kaitlin Ernest for a special use permit to allow short-term rental at 1934 Park Road.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 1934 Park Road. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the plan is for three accommodation spaces for a total of up to six guests, the property is the applicant's primary residence.

He stated staff recommended approval and the Planning Commission recommended denial (4-2) as the applicant did not attend the Planning Commission meeting, they wanted the applicant to be present for any questions they may have and they did not want to set a precedent that applicants did not have to show up. He states should City Council approve the application it is suggested by staff to approve with the following conditions:

- The site shall be the operator's primary residence and the STR shall occur within the operator's dwelling unit.
- If the operator is not the property owner, then the operator shall be present during the lodging period.
- There shall be no more than three accommodation spaces;
- There shall be no more than six guests at one time;
- Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.

Mayor Reed asked if the applicants advised staff the reasoning they did not attend the Planning Commission meeting. Mr. Fletcher stated they did not until after the meeting and advised staff it was for personal reasons.

At 7:47 pm Mayor Reed closed the regular session and called the eighth public hearing to order. A notice appeared in the Daily News-Record on Monday July 29, 2019 and Monday August 5, 2019.

Jonathan Ernest, applicant, stated he and his wife reside at the location and is their primary residence and can answer any questions Council May have.

Vice Mayor Romero stated he received a letter that came from the applicant

explaining the reasoning as to why the applicant could not be present at the Planning Commission meeting.

Council Member Jones asked what the reasoning for denial was. Mr. Fletcher stated Planning Commission had concerns that the applicant did not show up and they didn't have the opportunity to answer any questions. He stated the two that were in favor of the request did not have that concern. Council Member Jones asked if the normal full discussion took place as if the applicant was there. Mr. Fletcher stated it did for a short period of time, but then was focused on the applicant not being present. He stated staff had concern about that as they didn't feel it was necessary for the applicant to be present and applicants are not required to be in attendance.

Mayor Reed stated it is not written anywhere that attending the Planning Commission meeting is required. Council Member Baugh stated he understands Planning Commission's perspective, it is their job to vet these requests for Council. Vice Mayor Romero stated the majority of applicants seen prior to this one at Planning Commission had representation present. Mayor Reed stated she thinks that if they must be there it should be put in writing.

Mayor Reed asked why this item was not tabled until the applicant could be present.

Pamayotis "Poti" Giannakaouros stated he was present at the Planning Commission meeting and advised everyone to watch those 12 minutes. He would like to think that he lives in a city where the character, demeanor, and identity of the applicant doesn't matter, what matters is the merit of their case and he feels too much weight initially was put by certain Planning Commission members on who the person was. He stated Planning Commission needed to focus on this item on a land-use basis not the respect that a person showed by showing up or not showing up. He stated he speaks strongly in favor of this request and hopes that Council will send a clear message to Planning Commission. He stated on the other hand the roll of public input is important.

At 7:54 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Vice Mayor Romero, seconded by Council Member Hirschmann, to approve the Special Use Permit request with the stated conditions. 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.i.** Consider a request from Daryl and Carrie Bert for a special use permit to allow short-term rental at 1230 Alpine Drive.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 1230 Alpine Drive. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the plan is for one accommodation space for a total of up to three guests, the property is the applicant's primary residence and they plan to be present during any lodging period.

He stated staff recommended approval and the Planning Commission recommended approval (6-0) with following conditions:

- The site shall be the operator's primary residence;
- An operator shall be present during the lodging period;
- There shall be no more than one accommodation space;
- There shall be no more than three guests at one time;
- Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.

At 7:47 pm Mayor Reed closed the regular session and called the ninth public hearing to order. A notice appeared in the Daily News-Record on Monday July 29, 2019 and Monday August 5, 2019.

Daryl Bert, applicant, thanked Council for their consideration and stated he would be open to answer any questions.

At 7.57 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Jones, seconded by Council Member Hirschmann, to approve the Special Use Permit request with the stated conditions. 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 a refund for a portion of the 2019 Business, Professional and Occupational License (BPOL) tax for two businesses.

Chris Brown, city attorney, stated he is presenting on behalf of the Commissioner of Revenue and it is a request for a refund of Business, Professional and Occupational License (BPOL) tax for two businesses. He stated Taxpayer A notified the Commissioner of Revenue that the business was sold in July and a prorated refund of \$6,268.61 was due. He stated Taxpayer B notified the Commissioner of Revenue that the business was sold in July and a prorated refund of \$6,647.29 was due. He stated the new owners of both businesses will assume responsibility for the BPOL tax and

have already paid their portion.

**A motion was made by Council Member Baugh, seconded by Council Member Jones, to approve the 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

- 7.b.** Consider a request from Greendale LLC to preliminarily subdivide a +/- 5.8 acre parcel into nine single-family home parcels and one common area parcel at a site addressed as 1205 Greendale Road.

Adam Fletcher, director of Planning and Community Development, presented the variance request for a residential neighborhood that is partially in the city and partially in the county. He stated the subdivision in the city would be for nine single family home lots and one common area parcel. He stated the variances are being requested from two different code sections 10-2-61 and 10-2-67 which are both associated with the construction of sidewalk. He stated the applicant is requesting to not build sidewalk in a particular section of the subdivision. He reviewed the property, the original proffers for when it was part of a larger subdivision designed several years ago and rezoned in June of 2007, the land-use for the area and noted public utilities are already set up in the area. He reviewed the subdivision plat and noted that when the subdivision was initially approved the requirement for a sidewalk only pertained to one side of the street. He stated since then those regulations have changed, and the applicant is requesting that a sidewalk be built only on one side along Dorval Road. He noted all other portions within city limits will have double sided sidewalks.

He stated staff recommended approval and the Planning Commission recommended approval (6-0)

Council Member Jones asked if this would hinder accessibility. Mr. Fletcher stated they should be able to access the sidewalk on the other side of the street. Council Member Jones asked if 'hopefully' means staff is not sure. Mr. Fletcher stated it would potentially hinder accessibility but there are other lots that do not have sidewalk because it was not previously required in the city nor do they have that requirement in the county.

Council Member Baugh stated it is approximately five lots that may or may not even be oriented towards that side of the road. Mr. Fletcher stated all the lots in the new extension of this subdivision are accessible from Dorval Road. Council Member Baugh stated it looks like two lots out of the three that would be affected by this request are actually through lots to Greendale Road. Mr. Fletcher stated that is correct.

Council Member Jones stated with this body and many other Councils prior there is always a lot of talk about diversity and inclusion, but we never want to hinder economic development especially with single family homes. He stated we do, however need to be conscientious of other's needs.

Council Member Baugh stated Council Member Jones has a good point but agrees with staff, three lots have already been approved without the sidewalk, this is just adding two more.

Council Member Jones stated in the name of good economic development he will vote but wanted to make sure his comment was included. He stated he had concerns with the scooters and blocking the sidewalks, we need to make sure we make the sidewalks in the city accessible for all.

**A motion was made by Council Member Baugh, seconded by Vice Mayor Romero, to approve the 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

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

Chris Brown, city attorney, stated the Noise and Mass Social Outdoor Gathering ordinances, Section 15-3-3 of the City Code, have improved the communications between the Harrisonburg Police Department (HPD), students, organizers etc.

He stated in a recent meeting between HPD and the city attorney's office HPD requested a few amendments be considered. He stated the first two apply to pedestrian safety and traffic safety. He stated the request that a party organizer designate a drop off and pick up area for private vehicles, taxis, and transportation network companies is due to traffic and pedestrian safety issues in the past. He stated the amendment request for the organizer to have a plan to safely and efficiently disperse individuals from the event site at the events termination is due to the large groups of individuals moving down a street that is not designed for that, safety is an issue. He stated the request would help disburse these groups down different streets, small groups at a time, or even hold back some of the group and release at different times. He stated HPD realizes this is purely aspirational but would like to give it a shot for the benefit of pedestrian safety.

He stated in Section 15-3-3(b)(13) Mass Social Outdoor Gathering Permits could be denied if there were two or more noise violations issued to a person or the property within a 12-month period. He stated what is happening is the Courts are finding some cases with Fact Sufficient Deferred, which means although there is enough

evidence to convict the offender the Court will dismiss if there are no other citations issued within a certain time frame. He stated this is an attempt to bring some discipline to the application process so that if there have been 2 violations of those ordinance at the property, even if it was a finding of Fact Sufficient Deferred, a permit could be denied until the 12-month period expires. He stated the amendment request be also applied to violations of Section 16-8-2 which relate to illegal possession of alcohol by underage persons or Virginia Code Section 4.1-306 which relates to providing alcohol illegally to an underage person. He stated HPD issues these and to keep control of that, those two code sections should be included in the reasons for permit denial.

Mayor Reed asked how realistic the changes are, particularly the drop off/pick up spots and dispersment of individuals at the end of an event. Mr. Brown stated the drop off and pick up locations can be monitored by the organizer and the party monitors. He stated it is aspirational to have the organizer to disperse the group. Council Member Jones stated that can't be done during a football game or event; he stated that is beyond aspirational and not realistic. He stated what happens if there are several vehicles waiting to get to the drop off / pick up zones, at some point people will just hop out wherever they can. Mr. Brown stated the goal is to have the organizer submit a plan designating those spots and try to adhere to it.

Council Member Jones asked how the decibel readers were coming along. Mr. Brown stated HPD is working on getting those readers calibrated. Council Member Jones stated we should be trying to control what we can control and not create something that can't be controlled. He stated he is getting calls at home about the noise ordinance but yet the readers aren't calibrated and yet we expect people to usher out 250-300 people in an organized manner. Council Member Hirschmann stated that is unrealistic.

Mr. Brown stated there are ways to calculate noise, either by a decibel reader or by standing back and determining the noise from a certain distance, which is more commonly used. He stated the readers do not pick up bass.

Council Member Jones stated he does not want anyone to be punished because the drop off / pick up locations are not being adhered to. Mr. Brown stated it would not be enforceable. Council Member Baugh stated it is just a request to be included in the planning / application process, but he does not agree with trying to control the dispersal of the group.

Mayor Reed agreed with Council Member Baugh and stated she understands the intent but doesn't want to set people up to get in trouble. She stated she agrees with the other amendments regarding violations.

Council Member Jones suggested the request to amend Section 15-3-3(b)(10) be removed.

Vice Mayor Romero asked if these amendments were from another locality. Mr. Brown stated it came from the meeting with HPD and their experiences in the field. Vice Mayor Romero asked if these requests can be made a part of the application as recommendations and not part of the ordinance.

Council Member Jones stated he appreciates the job HPD does and the feedback they provide. He stated is Council ok with approving Section 15-3-3(b)(8) and 15-3-3(b)(13)

Council Member Baugh stated he would support that and noted that sometimes the Courts don't always realize how their decisions effect the localities.

**A motion was made by Council Member Jones, seconded by Vice Mayor Romero, to approve the ordinance amendment to Section 15-3-3(b)(8) and Section 15-3-3(b)13 and removed the amendments to Section 15-3-3(b)(10). 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

## 8. Supplementals

- 8.a.** Consider a supplemental appropriation for various departments in the amount of \$228,402.75

Ande Banks, deputy city manager presented a supplemental appropriation request to reallocate previously awarded grant funds back into the department line items, so they could be spent in FY 2020.

**A motion was made by Council Member Baugh, seconded by Council Member Jones, to approve the supplemental appropriation 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

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

Ande Banks, deputy city manager, presented a supplemental appropriation request to reallocate previously awarded grant funds back into the department line items, so they could be spent in FY 2020 for the Fire Department's Fire Program and Four-for-Life funds.

**A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the supplemental appropriation 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)

Jim Orndoff, 22 East Market Street, on behalf of the Valley Justice Coalition, (VJC) stated five years ago concerns were heard by Council about the possible construction of a second jail, that did not happen. He stated the hopes were that the incarceration rates would drop, which unfortunately they did not and we bought into the Middle River Regional Jail. (MRRJ). He stated they were still hoping that over time incarceration rates would fall, again that has not happened. He stated he represents the VJC at most of the MRRJ Authority Board meetings and noted at the latest meeting there was a presentation by Mosley Architects to design an addition to MRRJ for additional 400 beds. He stated he requests council to be aware that during budget deliberations for the 2021-22 fiscal year the city will be faced with having to come up with additional funding for the addition.

Zach Germroth, 1182 Nelson Drive, stated he is a proponent of the construction and real estate industries, but over the past 9 months he realized a noise ordinance regarding construction is needed. He shared information on a recent construction project in his neighborhood and is requesting that staff and council investigate amendments to the City Code to address construction noise but would exclude construction more than 75 yards from residential property and anything below 80 decibels or interior construction.

Pamayotis "Poti" Giannakaouros, stated the podium is protected by the First Amendment and this is the place to petition our government. He stated if we abuse the podium it is transparent and is self-regulating. He stated if the City can't continue with its business because its residents are here, the City may want to take stock of what is going on. He stated he heard a concern about a property that was called an "eye-sore" regarding growth of nature. He stated it looked fine to him and we need to transition our norms to the thinking of "natural is good, beautiful and normal". He stated there were not a lot of invasive species, but it was grown up quite a bit and the house had privacy. He stated the house was next to a very busy road and the owner has managed a little bit of privacy and a healthy buffer away from the busy street. He stated sometimes things are not as they appear, we should not be too quick to judge our fellow human being. He shared information of the resident of the property. He stated he is glad and grateful to the extent that we don't over enforce and aren't too quick to act on gut reactions without taking a full picture into account.

### 9.b. City Council and Staff

Council Member Jones stated for the first time in years he missed the Hispanic Festival, was greatly disappointed he could not make it and he apologized to the organizers. He stated he always hoped one day that someone from the Hispanic community would do the greeting at this event and feels that Vice Mayor Romero is a perfect representative to that community. He stated he was invited to welcome the new teachers for the Harrisonburg City Public School (HCPS) event and encouraged them to love on our children and thanked them for contributing to where we are, it is greatly appreciated. He stated he is excited about the tuition that the School Board passed that would allow those individuals that would like to attend HCPS that don't live in the city to attend. He asked if staff has started checking on STR websites for possible violators that have not yet applied for the STR special use permit. Mr. Brown stated he believes staff from Community Development has started. He stated he would like some feedback on the adjustment or modification for the Sunset Heights Traffic Calming Study. City Manager Campbell stated he sent out an email to all Council Members regarding that earlier in the day. He stated he has been getting concerns regarding the lighting and the water due to construction on East Market and Main St. and he knew Mike Collins, director of Public Utilities, would take care of things to make sure our water was in good shape. He stated in regard to lighting, he hasn't heard any feedback. Mr. Campbell stated the Public Works Department, along with Downtown Harrisonburg, have checked on some of the options available. Council Member Jones stated he doesn't agree with the lighting being a safety factor other than people falling or tripping.

Council Member Hirschmann stated the HCPS event was a great outing, there are a lot of new things happening in the public-school system as far as planning for emergencies in the area, and it is a great community effort. He stated there are very interesting things happening in the city of which he is very optimistic.

Eric Campbell, city manager, stated the Department of Public Works is in the beginning of organizing the Purcell Park Master Plan process, a consultant has been engaged and they would like one member of Council to participate in a stake-holder meeting. He stated other Council Members will have the ability to participate throughout the process through focus groups. Mayor Reed volunteered for the stake-holders meeting. City Manager Campbell stated the MRRJ Authority Board met on Tuesday, August 6, 2019 and one of the key items being discussed was the capacity at the jail and the possible need for expansion. He stated Mosley Architects was engaged for a Community Based Needs Assessment and a Facility Needs Assessment will be needed as well. He stated Community Based Needs Assessment should be done by year's end 2019, then followed up with the formal Facility Needs Assessment, and should be available for presentation to the Virginia General Assembly in 2021 for approval. He stated he sent an email regarding a special time to convene the August 27, 2019 meeting and it has been agreed and confirmed from majority of council to convene at 6pm to immediately enter into a

closed session. He stated regarding information received on the construction/commercial noise ordinance, staff is aware of the request, most cities have an ordinance that deal with commercial noise and staff is actively researching it and soon it will be presented to Council.

Mayor Reed stated she missed the National Night Out, which she loves to attend, and thanked everyone that came out to support the Harrisonburg Police Department and First Responders; it was a great event. She stated she did attend the Hispanic Festival. She stated school will start August 20, 2019. School buses will be back on the road soon, as well as pedestrians walking to campus. Please remember to watch out for our students and drive safe; we're currently looking for resident feedback on the Downtown Parking Study. You can take our survey at our website until September; registration for the Harrisonburg Citizen Academy is now open. Download an application at our website.

## 10. Closed Session

- 10.a. Virginia Code Section 2.2-3711(A), under: Subsection 3 for a discussion of the disposition of publicly held real estate.

**At 9:02 p.m., a motion was made by Council Member Baugh, seconded by Council Member Jones, 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 disposition of publicly held real estate. 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

## 11. Adjournment

At 9:22 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 9:22 p.m., there being no further business and on motion adopted, the meeting was adjourned.

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

NOTE TO THE PUBLIC:

Language interpretation service in Spanish is available for City Council meetings. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least four (4) calendar days in advance of the meeting by contacting the City Clerk at (540) 432-7701 or by submitting a request online at: [www.harrisonburgva.gov/interpreter-request-form](http://www.harrisonburgva.gov/interpreter-request-form)

El servicio de interpretación de idiomas en español está disponible para las reuniones del Ayuntamiento. Para asegurarse de que haya intérpretes disponibles en la reunión, las personas interesadas deben solicitar el servicio al menos cuatro (4) días calendario antes de la reunión comunicándose con el Secretario Municipal al (540) 432-7701 o enviando una solicitud en línea en: [https : //www.harrisonburgva.gov/interpreter-request-form](https://www.harrisonburgva.gov/interpreter-request-form)