



# City of Harrisonburg

409 S. Main Street  
Harrisonburg, VA 22801

## Meeting Minutes - Final City Council

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Tuesday, December 9, 2014

7:00 PM

Council Chambers

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### 1. Roll Call

**Present:** 4 - Vice-Mayor Charles Chenault, Vice-Mayor 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.

#### 3.a. Presentation of a resolution from the JMU Student Government Association

Joshua Humphries, Senator in the Student Senate of James Madison University, read and presented a resolution from the Student Government Association to City Council.

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

James "Bucky" Berry, 30 West Washington Street, invited everyone to the Brent Berry Food Drive Ribbon Cutting on Thursday at 10:00 a.m. at Red Front. Mr. Berry provided an overview on why they do the food drive each year.

Hermelinda Cortes, 338 West Water Street, introduced Ricardo who served as an interpreter. Ms. Cortes invited council and citizens to join them at an event called Beyond Cages Town Hall that is planned for 7:00 p.m., this Thursday in Council Chambers. Ms. Cortes stated interpretation would be provided on Thursday as well as tonight.

Dr. Panayotis "Poti" Giannakouros, 98 Emory Street, requested council to consider repealing Section 16-6-58 of the Harrisonburg City Code regarding tall grass and weeds and that council consider exercising their power under the Chesapeake Bay Act Section 7-6-7 to ban the use of coal tar parking lot sealant. Dr. Giannakouros provided reasoning's behind his requests and stated more information could be found at [www.peacefullyard.com](http://www.peacefullyard.com).

Mr. Ward, 3278 Spaders Church Road, stated he would like to speak on the jail.

Mayor Byrd stated the jail matter was on the agenda, so comments would not be heard.

Mr. Ward questioned council. Mayor Byrd asked the pleasure of council regarding Mr. Ward's comments. Council Member Degner stated comments could be heard if comments about submitting the jail plans to the state were not made.

Mr. Ward suggested building the jail in a sparsely populated area instead of close to neighborhoods and a school. Mr. Ward suggested sending postcards to a one to two mile radius around the site that is planned for the jail and utilizing the schools e-mail system to notify citizens of meetings and the plans. Mr. Ward showed concerns toward the minimal security and outdoor recreation facility so close to children's sandboxes and schools. Mr. Ward stated if this site continues to be considered notifications need to occur.

Mayor Byrd informed Mr. Ward his five minutes had expired. Mr. Ward asked if he could continue.

Vice-Mayor Chenault asked to see that council adheres to the rules and procedures during the meeting.

Andy Perrine, 320 West View Street, stated tonight had two special occasions: one being the civic virtue of this body, that all things can happen; and two it is the last council meeting for Vice-Mayor Chenault. Mr. Perrine thanked Vice-Mayor Chenault for his service and expressed his gratitude towards his commitment to the citizens of Harrisonburg.

Eddie Bumbaugh, Harrisonburg Downtown Renaissance Director, also spoke generously of Vice-Mayor Chenault and presented him with a Certificate of Appreciation.

Rick Nagel, Director of Government Affairs for Nexus Services, asked council to draft and adopt a formal resolution to be sent to Judge Wilson asking him to request court services to reevaluate the bond eligibility of the defendants being held and those held in the future to make it a top priority for docket scheduling purposes. Mr. Nagel provided statistics to show council why he is requesting the formal resolution. Mr. Nagel stated approximately 107 inmates at Rockingham Regional Jail are pre-trial detainees and of that number only 11 had bonds set by the court, meaning only 6% of pre-trial inmates currently incarcerated at the local jail have a bond they can't afford, which is inconsistent with the national average. Mr. Nagel requested council to investigate why pre-trial release statistics in our community seem dramatically different than those in other jurisdictions across the country. Mr. Nagel asked to submit a few documents.

Daniel Brumbaugh-Keeney, New Community Projects, stated he believed council

received a proposal prior to the last council meeting. Mr. Brumbaugh-Keeney stated one of the concerns regarding the jail is lack of documentation of what is going on in the jail. Mr. Brumbaugh-Keeney stated he contacted the James Madison University criminology professors who are interested in having their students do further research and analysis. Mr. Brumbaugh-Keeney stated the Sherriff's Department has been uncooperative in sharing the data that they have as well as access to inmate interviews. Mr. Brumbaugh-Keeney asked council to request the Sherriff's Department to provide access to the data they have, to cooperate and collaborate with the city, community organizations and with JMU.

Mike Donovan, President of Nexus Services and Executive Director of Caridades by Nexus, stated all bail eligible defendants from the local jail have been bonded as of 4:00 p.m. today. Mr. Donovan stated no one is in the jail that is bail eligible who weren't bonded. Unfortunately, that number was such a scant percentage of the number of people that are in the jail. Mr. Donovan stated the statistics noted by Mr. Nagel demonstrates our pre-trial release policies are the exact opposite of the average. Mr. Donovan stated 6% can't afford their bond and 94% are held without bond.

Tom Domonoske, 461 Lee Avenue, stated council has the most control over the budget and he doesn't feel that the budget process is very well understood and provided an explanation of how he sees the process. Mr. Domonoske stated he feels that most of the budget is set by the draft document that the City Manager presents. Mr. Domonoske asked the City Manager and staff to fund a restorative justice system, which focuses on the victim of the crime and then it focuses on the offender.

La Dawn Knicely, 19 Village Square, stated she is not in favor of the expansion proposal, because she does not feel that it will solve the overcrowding issue and reviewed many statistics within the document. Mrs. Knicely stated she felt that the funding could be used for other needs and services that would help both victims and offenders. Mrs. Knicely is concerned with only seeing one proposal. Mrs. Knicely stated Eastern Mennonite University's Center for Justice and Peace is a great program within the community. Mrs. Knicely asked if the founder, Howard Zehr, could work with a Community Task Force to come up with a collaborative system with our current jail. Mrs. Knicely feels that restoration will cost the community less in the long term.

Jon Henry, 854 Old Furnace Road, stated he was the CEO of the Old Furnace Artist Residency and that they are hosting their 17th Artist in Residence. Cassy Prescar will be working for the next week as a living sculpture in many of the restaurants in Harrisonburg. Mr. Henry stated beginning in January they will be hosting international artists. Mr. Henry asked if the old jail could be turned into art studios or apartments.

Palomo Rodriguez, 670 Merlins Way, asked council to fund afterschool programs instead of building a jail. Ms. Rodriguez stated there used to be a program at Skyline Middle School called RAILS, but due to funding it was cancelled.

Josh Roberts, 1679 Parklawn Drive, stated in 2012 the Harrisonburg Police Department received 23 - 5.56ml assault rifles, a \$5,000 infrared scope and a MRAP vehicle. Mr. Roberts asked what kind of war we are preparing to fight with now discussing a \$63M jail. Mr. Roberts stated it is the war on drugs. Mr. Roberts stated Senate Bill 686 was entered in late last week and will be voted on in January which aims to decriminalize marijuana in our state. Mr. Roberts stated other states have approved marijuana and have seen a reduction of minor and major crimes.

Daniel Chun Kali, Harrisonburg resident, asked to pray about the jail and would like to see the \$63M used towards something good for the community.

Diane Orndoff, owns property on the corner of Market and Main, stated the room is filled with people who care deeply about the community and wanted to take a moment to think about and remember the man who hung himself a few days ago in the jail. Ms. Orndoff suggested to use his death to give strength to continue our research and it our job to make this a better community than it already is.

Sam Nickels, 300 block of Maryland Avenue, thanked council for all their hard work and stated the cost per bed for the jail is \$200,000. Mr. Nickels stated Habitat for Humanity could build six houses for the cost of one bed in the jail. Mr. Nickels asked council to look at alternatives and provide funding that would be necessary to make these kinds of programs happen. Mr. Nickels stated there are resources in the community, but nothing will happen unless the government supports those resources.

Chris Jones, 430 Effinger Street, stated each and everyone on council, including himself, has been elected to represent the people and can only vote once. Mr. Jones stated 50,000 people are crying out, don't submit these plans.

**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 Degner, seconded by Vice-Mayor Chenault, that the consent agenda be approved. The motion carried with a recorded roll call vote taken as follows:

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

**No:** 0

**5.a. Approval of minutes**

**These Minutes were approved.**

**5.b. Consider a supplemental appropriation for the Emergency Communications Center in the amount of \$1,893,485**

**This Supplemental Appropriation was approved on second reading.**

- 5.c. Consider an ordinance closing and vacating Collicello Street, 6th Street and two 10 foot alleys collectively containing approximately 41,125 square feet in the City of Harrisonburg

This ordinance was approved on second reading.

## 6. Public Hearings

- 6.a. Consider amending the Zoning Ordinance by adding the ability to operate recreational and leisure time activities uses within the B-1, Central Business District

Stacy Turner, Community Development Director, stated staff is proposing to amend the Zoning Ordinance Section 10-3-84 to add a statement to subsection (4) to clarify that property owners may operate recreational and leisure time activities uses as a by-right use as long as they are compatible with surrounding uses. Mrs. Turner reviewed the history of the ordinance that began in 1939 and stated if approved, the section would match the existing language and uses permitted within the B-2, General Business District Section 10-3-90 (4). Mrs. Turner stated the most important component of the proposed amendment is to include the phrase "which are compatible with surrounding uses". Mrs. Turner stated this provision would provide an administrative level of scrutiny for the Zoning Administrator to ensure that such uses do not cause a great deal of undesirable noise, lighting or other unwelcomed utilization of the city's downtown. Mrs. Turner stated, if for some reason the applicant did not agree with the interpretation of the Zoning Administrator, they could appeal the decision to the Board of Zoning Appeals. Mrs. Turner stated the Planning Commission and staff recommended approval.

At 7:54 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 Tuesday, November 25, 2014 and Monday, December 1, 2014.

There being no one desiring to be heard, Mayor Byrd closed the public hearing at 7:55 p.m., and the regular session reconvened.

**A motion was made by Council Member Baugh, seconded by Council Member Degner, that this Zoning Ordinance be approved on first reading. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

- 6.b. Consider a request from Cosner Construction Inc., H G M & S, LLC, W. Michael Heatwole III, Matthew Geary, J. Kenneth Kline, and Roy L. & Wanda L. Hartman to rezone 15 parcels totaling 4.44 acres by amending proffers on R-3C, Multiple Dwelling Residential District Conditional zoned property

Mrs. Turner reviewed the surrounding properties and reviewed the history of the

concept plan that was approved in July of 2008. Mrs. Turner stated construction of the apartment units and several duplexes began in early spring of 2014 and several concerns and questions arose regarding proffers and the concept plan general notes. One of those issues was the proffer stating that each duplex unit would have three parking spaces, one in the garage and two in the driveway, was not provided for one of the duplex dwelling that was planned to front along Howard Lane. Another issue revolved around converting the existing single-family dwelling into a duplex, where the concept plan specified the dwelling could only be demolished and a duplex constructed in its place. After several conversations with the developer and applicants, it was decided that an amendment to the proffers would be the best course of action in order to complete the subdivision as planned. The applicants have amended the proffers with the following: the concept prepared by Hamrick Engineering, P.C. dated October 7, 2014 is proffered except for the location of street trees which may vary due to necessary sight distance easements; occupancy will be limited to two unrelated people or a single-family; and tax map parcel numbers 9-T-4 through 9-T-15 will have three off-street parking spaces. Mrs. Turner presented the following eight general notes: stormwater management will be provided meeting all applicable city and state requirements; the privacy fence shall be located on the northern property line of tax map parcels 9-T-2, 3, 4 and 5 shall be constructed of wood or vinyl; utility easements will be granted to all public utilities as necessary; the typical street section shall comply with city standards, the horizontal geometry shall be as shown; the lot containing the existing single-family dwelling will contain either a single family home or a duplex, if the single-family dwelling is removed and a new duplex is built or if the single-family dwelling is converted into a duplex, each unit will have three off-street parking spaces; sight distance easements will be provided as required, the site distance easement has been provided and is recorded in deed book 4390, page 774; and an "s curve" sign with a recommended 20 MPH speed limit will be provided as necessary. Mrs. Turner stated the changes are in keeping with intentions of original rezoning and Planning Commission and staff recommended approval.

At 8:02 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 Tuesday, November 25, 2014 and Monday, December 1, 2014.

At 8:03 p.m., Mayor Byrd closed the public hearing and the regular session reconvened.

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

**6.c. Consider Real Estate Purchase Contract regarding the sale and renovation of the Harrison House**

City Attorney Brown stated on October 28, 2014, council approved a Memorandum of Understanding between the City of Harrisonburg, the Trustees of the Margaret Grattan Weaver Foundation and the Trustees of Asbury United Methodist Church regarding the purchase and renovation of the Thomas Harrison House by the city. Council also

tentatively approved a real estate purchase contract with the Trustees of Asbury United Church for the conveyance of the Thomas Harrison House to the city by the church, and for the conveyance to the church of a 9,775 square foot parcel by the city. City Attorney Brown stated the city is retaining a ten foot access easement across the parcel being conveyed to the church.

At 8:04 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 Friday, November 28, 2014.

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

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Degner, to approve the contract as presented for the sale of real estate to the Methodist church. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

## 7. Regular Items

Council Member Degner left the meeting at 8:05 p.m. and returned at 8:06 p.m.

### 7.a. Presentation of the City's Fiscal Year 2014 Comprehensive Annual Financial Report (CAFR)

Billy Robinson, Brown, Edwards & Company, stated the audit is as June 30, 2014. Mr. Robinson stated earlier he had met with the Finance Committee and city management and reviewed details of the report. Mr. Robinson stated the audit resulted in an Unmodified Opinion with no proposed journal audit entries. Mr. Robinson highlighted portions of the overall report and made himself available for questions.

It was noted that the city doesn't have an internal audit function within the city and it was suggested prior to the next audit, members of council could share areas that they want efforts to be focused on. Next year there will be a pre-audit and a post-audit going forward.

### 7.b. Consideration of Eastham House Proposal

Brian Shull, Economic Development Director, stated on September 12, 2014, the city issued a request for proposals (RFP) soliciting proposals for the purchase or lease of the city-owned Eastham House located at 317 S. Main Street. As of the October 22, 2014 RFP closing date, only one proposal was received by the city. Harrisonburg Downtown Renaissance (HDR) submitted a proposal to explore both no-cost lease and purchase options that would allow HDR to relocate its offices from the Hardesty-Higgins House to the second floor of the Eastham House. In addition, HDR

proposed to partner with the Harrisonburg-Rockingham (H-R) Historical Society to use the first floor as a satellite museum location. Mr. Shull stated both HDR and the H-R Historical Society understand that the city's Information Technology Department shall maintain possession of the building until their anticipated move into the new Municipal Building in late summer 2015. In an effort to allow all partners an opportunity to explore options and to create the best possible deal structure for all parties, HDR has requested a six month feasibility period for the purposes of firming up the scope, budget and timeline for the renovations, exploring financing alternatives, and solidifying partnership commitments. Mr. Shull stated the city's Building Official has reviewed the proposal and has discussed proposed structural changes and building use code questions with HDR representatives. More detailed analysis will be required once building plans are submitted to the city for formal review. City staff recommends proceeding with the six month feasibility period with HDR to allow for further analysis to take place.

Mr. Bumbaugh stated he is extremely pleased with the collaboration with Harrisonburg Tourism and the current office space, but staff has grown and he would like to see a feasibility study completed and made himself available for questions.

Brief discussion was held about the building.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, to proceed with the proposal requested. The motion carried by a voice vote.**

**7.c.** Consider authorization to submit planning documents to Department of Corrections

City Manager Hodgen stated the Community Criminal Justice Board (CCJB) received the two planning documents yesterday evening and recommended the documents be forwarded to the city and county with the recommendation of submittal to the Department of Corrections. City Manager Hodgen stated submittal of these documents does not commit the city or the county to any of the recommendations within the document, but it does establish the limits of any facility that could be built and the maximum amount of any state reimbursement funding that we may be eligible for. City Manager Hodgen stated this is a process with multiple steps that will require more approvals from both the City Council and Board of Supervisors. City Manager Hodgen stated staff concurs with the CCJB to submit the documents by the end of this month. The following discussion took place: not voting in favor and is in support of taking an additional year to plan to learn and implement policies and programs; doesn't represent values because the building requests are accompanied by the Community Based Correctional Plan; don't know why there has been a spike in the last two years in inmate population, but we do know that there are 10% less arrests and the overall crime rate has decreased; over 700 people have signed a petition; the plan notes that more information is needed; restoration was not mentioned in the report; no demographic breakdown; prove that it isn't a done deal; how can we afford to build a jail; if we adopt and follow through on the corrections plan there is going to



be money spent on facilities because they can't be done out of the current jail; residents tax dollars are currently being spent at maximum security facilities in Augusta County, Fauquier County and Richmond, wouldn't you want the choice to get those tax dollars back to build the facility citizens want for the programs that are most appropriate; have the duty to get every penny we can get our hands on and submitting these plans is doing just that; if we decide to wait, the money might not be available; it will be a long process; tax dollars are precious; this decision is submitting an application to get possible funding; the real test is to see if the community continues to be engaged with these issues in the coming months and years; the application process does not currently require all answers; encourage the community to work on the larger concerns being discussed; if we don't think the current criminal justice system reflects our values then we need to find out; if we find that they don't match our values then we need to take action; feel that the jail issue will get worked out to the satisfaction by the majority of the community; this application is not a plan or commitment to build a jail, but a plan to propose many things and hope that building a jail isn't one of them; several votes will have to take place prior to a jail being built; should implement and explore all alternatives; interested in being a funding mechanism to help fund alternatives; work to take the jail scenario off the table; and commitments from Sherriff's Department, Commonwealths Attorney and the Judicial Branch of accepting the plan recommendations for those policies took place during the CCJB meeting.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, to approve authorization to submit planning documents to Department of Corrections. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 1 - Council Member Degner

At 8:41 p.m., Mayor Byrd called a recess.

At 8:45 p.m., Mayor Byrd reconvened the meeting.

**7.d. Report and recommendation on solid waste disposal**

City Manager Hodgen, stated at the last City Council meeting, staff presented the three most viable options for the city's solid waste disposal program in light of the closure of the Resource Recovery Facility. City Manager Hodgen stated staff recommends that the city select van der Linde Recycling. City Manager Hodgen stated it will cost approximately \$56,000 more than taking trash to the Rockingham County Landfill, but staff believes the cost difference is made up with the fact it is believed that up to 75% of the solid waste will be recycled and our recycling program will not need to continue operating separately. City Manager Hodgen stated we will begin to utilize them after the first of the year and the city will do a public information campaign with the changes. It is estimated that we currently recycle 28% and the

program cost approximately \$1M annually and will drop the marginal cost between options to less than \$100,000. City Manager Hodgen stated the city has an opportunity to market and sell recyclables which only brings in approximately \$100,000 to \$150,000 annually. City Manager Hodgen stated the steam plant was used as an alternative to keep items out of the landfill. Public Works worked hard to save the steam plant and has switched gears to provide the best alternative and have been able to retain employees.

Brief discussion took place about the options.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, to proceed with van der Linde. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

## 9. Boards and Commissions

### 9.a. Board of Zoning Appeals

No action was taken.

**There are two current openings on the Board of Zoning Appeals. Cynthia Runnells term expired March 20, 2014 and she wasn't interested in serving again. The other vacancy comes from the resignation of David Nahm.**

### 9.b. Industrial Development Authority

No action taken.

**There are two vacancies due to resignations and both terms were due to expire on April 24, 2016. Appointments that are made will be filling an unexpired term.**

### 9.c. Harrisonburg Electric Commission

**A motion was made by Council Member Shearer, seconded by Council Member Baugh to appoint Mr. Thomas Mendez, 141 Diamond Court, to the Harrisonburg Electric Commission to expire December 31, 2015. The motion carried by a voice vote.**

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

**No:** 0

## 8. Other Matters

Council Member Shearer stated a good meeting was held with city staff about city wide initiatives towards financial costs and sustainability efforts.

Council Member Degner stated that it has been discussed for staff to come before council in the spring to share potential standard performance and goals along the lines of sustainability.

Mayor Byrd stated council had been approached by a group regarding the city's hiring practices which he met with the group along with staff and feels that a lot of good conversation occurred and is waiting to hear additional information.

- 8.a.** Consider funding for a Community Services Board pilot project in the amount of \$15,000

City Manager Hodgen stated during the CCJB meeting, the Community Services Board mentioned a 18 month pilot project for mental health analysis that they have \$30,000 available and are asking for an additional \$15,000 from both the city and county.

Council Member Degner supports the request, but is looking forward to a more comprehensive plan before the next budget season.

**A motion was made by Vice-Mayor Chenault, seconded by Council Member Baugh, that the funding request be approved. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

### **Other Matters Continued**

Vice-Mayor Chenault stated he has served on council for eight years; he thanked citizens for letting him represent him and spoke about his time on council.

Mayor Byrd presented Vice-Mayor Chenault with a resolution for his service on council.

Council and staff spoke about their relationship and their time serving with Vice-Mayor Chenault.

Mayor Byrd reminded everyone there isn't a meeting on Tuesday, December 23, 2014, but the Reorganization Meeting will take place on Friday, January 2, 2015 at 10:00 a.m.

### **10. Adjournment**

At 9:16 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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City Clerk

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Mayor

