



City of Harrisonburg

409 South Main Street
Harrisonburg, VA 22801

Meeting Agenda - Final City Council

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

Tuesday, October 28, 2014

7:00 PM

Council Chambers

1. Roll Call
2. Invocation
3. Pledge of Allegiance
4. Comments from the public, limited to five minutes, on matters not on the regular agenda. (Name and address are required)
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)

- 5.a. Approval of minutes

Attachments: [October 14, 2014 Draft Meeting Minutes](#)

- 5.b. Consider a request from Eastern Mennonite University to amend their master plan by rezoning 26.6 +/- acres of property located along Park Road, West Dogwood Drive, and Hillcrest Drive, with minimal street frontages along College Avenue and Smith Avenue and zoned R-3, Medium Density Residential District and I-1, Institutional Overlay District

Review & Recommendation: Planning Commission recommended approval (6-0) of the rezoning request for master plan amendment to allow the applicant to increase the allowable height of their previously approved multi-panel array of solar cells resting on carport style structures located on the University Commons parking lot. The amendment also includes eliminating the single width solar cell carport style structure that was previously approved and planned to be located up to 5-feet from the property line along Dogwood Drive. Furthermore, solar panels will now be located on portions of the University Commons building rather than on the roof of the Hillside building. All other specifics of the master plan would remain the same. The property is identified as tax map parcel 51-A-1.

Attachments: [Application, staff report, maps and other supporting documents](#)
[Extract RZ EMU Master Plan Change.doc](#)

Legislative History

10/14/14 City Council approved on first reading

- 5.c. Consider a supplemental appropriation for the Police and Fire Departments in the amount of \$218,390.96

Review & Recommendation: The Police and Fire Department were awarded various grants in the prior fiscal year. The Fire Department also receives funding through the State's Fire Programs Fund which may only be used for Fire Department purposes. This request will reappropriate these unexpended prior year grant awards and Fire Programs Funds.

Attachments: [Supplemental Appropriation](#)

Legislative History

10/14/14 City Council approved

- 5.d. Consider an ordinance granting a franchise to use the streets and other public lands of the City of Harrisonburg for the operation of a fiber optic network

Review & Recommendation: As part of the City's Main Street Streetscape Project, the City will be installing a Utility Duct Bank (UDB) in the downtown area for utilities owned by the City and other utility providers. The City's Public Works Department has been approached by at least one utility company interested in installing fiber optic cable in the UDB. Such an installation would provide fiber optic services to the downtown area, and generate funds to help offset the cost of the City's Main Street Streetscape Project. Any potential utility provider will seek to use the City's UDB for a term longer than five years. Such a time period would make the use a franchise. Under state law, before a locality may grant a franchise, it must publish a notice inviting potential bidders to offer proposals for use of the locality's properties. The City has published such notice. Any offer received by the City must be read by the Mayor at the Council meeting on October 14, 2014.

Attachments: [Public Hearing Notice](#)
[Fiber Optic Franchise](#)
[Fiber Optic Franchise - Updated](#)

Legislative History

10/14/14 City Council approved on first reading

6. Public Hearings

- 6.a. Consider amending and re-enacting Section 4-2-23 of the Harrisonburg City Code granting real estate tax exemption.

Review & Recommendation: This request is to amend Section 4-2-23 of the Harrisonburg City Code by granting a real estate tax exemption to qualified property owners who are at least 65 years of age or permanently and totally disabled by expanding the definition of those eligible for such exemption to include certain trusts and life estates. The suggested amendments also exclude from gross income determinations income of bona fide caregivers living with an applicant.

Attachments: [Public Hearing Notice - Tax Exemption](#)
[Tax Exemption Ordinance](#)

- 6.b. Consider the disposition of real estate, namely 3.3297 acres, more or less, designated as 1630 Driver Drive and shown on the City Block Map as Parcel No. 86-D-2 to the Visitors of James Madison University

Review & Recommendation: During the October 14, 2014 Council Meeting, council directed the City Manager to advertise a public hearing for this matter. JMU has submitted an offer to purchase the referenced property from the city in the amount of \$4.2 million dollars. A report to Council is attached outlining the rationale for considering sale of the property in question to JMU.

Staff recommends that Council accept the offer subject to the City and JMU finalizing a formal agreement for sale of the property, and authorize the City Manager and City Attorney to execute the appropriate documents.

Attachments: [Public Hearing Notice - Resource Recovery Facility](#)
[Memorandum - Resource Recovery Facility](#)

7. Special Event Application Requests

7.a. Consider the Veterans Day Recognition for a special event request

Review & Recommendation: The Veterans Day Recognition and Parade will be held on Sunday, November 9th at 2:00pm. The parade will run south down main street starting at the Rockingham County Administration Building and end with vehicles rejoining traffic at MLK Jr Way.

Attachments: [Special Event Application](#)
[Road Closing Map](#)
[Map](#)
[PW Staff Requirements](#)
[Veterans Parade COI](#)

8. Certificate and Public Necessity and Convenience

8.a. Consider issuing a Certificate of Public Necessity and Convenience for Ride Rite, LLC

Review & Recommendation: The Taxi Committee does not recommend approval for Certificate due to the following: color scheme is inconsistent and code section 14-1-33(5) requires company scheme; applicant intends to do medical transportation only; committee does not see a need for more transportation providers during daylight hours; and need for more providers has not been established per code section 14-1-38.

Attachments: [Ride Rite Application.pdf](#)

8.b. Consider issuing a Certificate of Public Necessity and Convenience for Eagle Taxi

Review & Recommendation: The Taxi Committee does not recommend approval for Certificate due to the following: no financial information was submitted with application per code section 14-1-33(3); vehicle information not included per code section 14-1-33(5); character, location of terminals or depots not included per code section 14-1-33(6); specific experience of applicant not listed per code section 14-1-33(8); no facts and circumstances to show evidence for need per code section 14-1-33(9); and no established place of business per code section 14-1-36(5).

Attachments: [Eagle Taxi Application](#)

9. Regular Items

9.a. Report from Bicycle & Pedestrian Subcommittee on Northend Greenway Project

Review & Recommendation: On August 12, 2014 City Council directed the Bicycle & Pedestrian Subcommittee to review and provide recommendations for the Northend Greenway project and funds. The Subcommittee held three meetings to review the request and their recommendation is provided in the attached memorandum.

Attachments: [Memorandum to City Council from Subcommittee 2010-10-28](#)

9.b. Consider a resolution for VDOT's FY 2015-2016 Revenue Sharing Program

Review & Recommendation: VDOT has historically offered its Revenue Sharing Program to localities to advance transportation projects to construction. Localities may apply for a maximum of \$10 million annually through this program.

Staff is requesting Council's consideration for the City applying for a Revenue Sharing Grant in the FY16 budget cycle to:

1. Finance construction of the Reservoir Street Reconstruction Project in the amount of \$3,000,000 (\$1,500,000 revenue sharing, and \$1,500,000 City matching funds).
2. Finance replacement of the Pleasant Valley Road bridge in the amount of \$1,500,000 (\$750,000 revenue sharing, and \$750,000 City matching funds).
3. Finance construction of an extension to the Bluestone Trail within JMU in the amount of \$729,000 (\$364,500 revenue sharing, and \$364,500 City matching funds provided by JMU).
4. Finance a portion of the annual paving program in the amount of \$1,900,000 (\$950,000 revenue sharing, and \$950,000 City matching funds).

Applications are due to VDOT November 1, 2014.

Attachments: [Resolution](#)

9.c. Consider a request from Macerich to amend their 2012 Comprehensive Sign Plan for 1925 East Market Street, Valley Mall

Review & Recommendation: City Code section 11-7-6.1 (7) permits a shopping center to request approval of otherwise non permitted signage by presenting a Comprehensive Sign Plan (CSP) to City Council. In July 2012 Macerich received approval of a CSP for the Valley Mall Shopping Center and would like to amend the plan by adding additional future tenant wall signage and resizing two future tenant signs.

Attachments: [Valley Mall 2014 CSP update](#)
[Letter of request](#)
[2012 CSP Schematic and Calculation Sheet](#)
[Proposed CSP Schematic and Calculation Sheet](#)
[Comprehensive Sign Plan, photos, design concepts](#)

9.d. Consider approval of a Refund Payment Agreement to the Bank of America

**Review &
Recommendation:**

The City of Harrisonburg, like most other localities in the Commonwealth, has enacted a Bank Franchise Tax which is administered in large part by the Virginia Department of Taxation. Bank of America filed its Virginia Bank Franchise Tax Returns and paid the Bank Franchise Tax for tax years 2010, 2011, and 2012. Bank of America then filed amended returns for those years claiming a refund. The Virginia Department of Taxation audited Bank of America's returns and determined the bank is due a refund of \$13,911,504. The Department of Taxation then apportioned that amount to the various localities in the Commonwealth which received bank franchise taxes from Bank of America. The city's portion of the refund to be paid to Bank of America is \$52,391. Pursuant to the attached Refund Payment Agreement entered into by the Virginia Department of Taxation and Bank of America, if a locality refunds the amount owed to Bank of America by December 31, 2014, no interest is due on the refund.

Under Virginia code Section 58.1-3981(A), if an erroneous assessment has been paid into the treasury of the City, the Commissioner of the Revenue must certify to Council that the assessment was erroneous. The certification must be consented to by the City Attorney. If Council accepts the certification, it must direct the treasurer to refund to the taxpayer the amount erroneously paid.

The City's Commissioner of the Revenue has provided the required certification and the City Attorney has consented to the certification.

Staff recommends that council approved the Refund Payment Agreement and direct the treasurer to pay the amount erroneously assessed, \$52,391, to Bank of America before December 31, 2014.

Attachments:

[Letter from COR](#)

[Letter from City Attorney](#)

[Refund Payment Agreement](#)

9.e. Consider approval of an Assignment and Assumption of Option Agreement by and between Greener Harrisonburg, LLC and the City of Harrisonburg

**Review &
Recommendation:**

The agreement will assign to the City of Harrisonburg the option to purchase the real property and improvements located at 270 South Liberty Street and 276 South Liberty Street (tax parcels 25-J-20 and 19). By approving the attached agreement, the City of Harrisonburg will consent to perform and satisfy all of Greener Harrisonburg, LLC's obligations reflected in the Option Agreement for Purchase of Real Property, dated June 11, 2013, and attached as Exhibit A.

Attachments:

[Assignment Agreement - Greener Harrisonburg, LLC](#)

[Exhibit A - Greener Harrisonburg](#)

9.f. Consider a Memorandum of Understanding regarding the sale and renovation of the Harrison House

**Review &
Recommendation:**

This is a Memorandum of Understanding between The City of Harrisonburg, the Trustees of the Margaret Grattan Weaver Foundation, and the Trustee of Asbury United Methodist Church regarding the sale and renovation of the Harrison House on Bruce Street in Harrisonburg. Under the terms of the MOU, the City will purchase a portion of the Harrison House property containing 7,918 square feet in exchange for a payment to the Church of \$565,000 and the conveyance to the Church of a small parcel of land adjoining Asbury Church and owned by the City. The City and the Margaret Grattan Weaver Foundation will each contribute \$500,000 for the stabilization and renovation of the Harrison House property, and the removal of the attached Hull House. A copy of the MOU is attached, together with the proposed real estate contract between the City and Church. A plat by the City Surveyor showing the portion of the Harrison House property to be conveyed is also attached as well as a drawing of the parcel to be conveyed to the Church. If Council approves this MOU, a public hearing on the conveyance of land to the Church will be necessary.

Attachments:

[Memorandum of Understanding - Thomas Harrison House](#)

[Real Estate Purchase Contract - Thomas Harrison House](#)

[Exhibit A - Thomas Harrison House](#)

[Exhibit B to Real Estate Purchase Contract](#)

10. Other Matters

11. Boards and Commissions

11.a. Harrisonburg Redevelopment and Housing Authority

**Review &
Recommendation:**

There are two upcoming vacancies on this board. Mr. Wong, Executive Director, has notified the clerk that both Elroy Miller and Tom Dawson have shown interest in being re-appointed to a second term to expire November 29, 2018. The clerk is waiting on re-appointment applications to make sure current information is received.

12. Adjournment