



# City of Harrisonburg

409 S. Main Street  
Harrisonburg, VA 22801

## Meeting Minutes - Draft City Council

*Mayor Christopher B. Jones*  
*Vice-Mayor Richard Baugh*  
*Council Member Ted Byrd*  
*Council Member Kai Degner*  
*Council Member Abe Shearer*

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Tuesday, January 26, 2016

7:00 PM

Council Chambers

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### 1. Roll Call

**Present:** 5 - Mayor Christopher B. Jones, Vice-Mayor Richard Baugh, Council Member Ted Byrd, Council Member Kai Degner and Council Member Abe Shearer

**Also Present:** 5 - City Manager Kurt Hodgen, Deputy 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 Jones led the Pledge of Allegiance.

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

Scott Kizner, Harrisonburg City Public School Superintendent, thanked public works for their help clearing the school parking lots, cautioned citizens that children might be playing near the street while waiting for the bus, and asked citizens to provide the buses the right of way on the streets.

James "Bucky" Berry, 30 West Washington Street, stated some businesses have been closed the last few days due to the snow and feels that it isn't right to enforce ordinances after the money they have already lost.

John Serrell, 109 Fairway Drive, spoke against the rezoning that was approved on Country Club Road. Mr. Serrell stated if any development takes place above his property FEMA will be involved and the city attorney knows his position. Mr. Serrell thanked council for their time and thanked the public works department for their efforts during the recent snow.

Will Shirkey, 911 Circle Drive, suggested canceling fines this time after this snow due to the amount we received.

Council Member Degner noted the time has been extended until Thursday for the removal of snow from sidewalks. Mayor Jones reported temperatures will be

favorable in the next few days, residents receive a 24 hour warning prior to fine, and bike and pedestrian lanes are important all year long.

Mark Klosinski, 1222 Woodcrest Circle, spoke in regards to the upcoming expenses in the capital projects for the schools. Mr. Klosinski stated he worked as an architect and currently works with Rockingham County Schools in the facilities and maintenance department. Mr. Klosinski stated from the meeting minutes from October 15, 2015 that there is approximately \$15M this year available for Harrisonburg City Public Schools' projects. Mr. Klosinski stated Cub Run Elementary School was built for \$17.5M which included architectural fees and furnishings, 800 student capacity, and 9,000 square feet, which is a capacity of 121 square feet per student. Mr. Klosinski stated the new elementary school being proposed costing between \$33-35.5M will only have a 750 student capacity and 112,000 square feet, which is 149 square feet per student. Mr. Klosinski stated the state prototype calls for 100 square feet per student. Mr. Klosinski also shared concerns about the Harrisonburg High School Annex, and believes the architectural service should be guiding the city in how to best use the space being added, and wonders where the city will go if growth continues and space once again is insufficient. Mr. Klosinski states the next project on the way is the renovation of the HVAC system at Thomas Harrison Middle School. Mr. Klosinski stated that Turner Ashby was built at the same time period, had chiller and cooling tower replaced because the parts to repair the equipment were obsolete. Thomas Harrison Middle School is requiring total replacement of chillers, boilers, air handling units, and VAV boxes, for approximate cost of \$5 million, which is ½ of what the architect estimated. Mr. Klosinski stated that Harrisonburg High School is requesting to have the chiller replaced, which already has once been replaced, and states they should last around 23 years.

Mayor Jones suggests that Mr. Klosinski re-listen to the meeting the previous night, to include the ideas that were proposed and RFP's that will be put out.

**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 Byrd, seconded by Council Member Degner, that this be adopted. The motion carried with a recorded roll call vote taken as follows:

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

**No:** 0

**5.a. Minutes**

**These Minutes were approved.**

- 5.b.** Consider a supplemental appropriation in the amount of \$9,874,000 for the issuance of bonds in December 2015 and for VDOT Revenue Sharing Funds

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

- 5.c.** Consider a request from Dean Weaver to amend the Zoning Ordinance Section 10-3-57.5 Area, density and dimensional regulations of the R-7, Medium Density Mixed Residential Planned Community District

**This Rezoning was approved on second reading.**

- 5.d.** Consider a request from Spotswood Country Club Inc. with club representatives Aki Heydarian and Ben Amoss and application representative Dick Blackwell to rezone a total of 8 acres located at 1980 Country Club Road, from R-1, Single Family Residential District to B-2C, General Business District Conditional

**This Rezoning was approved on second reading.**

## **6. Public Hearings**

- 6.a.** Consider amending and re-enacting Section 15-2-1, Conditions of Where Animals Are Kept, Tethering of Dogs, of the Harrisonburg City Code

City Attorney Brown reviewed the history of the agenda stating that at the December 8, 2015 council meeting, council asked to start the process of receiving feedback from the citizens on the proposed tethering ordinance. Staff has completed that along with receiving feedback on the BeHeardHarrisonburg website. City Attorney Brown reviewed the proposed ordinance and summarized the comments received. City Attorney Brown stated most of the definitions within this ordinance come from state code. Council Member Degner requested a clarification of the term "rebuttable presumption" in regards to either the animal control officer's or police officer's return inspection of possible tethering violation as shown in the proposed Ordinance Section 15-2-1(d). City Attorney Brown clarified that if a citation is issued and a court appearance is necessary, the violator must bring definitive evidence (witnesses, etc) to the judge proving that the dog had not been tethered beyond the ordinance statutes. City Attorney Brown continued to review the proposed Ordinance. City Attorney Brown noted that in reference to the punishment and fines listed in the proposed ordinance, Fairfax County has the same punishment and fines, and that it was suggested to the city to publish the most severe penalties, as it would be easier to scale back if necessary. City Attorney Brown reviewed the three questions that were posted to the BeHeardHarrisonburg website and the citizen responses were across the board. City Attorney Brown noted there were a few items commented on that were mentioned numerous times during the previous council meetings in December, 2015 and again in January, 2016. City Attorney Brown reviewed some of the comments in regard to the question: What are your suggestions for changes to the proposed Ordinance: A number of citizens thought that allowing tethering at night would not be appropriate. Many jurisdictions have times set that tethering not be allowed between 10 p.m. and 6 a.m. City Attorney Brown also mentioned

the trolley or run ordinance, some jurisdictions allow up to 12 hours provided the run or trolley is of adequate length and height and the dog has access to food and water. Some of our citizens are stating that the one hour time limit is too short and others said it was too long.

City Attorney Brown also stated that some citizen comments reflected that if the temperature got below freezing or above 90-100 degrees it would be inappropriate to tether a dog outside.

City Attorney Brown stated that some citizens thought the penalties and fines were adequate and others thought they weren't severe enough, however the consensus reflected that perhaps jail time would be too punitive and the fines might be too high, and disproportionately affecting our low income citizens.

City Attorney Brown stated that in regard to other animals there didn't seem to be a clear consensus other than the tethering ordinance shouldn't apply to cats. Council Member Byrd stated that would be a difficult issue in itself. City Attorney Brown briefly reviewed the incident in Rockingham County with cats being chained. Mayor Jones noted that there may be a few individuals in the audience that might have a certain position in this matter. City Attorney Brown recognizes Jetta Earhart, Animal Control Officer for the city, and noted that a lot has been learned from her during this process.

Council Member Shearer requested a clarification of the class 1, class 2 and class 3 misdemeanors and the associated fines and jail time, to insure that those penalties in particular are not set by City Attorney Brown, but set by state law and that penalties and fines shown are the maximum allowable, but not necessarily the fine or penalty that will be charged. City Attorney Brown confirmed these fines and penalties are set by state law. Council Member Byrd confirmed the penalties and fines shown on the proposed ordinance as to be maximum penalties and fines. City Attorney Brown noted that these fines and penalties are after the animal control officer or police officer has made all attempts to remedy the situation, and after a citation has been issued.

Council Member Shearer noted that he had a citizen ask him why jail time was placed on the proposed ordinance, and he explained it was based on the state mandated penalties and fines for each class of misdemeanor.

At 7:29 p.m. Mayor Jones closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Saturday, January 16, 2016 and Saturday, January 23, 2016.

James "Bucky" Berry, 30 West Washington Street, stated that the city of Staunton is smaller than Harrisonburg and they have one full time and one part time animal control officer. Our city is short staffed and feels this will be an additional burden to our already stretched officers.

Marcy Smith, 220 Waterman Drive, owner of Happy Hounds Doggie Day Care, stated she has concerns about the one hour time restraints. She stated that if the city has to have a tethering ordinance, she suggests we look at Arlington's ordinance and provided a copy of such ordinance to the council. Ms. Smith stated she feels this is the first step to having dogs taken away from individuals. Ms. Smith feels that if individuals are warned about tethering over the time limits allowed, they will in turn go out and buy a 6 x 6 kennel which is no better for the dog, or placed in a crate inside the house where the dog has no stimulation. Ms. Smith feels the limit of one hour of tethering at a time is not in the best interest of the dogs.

Gus LePlain, 280 Newman Avenue, stated he is not in favor of this proposed ordinance. He owns a dog that isn't happy when it is inside.

Jennifer Brown, with Ancyra Veterinary Center, who is currently studying animal law, stated there are currently 18 communities in Virginia that have similar anti-tethering laws and are incorporated into the animal cruelty and neglect laws to not only protect the animals but the communities in which they pertain. She noted that tethered dogs suffer from intense boredom and anxiety which causes incessant barking and they become aggressive. She stated that according to a study thru the Center for Disease Control, dogs that are tethered are 2.8% more likely to bite. These dogs are usually male, unaltered and tethered. She is in favor of the proposed ordinance as it is a tool to provide for a safer community. She stated that in 2015, Harrisonburg had 56 reported cases of dog bites. She feels that by passing this ordinance the number of dog bites can be reduced, our children will be more protected, and will lessen the number of calls due to nuisance complaints of excessive barking that our police officers respond to. She notes that the American Veterinary Medical Association, the USDA, the Association of Shelter Veterinarians, the ASPCA, the National Animal Control Association, and the Humane Society of the United States have all supported ending the inhumane practice of tethering. She stated that 10 of the communities were surveyed have all stated that they have not seen an increase in owners surrendering or relinquishing ownership but instead an increase in compliance with the ordinance, and that they have not had to hire any new animal control officers in order to deal with these issues because of compliance. Ms. Brown requests we become a dog friendly city.

Resident of 280 Newman Avenue, stated that working people don't have time to let their dogs in every hour. He noted that he wonders how many of the dog bites were caused by people coming to close too a tethered dog. He stated that he knows several individuals who tether their dogs to protect them, keep them from running loose and jumping fences. He stated that he doesn't like to see dogs abused, but feels we have enough laws on the books to punish for any type of mistreatment or nuisances. He feels we should be able to speak to our neighbors directly, and feels this proposal will only hurt the working class and cause people to unwillingly relinquish ownership.

John Mansfield, 505 South Mason St., stated he has heard several bad stories of pit bulls. He owns two and they are good dogs. Mr. Mansfield stated that people wouldn't like to be tethered; why do we think dogs would?

Kim Moss, Green Street, agreed with the majority of statements made but her concern is if there will be a period of warning, to give people time to try and find other solutions, and if resources can be offered by animal control or the community.

Ann Layman, Madison Street, stated that she feels that dogs that have been tethered can be socialized, be housebroken and turned into house dogs. Ms. Layman shared her story of taking a wild tethered dog and turned him into a really good house dog.

Tracy Brown, Cedar Street, originally came into this meeting against tethering, but after hearing all of the comments, the point that really struck her was that a lot of the working class, that probably aren't represented here, could have difficulty adhering to these proposed ordinances. She stated that some people tether their dogs as a guard dog. Her concerns are about those individuals that either can't come home throughout the day, or those that culturally believe dogs are for protection.

At 7:48 p.m., Mayor Jones closed the public hearing and the regular session reconvened.

Vice-Mayor Baugh made a motion to adopt the ordinance as it was presented. Council Member Degner seconded the motion for discussion purposes, and would be supportive to an amendment to the motion to lower the penalties, having heard that the current penalty being proposed would be the anomaly given the other penalties in all of the other ordinances. Council Member Degner acknowledged the City Attorney did a great job in outlining the comments on the BeHeardHarrisonburg website, which is a great source for feedback and comments. Council Member Degner summarized the comments made by the citizens on that website, and stated that the city currently does not have any ordinance or tool to deal with this issue. Council Member Degner acknowledges Vice-Mayor Baugh's leadership, and having something on the books is important so we can deal with the neglect when it is obvious.

Council Member Byrd recalled that originally a class 4 misdemeanor was considered.

Vice-Mayor Baugh stated that a class 4 misdemeanor is the default. The current ordinance states everything is a class 4 misdemeanor.

Council Member Byrd stated that after hearing comments for and against this proposal, he believes an increase to 2 hours limitations should be considered and if it doesn't work, it can be revisited.

Council Member Degner asked if an amendment request is being made to the proposed ordinance motion

Council Member Shearer pointed out that a class 4 misdemeanor comes with a fine of not more than \$250.00, and was particularly interested in how Officer Earhart could share on how this tool would be utilized in all practicality, and as Ms. Moss stated, there needs to be an educational component and that citizens are warned. Council Member Shearer can see both sides of this, and is hard to unilateral say that something is right or wrong without knowing the circumstances around it. Council Member Shearer stated that our objective is to try to dissuade poor treatment.

Officer Earhart stated that this proposal was not brought on by animal control initially, but was brought to her attention by City Council. Officer Earhart wasn't sure of the background of what brought this up. Vice-Mayor Baugh stated it was a Fairfax ordinance that was brought to his attention from concerned citizens.

Council Member Shearer requested that Officer Earhart provide possible implications, either positive or negative, if this proposed ordinance were to be approved.

Officer Earhart stated that we currently have fairly good laws within the city, regarding providing adequate care all the way up to cruelty of animals. We also have a very strict barking ordinance that could result in jail time which is listed under the general codes. We do have tools to work with but the biggest concerns are enforcement.

Council Member Shearer shared his concern with how this can be implemented and appreciates Officer Earhart's opinion and perception.

Officer Earhart stated she only works 40 hours a week. The remainder is left up to the police officers for the nights, weekends and holidays she does not work. Officer Earhart stated that specific hours of when a dog can and cannot be tethered would help with some of the required monitoring times and more workable as far as enforcement goes.

Mayor Jones stated that he believes the spirit of this conversation is about ending or preventing animal neglect. Mayor Jones stated that temperature is an important issue, which make things more difficult, but should be considered in any amendments. Mayor Jones stated that he wants the city to be a good example just as it is with the end of the homelessness for veterans within the city. Mayor Jones stated that he accepts a class 3 misdemeanor penalty. But if the majority is willing to go with a class 4 misdemeanor he would accept, if the temperature element is considered.

Council Member Degner asked Officer Earhart what the procedure is if a call is

received regarding possible neglect of a tethered dog. Officer Earhart stated she first determines what the caller deems neglect. Is it a medical issue, food or water issue, or if adequate shelter is not being provided. She then takes a look at the specific code, or number of codes, related to the neglect and determines the violation accordingly.

Vice-Mayor Baugh stated that there is no problem with tethering under the current code and that a tethered dog has to have some other circumstance that violates the ordinance. Officer Earhart confirmed the Vice-Mayors statement.

City Attorney Brown stated that tethering dogs in adequate space does not constitute cruelty to animals under the current state law definitions.

Officer Earhart stated that as long as the minimum length of tether is met, it is within state code.

Vice-Mayor Baugh posed his concerns about an incident where a dog breaks free from a chain, but chokes on the chain and dies, which is a possibility, and that is really the essential fundamental of this proposed tethering ordinance.

Council Member Degner shared a story of a penalty given for driving without a license in Germany, and how it was based on the income of an individual. Whether this can be done here is possibly something we can research for the future.

Council Member Degner requested that an amendment be done to the proposed ordinance amendment changing the time frame of tethering from one hour to two hours.

Vice-Mayor Baugh stated he is against this amended proposal.

Council Member Byrd seconded the amendment to the current proposed ordinance amendment.

Vice-Mayor Baugh stated that extending the time allowed for tethering causes an enforcement issue and that stating in the proposed amendment that a warning would be given on a first offense is not recommended. He also stated that in the jurisdictions that have a more lenient time frame for tethering, they are having a difficult time with enforcement.

Mayor Jones reiterated his concerns about the requirement for some sort of amendment to the proposed amended ordinance in regard to temperatures.

Vice-Mayor Baugh suggested we take up the temperature concerns at a later time as it cannot be added at this time since it isn't on the current proposed amendment.



City Attorney Brown stated that it can be added as this was not a required public hearing ordinance amendment.

Council Member Shearer questioned if the temperature concerns are not already considered under the current ordinance as a form of neglect. Officer Earhart confirmed that it could qualify under other ordinance sections.

Vice-Mayor Baugh stated that the temperature concerns should be brought up again at a later time after substantial public input.

Mayor Jones agreed with Vice-Mayor Baugh however, with the current proposed tethering ordinance, a dog could be left on a tether for one hour, without adequate shade in extreme temperatures and be within the guidelines of the tethering ordinance, which, in his mind, should be considered neglect.

Vice-Mayor Baugh reiterated that this issue needs to be discussed further before any additional amendments should be made.

City Attorney Brown stated that the current focus should be on the suggested amendment regarding extending the one hour tethering time limit to two hours.

Mayor Jones requested a motion be made.

Council Member Degner withdrew his amendment request to change the tethering time constraints and requested it remains as shown on the amended proposal as one hour. However he would like to make a motion to amend the penalties and fines to reflect a class 4 misdemeanor for the first violation, class 3 misdemeanor for second violation, class 2 misdemeanor for all subsequent violations.

Vice-Mayor Baugh seconded the amended motion regarding the penalties and fines and reiterated that these items can be revisited at a later date.

Council Member Byrd requested an effective date. Mayor Jones stated that the effective date will be June 1, 2016, which gives plenty of time for the community to self educate and printed material to be distributed regarding these changes.

Council Member Shearer stated that these violations will be complaint driven and that all attempts should be made to educate rather than punish and fine.

**A motion was made by Council Member Degner, seconded by Council Member Byrd, to amend the proposed amendment to Section 15-2-1 of the City Code .**

**A motion was made by Council Member Degner, seconded by Vice-Mayor Baugh, to amend and re-enact Section 15-2-1 of the City Code.**

**Both motions carried with a recorded roll call vote taken as follows:**

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

**No:** 0

## 7. Regular Items

### 7.a. Consider a resolution to incorporate additional lane mileage into VDOT's Urban Maintenance Inventory

Tom Hartman, Assistant Public Works Director, stated the city is requesting a resolution be passed, adding 0.68 lane miles of collector/local Streets be incorporated into VDOT's Urban Maintenance Program. Streets that will be added to the city's inventory by this resolution are portions of Willow Hill Drive off of Pleasant Hill and an extension of Pear Street near 42. Both streets were constructed by developers and approved thru several departments and constructed to city and state standards. These additions will be submitted to VDOT in February and amend our inventory miles adding .68 miles which equates to approximately \$8000 in additional annual maintenance payments from VDOT based on the 2016 rates.

Council Members thanked public works for their hard work during the recent snow storm. City Manager Hodgen noted that public works maintains over 190 miles of streets within the city limits.

**A motion was made by Council Member Byrd, seconded by Council Member Shearer, that this resolution be adopted. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

### 7.b. Consider accepting a grant award for the Police Department from the Virginia Department of Criminal Justice in the amount of \$40,000

Police Chief Monticelli, stated that on December 15, 2015 the Virginia Department of Criminal Justice awarded the Harrisonburg Police Department (HPD) with a three year grant provided by V-STOP (Violence Against Women Act grant program), which he has been trying to obtain since he has been with the city in order to increase resources to combat violence against women in our community. Chief Monticelli stated that these funds will be used to add an investigator which will enhance their investigations of violence against women cases and work more closely with the Commonwealth Attorney's office, First Step, Victim Witness Program and The Collins Center. The grant funding is \$180,000.00 distributed annually in the amount of \$60,000.00

Major Jones referred to Mary-Hope Vass, Public Information Officer, to prepare a press release regarding this grant offering.

Council Member Degner questioned if these funds offset the cost of any other positions. If so, then it needs to be brought up during the normal budget cycle. If these positions are a strategic priority, staff should not be contingent on a grant being available.

Chief Monticelli stated that this grant ensures that cases on domestic violence will be handled more completely and thoroughly to hold the male counterparts that violate women more accountable, by having the additional investigator.

Mayor Jones agreed with Council Member Degner's comment, regarding if additional resources are needed then the Chief Monticelli shouldn't rely on funds from a grant, it should be brought to our attention during the normal budget cycle.

**A motion was made by Council Member Shearer, seconded by Vice-Mayor Baugh, that this grant be accepted. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

**7.c.** Presentation on the Raw Water Supply Management Plan

Mike Collins, Director of Public Utilities, provided a background to the Raw Water Supply Management Plan (RWSMP), which captures all water systems since he has been with the city since 1988, including individual components and where the requirements are for the future. Mr. Collins presented maps showing the following water sources: to the West is Dry River which is an intake that is 5.5 miles below Switzer Dam. Dry River has no sustainable yield without Switzer Dam; Switzer Dam has a sustainable yield of 8.3 million gallons per day (MGD) but it is 5 ½ miles above the intake and there is a loss of about 30-50% of the water during draught times; North River's intake is 14.2 MGD; Shenandoah River has a minimum flow of 54.3 MGD; a water line has been constructed from Mountain View Elementary across the city with 30" lines, the structure of two pump stations, (mechanicals not yet installed) and have an intake in the south fork of the Shenandoah River; but we are missing a significant amount of pipe in order to use that source; and Silver Lake which has a dry weather yield of about 1.5 MGD.

Mr. Collins stated that the RWSMP was written with four goals in mind: forecast needs, plans to optimize, plans to sustain, and risks management.

Mr. Collins stated that to forecast the Average Annual Demand (AAD) a calculation is used, and according to this calculation and the history of our usage, our raw water supply need is 1.29 times the average AAD. The AAD demand in 2015 was 6.76 MGD, which means the recommended amount of raw water supply would be 8.72 MGD if peak draught occurred. Mr. Collins stated that provided Switzer Dam

has water, the city can supply 9.5 MGD. But if dry, we can only provide 6.5 MGD. Mr. Collins stated that according to historical data, it is possible for Switzer Dam to go dry. In order to secure water from Silver Lake on a permanent basis, it would take one-half million dollars, since having recently acquired first right. The city does not have permanent pumping installations.

Mr. Collins forecasted that the city will build out increasing our AAD between 9.23 and 11.8 MGD, depending on if growth is conservative or aggressive. Mr. Collins noted that he has seen a decrease in water demand due to conservation efforts. Mr. Collins stated that one of the important things to look at in growth is how much industrial growth would be allowed. The city's current industrial demand is at 700,000 gallons per day.

Mr. Collins stated that for planning purposes, our needs would be somewhere between 11.91 and 15.3 MGD, which would suffice for any draught conditions, provided the current boundaries and zoning stay the same.

Mr. Collins stated to optimize the future water supply of 15.3 MGD consideration must be made to water quality, carbon footprint, treatability, and sustainability. Mr. Collins stated to do this, he recommends to optimize our use of Dry River, minimize the use of the Shenandoah, gap fill with North River and use Silver Lake as a contingency. Mr. Collins recommended the city install a fluid pipe along Route 33 corridor for purpose to maximize use of the well water source and simultaneously bring the end to the oldest pipe. Mr. Collins noted that a 10" pipe was laid in 1898 and in 1920 a 12' pipe was laid alongside it. In the 1960's a 16' pipe was laid alongside that. Mr. Collins stated that public utilities has completed 22,562 feet of 30" pipe but still have 33,178 feet to go. Mr. Collins recommended that \$300,000 be kept in the budget every year to continue the progress; however, there have been budgetary constraints.

Mr. Collins stated that a project that needs to be completed is in regard to the North River. Mr. Collins stated the project entailed a pump station upgrade, added energy conservation management efforts, and provided recovery power risks. Mr. Collins stated this project is near 90% complete.

Mr. Collins stated that the most difficult question is how to get to 15 MGD. Mr. Collins stated that a course was set in 1999 with Virginia Water Withdrawal Permit Number 191672 which allowed the city to withdraw 8 MGD of water from the Shenandoah River, at which time the estimated demand was between 5.6 to 7 MGD. Mr. Collins provided information on water demands: 1985 was 5.6 MGD, to 7 MGD in 1990 to 9.1 MGD in 2000 and then it took a reverse to 8.1 MGD in 2000 and now back up to 8.7 MGD, and forecasts it to continue to rise according to previously mentioned calculations. Mr. Collins reviewed an article dated in 1985 in the paper that stated problems with not being able to get enough water to the treatment plant, which he resolved by investing in the North River, built a pipe and upgraded the pump station, paid off the bond to Switzer Dam so they could withdraw water, and then embarked on a study to ensure this didn't happen again,

which in turn resulted in the 1999 decision to use the Shenandoah. Mr. Collins stated that to date \$11.6 million in cash, \$2.6 million in bonds and \$0.7 million in grant funds have been put towards this project. Mr. Collins stated that a \$100 million project with the sewer authority hit water rates hard when the demand had decreased. Mr. Collins stated that they tried to keep the water rates down, even though they were extremely low compared to the rest of the state, since sewer rates were bound to increase due to that project.

Mr. Collins stated that recently the growth is back, we just incurred Silver Lake, the permit on Shenandoah is up for renewal, and a decision may need to be made on the Shenandoah project. Since 1992, the city has been dependent on Switzer reserves not running out; however, twice it came to within a 20 day reserve left. Mr. Collins stated that with this in mind, the city needs to finish the Shenandoah project as shown in the Public Utilities CIP Plan # 256, in which \$21 million is still needed to complete the project. Currently the intake station project is 87% complete, booster pump 65% complete and the waterline is 30% complete, and all must be complete before any water can be withdrawn.

Mr. Collins stated the Water Withdrawal Permit is up for renewal. Mr. Collins spoke with the permit writer who stated that a new statute had been passed called the Virginia State Water Law, and that the renewed permit must be changed to reflect these requirements. He stated that no more than 10% of the water from the North River can be withdrawn at any time; however, he felt he could persuade the regulatory agencies into raising it to 15%. Mr. Collins stated that the maximum of 10% will also apply to the Shenandoah. Mr. Collins stated that the permit writer wanted to write the permit conditional for 15 years and a cap on daily withdrawal on all service, which Mr. Collins did not agree with.

Council Member Degner asked Mr. Collins if the permit writer has the ability to make the decision and approve a permit. Mr. Collins replied that it must be a mutually agreed upon permit. Mr. Collins stated that if the regulatory agencies can agree upon the city's design for the Shenandoah for 12 MGD, then he feels the city can accommodate the request on the North River and, provided our boundaries remained the same, the city would be set.

Mr. Collins provided a graph that showed the rate of growth of water demand and, provided no drought, the city should be good with Switzer Dam. However, with the expected rate of growth, the city will need another water source within 10 years along with Switzer Dam. Mr. Collins stated that if the right decision is made, the city would be secure in its water supply and in a position to market the industrial areas. Mr. Collins stated that if any of our water resources are contaminated, the Shenandoah will take care of the requirements.

City Manager Hodgen recommended the reading of the 49 page report, and is cautiously optimistic of the permit writers.

Council Member Byrd asked if there was an estimate of when the permit writer will

contact Mr. Collins. Mr. Collins stated that the permit expired over 6 months ago and fees have been paid to renew the permit, but has not heard of a time line. Mr. Collins stated he will contact them to push them to continue negotiations or finalize.

Council Member Shearer noted that Switzer Dam was a great thing done many years ago.

Mr. Collins reiterated that he is willing to set work sessions to go over any part of this project, and expects the council to be very critical and welcomes any feedback and concerns, as this will be one of the biggest decisions the council will have to make for the city.

## **8. Special Event Application Requests**

- 8.a.** Consider approving the revised Special Event Application for the city of Harrisonburg

Katie Yount, Director of Events for Harrisonburg Downtown Renaissance, reviewed the revised Application for Special Event requests for 2016. Ms Yount stated that some of the changes were departmental updates but other significant changes were per subcommittee request. Ms. Yount stated changes/additions as follows: page 1, adjusting the submitted application requirement from 60 calendar days to 60 business days to allow police department, public works and the fire department satisfactory time to plan; page 3 section 1 new section specifies designated courses for 5k's within the city; Parks and Recreation (P&R) properties have been removed, and will be edited with the help of P&R staff; two courses within the designated street closures will be grandfathered from the new designated courses for 5k, the course used for the Turkey Trot cannot be used for regular 5k due to vehicle and pedestrian traffic, and the Martin Luther King, Jr. Way path is only to be used for the specific Martin Luther King, Jr. remembrance walk; page 4 added supplemental language from the Police Department regarding requirements for off duty police officers with either 5K or other events so that the applicant is aware of requirements; page 7 Rules and Regulations, added block out dated, although some special event requests may be approved, for January 1 to January 19th, Memorial Day Weekend, JMU commencement, weekend before and after July 4th, Labor Day Weekend, Veterans Day, Christmas Eve and Christmas Day. There had been discussion regarding blocking out Thanksgiving Day; page 8 shows four specific courses, and states that EMU/JMU courses must be approved by schools first; an additional document has been added for the neighborhood release form which will be required for all events involving any activity in local neighborhoods.

Mayor Jones questioned why Thanksgiving wasn't on the black-out list. Ms. Yount replied that since there has been an event, the Turkey Trot, annually scheduled, and two events on the same day are not typically approved, it might not be necessary. Ms. Yount did mention that Virginia Momentum would be interested in

paying more if needed to continue holding the Turkey Trot on Thanksgiving.

City Manager Hodgen requested that Thanksgiving Day and the day after are placed on the black-out list, for our employees benefit.

Ms. Yount stated there shouldn't be any problem adding Thanksgiving Day to the black-out list.

Council Member Degner appreciated the thought that went into the application revision and suggests the application deadline states either 60 days (two months) or 90 days (three months) or remove the word "month". Council unanimously requested the deadline on the application be changed to show three months.

City Attorney Brown suggested that the Policies on page 5 be changed to show two bullet points stating the following: illegal drugs are prohibited on pavilion or park property and fire arms or weapons prohibited by state or federal law are prohibited on pavilion or park property.

Mayor Jones questioned if the application needed to be revised prior to approval. City Attorney Brown stated that the application could be approved subject to those changes, without further council review other than consent agenda.

Council Member Degner stated he would second the motion based on the following changes: changing the deadline to show three months, adding Thanksgiving Day to the black-out date, and changing the language regarding firearms and illegal drugs.

**A motion was made by Council Member Shearer, seconded by Council Member Degner, that the amended Special Event Application be approved. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

## 9. Supplementals

- 9.a.** Consider a supplemental appropriation for the Police Department in the amount of \$33,044.00 from the 2016 Department of Motor Vehicles Speed and Alcohol Enforcement Grant

Police Chief Monticelli stated this grant has been received over the last few years. On September 29, 2015 the Virginia Department of Motor Vehicles awarded the Harrisonburg Police Department (HPD) the annual grant funding for speed and alcohol enforcement from October 1, 2015 through September 30, 2016. Grant funding totaling \$33,044 will cover the costs of overtime, equipment, and training. HPD plans to work 760 plus overtime hours to conduct a minimum of four checkpoints, 78 saturation patrols, attend one conference, and increase the

number of radar units in active use from 28 to 30.

**A motion was made by Council Member Byrd, seconded by Council Member Shearer, that this Supplemental Appropriation be approved. The motion carried with a recorded roll call vote taken as follows:**

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

**No:** 0

- 9.b.** Consider a supplemental appropriation for the Public Utilities Department in the amount of \$110,000 from the Sewer Enterprise Fund Balance

City Manager Hodgen stated this is an internal request for transfer of \$110,000 from the Sewer Enterprise Fund Balance to Motor Vehicles & Equipment expense code used by the Public Works Department to purchase a sewer vacuum truck by Public Utilities from Public Works and providing Public Works with funding needed for acquisition of equipment needed for the new storm water management system.

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

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

**No:** 0

## 10. Other Matters

Mayor Jones stated he attended the US Conference of Mayors and an extreme wealth of information was obtained. He strongly suggests the city become a part of the US Conference for Mayors, due to the fact that it offers great network especially as active and involved as our city is and because of how cultural and progressive we are. Major Jones thanked public works for their dedication during the storm, requested that citizens be mindful of children waiting for buses, and thanked the community for staying home during the storm.

Council Member Degner acknowledged the joint meeting with the school board the previous evening and he looks forward to RFP.

City Attorney Brown noted that in April 2015, the city passed a mulch ordinance. Last week Delegate Wilt submitted House Bill #944 which defines landscape cover material such as mulch as affecting the manner of construction or materials to be used in the alteration, repair or erection of buildings and structures. The effect of that bill is to take mulch out of the fire code and into the building code, and prohibit localities from regulating it. It was submitted at the request of the statewide property managers association to nullify Harrisonburg's mulch ordinance, so a letter was prepared to Delegate Wilt to emphasize the reasoning as to why council approved the ordinance. Photographs were submitted as well. City Attorney Brown stated that Chief Shifflett, Fire Marshall Armstrong and Deputy Fire Chief



Bennett went to Richmond to speak to the groups on January 26th, 2016 and will advise of results once known. Council Member Shearer spoke with Delegate Wilt and who expressed an interest in what had to be said and Council Member Shearer acknowledged that ordinances should be constantly re-evaluated.

Council Member Degner stated that an email had been received from the Virginia Municipal League regarding a bill being proposed to require that on local elections any party affiliations be shown on the ballot. Council Member Degner stated that the council doesn't always weigh in on state bills but feels strongly that he does not agree on this particular bill. Council Member Degner stated it is not the council's purpose to vote on every bill in front of the general assembly. Council Member Degner stated that if council agrees unanimously with his take on this bill he would be willing to make a motion to have it be known to our local and regional legislators. Vice-Mayor Baugh stated that a lot of people find it extremely odd that one can get on a ballot with a party nomination but somehow that information is not show on the ballot. Council members discussed party nominations procedures. Council Member Shearer stated this issue should be dealt with on an individual basis and not with this council.

Council Member Byrd stated that since the completion of the Harrisonburg transportation facilities is finalized, he suggests that consideration be given to the naming of one of the two buildings after former City Manager Milam who provided 25+ years of service and was responsible for the start of Harrisonburg Public Transit, and asked if a policy is in place regarding this. Vice-Mayor Baugh stated he believes it is all ad-hoc. City Manager Hodgen stated staff can review and he believes a precedent is in place, stating that the recreation center, police gun range and a dam have been named after former city employees.

Vice-Mayor Baugh provided an update on planning commission items. Vice-Mayor Baugh stated that the most interesting is a request to grant a special use permit request in Zone R-2 to grant additional density which was approved by planning commission unanimously. Vice-Mayor Baugh stated another day home request has been received and the tweaking of wireless telecommunications is being worked on as well.

City Manager Hodgen stated that BeHeardHarrisonburg is still receiving input on the budget survey, the deadline for comments is February 8, 2016, and on behalf of the planning commission they are also receiving comments in regard to recommended amendments to the chicken ordinance. The deadline for comments is Feb 5, 2016. City Manager Hodgen also stated a reminder that dog licenses are due January 31, 2016.

Vice-Mayor Baugh advised the council that the regional vet for the state spoke with planning commission regarding bio-hazard issues related to the chicken ordinance.

## 11. Boards and Commissions

### 11.a. Board of Equalization

No action taken.

The city clerk was informed that Sara Ardrey-Graves moved out of the area. Currently, there is an application on file from Chris Pipkins from 2014 and he is still interested in serving. The person appointed to this position would be serving an unexpired term to expire on December 31, 2016.

### 11.b. Building Code Board of Appeals

No action taken.

### 11.c. Deer Population Task Force

Mayor Jones stated Robert Silling applied. Council Member Byrd stated he believes the committee hasn't met since 2008. City Manager Hodgen stated it meets on an "as needed basis" and that possibly reflects the deer population is under control. Council Member Degner found the term of the appointment interesting; it states the newly appointed would serve until they are no longer interested.

No action was taken.

### 11.d. Economic Development Advisory Committee

Council Member Shearer stated that when this committee was formed it was determined to be a specialty committee, and that according to other members of this committee, they felt it was sufficient with the members and their expertise at this time. He stated he will reach out to some of the members to see if their thoughts are still the same.

City Attorney Hodgen stated he will reach out to Brian Shull to canvas the group and see if there is anything on the horizon that would necessitate additional members.

Council Member Shearer suggested that an additional member that is an attorney may be helpful.

No Action was taken.

## 12. Adjournment

At 9:59 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