



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

Mayor Deanna R. Reed
Vice-Mayor Richard A. Baugh
Council Member Ted Byrd
Council Member George Hirschmann
Council Member Christopher B. Jones

Tuesday, October 9, 2018

7:00 PM

Council Chambers

1. Roll Call

Present: 5 - Mayor Deanna R. Reed, Vice-Mayor Richard Baugh, Council Member Ted Byrd, Council Member Christopher B. Jones and Council Member George Hirschmann

Also Present: 4 - City Manager Eric Campbell, Deputy City Clerk Pam Ulmer, City Attorney Chris Brown and Police Chief Eric English

2. Invocation

Council Member Jones offered the invocation.

3. Pledge of Allegiance

Mayor Reed offered the invocation.

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 Byrd, seconded by Council Member Hirschman, to approve the consent agenda as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

5.a. September 25, 2018 City Council Minutes

These minutes were approved on the Consent Agenda.

6. Public Hearings

6.a. Consider CDBG 2017-2018 Consolidated Annual Performance Evaluation Report (CAPER)

Kristin McCombe, grants compliance officer, presented a summary of the Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER). She stated this is a document required by HUD for the evaluation and review of CDBG programs and covers the city's program year 2017. She stated at the end of the program year most subgrants had not been fully reimbursed, however, over the course of the last few months all but three of the subgrants have now been completed. She reviewed the three subgrants with remaining funding. She noted the program has had a very successful year. She requested council open the 15-day public comment period for this report and all comments are due by October 25, 2018.

Open: At 7:05 p.m., Mayor Reed closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Monday, September 24, 2018.

Pamayotis "Poti" Giannakaouros, stated he feels one of the missions of the CDBG is to reduce our housing segregation and, according to the Weldon Cooper map of the city, we see that our neighborhoods are quite segregated. He stated he feels it would not be in good faith to accept CDBG funds until actions are taken to reduce policies and procedures that contribute to segregation. He stated to council's credit, an effort was made towards one ordinance, tall grass and weed, that seemed to encourage segregation, and over the summer the implementation was not as we had hoped. He asked council to consider if requirements are being met of the CDBG grant. He referred to comments/examples made during a recent Planning Commission meeting regarding apparent segregation issues such as a developer charging higher rent to keep out certain people, etc. He stated he feels all of these things need to be addressed before the city can take CDBG funds in good conscience.

At 7:09 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

This Public Hearing - No Action was received and filed.

6.b. Consider requests from Bluestone Land Company and Darrell R. Weaver with representatives Madison Lucy Realty, LLC and LeClairRyan, PLLC to rezone two parcels and two special use permits:

Adam Fletcher, director of Planning and Community Development, presented a request to rezone two tracts from R-3 to R-5C, a special use permit request to allow multi-family dwellings of more than 12 units per building, and a special use permit request to allow non-residential uses such as retail stores, convenient shops, restaurants, etc. on 5.7 acres located on Lucy Drive. He reviewed the surrounding properties, the subject property, current land use guide and described the by-right non-residential uses on R-3 zoning classification. He reviewed the lot dimension,

setbacks, off-street parking, maximum heights and maximum number of stories and noted by-right could allow 41 single family detached units, 31 duplexes (62 Units), 124 townhouse units or any workable combination.

He stated there have been two different rounds with the Planning Commission beginning in August 2018, the applicant submitted new proffers and a revised conceptual layout. He reviewed the proffers offered, compared the conceptual site layouts offered in August and September 2018, reviewed the off-street parking regulations per Section 10-3-25(14), the estimated population growth and stated sidewalks must be constructed regardless of what is built on this site.

He briefly reviewed the existing comprehensive plan and the draft comprehensive plan, which is currently being reviewed by the Planning Commission.

He stated staff recommends the approval of these requests however the Planning Commission unanimously recommended denial of the request

Open: At 7:44 p.m., Mayor Reed closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Monday, September 24, 2018 and Monday, October 1, 2018.

Paul Clancy, 261 Emerald Drive, Emerald Estates Homeowners Association President, stated residents are concerned, this is the fourth meeting regarding this request and he asked all in attendance in opposition to this request to stand. He stated he has been a resident since 1948, and one deciding factor to move to Emerald Drive was the protection the comprehensive plan provided in zoning this tract as R-3. He feels if this rezoning is allowed it will create a 24/365 active, illuminated, 300 spots plus parking lot, which may contain a convenience store, which could increase the traffic and activity more. He stated the 4-four large apartment buildings would look out of place and not in any way compatible with the surroundings. He urged council to deny the request for rezoning and special use permits.

Connie Seligson, 147 Diamond and 301 Emerald, stated since this is the fourth meeting on this matter she requested council decide swiftly and asked council to hear their voices and deny the request.

Lee Branner, 291 Emerald Drive, stated he opposes the rezoning and special use permit requests. He stated they have been residents for over 49 years, the last 21 years of have been on Emerald Drive, and he purchased the property knowing the parcel along Lucy Drive was zoned R-3. He stated rezoning this property would be unfair to all the residents in this area as they expect R-3 zoning development only. He asked council to deny the request.

Leslie Falconi, 249 Blue Stone Hills Drive, stated this proposed mixed use high density R-5 building is a great concept and a progressive building but it is intended

for the wrong location. She shared nine points as to the reasons why this request should be denied. She stated the neighborhood has been mobilized on this issue since August 8, 2018 and asked council to not table this issue but to decide and urged them to deny the request.

Graham Mott, 297 Blue Stone Hills Drive, stated he feels the city no longer needs additional student housing and according to JMU's plans for the next ten year which clearly states the plans are in place or already built, that fully satisfies the needs of JMU through the year 2027. He stated the developer is a serial developer of student housing and asked council to deny the request and thanked council for their time.

Thomas Nardi, 188 Emerald Drive, stated he is a 72-year resident, has seen a lot of growth and development and has enjoyed the neighborhood he resides in. He stated he feels the density, parking and the character of the neighborhood are in jeopardy and urged council to deny the request.

John Newman, 259 Blue Stone Hills Drive, stated he is strongly opposed to the rezoning request as this will have a negative impact on the neighborhood. He stated it is not just the traffic, although that will increase, but the character and aesthetic quality of life and property values will be affected. He stated he is not opposed to the by-right development under the R-3 zoning and would not have invested in this area if he knew the zoning rules could change. He stated he is irritated with the process and urged council to deny the request.

Willie Lanier, developer of the subject property, stated they have worked on this project for quite some time and unfortunately there have been a lot of rumors, discussions and accusations that are blatantly untrue. He stated he respects peoples feelings, he is not a fly by night out of town developer that doesn't care about the city. He has been an avid supporter as a JMU athlete and alumni and intends to have relationships with many people in the city. He stated he doesn't show up to take someone's dreams away but looks to identify and represent his group to development land. He stated he has a fond connection with the community, respects all things in the community, and has tried to be responsive on all issues raised. He stated he encourages walkability, bikability and public transportation, has tried to ease the worries of the neighbors by reducing the number of bedrooms in the units, and feels the proposed project is the better choice than what can be built by-right.

Jose Buchholz, 290 Emerald Drive, stated he heard the promises and great plans, but asked council if they can tell him how this will affect our tax dollars and values of homes? Vice Mayor Baugh stated assessments are made by fair market value and are made by an independently elected office, not council.

Jeff Lucatorto, 323 & 295 Emerald Drive, stated he has no problem with the developer, but it is about planning. He stated this proposal does not conform to the current planning guide and does not conform to the new planning guide that has yet to

have been proposed. He stated there is no proffer that could be made to make this right and he thinks that is one of the reasons the Planning Commission wisely voted against it. He thanked council for their time and dedication.

Sue Newman, 259 Blue Stone Hills Drive, stated she sent many letters to council and feels the entire neighborhood will suffer in terms of their investment as it will reduce property values if the development takes place. She stated their view will be gone and her property value will decrease by 30%. She requested council listen to the residents and deny the request.

Hector Rivera, 289 Emerald Drive, stated privacy is a concern as the development will be within 50 feet from his back yard and about the same height. He also has concerns regarding light pollution, noise pollution, increase traffic, increase in crime, decrease in property value, and 18-24 months of construction. He asked council to deny the request.

Melanie Shoffner, 328 Emerald, commended the developer for trying to create something that fits in the city, she likes the idea of mixed use in a city, and this project would be perfect in a more pedestrianized area, which her neighborhood is not. She stated she agreed with staff regarding creating more pedestrianized areas in the city, but this proposed development is in the wrong area. She feels the number of residents and traffic that would be created from this development would not satisfy the city planning department when it comes to those "transition" areas.

Alexandra Falconi, 129 Emerald Drive, stated she opposes the rezoning request and feels the lives of those in the neighborhood have been put on hold for several months because of this conflicting issue. She stated the Blue Stone neighborhood residents are outraged to have built homes, bought homes, established value in those homes, formed livelihoods, taken away from them. She stated she owns a rental unit on Emerald Drive and is fearful she will lose those tenants if this rezoning is approved. She asked council to take into consideration the lives that will be impacted.

Marsha Felter, 301 Blue Stone Hills drive, reviewed the 2011 comprehensive plan and the 2018 comprehensive plan that has not yet been adopted, specifically in regard to R-3 classifications. She stated sidewalk requirements should be in the 2018 comprehensive plan.

Rick Nagle, 95 Blue Stone Hills drive, stated the Planning Commission voted against the request due to the concerns of the residents and he implored council to deny the request.

At 8:32 p.m., Mayor Reed closed the public hearing and the regular session reconvened.
close 8:32

Council Member Byrd thanked the residents for expressing their opinions, but also to staff for the work they did on this. He stated these projects are coming to the city and we need to identify where these projects are best suited. He stated the question is how can we grow and grow the city in a manner where we all benefit for the future generations.

Mayor Reed agreed with Council member Byrd and stated we all love the neighborhoods we live in, and council does hear everyone. She stated council understands the sensitivity and passion behind it, council has received the emails, they have heard the comments, this is not an easy decision, but appreciates everyone coming out and speaking up. She stated we understand what the developer is trying to do as well.

Council Member Byrd encouraged Mr. Lanier to look at other properties in the city as we need this type of development in the city.

A motion was made by Vice Mayor Baugh, seconded by Council Member Hirschmann, to deny the rezoning request as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

A motion was made by Vice Mayor Baugh, seconded by Council Member Byrd, to deny the special use permit request to allow multi-family dwellings of more than 12 units per building in the R-5, High Density Residential District per Section 10-3-55.4 (1) of the Zoning Ordinance. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

A motion was made by Vice Mayor Baugh, seconded by Council Member Byrd, to deny the special use permit request to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices in the R-5, High Density Residential District per Section 10-3-55.4 (4) of the Zoning Ordinance. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

Recess

At 8:37 p.m., Mayor Reed called the meeting into recess.

At 8:43 p.m., Mayor Reed called the meeting back into session.

7. Regular Items

- 7.a.** Consider a request from Greendale Road LLC per Section 7-2-4 of the City Code for the City to provide water and sanitary sewer service for a single family residential development within Rockingham County.

Adam Fletcher, director of Planning and Community Development presented a public utility application for water and sewer to 13 acres in Rockingham county adjacent to similar developments from Greendale Road, LLC known as the Crossings, per Section 7-2-4 of the city code.

He reviewed the surrounding properties, the history of the development, the current property, and current water/sewer lines in the area and noted staff finds this request cohesive with the city's water/sewer capacity. He sated the applicant is still working with Rockingham County to rezone from R3 to PSF (planned single family district)

He stated staff and Planning Commission (6-0) recommend approval of the public utility application as presented.

Council Member Byrd stated there will be school buses from both the county and the city passing each other in this area, perhaps if there are reasonable boundary adjustments that can be done to put all the kids in the same neighborhood going to the same schools would behoove everyone going forward. He stated he mentioned this eleven years ago when this area was first being developed.

A motion was made by Vice Mayor Baugh, seconded by Council Member Jones, to approve the public utility application request as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

8. Other Matters

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

Pamayotis "Poti" Giannakaouros stated he is pleased with what he witnessed at this meeting, the respect shown by council represented the people of this community. He said this is encouraging that there is hope to get along as neighbors without the need to invoke state power to trample each other's fourth amendment rights. He stated now we are at the position where we can finally pull the tall grass and weeds ordinance as icing on the cake of the respect shown this evening. He stated the Martin Luther King, Jr., Coalition was present in Staunton for their celebration of their renaming of Robert E. Lee high school and suggests the city send congratulations to Staunton.

Jim Orndoff, 22 East Market, representing the Valley Justice Coalition, stated there

will be a Criminal Justice Board meeting October 15, 2018 at 7:00 pm, at Memorial Hall and encourages all to attend. He stated there will be a walk preceding the meeting from downtown to Memorial Hall. He also stated he feels the public comment period should be held at the beginning of council meetings.

8.b. City Council and Staff

Council Member Jones stated he would like to review the tall grass and weeds ordinance and evaluate enforcement and review any additional data. Eric Campbell, city manager, asked Council Member Jones as to what information he would like to review. Council Member Jones stated he would like to see the calls, complaints, enforcement, etc., similar to what was pulled earlier in the year.

Council Member Jones asked residents to attend the Community Criminal Justice Board meeting as it was scheduled so that more people could attendance. He stated he would like to see more residents from the city and the county, non-profit groups that deal with justice, and those that are affected by incarceration of family members at this meeting.

Vice Mayor Baugh stated the agenda for the upcoming Planning Commission will consist of variance requests, rezoning on W. Gay and N. Liberty Street, rezoning on N. Main Street, rezoning on N. Liberty street related to the Community Services Board, several zoning ordinance amendments as well as reviewing the draft comprehensive plan.

Council Member Byrd stated the short-term rentals ordinance was tabled previously but this needs to be kept moving forward and wanted to let council know he prefers the registry route rather than the special use permit (SUP) route. He stated this body reviews on average 20 special use permit application requests per year and is seeking direction from council if this should go back to the Planning Commission or staff to do further research on other options if a hybrid version could be found. Vice Mayor Baugh stated this issue sat with Planning Commission for a long time hoping to find a hybrid solution between the registry and the SUP route. He stated you don't have to have the same rule in all of the zoning, and his personal view is the only zoning category where it would make sense would be B-1 classification, which is where it already is allowable. He stated he is skeptical about finding the hybrid version. Council Member Byrd stated rental of property is a by-right use in all of our zoning classifications with the minimum of a one-year lease, but if they change to a month to month rental after the one-year lease expires, then it would be classified as short-term rental, which is happening now. He stated this is a different industry that we are looking at, and feels the registry route would allow the city to do all the inspections, notifications, tax collections etc. Further discussion took place regarding enforcement of short-term rentals and staff providing options to council on the November 13, 2018 council meeting with enforcement regulations. City Attorney Brown stated it would be much easier to enforce on the registry route as individuals would be much more willing to register than go through a special use permit process.

Council Member Byrd stated he could see the backlog of SUP requests or lack of compliance if the special use permit route is chosen. Council Member Jones stated if they all apply for a SUP the work load would be quite large for both staff and council.

Council Member Byrd stated he is waiting on a report from the Build Our Park group and asked if restriping of the parking decks was a feasible option. City manager Campbell stated the restriping was not feasible as there was no net gain of parking and noted staff debriefed the group of the items discussed from the original recommendations and a response will be in the groups final report to staff.

Council Member Hirschmann stated he spent time at Massanutten Technical Center (MTC) and they are doing very well, there have been improvements on campus, attendance has risen, but they are looking for money for new flag poles. Council Member Hirschmann asked council if there may be any additional funding available from the city to contribute to the flag pole. Council Member Jones stated the city already contributes to MTC. Vice Mayor Baugh stated the School Board contributes, not directly from the city.

City manager Campbell stated he attended the recent Virginia Municipal League (VML) conference, with several council members, and was invited to meet with the executive director and staff of the Virginia's First Cities Coalition (VFC). He stated the city had been a member a few years ago and he is in the process of evaluating if it will be beneficial for the city to join the group again. He presented council with the annual report from the VFC and noted he asked VFC if their work was duplicative of the work done by VML, but they stated they have targeted their efforts towards their membership and it would help to have additional eyes and ears in Richmond. He stated he will present council with his recommendation in the near future but would like some feedback as to why the city pulled out of the VFC.

City Manager Campbell stated the Bird Scooter company received their business license and expect to launch the business in the city on October 12, 2018. Council Member Jones asked Mr. Campbell to find out why Roanoke is not listed as a participating city.

Deanna Reed stated Fire Prevention Week is from October 8 through October 12th, 2018, the Harrisonburg Fire Department will have interactive displays at the Valley Mall from 9am - 9pm each day; the Rockingham County Landfill will be accepting household hazardous waste on October 20, 2018 from 800 am to 12:00 pm. For more information please visit the city's website; and the annual Race to Beat Breast Cancer 5K run/Walk will be held on Saturday, October 20th from 9:30 am to 12:00 pm. Please visit the city's website for further information and road closures.

9. Boards and Commissions

9.a. Harrisonburg Transportation Safety and Advisory Commission

A motion was made by Council Member Jones, seconded by Vice-Mayor Baugh, that this Boards and Commissions be approved. The motion carried with a unanimous voice call vote.

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

10. Closed Session

- 10.a.** Virginia Code Section 2.2-3711(A), under: Subsection 3 for a discussion of the acquisition of real estate for a public purpose

At 9:18 p.m. a motion was made by Vice Mayor 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 acquisition of real estate for a public purpose. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

11. Adjournment

At 9:32 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 9:32 p.m., there being no further business and on motion adopted, the meeting was adjourned.

DEPUTY CITY CLERK

MAYOR