



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

Tuesday, August 25, 2020

7:00 PM

Council Chambers

1. Roll Call

Present: 4 - Vice-Mayor Sal Romero, Council Member Richard Baugh, Council Member Christopher B. Jones and Council Member George Hirschmann

Absent: 1 - Mayor Deanna R. Reed

Also Present: 3 - City Manager Eric Campbell, City Clerk Pam Ulmer and City Attorney Chris Brown

2. Invocation

Vice Mayor Romero offered the invocation.

3. Special Recognition

4. Consent Agenda (any item placed on the consent agenda shall be removed and taken up as a separate matter, if so requested by any member of Council, otherwise all items will be voted on with one (1) motion)

A Motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the consent Agenda as presented.

Yes: 4 - Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

4.a. Minutes from the August 4, 2020 City Council Work Session

These minutes were approved on the consent agenda

4.b. Minutes from August 11, 2020 City Council Meeting

These minutes were approved on the consent agenda

4.c. Consider the reappropriation of encumbrances that were outstanding at the end of Fiscal Year 2020 in the amount of \$7,885,760.76.

This reappropriation request was approved on the consent agenda

4.d. Consider a supplemental appropriation in the amount of \$4,625,442 for funds received through the Coronavirus Relief Fund

This supplemental appropriation request was approved on the consent agenda

- 4.e.** Consider adopting an ordinance to suppress the spread of the Novel Coronavirus, SARS-CoV-2 and the disease it causes, commonly referred to as COVID-19

This ordinance enactment was approved on the consent agenda

5. Public Hearings

- 5.a.** Amendment to the 2020 CDBG Action Plan

Kristin McCombe, Community Development Block Grant coordinator, stated at the time that the Annual Action Plan was put together, the COVID related needs in Harrisonburg were still evolving. She stated the \$250,000 allocation to small business grant needs have been replaced by another more efficient program and has left this portion of the CDBG funding available to be used for the pressing need of rental assistance. She stated Mercy House has agreed to administer this program that will allow for up to six consecutive emergency rental assistance payments for those who are facing eviction as a direct result of consequences of the COVID-19 pandemic.

She stated CDBG-CV (COVID) funding has a relaxed public comment requirement of five days to expedite the use of this much needed funding. We have extended this period to seven days to allow for more public comment time. All public comments are due before 9:00 am on September 1, 2020.

At 7:05 p.m., Vice Mayor Romero closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Monday, August 17, 2020.

Pamayotis "Poti" Giannakaouros, stated the city could take additional steps to provide the rental release by repealing the tall grass and weed ordinance and by officially announcing that Council is backing off on aesthetic zoning enforcement. He stated this will allow individuals to use their scarce funds on rent instead of using the funds to adhere to the ordinance.

At 7:13 p.m., Vice Mayor Romero closed the public hearing and the regular session reconvened.

No action required

This Public Hearing - No Action was received and filed.

- 5.b.** Consider amending the Zoning Ordinance by creating a new use called "homestay" and to amend regulations that apply to short-term rentals.

Adam Fletcher, director of Community Development, provided the history of how the Short-Term Rental (STR) ordinance came about. He stated 33 total applications were received for STRs since March 2019. He stated City Council had approved 25

STRs (24 were approved unanimously), seven applications were withdrawn by applicants or denied by City Council and one application remains tabled by City Council. He reviewed the discussions that took place during the October and November 2019 Planning Commission Work sessions. He stated the proposed Homestay use definition is as follows:

Homestay: In a single-family detached, duplex, or townhouse dwelling unit, the provision of a guest room or accommodation space within the principal building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.

He stated they would be allowed by right in certain situations and City Council review and approval would not be required. He compared Homestay to STR regulations and requirements. He stated Staff and Planning Commission recommended approval (5-0) to approve the Ordinance amendments.

At 7:26 p.m., Vice Mayor Romero closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Monday, August 10, 2020 and Monday, August 17, 2020.

Pamayotis "Poti" Giannakaouros, reviewed the history of STR's and the decisions and concerns Council members had. He stated he recommends approving these amendments and adding Accessory Dwelling Units (ADU)

Stephanie Stotts, 265 N. Main Street, Apt 310 Lineweaver Apartments, suggested that instead of having all the new developments in the city allocated for students or expensive rentals they should allocate a few units per building and designate for low income.

At 7:35 p.m., Vice Mayor Romero closed the public hearing and the regular session reconvened.

Council Member Jones asked how many violations have been seen on STR's, when is the last time the websites were checked and how often are they checked. Mr. Fletcher stated he did not have that information readily available. Council Member Jones stated it is hard to make a decision on this ordinance amendment not knowing how well the STR process is working. Mr. Fletcher stated the plan was to check the websites for violations from time to time, not every day, but we are currently understaffed and unable to consistently check the sites. Council Member Jones stated we may have violations now going unchecked of unregistered STR's. Eric Campbell, city manager, stated during the pandemic it was decided to not do certain inspections. Further discussion took place regarding this. Discussion took place regarding inspections and fire codes.

Council Member Baugh stated we are addressing how beneficial it will be to allow Homestays, he knows the Planning Commission spent a fair amount of time on this and is coming with a unanimous recommendation, and asked Vice Mayor Romero for his input.

Vice Mayor Romero stated he supports these amendments but does agree with Council Member Jones that we must have a plan moving forward regarding enforcement. He stated he spoke to many residents and they were in favor of these amendments. Further discussion took place regarding the changes during Planning Commission discussions.

Council Member Jones asked if staff found it cumbersome to process the 25 STR applications. Council Member Baugh stated the answers to that question are what based the amendments as presented and it makes sense to him to avoid additional unnecessary processes. These amendments don't affect STR's, but it does allow us to be more liberal under certain circumstances and reduce the steps in the process. Vice Mayor Romero stated the process was discouraging to many and this helps with many of those requests. Council Member Hirschmann stated he agrees with Council Member Baugh.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the ordinance amendments as presented. The motion carried with a recorded vote as follows:

Yes: 3 - Romero, Council Member Baugh and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

Abstain: 1 - Council Member Jones

- 5.c.** Consider a request from Richard L. and Betty L. Sampson with representatives Edilza M. Alfaro Diaz and Carlos Madrid to rezone seven parcels addressed as 143, 145, 149, and 153 Charles Street and five parcels with no street address that have frontage along Clinton Street

Adam Fletcher, director of Community Development, presented a rezoning request for property located at 15 Charles Street from M-1 to B-2 Conditional for an event center. He stated when this request was first presented to the Planning Commission it was tabled until the applicant could speak to surrounding property owners and other issues. He stated the applicant followed the recommendations and Planning Commission approved but still had concerns about hours of operation and planned use. He reviewed the parcel, surrounding properties and their uses. He reviewed the submitted proffers and noted staff and Planning Commission recommended approval (5-0) to approve the rezoning from M-1 to B-2C.

At 8:07 p.m., Vice Mayor Romero closed the regular session and called the third public hearing to order. A notice appeared in the Daily News-Record on Monday, August 10, 2020 and Monday, August 17, 2020.

Carlos Madrid, representative for the applicant, spoke about the property and the

expected uses, the proffers and addressed the concerns of Planning Commission.

Pamayotis "Poti" Giannakaouros, stated he has a general issue regarding the quality of testimony from certain parts of zoning staff as modified by the Planning Commission and he is concerned about the skewed perspective that staff brings to issues like this. He the mission statement for the zoning department and stated the term "welfare" is interpreted, as it is not consistent. He referenced a book called The History of Zoning Part 3 that spoke on welfare, morality and police powers, and stated it is time we recognize the arbitrary nature of judgements about welfare with respect to zoning. He stated we lack public and community spaces, and while he would prefer to see public spaces, he feels this sounds like a project the community needs.

At 8:22 p.m., Vice Mayor Romero closed the public hearing and the regular session reconvened.

Council Member Hirschmann stated the project itself will be a benefit to the area but he is concerned because of the potential for loud music or noise.

Council Member Baugh asked for a clarification of the fence height. Mr. Fletcher stated it should reflect an eight-foot fence. Vice Mayor Romero stated the land sits a bit lower on the Clinton Avenue side and a six-foot fence would not have been sufficient.

Council Member Hirschmann stated it seems as though there wasn't a lot of complaints from the neighbors regarding this project. Vice Mayor Romero stated that was the main reason to table the item from Planning Commission until the applicant reached out to the neighbors to make sure they were on board.

Further discussion took place regarding the current zoning and its allowances.

A motion was made by Council Member Baugh, seconded by Council Member Jones, to approve the rezoning request as presented. The motion carried with a recorded vote as follows:

Yes: 4 - Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

- 5.d.** Consider a request from Stoneburner Land LLC for a special use permit to allow business and professional offices at 1821 South High Street

Adam Fletcher, director of Community Development, presented items 5d and 6a together. He presented the preliminary plat and special use permit for property located at 1821 South High Street. He reviewed the parcel, surrounding properties

and their uses, noting the long-term plans for the area are the continuation of commercial use. He stated the plan for the parcel is to split into three parcels with lot one being a planned medical urgent care facility. He reviewed the requested subdivision ordinance variances and noted the three parcels would share one entrance. He stated staff suggested two conditions to the special use permit:

1. The special use permit shall apply only to the area generally shown and described as Lot 1 on the preliminary plat titled Stoneburner Land LLC Subdivision dated June 24, 2020.
2. The special use permit shall be applicable only for the use, or a substantially similar use, as requested in this application.

He stated staff and Planning Commission recommended approval (5-0) to approve the preliminary plat with variances and to approve the SUP with conditions.

At 8:40 p.m., Vice Mayor Romero closed the regular session and called the fourth public hearing to order. A notice appeared in the Daily News-Record on Monday, August 10, 2020 and Monday, August 17, 2020.

Andrew McAdams, Stoneburner Inc., applicant, stated they are happy to comply with the conditions and appreciates the city working with them on the sidewalks until development starts.

At 8:45 p.m., Vice Mayor Romero closed the public hearing and the regular session reconvened.

There was some discussion regarding the sidewalk delay until development.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the special use permit as presented. The motion carried with a recorded vote as follows:

Yes: 4 - Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

6. Regular Items

- 6.a.** Consider a request from Stoneburner Land LLC to preliminarily subdivide a +/- 6.4-acre parcel into three parcels at a site addressed as 1821 South High Street
see agenda item 5d for notes

A motion was made by Council Member Baugh, seconded by Council Member Jones, to approve the preliminary plat subdivision as presented. The motion carried with a recorded vote as follows:

Yes: 4 - Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

6.b. Presentation to introduce the Zoning and Subdivision Ordinances Update Project.

Thanh Dang, assistant director of Community Development stated Brian Mabry with Kendig Keast Collaborative will present and update on the Zoning and Subdivision Ordinance project that is currently under way. She stated the project is significant and will have a long-lasting impact on the city. She reviewed why this project is so important and how it will make the goals in the Comprehensive Plan a reality.

Brian Mabry, code practice leader, Kendig Keast Collaborative, introduced the company and its team, the goals, approach, objectives, outcomes, process and milestones of the project. Ms. Dang provided the teams that will be involved in this project: City Project Team, Staff Technical Team, Stakeholder Groups and Ordinance Advisory Committee.

Ms. Dang stated she welcomes recommendations and directions on the Stakeholder Group members and is suggesting the members to the Ordinance Advisory Committee be appointed by Council. Council Member Jones asked Ms. Dang to provide a list of suggested members and descriptions of each group to avoid overlap of recommendations from Council.

No action required

This Presentation was received and filed.

6.c. Consider adopting a resolution to approve Harrisonburg Electric Commission's request to purchase 9.92 acres, more or less, on Acorn Drive.

Chris Brown, city attorney, stated the Harrisonburg Electric Commission (HEC) would like to purchase 9.92 acres, more or less, on Acorn Drive for the purchase price of \$550,000. He stated he believes HEC is intending to develop the property into a solar farm which would significantly increase the solar power generated in the city. He stated City Code Ordinance Section 8-1-11 HEC is empowered to purchase property but must be approved by City Council by resolution. He stated the property would be held in the legal title of the city but HEC would control the property.

Council Member Baugh stated all of this is evolving and it would give us the opportunity to produce substantial amount of solar and the goal would be to allow users to opt into the system, although there are still a lot of details to work out.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to adopt the resolution as presented. The motion carried with a recorded vote as follows:

Yes: 4 - Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

6.d. Discussion of creating a task force / advisory committee to determine how CARES Act funding will be used.

Eric Campbell, city manager, stated the second phase of the CARES Act funding is ready to be distributed in the amount of \$4.6M. He reviewed an overview of what Roanoke has done and what the challenges would be. He stated Roanoke's City Council created a Recovery Fund Task Force which consisted of organizations from various sectors such as health care, small business, manufacturing, hospitality, outdoor recreation, arts and culture, education and vulnerable population/non-profit. He reviewed the 39 members positions and organizations represented. He reviewed the task force's process and the areas they identified as potential projects and noted the initiatives fell into four categories: Community health, economy, safety net and youth and education. He stated the total funding included Community Development Block Grant, Emergency Sheltering Grant, CARES Act and city funds and noted the city of Roanoke retained \$3M of the \$8.6M CARES Act funding for city issues. He reviewed the challenges in following Roanoke's model which included creating the task force, facilitating meetings, final recommendations and MOU's, which took Roanoke nearly three months and is still ongoing.

He reviewed what he would consider a hybrid model for the Harrisonburg Task Force as follows:

- Creation of a task force of approximately 10-12 members appointed by City Council.
- Host a one-day facilitated retreat to focus on gaps between what has been accomplished with the first half of CARES Act funding and the continuing needs in the community.
- The task force will review the current categories approved by Council and identify any additional categories of assistance (e.g. non-profits, childcare) needed.
- The task force will be responsible for recommending the prioritization of the categories for funding.
- Total funding recommended as \$3.1 million (the City retains \$1.5 million for on-going costs associated with COVID-19)

He stated staff recommends approval of the Hybrid Task Force approach to ensure meeting both the community needs and mandatory timeframes.

Council Member Jones stated at least three Council Members are ok with reducing the number of members on the task force. Council Member Hirschmann stated the challenge will be to get everyone together at the same time. Mr. Campbell stated Roanoke scheduled the meetings during lunch so everyone could attend and feels we could accomplish what is needed in two meetings. Vice Mayor Romero suggested

the meetings be recorded for access to those that may not be able to attend. He stated he does have one concern in regard to the smaller number of members as there is less an opportunity to make it as inclusive as we want it to be and hopes everyone is very intentional with their recommendations of members so the group is a reflection of the city. Council Members were directed to provide up to two names to the city manager for the task force within the next 24 hours.

Council Member Jones stated he would like to serve on the committee. Council Member Hirschmann stated he thought all Council Members would serve. Council Member Jones stated if all Council Members serve then it would become a Council meeting so we must keep it to a maximum of two Council Members. Chris Brown, city attorney, stated Council should appoint one of its members to chair the committee and perhaps a second member at Council's discretion. Further discussion to place on interest to serve on the task force and how important the time frame is.

Council Member Jones stated he is disappointed with the Return to School task force that was formed as it is not as diverse as it could be.

This Action Item was received and filed.

7. Supplementals

- 7.a.** Consider a supplemental appropriation for various departments in the amount of \$996,423.61

Larry Propst, director of Finance, presented a supplemental appropriation for annual grant carry overs to various departments of the city.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the supplemental appropriation as presented. The motion carried with a recorded vote as follows:

Yes: 4 - Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

- 7.b.** Consider a supplemental appropriation for the Police Department in the amount of \$4,689.55

Larry Propst, director of Finance, presented a supplemental appropriation from the Harrisonburg Police Department to use approximately \$4,700 of the state asset forfeiture funds to purchase digital forensic software.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the supplemental appropriation as presented. The motion carried with a

recorded vote as follows:

Yes: 4 - Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

- 7.c.** Consider a supplemental appropriation for the Fire Department in the amount of \$340,807.39

Larry Propst, director of Finance, presented a supplemental appropriation for the Harrisonburg Fire Department in the amount of \$340,807.39 in Fire Programs and Four-for Life from the Commonwealth of Virginia. He stated these are funds that can only be spend on fire and rescue areas and stated this is an annual request.

A motion was made by Council Member Hirschmann, seconded by Council Member Baugh, to approve the supplemental appropriation as presented. The motion carried with a recorded vote as follows:

Yes: 4 - Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

- 7.d.** Consider a supplemental appropriation for various departments in the amount of \$361,054

Larry Propst, director of Finance, presented a supplemental appropriation for four new grants that various departments have received. He stated the Harrisonburg Police Department received \$47,450 of CARES Act funding from the Department of Justice, the Registrar's office received \$67,204 from the State Department of Election, the Public Works department received additional VDOT funding in the amount of \$36,400 and the ECC was awarded funding from the Virginia 911 Services Board in the amount of \$210,000 to implement the state mandated Next Generation 911 project.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the supplemental appropriation as presented. The motion carried with a recorded vote as follows:

Yes: 4 - Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

8. Reallocations

- 8.a.** Consider a reallocation of funds in the General Capital Projects Fund in the amount of \$9,100 for the Park Road project

Larry Propst, director of Finance, presented a reallocation of Capital Project funds in the amount of \$9,100 related to the previous supplemental VDOT funding as the city's match.

A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the reallocation as presented. The motion carried with a recorded vote as follows:

Yes: 4 - Romero, Council Member Baugh, Council Member Jones and Council Member Hirschmann

No: 0

Absent: 1 - Mayor Reed

9. Other Matters

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

Pamayotis "Poti" Giannakaouros, requested city staff prepare a report of how many members of city staff are not city residents and how much money goes to the salaries of those employees. He stated in these trying times it is not unreasonable for the residents of the city to ask where their public money is going. He referenced a renaming policy presented to Council which was reluctantly approved, and he shared his opinions on comments made by the city attorney.

James "Bucky" Berry stated he had a hunch that Chief English would move on, he doesn't blame the man for going back home, and he feels it will be difficult to get a new Chief of Police at this time. He stated if the wrong man is put in that position, we will see more officers leave, they need more money.

Stephanie Stotts, 265 N. Main Street, Apt 310 Lineweaver Apartments, stated there is a mountain of correspondence evidence regarding the Harrisonburg Redevelopment and Housing Authority and their abuses of power especially to JR Polly Lineweaver. She stated there are tenant laws that are broken with complete disregard. She would like the Governor and the Attorney General to investigate the HRHA and especially the payee programs with the Community Services Board. She stated she will continue to speak on these travesties.

9.b. City Council and Staff

Council Member Baugh stated wear your masks, you may have this thing and it does a whole lot to keep you from infecting other people.

Council Member Jones stated he thinks Chief English is fantastic, has been fantastic the whole time he has been here. He stated he is glad the city manager hired him.

Chief English led well and was available to the community and he hopes the groundwork he laid in the department will keep them from being overly aggressive and keep a high level of community policing. He stated the Chief has always been so approachable and nice.

Council Member Baugh stated the first time he met the Chief was at the convocation center when he was playing ball. He stated Henrico County got a good one and he will be missed.

Vice Mayor Romero seconded those thoughts. He stated he is sending his thoughts and prayers to the Mayor for the loss in her family.

Chris Brown, city attorney, stated the Emergency COVID ordinance that was passed in April is going to expire the first of October and that will be brought back to Council for renewal if desired in September. He stated Council may want to have the discussion regarding when it wishes to resume in person meetings or partially in person meetings. He stated he and the director of Public Works, Tom Hartman, had a discussion last week with a representative of VDOT who would like to do some work near Switzer Dam on 3.3 acres of land from the city to straighten out curves on Route 33 West as there are parts that are extremely dangerous. He stated staff recommends the city donates the property to VDOT and a formal resolution and vote will be presented to Council at a later date.

Council Member Baugh asked if all things considered staff thinks it's a good idea. Mr. Brown stated the value of that acreage is roughly \$7,500. Council Member Jones stated VDOT shares too much money with us to not donate this to them.

10. Adjournment

At 10:20 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR