

REGULAR MEETING

AUGUST 28, 2001

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Carolyn W. Frank; City Manager Roger Baker; Assistant City Manager Kurt Hodgen; City Attorney Thomas H. Miller, Jr., Vice-Mayor Dorn W. Peterson; Council Member Larry M. Rogers, Hugh J. Lantz, Joseph Gus Fitzgerald; City Clerk Yvonne Bonnie Ryan, CMC/MMCA, and Chief of Police Donald Harper.

Council Member Lantz delivered the invocation and Mayor Frank led everyone in the Pledge of Allegiance.

Human Resource Director Whistleman introduced four new City employees: Eric Lee Hummel, Police Department; Lee Mills, Transportation Department; Dale Ringgold, Public Utilities Department; and Chad Siever, Fire Department.

Council Member Fitzgerald offered a motion to approve the minutes on the consent agenda, including approval of the minutes and the second reading of several supplemental appropriations for the Police Department, School Board and the Commissioner of Revenue office. The motion also included amending an ordinance amending Section 5-5-12 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Peterson

Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Mayor Frank

Absent - None

Allison Coonley, Harrisonburg-Rockingham Convention and Visitors Bureau Director, introduced herself to City Council and presented a brief report on the activities of the bureau. She explained that as the new director of the bureau she was focusing on advertising, organizing and increasing information provided by the center to the public. She is also developing a new web site, marketing motor coach tourism, and writing grants to supplement the bureau funding.

City Manager Baker said that Simms School Use Committee has met several times. The research committee has determined that renovations are definitely needed regardless of the use of the building.

John Stall, a resident of 409 Summit Street, said that he would like to see the Simms building benefit the entire community. He said that many of the proposed functions for the school are not bad functions, but they are not adequate to meet the needs of the community. The latest census listed many children under the age of 18 living in the Simms School area. He said if the school cannot be developed as a public school perhaps it could become a private school because the children of the community deserve a school.

Chuck Heckman, a resident of 1555 Shank Drive and a member of the Education Committee of CHANGE, said that members of the City Council have a decision to make about whether or not to fund the 20-year proposal of the School Board. The code of Virginia gives authority to the School Board to formulate all educational policies and City Council has the authority to have fiscal control. Presumably the commonwealth expects to give something more than a blind rubber stamp approval to educational financing. It is reasonable to expect City Council to satisfy themselves that the expenditures planned by the School Board will be spent wisely for the maximum public benefit. City Council should look very carefully at the School Board long range plan before approving the financing for it. If there are unanswered questions, omissions and procedures or serious objections from the public you must delay approval long enough to get these problems corrected. He referred to one of Harrisonburg's Mission Statement which states that the City of Harrisonburg will preserve and enhance the quality of life that is unique to our community by promoting a partnership between our citizens, elected officials and City employees. Protecting the health, safety and general welfare of all the citizens is another statement. Mr. Heckman questioned if that included the JMU students, City buses, and hundreds of teenage drivers who will be using the Port Republic Road or Smithland Road. Does it take into account the health, safety, and general welfare? School districts across the nation that have kept their schools small have discovered higher graduation rates, test scores, and community involvement. These communities and school districts supported smaller schools because of increased violence, more student drop out and pushing the parents out of the schools. The School Board plan will affect every department and every citizen in Harrisonburg, and it will continue to affect every department and every citizen in Harrisonburg for some time to come. Mr. Heckman presented statistics showing a wide gap between the per-pupal cost of the proposed high school and both the national average and the cost of recently constructed schools in three other areas of Virginia.

Warren Dillenbeck, said the School Board's plan consists of building a new high school for grades 9-12, costing approximately \$40 million, renovating the existing high school and turning it into a middle school, using the middle school for grades four and five, and finally using the existing elementary schools for grades K-3. The total costs of the School Board's long range plan is roughly \$58 million. The CHANGE plan involves building a new high school for 500 students, use the existing high school for 1,100 students, use the middle school for its capacity of 900 students, build a new middle school for 400 students, use existing elementary schools for K-5, build a Simms Elementary for 450 students, and build one more new elementary school in ten years for 450 students. The total cost of the plan would be approximately \$51 million. It is a workable and better plan. Smaller schools produce better results. This plan would provide a better quality of education for the children and lower costs for Harrisonburg taxpayers.

Kathy Phillips, said that she has one child in each of the schools. She said that next year Harrisonburg High School will have to add mobile classrooms. She questioned overcrowding in the schools, dividing the schools, and losing the AA status of the schools.



Cheryl Talley, a resident of 691 Maryland Avenue, said that she has attended many School Board and City Council meetings. She said the schools are overcrowded. Black and Hispanic students are being left behind.

Bucky Berry, said he was concerned about the many trailers at the schools because they are not safe.

Vice-Mayor Peterson said that he was concerned about the dramatic difference of cost between this proposed high school and three other recently built schools in Virginia. He said, How can schools recently built in Henrico County, Sussex County, and Buena Vista have lower construction costs. Why is it costing so much to build one new high school in Harrisonburg? City Council has a responsibility to question the difference of 30% in construction price. Was there any attempt to have pre-engineered construction ideas in mind? Was there any attempt to look at significantly cheaper methods of satisfying the needs of Harrisonburg? It is our responsibility to ask these questions. Vice-Mayor Peterson said that he needed an explanation of how can these counties construct schools at lower costs.

Mayor Frank commented that she thought the citizens would want an answer to these questions because taxes will have to be raised to pay for school construction. She said, We need to make decisions on what is best for everyone in the City.

Council Member Lantz, commented that the bids for the new Broadway High School were made in 1995-1996 and it is difficult to compare a six-year difference with approximately 4% cost increase per year. He also reviewed statistics showing a wide gap between the per-pupil cost of the proposed new high school and both the national average and the cost of recently constructed schools in three other areas of Virginia.

Council Member Fitzgerald, questioned when the debate would end. When will those opposing the new high school accept the numbers? There are people in the community extremely opposed to this high school and there are people in the community who are in favor of the high school. How long do we want to keep treating a certain organization as a shadow school board and demand that the School Board answer every set of opposition questions?

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Following more discussion and comments, Vice-Mayor Peterson offered a motion requesting that the School Board answer why is the projected cost of the new high school higher than other recently constructed schools in Virginia. The motion also included that a presentation be made to City Council at the next meeting. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Peterson

Mayor Frank

No - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Absent - None

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School Board Chairman Lacey came to the podium and said, I have been asking the same question that Council Members have been asking. Why is the projected cost of the new high school higher than other recently constructed schools in Virginia? He also said that the School Board will provide some cost-analysis information within the next two weeks to City Council.

Mayor Frank announced that the agenda item to hear a presentation by Robert Steere was withdrawn.

City Manager Baker presented an overview on the 13 goals established by the City Council last August 19<sup>th</sup> at its retreat. He said that City staff has made improvements in virtually all of the areas. The Council's goals include establishing a blue-ribbon technology Council, attracting higher-paying jobs to the City, improving the local economy, the road system, maintaining a first-rate school system, and public health and safety, and keeping residents informed of City news. Other goals include getting and keeping good employees, continuing to improve the budget process, enhance revenue sources for the City, and maintain an effective system of recreation facilities and programs. He noted that Council Member Rogers and Economic Development Director Shull actively participate in the Shenandoah Valley Technology and Shenandoah Valley Partnership. He also said that City Council is supporting downtown revitalization efforts and is financially supporting the newly formed Arts Council of the Valley as well as the formation of a new arts and cultural overlay district. The General Assembly passed enabling legislation to establish an arts and cultural overlay district which is the first and only one in Virginia. City Council also approved funding to establish the Oasis Art Gallery downtown last year. The City purchased the Hardesty-Higgins House, also known as the Craft House. Mr. Shull recently formed a citizen's advisory committee to provide input on the use and restoration of the historic house. A public safety building is also being considered. A resource recovery facility will be rebuilt in the next two years. City Council meetings are being televised and a new web page is being developed.

Council Member Rogers commented that the accomplishments are a tribute to the stability and professionalism of the staff, which helps the Council meet goals despite deep political division among the five Council Members. He said, Even though there have been challenges in the leadership of Harrisonburg, the staff is still hanging in there and doing a good job. I want the staff members to know that Council appreciates the work they are doing.

William Sanders, a resident of 355 Hartman Drive, said that he was a member of Chapter 007 Veterans for Peace. He explained that it is a national organization which was founded in 1985, with membership around the country. Members include men and women veterans from World War II, Korean War, Vietnam, Gulf War, other conflicts, and peacetime veterans. Many of us are combat veterans. Our collective experience tells us that war is not a successful way to resolve conflict and that other means of problem solving are necessary. Our mission statement defines justice and peace as concurrent. We believe one is necessarily a component of the other and both have equal weight. We oppose the death penalty because our experiences have taught us the fragileness and importance of every life. Though we personally oppose the death penalty, we are citizens of our communities, our states and our nation and we uphold the laws of the land. We strongly believe that capital punishment in our state is not administered fairly, and we seek fairness and justice for our community. We are asking Council Members to adopt a moratorium on the death penalty until the penalty process is administered with safeguards and standards that ensure impartiality and fairness, and there remains no question of the guilt to the defendant. City Councils in Charlottesville, Lexington and Blacksburg have adopted a resolution supporting the moratorium on the death penalty. The legal community including the Albemarle Bar Association, the Virginia College of Criminal Defense Attorneys, the Harrisonburg/Rockingham Bar Association, the Warren County Bar Association and the Virginia Trial Lawyers Association have all adopted resolutions supporting a moratorium on the death penalty. He questioned if capital case defendants receive fair treatment? Eight jurisdictions in Virginia account for one-third of the death sentences. Appointed lawyers whose clients were sentenced to death are six times more likely to be publicly disciplined. One in 10 defendants sentenced to death has lawyers who subsequently lose their licenses. This is not the case in Harrisonburg and Rockingham County. A recent State Crime Commission survey of judges found that 18% of participating judges have never appointed counsel for indigent defendants from the list of qualified attorneys available from the Public Defender's office. In Virginia an indigent capital defendant has no right to an investigator to assist counsel or to funds for counsel to consult with experts in fields in which counsel does not possess competent knowledge. The single most determinative factor in deciding who gets the death penalty is the race of the victim. Faced with similar conditions in Illinois, Governor Ryan, who himself believes a state had the right to carry out the death penalty, electrified the nation when he put the state of Illinois under a moratorium calling for no executions of the death penalty until a complete study could be made. We in Chapter 007 ask this Council to join other councils from other jurisdictions to help shape formal acceptance of what we perceive to be grass roots sentiment.

Attorney Larry Hoover, explained that the three-year moratorium would apply to executions, not the death penalty which can still be imposed. During this three-year period there would be a review of the present system to try and eliminate the risk that innocent people may be executed, ensure that death penalty procedures are administered fairly, impartially, and in accordance with due process, and eliminate discrimination in capital sentencing on the basis of the race of either the victim or the defendant. He said that in recent years, doubts about the fairness of the death penalty in Virginia have surfaced with alarming frequency, usually in reports concerning individual cases. Several issues included prosecutorial discretion in the charging of capital crimes, quality of legal representation for the accused at trial, and race discrimination, and the 21-day rule.

Joe Vought, pastor at the Muhlenberg Lutheran Church, said that he has been asked to testify before the subcommittee of the House and General Courts of the General Assembly on the death penalty. He said from 1992 to 1997, he served as a volunteer chaplain on Virginia death roll. As a person of faith called to speak the truth as well as word of hope there is nothing just about the death penalty. As study after study has

confirmed, it does nothing to make society safer, but only creates more victims. The death penalty is a dead end and an empty promise. More and more Virginians and people of faith are questioning whether the death penalty is fair or just and are asking for alternatives. Death is a different punishment from any others and the execution of an innocent person is a mistake we cannot correct. The practice of the death penalty is not fair and fails to make society better or safer.

Following further discussion and comments, Council Member Fitzgerald offered a motion to adopt a version of a sample resolution for a death penalty moratorium. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Rogers

No - Vice-Mayor Peterson

Council Member Lantz

Mayor Frank

Absent - None

City Manager Baker presented a resolution for financial assistance to the Harrisonburg Rescue Squad. He explained that the City had agreed to lend the squad up to \$621,000 and enable the organization to apply for as much as \$1.6 million in loans from the Virginia Resource Authority. The loan from the City would be used to buy land near the corner of University Boulevard and Reservoir Street. The VRA loan would provide long-term financing and cover related project costs for the construction of a new squad building. The City will own the building and will be listed as the lien holder on the land for 20 years. If the group disbands within 20 years, the City will retain the land, the building, and the squad's two best ambulances. The squad will own the building and land after 20 years.

## RESOLUTION

**WHEREAS, Harrisonburg Rescue Squad, Inc., a non-stock, not-for-profit Virginia corporation (the Rescue Squad ) has determined that vital need exists for the acquisition, construction, and equipping of new public safety facilities to be located in the city of Harrisonburg, Virginia (the City ); and**

**WHEREAS, the City desires to provide financial assistance to the Rescue Squad in connection with such public safety facilities (the Project ) pursuant to the terms and provisions set forth in this Resolution; and**

**WHEREAS, the Virginia Resources Authority (the VRA ) has been authorized by the Virginia General Assembly to purchase local public safety facility bonds from time to time for capital projects for public safety purposes; and**

**WHEREAS, it is anticipated that the VRA will approve the purchase of the City's general obligation bonds for public safety facilities in an amount not to exceed \$1,600,000 as part of the VRA's Fall Infrastructure Revenue Bonds (Pooled Loan Bond Program), Series 2001B, in order to provide long-term financing to construct the Project; and**

**WHEREAS, the Rescue Squad has also requested the financial assistance of the City in connection with a short-term loan in order to provide funds to the Rescue Squad for its purchase of unimproved real estate in the City (the Real Estate ) for the Project; and**

**WHEREAS, the City Council of the City (the City Council ) now desires to (i) consent to and authorize an application to the VRA to provide up to \$1,600,000 long-term financing to construct the Project; (ii) authorize a short-term loan to the Rescue Squad in order to provide funds for the purchase of the Real Estate; and (iii) make a declaration of intent to reimburse from the proceeds of one or more debt issuances in connection with the Project as required by federal tax laws in connection with the issuance of exempt bonds.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA, as follows:**

**A. Application to VRA for Loan to Construct the Project:**

**1. The City Council hereby consents to and authorizes an application to the VRA consistent with the intent described herein, with respect to general obligation bonds of the City in an aggregate principal amount not to exceed \$1,600,000 for public safety purposes (the Bonds ) for the purpose of providing funds to pay the costs to construct the Project.**

**2. The City Council hereby calls for a public hearing on this issue at such time as may be advised by the VRA in accordance with the financing schedule for the VRA Fall Infrastructure Revenue Bonds (Pooled Loan Bond Program), Series 2001B, and, further, for such appropriate notices to be given and additional acts to be taken as may be required by law in order for the City to consider the issuance of the Bonds in connection with this Project for the benefit of the Rescue Squad.**

**3. It is reasonably anticipated that the City and Rescue Squad shall enter into an appropriate leasing and services agreement, as may be advised by legal counsel, to establish the terms and provisions that shall govern the arrangement between the parties relating to the construction of the Project (including the financing therefor), the use of the Project facilities by the Rescue Squad, and the services to be performed by the Rescue Squad for the benefit of the City.**

**2. Short-Term Loan from City to Rescue Squad to Acquire Real Estate:**

4. The City hereby authorizes and approves the making of a short-term loan to the Rescue Squad in a principal amount not to exceed \$621,000 to be used by the Rescue Squad for the purchase of the Real Estate at closing and settlement on or before October 1, 2001. The terms of this loan to the Rescue Squad shall be as follows: (i) the principal loan amount shall equal the actual purchase price of the Real Estate, as finally determined by a survey, provided, however, such principal loan amount from the City to the Rescue Squad shall not exceed \$621,000; (ii) the term of the loan shall be for five (5) years; (iii) no interest shall accrue or be payable by the Rescue Squad; (iv) equal monthly installments of principal shall be payable by the Rescue Squad commencing on November 1, 2001, and shall continue on the 1<sup>st</sup> of each month thereafter, with the entire principal balance, if not sooner paid by the Rescue Squad, being due and payable, in full, on October 1, 2006.

5. The loan from the City to the Rescue Squad shall be evidenced by a Promissory Note to be executed by the Rescue Squad and delivered to the City, and such other collateral documentation as may be advised by legal counsel, and secured by a Deed of Trust in favor of the City and recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia.

3. Declaration of Intent to Reimburse:

6. The City (or the Rescue Squad, as the case may be) has paid/has caused to be paid, beginning no earlier than 60 days prior to adoption hereof and will pay/will cause to be paid, on and after the date hereof, certain expenditures (the Expenditures ), in connection with the Project. Further, the City has determined that those moneys previously advanced no more than 60 days prior to the date hereof and to be advanced on and after the date hereof to pay the Project related Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of one or more issues of tax-exempt bonds, including the Bonds.

Accordingly, the City hereby declares its intent to reimburse the City (or the Rescue Squad, as the case may be) with the proceeds of the Bonds for the Expenditures with respect to the Project made no earlier than 60 days prior to the adoption hereof. The City reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds. Each Expenditure was and will be either (a) of a type properly chargeable to capital Account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the City (or the Rescue Squad) so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the City (or the Rescue Squad).

The City (or the Rescue Squad, as the case may be) will make a reimbursement allocation, which is a written allocation that evidences the use of proceeds thereof to reimburse an Expenditures, no later than 18 months after the later of the date on which the Expenditures is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The City recognizes that exceptions are available for certain preliminary expenditures, costs of issuance, and certain de minimis amounts.

7. This Resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 28<sup>th</sup> day of August, 2001.

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Mayor, City Council, City of Harrisonburg, Virginia

**CERTIFICATE**

The undersigned Clerk of the City Council of the City of Harrisonburg, Virginia, hereby certifies that the foregoing constitutes a true and correct copy of a Resolution entitled, APPLICATION RESOLUTION; DECLARATION OF INTENT TO REIMBURSE, adopted by the City Council at a regular meeting duly held and called on August 28, 2001. A record of the roll-call vote by the City Council is as follows:

| NAME                         | AYE | NAY | ABSTAIN | ABSENT |
|------------------------------|-----|-----|---------|--------|
| Carolyn W. Frank, Mayor      | X   |     |         |        |
| Dorn W. Peterson, Vice Mayor | X   |     |         |        |
| Hugh J. Lantz                | X   |     |         |        |

Larry M. Rogers X

Joseph Gus Fitzgerald X

**Date: August 28, 2001**

[SEAL]

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**Clerk, City Council, City of Harrisonburg, Virginia**

Carolyn Perry, attorney with the law firm of Wharton, Aldhizer and Weaver, reviewed the terms of the Virginia Resources Authority and the terms with the City. She said there could be no legal requirement that the Harrisonburg Rescue Squad make debt service payments; however, the rescue squad would always be free to make donations to the City for any purpose if there are sufficient funds.

Vice-Mayor Peterson offered a motion to adopt the resolution as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Peterson

Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Mayor Frank

Absent - None

City Manager Baker presented the following resolution for Council's consideration of approval:

## **RESOLUTION**

**WHEREAS, a section of Route 33 (old Market Street) from its intersection with present Vine Street to its intersection with present East Market Street as shown marked in RED on the Virginia Department of Transportation's State Highway plan sheets 8 and 9 of Route 33, Projects 0033-082-008, C-1 and 0033-115-101, C-501, a length of approximately 303 feet, was once part of the State Highway system; and**

**WHEREAS, a section of Switchboard Road (old Route 910) as shown on Sheets 13 & 13B of project 0033-115-102-C501 a length of approximately 380 feet was once part of Switchboard Road (old Route 910) of the State Highway System; and**

**WHEREAS, the said Route 33 projects relocated said Routes 33 to its present locations as said East Market Street and Switchboard Road and said old section of Route 33 as described was never formally abandoned as a public road/street; and**

**WHEREAS, by annexation order(s) dated January 1, 1962 and January 1, 1983, the City of Harrisonburg annexed the area of Rockingham County where said section of old Route 33 is located, and the public way rights of said old section of Route 33 were incorporated as a part of the City's Street System as a paper street .**

**NOW, THEREFORE, BE IT RESOLVED that the said old section of Route 33 is hereby abandoned as a public road/street and the City Manager is authorized to execute and all documents needed to comply with this action.**

**Adopted** \_\_\_\_\_

\_\_\_\_\_

**City Manager**

**Attest:**

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**City Clerk**

City Manager Baker explained that City Council had approved declaring certain right-of-ways abandoned at the July 24<sup>th</sup> meeting. However, the Virginia Department of Transportation did not want to use the terminology right-of-ways, but wanted to use roadways. Council Member Fitzgerald offered a motion to approve this resolution. The motion was approved with a unanimous vote of Council.

School Superintendent Ford presented a proposed application resolution for Council's consideration. He explained that approval of the Application Resolution would maintain the City's eligibility to participate in the 2001 Fall bond VPSA sale. The School Board is requesting approximately \$41.5 million for a high school project. However, approval of the enclosed Application Resolution would not constitute an approval of the issuance of bonds for the new high school. He also said that City Council had authorized proceeding with hiring an architect to design a new high school. An architect was hired and if City Council agrees to continue with the process of the VPSA funding, the School Board can continue with the architect services.

Council Member Rogers offered a motion to approve the application resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

No - Vice-Mayor Peterson

Mayor Frank

Absent - None

Council Member Fitzgerald offered a motion to commit to the architectural costs so the process will continue.  
The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

No - Vice-Mayor Peterson

Mayor Frank

Absent - None

**APPLICATION RESOLUTION;  
DECLARATION OF INTENT TO REIMBURSE**

**WHEREAS, the School Board of the City of Harrisonburg, Virginia (the School Board ) has determined that a vital need exists for the acquisition, construction, and equipping of new High School facilities in the City of Harrisonburg, Virginia (the City ) in order to meet the needs of present and future enrollments; and**

**WHEREAS, the Virginia Public School Authority (the VPSA ) has been authorized by the Virginia General Assembly to purchase local school bonds from time to time for capital projects for school purposes; and**

**WHEREAS, it is anticipated that the VPSA will approve the purchase of the City's local school bonds as part of the VPSA's Fall 2001 School Bond Sale in order to provide funds to pay the costs of the acquisition, construction, and equipping of such public school facilities in the City (all capital projects for school purposes within the City being designated collectively herein as the "Project"); and**

**WHEREAS, by Resolution, approved on August 7, 2001, the School Board has requested the City Council of the City (the City Council ) to (i) consent to and authorize an application to the VPSA to purchase such bonds and (ii) take such other actions as may be necessary to authorize the issuance of general obligation local school bonds of the City to be sold to the VPSA to provide funds to pay the costs of this essential Project; and**

**WHEREAS, the City also desires to make its declaration of intent to reimburse from the proceeds of one or more debt issuances in connection with the Project, all as required by federal tax laws in connection with the issuance of exempt bonds.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA, as follows:**

**A. VPSA Application Resolution:**

**1. The City Council hereby consents to and authorizes an application to the VPSA consistent with the intent herein, with respect to such general obligation school bonds of the City in an aggregate amount not to exceed \$41,500,000 (the Bonds ) for the purpose of providing funds to pay the costs for the Project.**

**2. The City Council hereby calls for a public hearing on this issue at such time as may be advised by the VPSA in accordance with the financing schedule for the VPSA s Fall 2001 School Bond Sale, and for such appropriate notices to be given and acts to be taken as may be required by law to consider the issuance of the Bonds.**

**B. Declaration of Intent to Reimburse:**

**3. The City or the School Board has paid/has caused to be paid, beginning no earlier than 60 days prior to adoption hereof and will pay/will cause to be paid, on and after the date hereof, certain expenditures (the "Expenditures"), in connection with the Project. Further, the City has determined that those moneys previously advanced no more than 60 days prior to the date hereof and to be advanced on and after the date hereof to pay the Project related Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of one or more issues of tax-exempt bonds, including the Bonds.**

**Accordingly, the City hereby declares its intent to reimburse the City with the proceeds of the Bonds for the Expenditures with respect to the Project made no earlier than 60 days prior to the adoption hereof. The City reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds. Each Expenditure was and will be either (a) of a type properly chargeable to capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the City so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the City.**

**The City or the School Board, as the case may be, will make a reimbursement allocation, which is a written allocation that evidences the use of proceeds thereof to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The City recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, and certain de minimis amounts.**

**This Application Resolution; Declaration of Intent to Reimburse shall take effect immediately upon its passage.**

**PASSED AND ADOPTED this 28<sup>th</sup> day of August, 2001.**

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**Mayor, City Council, City of Harrisonburg, Virginia**

**CERTIFICATE**

The undersigned Clerk of the City Council of the City of Harrisonburg, Virginia, hereby certifies that the foregoing constitutes a true and correct copy of a Resolution entitled, **APPLICATION RESOLUTION; DECLARATION OF INTENT TO REIMBURSE**, adopted by the City Council at a regular meeting duly held and called on August 28, 2001. A record of the roll-call vote by the City Council is as follows:

| NAME                         | AYE | NAY | ABSTAIN | ABSENT |
|------------------------------|-----|-----|---------|--------|
| Carolyn W. Frank, Mayor      |     | X   |         |        |
| Dorn W. Peterson, Vice Mayor |     | X   |         |        |
| Hugh J. Lantz                | X   |     |         |        |
| Larry M. Rogers              | X   |     |         |        |
| Joseph Gus Fitzgerald        | X   |     |         |        |

Date: August 28, 2001

[SEAL]

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Clerk, City Council, City of Harrisonburg,

Virginia

Carolyn Perry, attorney with the law firm of Wharton, Aldhizer and Weaver, explained that this request is an authorization to submit an application and does not authorize the bonds. The City would have to go through the full Virginia Finance Acts requirements with due public notice and holding a public hearing. The VPSA application deadline is September 4<sup>th</sup>.

Vice-Mayor Peterson explained that he had presented a preliminary draft of proposed charter amendment changes in detail at the last Council meeting. He also noted that the only change was in the wording of How vacancies are filled . The wording has been changed to if a vacancy occurs more than two years one hundred

an fifty days, or less, left in the term, then the person who is appointed has to run at the next Council election for a two year term. If it is less than two years one hundred fifty days remaining in the term, then whoever is appointed will serve through the end of the term.

Some discussion by Council Members relative to the proposed charter amendment changes included not making any changes until after an upcoming City-County Liaison Committee meeting, effects of future relations with Rockingham County, instability that may be created by these charter changes, whether changes will impact some agreements with Rockingham County, allowing the citizens of Harrisonburg to vote on these charter amendments changes, Rockingham County concerned about working with different bodies, citizens do not understand the ramifications, charter amendments being rushed through, and there still remains many steps to take before these amendments will be added to the charter. Following further discussion and comments, Vice-Mayor Peterson offered a motion to ask the Circuit Court of Rockingham County to add these charter amendments to the November ballot. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Peterson

Council Member Fitzgerald

Mayor Frank

No - Council Member Lantz

Council Member Rogers

Absent - None

City Manager Baker presented for Council's consideration amending Section 1-1-12 of the Harrisonburg City Code. He explained that because of the recent census it is necessary that the West Ward shall be divided into two (2) election districts or precincts and the East Ward shall be divided into three (3) election districts or precincts. Vice-Mayor Peterson offered a motion to amend Section 1-1-12 of the Harrisonburg City Code for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Peterson

Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Mayor Frank

Absent - None

Council Member Fitzgerald offered a motion to refer a request to purchase the Harrison Plaza to the Planning Commission for their recommendation. The motion was approved with a unanimous vote of Council.

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds would be used to pay for a School Resource Officer. Council Member Fitzgerald offered a motion to approve this request for a first reading, and that:

\$15,020.00 chge. to: 1000-32505 School Resource Officer

\$12,222.00 approp. to: 1000-310431-41010 Salaries/Wages Regular

777.00 approp. to: 1000-310431-42010 FICA

1,181.00 approp. to: 1000-310431-42020 Retirement

421.00 approp. to: 1000-310431-42050 Hospital

200.00 approp. to: 1000-310431-42060 Life Insurance

219.00 approp. to: 1000-310431-42110 Worker s Comp.

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Peterson

Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Mayor Frank

Absent - None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds from a Division of Motor Vehicles grant will be used for selective enforcement (overtime). Vice-Mayor Peterson offered a motion to approve this request for a first reading, and that:

\$8,999.28 chge. to: 1000-32520 DMV Grant

\$8,999.28 approp. to: 1000-310231-41010 Salaries & Wages Overtime

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Peterson

Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Mayor Frank

Absent - None

City Attorney Miller presented for Council's consideration of a first reading an ordinance amending and re-enacting Section 13-1-3 of the Harrisonburg City Code. He explained that each year Council is asked to amend this ordinance to adopt the state motor vehicle laws. Vice-Mayor Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Peterson

Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Mayor Frank

Absent - None

George Rontopoulos said that he owns a business at 65 East Market Street. He said that the Parking Authority had decided to eliminate all the two hour parking spaces on the street. These parking spaces were eliminated due to traffic congestion at the intersection of East Market Street and Main Street. Mr. Rontopoulos said that the business owners should have been notified of this decision because it will greatly impact their businesses.

City Manager Baker said that the Parking Authority has reversed their decision and several parking spaces will be put back on the street.

Sam Knight said that everyone should be more concerned about the construction of a new school rather than charter amendments.

Terry Ward announced that a volunteer appreciation day will be held September 10<sup>th</sup> at 10:00 a.m., for the many volunteers helping with Valley Voice.

Bucky Berry said that an alley between Ashby Street and Monroe Street is very dark and suggested that something should be done to place lights in the alley.

Cheryl Talley said that she was in favor of the charter amendments. She said what has made the American system of democracy so unique and so long standing in the world is the checks and balances where one branch of the government oversees another. She also suggested that the School Board should have the same system in place.

Ellen Lucius said that she was concerned about the overcrowding in elementary schools. More information needed to be presented to the citizens. She also said she was opposed to a new high school being built on the back of nine and ten years old students.

Dale Metzler commented that he was glad City Council decided to put the charter amendments on the ballot.

David Ehrenpreis commented that Franklin Street had a successful block party.

At 11:15 p.m., Vice-Mayor Peterson offered a motion that Council enter a closed session for the purpose of discussing and considering prospective candidates for appointment to the Community Services (Chapter 10) Board and the Social Services Advisory Board. A closed session is permissible for this purpose pursuant to Section 2.1-344.A.1 of the Code of Virginia (1950), as amended (the Code). IN ADDITION, the purpose of the closed session is for the discussion of the possible acquisition of real property. A closed session is permissible for this purpose pursuant to Section 2.1-344.A.3 of the Code.

At 12:25 a.m., the closed session was declared closed and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of Council: I certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of Title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such matters as were identified in the motion by which the closed meeting were convened, were heard, discussed or considered in the closed session by the City Council.

Council Member Fitzgerald offered a motion that M. Jane Wenger Clemens, 1760 Shenstone Drive, be appointed to a first term on the Social Services Advisory Board to expire July 1, 2004. The motion was approved with a unanimous vote of Council.

At 12:36 a.m., there being no further business and on motion adopted the meeting was adjourned.

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CLERK

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MAYOR

