

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

REGULAR MEETING

FEBRUARY 12, 2002

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.

Vice-Mayor Peterson offered a motion to approve the minutes on the consent agenda and to dispense with the reading of the minutes from the previous meeting. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Council Member Fitzgerald

Mayor Frank

Absent None

Vice-Mayor Peterson requested the unanimous consent of Council to change the agenda by adding a report by Jo Ann Anderson concerning the Weed and Seed Program.

City Manager Baker presented a request for a supplemental appropriation to purchase the Harrison Plaza. He explained that City Council had authorized the transfer of \$3,760,000 from the General Fund unappropriated balance to the General Capital Fund (public safety building). This money will be used to

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

purchase the Harrison Plaza. The General Fund will be reimbursed later this spring when a bond issue is done to fund this project.

At 7:36 p.m., Mayor Frank closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on Wednesday, February 6, 2002.

NOTICE OF PUBLIC HEARING

**The Harrisonburg City Council will hold public hearings on Tuesday, February 12, 2002 at 7:30 p.m., in the City Council Chambers, 345 South Main Street.**

**It is the intent of the City Council to amend the fiscal year 2001-2002 budget by an amount of \$3,786,521.00 in order to appropriate funds for the following:**

**General Fund:**

<b>Parks and Recreation-Maintenance, repairs, &amp; supplies</b>	<b>\$</b>
<b>11,771.00</b>	

**General Capital Projects Fund:**

<b>Harrison Plaza</b>	<b>3,760,000.00</b>
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**Parking Authority Fund:**

<b>Motor vehicle &amp; equipment</b>	<b><u>14,750.00</u></b>
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<b>Total</b>	<b><u>\$3,786,521.00</u></b>
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**Any person requiring auxiliary aids, including signers, in connection with the Public Hearings shall notify the City Manager at least five (5) days prior to the time of the meeting.**

**CITY OF HARRISONBURG**

**Roger D. Baker**

**City Manager**

Mayor Frank called on anyone desiring to speak for or against this supplemental appropriation. There being no one desiring to be heard, the public hearing was declared closed at 7:37 p.m., and the regular session reconvened. Council Member Fitzgerald offered a motion that the Council resolve that this supplemental appropriation to purchase Harrison Plaza be approved for a first reading, and that:

\$3,760,000 chge. to: 1000-31010 Amount from fund balance

\$3,760,000 approp. to: 1000-990111-49216 Transfer to Capital Projects

\$3,760,000 chge. to: 1310-34210 Transfer from General Fund

\$3,760,000 approp. to: 1310-910141-486016 Public Safety Building

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Council Member Fitzgerald

Mayor Frank

Absent None

City Manager Baker presented a request for a supplemental appropriation for the Parks and Recreation Department. He explained that a portion of the funds received from VML insurance will be used to repair

Parks and Recreation-Maintenance, repairs, & supplies                   \$   11,771.00                   3

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

playground equipment at Ralph Sampson Park. The remainder of the funds will be used for repairs at the soccer fields.

At 7:39 p.m., Mayor Frank closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record on Wednesday, February 6, 2002.

NOTICE OF PUBLIC HEARING

**The Harrisonburg City Council will hold public hearings on Tuesday, February 12, 2002 at 7:30 p.m., in the City Council Chambers, 345 South Main Street.**

**It is the intent of the City Council to amend the fiscal year 2001-2002 budget by an amount of \$3,786,521.00 in order to appropriate funds for the following:**

**General Fund:**

<b>Parks and Recreation-Maintenance, repairs, &amp; supplies</b>	<b>\$</b>
<b>11,771.00</b>	

**General Capital Projects Fund:**

<b>Harrison Plaza</b>	<b>3,760,000.00</b>
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**Parking Authority Fund:**

<b>Motor vehicle &amp; equipment</b>	<b><u>14,750.00</u></b>
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<b>Total</b>	<b><u>\$3,786,521.00</u></b>
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Parks and Recreation-Maintenance, repairs, & supplies	\$	11,771.00
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**CITY OF HARRISONBURG**

**Roger D. Baker**

**City Manager**

Mayor Frank called on anyone desiring to speak for or against this supplemental appropriation.

There being no one desiring to be heard, the public hearing was declared closed at 7:40 p.m., and the regular session reconvened. Vice-Mayor Peterson offered a motion that the Council resolve that this supplemental appropriation be approved for the Parks and Recreation Department for a first reading, and that:

\$10,551.00 chge. to: 1000-34011 Insurance Recovery

1,220.00 chge. to: 1000-31901 Recoveries & Rebates

\$10,551.00 approp. to: 1000-710171-43360 Maintenance & Repairs

Building & Grounds

1,220.00 approp. to: 1000-710171-46132 Ed/Rec. Supplies-Athletics

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Council Member Fitzgerald

Mayor Frank

Absent - None

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

City Manager Baker presented a request for a supplemental appropriation for the Parking Authority. He explained that the Parking Authority has requested a transfer of these funds to purchase a car for the Meter Maid who writes parking tickets.

At 7:41 p.m., Mayor Frank closed the regular session temporarily and called the evening's third public hearing to order. The following notice appeared in the Daily News-Record on Wednesday, February 6, 2002.

NOTICE OF PUBLIC HEARING

**The Harrisonburg City Council will hold public hearings on Tuesday, February 12, 2002 at 7:30 p.m., in the City Council Chambers, 345 South Main Street.**

**It is the intent of the City Council to amend the fiscal year 2001-2002 budget by an amount of \$3,786,521.00 in order to appropriate funds for the following:**

**General Fund:**

<b>Parks and Recreation-Maintenance, repairs, &amp; supplies</b>	<b>\$</b>
<b>11,771.00</b>	

**General Capital Projects Fund:**

<b>Harrison Plaza</b>	<b>3,760,000.00</b>
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**Parking Authority Fund:**

<b>Motor vehicle &amp; equipment</b>	<b><u>14,750.00</u></b>
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<b>Total</b>	<b><u>\$3,786,521.00</u></b>
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**Any person requiring auxiliary aids, including signers, in connection with the Public Hearings shall notify the City Manager at least five (5) days prior to the time of the meeting.**

**CITY OF HARRISONBURG**

**Roger D. Baker**

**City Manager**

Mayor Frank called on anyone desiring to speak for or against this supplemental appropriation.

There being no one desiring to be heard, the public hearing was declared closed at 7:42 p.m., and the regular session reconvened. Vice-Mayor Peterson offered a motion that the Council resolve that this supplemental appropriation be approved for the Parking Authority for a first reading, and that:

\$14,750.00 chge. to: 2015-31010 Amount from fund balance

\$14,750.00 approp. to: 2015-410641-48151 Motor Vehicles and Equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Council Member Fitzgerald

Mayor Frank

Absent - None

Planning and Community Development Director Turner introduced a request by G.C. LLC, for a special use permit to allow an education/institutional use, which does not provide housing facilities (per Section 10-3-97 (9) within the M-1, General Industrial District. She said that the property is located at 110 Grace Street. The Whitesel Seed Building on Grace Street has sat vacant for several years with no use other than possibly being used for storage. Commercial activity in this area has increased over a more intense industrial use. Mrs. Turner reviewed the surrounding uses in the area. A letter submitted by the owner's representative, states that the Art Department of James Madison University (JMU) intends to lease the

## MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

building for their art classes. The building is to be divided into eight JMU Art Department lab classrooms, with 2,400 square feet on the northern end of the building being used for storage space R.S. Monger & Sons. The building, parking lot, and surrounding parcels are within the special flood hazard areas. The property owner has included a site plan showing that the site will have 46 regular parking spaces and 10 compact car parking spaces for a total of 56 spaces. This exceeds the parking requirements for the uses. In addition, the owner will be required to clearly mark the compact car spaces, using vertical signage, with the wording

Compact Cars Only. She said that Staff does recommend approval of the special use permit to allow an educational institutional use, which does not provide housing with the following conditions: 1) The property owner place signs at the parking lot entrances stating that the parking lot and building are within the floodplain. 2) The property owner place adequate lighting in the parking lot to accommodate the use. 3) The special use permit shall remain valid for only the period of time JMU occupies the site. If JMU leaves the site, the parcel will revert to the current zoning the area. 4) The compact parking spaces be marked as required in Article G. Off-Street Parking, Section 10-3-25 (1) of the Zoning Ordinance. She said that Planning Commission recommended approval.

At 7:45 p.m., Mayor Frank closed the regular session temporarily and called the evening s fourth public hearing to order. The following notice appeared in the Daily News-Record on Monday, January 28, and Monday, February 4, 2002.

### NOTICE OF PUBLIC HEARING

**The Harrisonburg City Council will hold public hearings on Tuesday, February 12, 2002, at 7:30 p.m. in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:**

#### **SPECIAL USE PERMIT**

**Consider a request, by G.C. LLC with owner s representative J.B. Rhodenizer, for a special use permit to allow for educational/institutional uses which do not provide housing facilities (per Section 10-3-97 (9) of the Zoning Ordinance) within the M-1, General Industrial District. The property is identified as tax map parcel 25-H-1B (1.184 acres) and is located at 110 Grace Street.**

**Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.**

**All persons interested will have an opportunity to express their views these public hearings**



MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

**Any individual requiring auxiliary aids, including signers, in connection with the public hearings shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG**

**Roger D. Baker**

**City Manager**

Mayor Frank called on anyone present desiring to speak for or against this special use permit.

There being no one desiring to be heard, the public hearing was closed at 7:46 p.m., and the regular session reconvened. Vice-Mayor Peterson offered a motion that Council resolve to approve this special use permit.

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

Abstained Council Member Fitzgerald

Absent - None

Planning and Community Development Director Turner introduced a request by Thomas and Sherry Emerson for a special use permit. She said that this was a request for a special use permit to occupancy of no more than four persons within the R-2, Residential District for a single dwelling unit. The property is located at 156 Maryland Avenue. This property is currently zoned R-2, which allows the property to be rented to only two persons. The Comprehensive Plan's Land Use Guide classifies this area as neighborhood residential. These are older neighborhoods that can be characterized by large housing units on small lots. The intent is to provide flexibility in the use of a dwelling while protecting the single-family character of the area, including special uses where appropriate. Mrs. Turner reviewed the surrounding use in the area. The Emersons have made improvements on the house to enhance both the interior and exterior of the structure. They also plan to

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

make additional improvements in the future including further landscaping of the property. The neighborhood is comprised mainly of single-family homes. There is an almost even mix of owner occupied and rental properties. She said that Staff does not recommend granting the special use permit. It is the opinion of the Planning Staff that high-density properties in this area are not in the best interest of the neighborhood. She said that if City Council decided to grant approval there are conditions attached to the special use permit including off-street parking spaces, inspecting the property on an annual bases, a provision that the Zoning Administrator should revoke the permit if this application does not take place every 12 months, staff would review complaints on an on-going basis and that the permit should automatically expire one year from the date of City Council approval. She said that Planning Commission recommended denying the special use request.

At 7:57 p.m., Mayor Frank closed the regular session temporarily and called the evening s fifth public hearing to order. The following notice appeared in the Daily News-Record on Monday, January 28, and Monday, February 4, 2002.

**NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold public hearings on Tuesday, February 12, 2002, at 7:30 p.m. in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:**

**SPECIAL USE PERMIT**

**Consider a request, by Thomas and Sherry Emerson, for a special use permit to allow occupancy of no more than four persons (per Section 10-3-40 (7) of the Zoning Ordinance) within the R-2, Residential District for a single dwelling unit. The property is identified as tax map parcel 24-0-10 (11,227 sq. ft.) and is located at 156 Maryland Avenue.**

**Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.**

**Any individual requiring auxiliary aids, including signers, in connection with the public hearings shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG**

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

**Roger D. Baker**

**City Manager**

Mayor Frank called on anyone present desiring to speak for or against this special use permit.

Sherry Emerson, owner of the property, but listing her permanent address as 130 Haulf Road, Weyers Cave, said that her property had been in her family for 40 years. Sherry and Thomas Emerson purchased the home from the estate of her great aunt this past summer. She said that she and her husband did care about the neighborhood and have attempted to address all of the issues that were brought up at the January 9<sup>th</sup> Planning Commission meeting. She has talked to many people in the neighborhood and has tried to provide a compromise to resolve concerns in a fair manner to everyone in the neighborhood. The issue of noise and parties is strictly addressed in the lease. She pointed out that the house has four off-street parking areas, as well as three adjoining on-street parking spaces. She had been interested in amending the permit to specifically prohibit students, but understands that such a clause would be discriminatory and would not be allowed. The annual review included in the permit would be a safety net protecting the neighborhood. Mrs. Emerson reviewed her lease as requested by City Attorney Miller. She also promised that the same problems would not happen at her property. She said, It s a one-year permit. It can be reviewed and revoked if we re not in compliance. We do care about the neighborhood.

Robert Bates a friend of the Emerson s as well as their bankers who helped to finance the property, questioned if her inheritance state didn t qualify the property to be grand fathered under the R-2 existing zoning ordinances.

Mary Neff, a resident living at 165 Maryland Avenue, read a statement, which was presented at the Planning Commission meeting. She said that several property owners in the neighborhood had petitioned the Harrisonburg Planning Commission not to consider the Special Use Permit for the property located at 156 Maryland Avenue, owned by Thomas and Sherry Everson, from two people to not more than four. She explained that the residents reasons included three houses on the block having four plus college students, parking problems, students parking in yards, parking on other people s property, parking on and over sidewalks, and it eliminates homeowners parking in front of their houses. She also noted that children walking to Keister School have to walk out in the street to get by the cars, as well as people walking in that area. Roosevelt Street is not wide enough to have parking on both sides of the street. Cars and emergency vehicles cannot get down the street with cars parked on both sides. Property owners cannot get into or park in front of their homes. Loud parties disturb the property owners until all hours of the night and early morning. She noted that this use to be a quiet neighborhood with retired people and young families with children. Since there is a problem now adding another property with multiple students could make it impossible for property owners to live a normal life. The neighborhood looks like a disaster area. Mrs. Neff stated that they have lived in their home for 47 years. She stated that the neighborhood use to be good for families, partly due to the proximity to Keister School; however, with the constant college student parties, parking becomes a problem, and the students linger in the street, causing a hazard.

Jack Neff, a resident living at 165 Maryland Avenue, said that he has lived in Harrisonburg for 47 years. Mr. Neff spoke fondly of raising three children in his neighborhood, but fears that the student rentals are negatively impacting the community. He said that when he had a complaint dealing with the students, he calls the landlord, not the police. He said that college students did not have any respect for homeowners living on Maryland Avenue and Roosevelt Street. He said that he had to purchase earplugs so he can go to sleep at night because sometimes there are as many as 150 students attending a party on the street. Mr. Neff believes people are moving out of Harrisonburg because they do not want to be surrounded by college students. He

## MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

expressed skepticism that if the special use permit was approved, that conditions at the property would be sufficiently monitored.

Randy Coffman, a resident living at 750 Roosevelt Street, pointed out that the Planning Commission voted unanimously to deny the request and he encouraged City Council also to deny the special use permit.

Tom Albrite, a resident living at 146 Maryland Avenue, said that he has lived at his residence for approximately 49 years. He said that his street has a lot of overflow parking because of the parties being held on Roosevelt Street. He mentioned a party in the neighborhood in the spring of 2001, where the marijuana odor was so strong that it was difficult to breathe in the area. He has collected assorted trash and beer cans from the parties. He notes that the lawn of his property has been used as a bathroom, and that he has stepped in human waste. Complaining to the police about loud parties and parking problems is of limited effectiveness.

Jo Ann Wingfield, said that she had lived in the neighborhood because of its closeness to Keister Elementary School and it had been a nice place to raise a family. She said that her family is grown now and her elderly Mother lives in the house. She said that since student rental property is so close to her property she has had to pick up beer cans, assorted trash, forced to listen to loud music and deal with parking problems. She asked City Council not to grant the special use permit.

Dennis Wingfield, said that he had all the empathy in the world for the Council Members. He said that he served on the Rappahannock School Board for four years and he thought some of the session would never end. He said, Your facial expressions are something to see and sometimes they are a dead give away. For every thing there is a time and a place and my backyard is not the place for beer cans.

Barry Suttles, a resident living at 149 Maryland Avenue, said that he has lived in the neighborhood for seven years and is trying to raise a family. There are too many beer cans in their front yards, loud parties, and children walking in the streets going to school. He said that he opposed the special use permit.

Fred Garst, a resident living at 157 Maryland, said that he has lived in the neighborhood for 16 years. He said up to five years ago, his family had enjoyed a peaceful life and he objected to granting the special use permit.

There being no others desiring to be heard, the public hearing was declared closed at 9:45 p.m., and the regular session reconvened.

Council Member Lantz commented that of the 14,000 plus JMU students, there will always be some problems tenants. The best of intentions will not change that. He also said that he admired Mrs. Emerson courage to appear before City Council facing the many residents of the neighborhood opposing the special use permit. He also said that he had not heard or seen anything that would tell him this was a special situation requiring a special use permit.

Following further comments and discussion, Council Member Rogers offered a motion that Council resolve to deny this request for a special use permit.

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Council Member Fitzgerald

Mayor Frank

Absent None

Jo Ann Anderson presented an overview of the Weed and Seed Program. She said that in October 2001, the Weed and Seed office moved into the Simms Police Substation. The Police Department is aggressively implementing the weed and seed strategy within the target area that lies within the City. The department has designated two Police Officers to work solely with weed and seed in addition to the regular patrol officers. The Police Officers have been doing outstanding work and their commitment to the community program is oblivious. Weekly meetings are held to discuss various issues regarding both enforcement and community policing issues. A personal achievement award is being developed to hand out to residents who have had major personal accomplishments in their lives. The commitment to the community has been overwhelming and many different agencies have come together to collaborate. Federal, state and local criminal justice agencies have come together to begin weeding the target area. There is no quick fix to the problem; however, it has been successful to date. She reviewed various grants, which have been received by the program. She noted that both local governments were involved in the Community Oriented Government Training. This training explores the unique role each agency has in the crime prevention and enforcement and how to best coordinate efforts in the area to provide residents with a safe environment. Between the grant funding, support of the local government, and commitment from many different agencies and residents the program is moving forward.

Ted Cole and David Rose with Davenport and Company, LLC. presented an overview of the City's financial position. Ted Cole reviewed the City's existing debt prior to the high school debt issuance. He said that the report included graphics reviewing general fund debt from 2002 through 2030, which included enterprise fund debt, and all debt associated with the school fund. The major projects include rebuilding the trash-burning steam plant (200 ton), purchasing and renovating Harrison Plaza, upgrading the City's water plant, and building a pipeline to bring water from the Shenandoah River's South Fork into the City's water supply for a combined \$51,650,000. The overall goals and objectives include minimize or avoiding any potential real estate tax increases resulting from capital funding, maintain maximum future flexibility, restructuring new debt, future new projects, and minimize strain on General Fund and maintaining credit standing of the City. He said his company tried to identify various streams of revenue to offset the debt and to layer in the new debt for the new projects to minimize any impact on a cash flow basis. He reviewed the steam plant project a \$23,000,000 project with construction to begin in the summer of 2002 with completion

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

in the summer of 2004. He mentioned that the agreement with James Madison University guarantees Harrisonburg that the university will purchase 336,000,000 pounds of steam at \$5.23 per pound or (approximately \$1.7 million). It is a conservative minimum because the historical usage has been above this figure. The Harrison Plaza is a \$5,650,000 project with renovation to begin in March 2002 and completed in March 2003. The funding includes building acquisition and renovations. The approach used for the Harrison Plaza project includes provide the City general obligation to minimize the cost of 15 year borrowing, capitalize 12 months of interest during renovation period, use \$900,000 of available funds to reduce borrowing, create a dedicated capital reserve fund with balance of available funds, use capital reserve to strategically reduce annual debt service in fiscal years 2003-2008, and utilize City funds to purchase property and reimburse the City in full with bond proceeds. The water system project goals and objectives includes providing funding as needed based on estimated construction cash flow, if possible, avoid any water rate increases, enhance the financial integrity of the water enterprise fund, target a fund balance at approximately 100% of annual revenues, maintain a minimum debt service coverage, and establish a policy of debt service coverage which recognizes available fund balances. Mr. Cole and Mr. Rose suggested that after looking at all of the general tax supported projects it needs the equivalent of a three-cent real estate increase to pay for these projects. However, they pointed out that the City must choose the method of raising the needed money. Mr. Rose reviewed the financing timetable.

Council Member Rogers commented that the City has options available apart from increasing its real estate tax, such as increasing the meals tax.

Council Member Lantz commented that the City must first look at new revenue already coming into its coffers from economic development. He said, "We don't know what the economy and what the revenue sources hold for the City. Once we see that and we're coming up short, then we may have no choice but an increase in the real estate tax, or the meals tax, or some other revenue source."

Council Members agreed to authorize the City Manager to proceed with the recommendations by the financial advisors as presented.

Planning and Community Development Director Turner presented for Council's consideration amending the sign ordinance. She explained that amendments to the sign ordinance would allow freestanding pylon signs for all uses within a shopping center that contains multiple parcels. Current regulations pose a problem for shopping centers with multiple parcels as advertising is only permitted for the use upon which the sign is located. Vice-Mayor Peterson offered a motion that Council resolve to approve amending the sign ordinance for a first reading:

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Parks and Recreation-Maintenance, repairs, & supplies \$ 11,771.00

14

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

Council Member Rogers

Vice-Mayor Peterson

Council Member Fitzgerald

Mayor Frank

Absent None

City Manager Baker explained that City Council had adopted a resolution for the Shenandoah Valley Partnership on September 25, 2001. However, that resolution referred to an incorrect state code. This resolution would correct that mistake.

**RESOLUTION**

**TO DESIGNATE THE SHENANDOAH VALLEY PARTNERSHIP AS THE REGION S PARTNERSHIP UNDER THE VIRGINIA REGIONAL COMPETITIVENESS ACT AND TO DISTRIBUTE REGIONAL COMPETITIVENESS PROGRAM INVESTMENTS**

**WHEREAS, Section 15.2-1306 through Section 15.2-1310, Code of Virginia, as amended, permits counties, cities, and towns within the Central Shenandoah Planning District to establish a regional partnership for the purpose of encouraging local governments to exercise the options provided by law to work together for their mutual benefit and the benefit of the Commonwealth (known as the Regional Competitiveness Act); and**

WHEREAS, the Central Shenandoah Planning District Commission coordinated with the Shenandoah Valley Partnership and local governments of the Central Shenandoah Valley Region in FY1997 to designate the Shenandoah Valley Partnership as the region s partnership under the Regional Competitiveness Act; and

**WHEREAS, the Shenandoah Valley Partnership was selected as one of the original seven partnerships to qualify for the Regional Competitiveness Program, resulting in approximately \$1,800,000 in investments from the Commonwealth from October 1997 to October 2001, and**

**WHEREAS, the Shenandoah Valley Partnership created the Strategic Planning and Research Committee to provide review and recommendations to the Executive Committee and Board of Directors to ensure implementation of the Regional Competitiveness Program consistent with the**

Parks and Recreation-Maintenance, repairs, & supplies \$ 11,771.00

15

**Regional Competitiveness Act guidelines; and**

**WHEREAS, the Central Shenandoah Planning District Commission coordinated with the Shenandoah Valley Partnership to facilitate a strategic planning process in accordance with provisions of the Regional Competitiveness Act in 1997 and again in 2000; and**

**WHEREAS, the resulting Regional Strategic Initiatives have been endorsed by 62 organizations, including all ten local governing bodies that make up the Central Shenandoah Valley Region; and**

**WHEREAS, the Shenandoah Valley Partnership unanimously adopted the Central Shenandoah Valley Region's Strategic Plan for Economic Competitiveness, as amended, on October 26, 2001; and**

**WHEREAS, the guidelines for re-qualification and continued participation in Virginia's Regional Competitiveness Program require that participating local governments within the region adopt a resolution of participation and approve distribution of funds received;**

**NOW, THEREFORE, BE IT RESOLVED THAT the City of Harrisonburg again agrees to designate the Shenandoah Valley Partnership as the regional competitiveness partnership under the provisions of the 1996 Regional Competitiveness Act, in conjunction with the other participating member governments in the Central Shenandoah Planning District; and**

**BE IT FURTHER RESOLVED THAT the City of Harrisonburg directs its portion of Regional Competitiveness Act funds to the Shenandoah Valley Partnership, Inc., JMU-MSC 4003, Suite 110, 891 Modular Hill Lane, Harrisonburg, VA 22807.**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_



**Clerk of the City Council**

Vice-Mayor Peterson offered a motion that the Council resolve to adopt the corrected resolution. The motion to resolve was approved with a unanimous vote of Council.

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

Form of Ordinance

**Approving Joint Powers Association Agreement**

WHEREAS, the VML/VACo Virginia Power Steering Committee (the Committee), composed of representatives of the City of Harrisonburg and other local governments and political subdivisions of the Commonwealth, has for over several decades negotiated on behalf of such governmental units a standard form contract for their purchase of electricity supply and delivery service from Virginia Electric and Power Company ( Virginia Power ) as a sole source provider; and

**WHEREAS, political subdivisions of the Commonwealth of Virginia are authorized under Virginia law to exercise jointly powers that they otherwise are authorized to exercise independently, and the terms and conditions of such authorization are currently set forth in Section 15.2-1300, et seq. of the Virginia Code (the Joint Powers Act ); and**

**WHEREAS, the Virginia Electric Utility Restructuring Act (the Restructuring Act ) further authorizes municipalities and other political subdivisions in the Commonwealth to aggregate their electricity supply requirements for the purpose of their joint purchase of such requirements from licensed suppliers, and the Restructuring Act provides that such aggregation shall not require licensure; and**

**WHEREAS, the Virginia Public Procurement Act (the Procurement Act ) exempts from its competitive sealed bidding and competitive negotiation requirements (the Requirements ) the joint procurement by public bodies, utilizing competitive principles, of electric utility services purchased through member associations under the conditions set forth in the Procurement Act; and**

**WHEREAS, the Committee recommends that the aggregation and procurement of electric supply, electric delivery, and other energy-related services ( Energy Services ) be effectuated as provided in the Joint Powers Association Agreement, a copy of which is attached to and made part of this Ordinance (the Joint Powers Agreement ), in accordance with applicable provisions of the**

**Procurement Act, such as the utilization of competitive principles pursuant to an exemption from the Requirements; and**

WHEREAS, the Committee also recommends that the other services provided by the Committee to its members be effectuated as provided in the Joint Powers Agreement, with such services consisting of (i) assistance in implementing standard form contracts for the purchase of services from incumbent electricity utilities, (ii) education of members regarding electricity procurement issues, (iii) monitoring of legal and regulatory developments affecting the provision of electricity service to local governments, and (iv) hiring of consultants and legal counsel to assist in its provisions of the foregoing services ( Steering Committee Services ).

WHEREAS, it appearing to the City Council of the City of Harrisonburg that the joint procurement of the Energy Services pursuant to the Joint Powers Agreement and the provision of Steering Committee Services pursuant to the Joint Powers Agreement is otherwise in the best interests of the City of Harrisonburg.

**NOW, THEREFORE, BE IT HEREBY ORDAINED that:**

- (1) Competitive sealed bidding and competitive negotiation for the procurement of Energy Services are not fiscally advantageous to the public because the procurement process for Energy Services must be flexible enough to respond to quickly changing market conditions in which energy prices can fluctuate considerably on a daily or even hourly basis.**
- (2) The aggregation and joint procurement of the Energy Services pursuant to the Joint Powers Agreement is hereby approved.**
- (3) The provision of Steering Committee Services pursuant to the Joint Powers Agreement is hereby approved.**
- (4) The Joint Powers Agreement and the performance of the terms and conditions thereof on behalf of the City of Harrisonburg are hereby authorized and approved.**
- (5) The City Manager is hereby authorized and directed to execute and deliver the Joint Powers Agreement on behalf of the City of Harrisonburg in substantially the form presented to this meeting.**
- (6) The payment obligations of the City of Harrisonburg pursuant to the provisions hereof and the Joint Powers Agreement shall be subject to annual appropriation of requisite funds therefor by the Harrisonburg City Council.**
- (7) This Ordinance shall take effect immediately upon its adoption or passage.**

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**Date**

**Mayor**

**Attest:**

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**Clerk of the City Council**

City Manager Baker explained that in the past, the Virginia Municipal League negotiated with VEPCO on behalf of its members, in an effort to get reduced rates. VML and VACO are forming a new association to take over those functions historically provided by VML/VACO Virginia Power Steering Committee. This action will not affect the electric rates in the City of Harrisonburg, which are negotiated by Harrisonburg Electric Commission. Council Member Lantz offered a motion that the Council resolve to adopt the ordinance.

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz  
Council Member Rogers  
Vice-Mayor Peterson  
Council Member Fitzgerald  
Mayor Frank

Absent None

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA,  
APPROVING THE REISSUANCE AND REFUNDING OF AN INDUSTRIAL DEVELOPMENT**

Clerk of the City Council

**AUTHORITY REVENUE BOND BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF HARRISONBURG, VIRGINIA, FOR THE BENEFIT OF REAL ESTATE, L.C.**

WHEREAS, the Industrial Development Authority of the City of Harrisonburg, Virginia (the "Authority"), has considered the request of Real Estate, L.C. and Shenandoah Manufacturing Company, Inc., as lessee (the "Company") for the reissuance and refunding of the outstanding balance of the Industrial Development Authority of the City of Harrisonburg, Virginia, Industrial Revenue Bond (Real Estate, L.C. Project), Series 1995, issued previously on July 24, 1995, in the original principal amount of \$1,800,000 (the 1995 Bond );

WHEREAS, the Authority issues its bonds on behalf of the City of Harrisonburg, Virginia (the "City");

WHEREAS, the City Council of the City (the "Council") constitutes the highest elected governmental unit of the City;

WHEREAS, a copy of the Fiscal Impact Statement and the Authority's authorizing resolution approved on February 5, 2002 (the "Authorizing Resolution"), all undertaken in connection with the substantial modifications to the collateral and security for the 1995 Bond which have necessitated the reissuance and refunding thereof, have been filed with the City Council.

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

1. To the extent required by law, if any, the City Council hereby concurs with the Authorizing Resolution presented by the Authority, and approves the reissuance and refunding of the 1995 Bond by the Authority for the benefit of the Company, as such plan of reissuance and refunding is further described in the Authorizing Resolution.

2. It is to be understood that this approval by the City Council shall not constitute an endorsement to any prospective purchaser thereof, or the creditworthiness of the Company, or any other matter in connection with the 1995 Bond.

3. Further, it is to be understood that the 1995 Bond specifically provides that it shall not be deemed to constitute a debt or pledge of the faith and credit or taxing power of the Commonwealth of

Virginia, or any political subdivision thereof, including the Authority and the City, and neither the Authority nor any other political subdivision is obligated to pay the principal of, premium, if any, or interest on the 1995 Bond or other costs incident thereto, except from the revenues and monies pledged therefor, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, or any political subdivision thereof, including the Authority and the City, is pledged for the payment of principal or premium, if any, or interest on the 1995 Bond or other costs incident thereto.

This Resolution will take effect immediately upon its adoption.

Adopted: February 12, 2002

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Mayor, City of Harrisonburg, Virginia

**CERTIFICATE**

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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, "Resolution Of The City Council Of The City of Harrisonburg, Virginia, Approving The Reissuance And Refunding Of An Industrial Development Authority Revenue Bond By The Industrial Development Authority Of The City of Harrisonburg, Virginia, For the Benefit of Real Estate, L.C." adopted by the City Council at a regular meeting duly held and called on February 12, 2002. A record of the roll call vote by the 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			

**February 12, 2002**

**Date**

[SEAL]

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**Clerk, City Council of City of**

**Harrisonburg, Virginia**

Carolyn Perry, attorney with the law firm of Wharton, Aldhizer & Weaver, and the representing the Harrisonburg Industrial Development Authority, explained that the Industrial Development Authority approved the reissuance and refunding of a 1995 bond for the benefit of real estate including Shenandoah Manufacturing Company, Inc., as lessee. The Harrisonburg Industrial Development Authority has conducted a public hearing on the proposed plan of financing the project. Approval of this resolution does not obligate the City in anyway nor does it count against the City's bond capacity. Council Member Lantz offered a motion that the Council resolve to approve reissuing this bond. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Council Member Fitzgerald

Mayor Frank

Absent None

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

Council Member Fitzgerald requested that the agenda item regarding the formation of a charter committee be tabled until the next meeting.

# PROJECT PROGRAMMING RESOLUTION

## RAIL/HIGHWAY GRADE CROSSING PROJECTS

WHEREAS, in accordance with Virginia Department of Transportation construction allocation procedures, it is necessary that a request by Council resolution be made in order that the Department program an urban highway project in the City of Harrisonburg; now

**THEREFORE BE IT RESOLVED, that the City of Harrisonburg, Virginia requests the Virginia Department of Transportation to establish projects for the improvement of grade crossing safety in the City of Harrisonburg at South Avenue (DOT 84224IN) flashing lights, gates and interconnect; Liberty Street (DOT 714603W) flashing lights, gates and rubber surface.**

**BE IT FURTHER RESOLVED, that the City of Harrisonburg hereby agrees to pay its share, 10.0%, of the total costs for preliminary engineering, right-of-way and construction of this project, and that if the City of Harrisonburg subsequently elects to cancel this project, the City of Harrisonburg hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.**

**Adopted this 12<sup>th</sup> day of February 2002.**

**City of Harrisonburg, Virginia**

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**MAYOR**

**Attest:**

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**CLERK OF COUNCIL**

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 12, 2002

Bucky Berry, a resident of 877 North Main Street, complained about the Police Department not having enough funding for additional police officers.

At 10:10 p.m., Vice-Mayor Peterson offered a motion that the Council resolve to enter a closed session for the discussion of matters related to the acquisition real property. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.3 of the Code of Virginia (1950), as amended (the Code).

At 10:50 p.m., there being no further business and on motion adopted the meeting was adjourned.

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CITY CLERK

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MAYOR