

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

REGULAR MEETING

MARCH 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 Police Captain Malcolm Wilfong. Absent: Chief of Police Donald Harper.

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

Vice-Mayor Peterson offered a motion that Council resolve to approve the consent agenda, including approval of the minutes and the second reading of supplemental appropriations for the recycling center and the Harrisonburg/Rockingham Sewer Authority. 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

Leonard VanWyk, a resident of 1065 South Dogwood Drive, thanked City Council for holding a special meeting to consider and discuss the Willow Lane Partners proposal or land-swap deal. He said that his comments would pertain to the proposed land swap deal, which could involve 26 of the 48 acres known as the Bridgewater property near Hillandale Park for 16 or 18 acres adjacent to the Heritage Oaks Golf Course. He presented a petition containing 67 signatures of adjoining property owners near Hillandale Park and pointed out that he was not acting alone. He said there is a real consensus in the neighborhood that the property was bought for passive recreational use. He said 85%-90% of the residents didn't even know about this proposal

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until an article appeared in the newspaper. He reviewed excerpts from City Council minutes which included the meetings of May 23, 2000, July 27, 2000, August 8, 2000, September 26, 2000 and December 12, 2000 regarding the purchase of the 48 acres tract of land bordering Hillandale Park. Mr. VanWyk said, You (City Council) just dropped this information in our lap at the last minute and I think things could have been handled a little bit differently. He questioned what is the future of these 48 acres? He again reiterated that the initial motion made at the May 23, 2000 meeting in an open public hearing regarding purchasing the land was that it should be designated as recreational passive use land. City Council agreed to buy the land for future parkland and when it went to the Planning Commission it was agreed that it would be bought with the stipulation that the land be an addition to Hillandale Park. City Manager Stewart clarified that this particular land was for passive use only such as walking trails and picnic areas. In the actual motion in the September 26th meeting, the motion included that the land would be designated for passive in use only. All of the language from five Council meetings was very clear about the designation for the 48 acres and it was never broken down into a lower 22 or an upper 26. The designation is for passive use recreational parkland. He said, I would like to see someone on Council entertain a motion that reinstates the fact that you are going to use these 48 acres for passive recreational use as it was intended from the beginning through the public hearing from the year 2000.

Some discussion by Council Members relative to the subject included it is a written rule that no Council cannot obligate another Council, nor can a future Council overturn the current Council's decisions, spending \$800,000 for the additional land, and as the City grows and different programs develop there might be a further need to expand some of the programs.

Planning and Community Development Director Turner introduced a request by Jerry Gentry to close an undeveloped section of Collicello Street. She said that this was a request to close and vacate a portion of an undeveloped section of Collicello Street from 6th Street to the intersection with Edom Road. This property is currently occupied by a small structure that is owned by Mr. Gentry and is utilized as part of his auto sales business. This structure appears on aerial photographs from 1938 and 1951 and existed before the City annexed the land in 1962. The structure existed before plans were drafted creating the paper Collicello Street, otherwise it could not have been constructed where it currently stands. She reviewed the surrounding uses in the area. According to the City's Major Street Plan there are no plans for the City to extend Collicello Street to Edom Road. It is not used for any type of service deliveries and with the vacation of Collicello Street, the structure that currently exists will be located too close to an adjoining property line. Plans are currently underway to bring the structure into conformance with the ten-foot setback requirement from the M-1, General Industrial Zoning District. She said that it has been understood that a minor subdivision filed and approved will bring the existing building within setback regulations. Planning Commission recommended approval of the request provided that the subdivision was also carried out to make this building a conforming structure.

At 7:55 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 Monday, February 25, and March 4, 2002.

NOTICE OF INTENTION TO VACATE

A STRIP OF COLLICELLO STREET

IN THE CITY OF HARRISONBURG

City Council Chambers

Tuesday, March 12, 2002

7:30 p.m.

The Harrisonburg City Council will hold a public hearing on Tuesday, March 12, 2002 at 7:30 p.m., in the City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia, to consider the application of Jerry Gentry to vacate a strip of Collicello Street from its intersection with 6th Street (which is also a paper street) until its intersection with Edom Road in the City of Harrisonburg.

A copy of the recommendation of the City Planning Commission along with a copy of a plat showing the portion of the strip to be vacated and closed are available at 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 at this public hearing.

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

CITY OF HARRISONBURG

Roger Baker

City Manager

Mark Callahan, attorney with the law firm of Clark and Bradshaw, and representing the applicant explained that his client would like to close an undeveloped section of Collicello Street from 6th Street to the intersection with Edom Road. Currently there is a structure being used by automobile dealership located in the Collicello Street right-of-way. The structure appears on aerial photographs from 1938 and 1951 and existed before the City annexed the land in 1962. He said the structure was not in place before the road was platted and the

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aerial photographs indicate there never has been a road in this area, nor has an alley been developed, nor has 6th Street been developed. Mr. Gentry has agreed to the minor subdivision plan and would like to sell his property and this paper street obviously presents a cloud on the title.

Alicia Shoemaker, owner of property located at 1010 Virginia Avenue, said that because she was not an adjoining owner to Collicello Street, she was not notified about the request when it was presented at the Planning Commission. She commented that Mr. Callahan had stated that Mr. Gentry would like to sell his property and this paper street presents a cloud on the title. She suggested that Mr. Gentry should also request closing 6th Street and get all the clouds cleared up at one time to eliminate the maize of paper streets. She also said that she was willing to help in the expense of closing 6th Street. Ms. Shoemaker insisted that Mr. Gentry was using some of his property and City property as a junkyard. She encouraged City Council to send this request back to the Planning Commission and not approve it.

Some discussion by Council Members relative to Mr. Gentry's request included that Ms. Shoemaker should follow the City's proper procedure to close a street and present an application to close 6th Street at a future date because there was no reason to delay this application.

There being no others desiring to be heard, the public hearing was declared closed at 8:15 p.m., and the regular session reconvened. Vice-Mayor Peterson offered a motion that the Council resolve to approve this request. 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

Planning and Community Development Director Turner introduced a request by Blackrock Contracting to rezone 9.761 acres from R-1, Single Family Residential District to M-1C, General Industrial District Conditional. She explained that the property is located along the Chesapeake Western Railway between Country Club Road and Smithland Road. The parcel in question is roughly 43 acres in total; the rezoning request affects only the Southwestern portion of the property. Blackrock Contracting is seeking to rebuild its asphalt plant and in doing so would like to utilize a portion of this property which is currently

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zoned M-1. The Comprehensive Plan's Land Use Guide shows the property as General Industrial. The General Industrial designation consists of land and structures used for light and general manufacturing, wholesaling, warehousing, high technology, research and development and related activities. According to the Comprehensive Plan, the purpose of the General Industrial designation is to encourage a variety of industrial businesses to locate within the City, to locate less industrial uses near residential neighborhoods, to locate industrial uses near major arterial to avoid traffic through nearby residential neighborhoods, to locate industrial uses adjacent to businesses or other industrial area, to permit the most intense industrial uses by special use permit as opposed to by right, and to seek firms which are compatible with the environmental, transportation, and economic factors of the City. She reviewed the surrounding uses in the area. The rezoning for Blackrock Contracting would adjust the zoning for approximately 10 acres of land in the Northeastern corner of the City to facilitate the construction of a new asphalt plant behind the current facility along Country Club Road. Although the property owner has not proffered to limit the use of the property, the asphalt plant is an allowed use in the M-1, General Industrial District. The property owner has proffered to plant a row of buffer trees along the proposed rezoning line. Mrs. Turner said that this proposal will allow the applicant to build a new facility closer into the existing industrial zoning classification while still protecting the residential nature of the homes near the Smithland Road area. She said that Planning Commission recommended approval with proffer as submitted by a vote of 6-1.

At 8:20 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 Monday, February 25, and March 4, 2002.

NOTICE OF PUBLIC HEARING

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

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Rezoning

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Consider a request by Blackrock Contracting, with representative Valley Engineering, to rezone 21.937 acres of land from R-1, Single Family Residential District to M-1C, General Industrial District (conditional). The site is represented by tax map 72-A-16 and is located along the southeast side of the Chesapeake Western Railway between Country Club Road and Smithland Road.

The Comprehensive Plan designates this area as General Industrial. This designation states that these areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development, and related activities.

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The Zoning Ordinance states that the R-1, Single-Family Residential District is intended for low-density, relatively spacious single-family residential development. The residential density ranges for the R-1 district is 10,000 sq. ft minimum. The M-1, General Industrial District is intended primarily for manufacturing, processing, storage, and distribution activities, which are not properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the M-1, General Industrial District.

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 at these public hearings.

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 desiring to speak for or against this rezoning request.

Ray Nicely said that Blackrock Inc. has been presenting a valuable service to the City and has been an important member of the business community for 22 years. He said Blackrock wants to upgrade its operation and is requesting that 9.761 acres of adjacent land be rezoned to the existing site for the location of a new plant. This rezoning is not creating a piece of land that protrudes into another zoning classification, but rather this rezoning is straightening up a line. The new plant would be on a lower elevation and would not be as visible as the existing plant. Mr. Nicely stated that he felt that this was an appropriate request for this parcel of land.

Floyd Wall, a resident living at 1341 Smithland Road, said his family was excited that Mr. Bunch had purchased the land because he immediately cleaned up the property.

Jim Bunch, president of Blackrock Contracting, said Blackrock has operated the existing facility since for 22 years and employs 60+ employees, all of which live locally. All of the plant's work is done in the Harrisonburg area including milling, maintaining and re-surfing City streets. The existing facility meets all Environmental Protection Agency and Department of Environmental Quality requirements. The proposed new plant far exceeds future proposed regulations.

Betty Heavner, a resident living at 1270 Smithland Road, said that Blackrock will be a good neighbor and she was thankful for his concerns regarding the environment.

Bib Fraizer introduced himself as representing Interstate Properties, the major parcel of land across the railroad tracks from this proposed rezoning site. Mr. Frazier said that he was very happy with the proposed plan. He encouraged Council to approve the request.

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There being no others desiring to be heard, the public hearing was declared closed at 8:32 p.m., and the regular session reconvened.

Council Member Fitzgerald offered a motion that Council resolve to approve this rezoning request. 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

Planning and Community Development Director Turner presented for Council's consideration amending Article P.B-1, Central Business District, Section 10-3-84 of the Zoning Ordinance. She explained that Section 10-3-84 of the Zoning Ordinance is the central business district uses permitted by right. The text pertaining to the B-1 district does not adequately address the use of dwelling units. Currently, the Zoning Ordinance only addresses dwelling units in plurality without allowing for the creation of just one unit. After further consideration, staff reviewed the text and agrees that the Zoning Ordinance language needs to be amended to clarify, and more appropriately address the intent of the B-1, Central Business District. The proposed language in number three would read hotels, motels and buildings used for dwelling unit(s), CBD, as defined under article F. Dwelling units(s), CBD, may be occupied by a family or not more than four (4) persons, except that such occupancy may be superseded by building regulations. The problem presented itself when a property owner wanted to construct a single residential unit in the downtown, but the code did not allow for the construction of just one unit. She said that Planning Commission recommended approval.

At 8:35 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 Monday, February 25, and March 4, 2002.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, March 12, 2002, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

ORDINANCE AMENDMENT

Public hearing to consider an amendment to Article P.B-1, Central Business District, Section 10-3-84. Uses permitted by right as follows:

- 3. Hotel, motels and buildings used for dwelling units(s), CBS, may be occupied by a family or not more than four (4) person, except that such occupancy may be superseded by building regulations.**

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 at these public hearings.

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 amending this ordinance. There being no one desiring to be heard, the public hearing was declared closed at 8:36 p.m., and the regular session reconvened. Vice-Mayor Peterson offered a motion that the Council resolve to approve amending this ordinance for a first reading. The recorded roll call vote was taken as follows:

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Vote: Yes - Vice-Mayor Peterson

Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Mayor Frank

Absent None

Planning and Community Development Director Turner presented for Council's consideration amending Article F. Definitions, Section 10-3-24 of the Zoning Ordinance. She explained that the text in Section 10-3-24 of the Zoning Ordinance pertaining to the B-1 district does not adequately address the use of dwelling units. Currently, the Zoning Ordinance only addresses dwelling units in plurality without allowing for the creation of just one unit. She said that after further consideration, staff reviewed the text and agreed that the Zoning Ordinance language needs to be amended to clarify, and more appropriately address the intent of the B-1, Central Business District. The proposed language would read hotels, motels and buildings used for dwelling unit(s), CBD, as defined under article F. dwelling unit(s) may be superseded by building regulations. She said that Planning Commission recommended approval.

At 8:43 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, February 25, and March 4, 2002.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, March 12, 2002, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

ORDINANCE AMENDMENT

Public hearing to consider an amendment to Article F. Definitions, Section 10-3-24, Dwelling Unit(s) CBD as follows:

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One or more dwelling units of non-transient occupancy within the Central Business District (CBD) that are designed to promote the most desirable uses and rehabilitation of the district.

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 at these public hearings.

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 amending this ordinance. There being no one desiring to be heard, the public hearing was declared closed at 8:44 p.m., and the regular session reconvened. Vice-Mayor Peterson offered a motion that the Council resolve to approve amending 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

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Planning and Community Development Director Turner presented a brief review of Planning Commission 2001 Annual Report. Mrs. Turner said that Planning Commission has reviewed requests for 12 rezoning, 4 special use permit items, 5 street and alley closings, 1 master plan, 9 zoning ordinance amendments, 17 preliminary subdivision plats, held 12 regular meetings, 5 special meeting, and 2 Ad-Hoc Committee meetings.

Council Member Rogers offered a motion that Council resolve to hire the CPA firm of Brown, Edwards, and Company, L.L.P. to perform the audit of the City's financial records for the next three years ended June 30, 2002, 2003 and 2004. The motion to resolve was approved with a unanimous vote of Council.

City Manager Baker reported that recent water and sewer bids had been awarded under current appropriations to A.J. Conner General Contractor for the Smithland Road Water & Sewer project in the amount of \$333,000; Commonwealth Excavating for the Sieberts Creek Interceptor in the amount of \$81,396; and Commonwealth Excavating for the Avalon Woods-Nelson Drive project in the amount of \$20,411.

Council Member Lantz presented a report regarding the financing of the school bonds issued in November, 2001. He said there is a misconception that the City and School Board is losing \$88,000 every month because the City floated the bonds last fall rather than waiting until the spring to issue the bonds. It is a misconception that the City is paying 4.87% interest on the bond issue and earning 2.05% on the money received from the Public School Authority. He reviewed a chart showing interest rates on 30-year treasury for the past 25 years and he pointed out that at the time the City borrowed the money, it was the lowest interest rates have been for 25 years. The School Board indicated that it needed construction money by March and the spring bond sale proceeds would not have been available until May 15th. He reviewed a chart showing interest during the last eight months indicating the City borrowed money at the right time. He reviewed the bond debt payment that the City will be paying over the next 25 years. Over the next 25 years, the City will borrow \$41.5 million and will be paying back \$73 million. He said, "It really doesn't matter whether you borrow the money in the fall or the spring if the interest rates are the same, the City will pay back \$73 million. The payment schedules are going to be identical. The only difference is the City will start the first payment under the fall bond schedule July 15th. However, the bottom line is still the same, the City will have to pay back \$73,732,322.50. If the City had waited until the spring to borrow the money, the City would owe \$73,732,322.50 and have earned no interest on the \$41.5 million because we would not have had the money. Since the City borrowed the money in the fall, it doesn't have to spend the money until May 15th and it will earn six months of interest. Mr. Lantz said that the payback is still the same; however, the City will earn \$426,925.80 in interest for six months. The City's first payment is due on July 15th and will be \$1,326,775.00 and will lose \$13,599.44 in interest because we paid it early. It is a fact that the City will lose the money because it had to start the bonds six months earlier than it wanted too. However, if you take the six months worth of lost interest and subtract it from what the City has been making, it is \$413,326.36 which means net dollars to the City of \$68,887.73 a month. We are not losing \$88,000 a month because we issued the bonds last fall. The City will be \$413,326.36 ahead because construction did not begin right away. He further reviewed some of the dollars saved by the City if interest is invested for 25-year bond life, dollars saved due to higher rates on spring bond sale, and the combined dollars saved by City.

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Economic Development Director Shull presented a request for Council's consideration to dissolve Harrisonburg Crossing Community Development Authority. He said that this request does not involve the recently approved Harrisonburg Crossing Shopping Center to be located on the former Dunham-Bush property. CBL & Associates, Inc. (CBL) proposed in 2000 to develop a retail shopping center fronting on County Club Road in Harrisonburg. City Council authorized the creation of the Harrisonburg Crossing Community Development Authority (CDA) by Resolution, adopted June 27, 2000. The CDA was created to be a vehicle to issue bonds to provide certain public improvements that would benefit the land within the CDA District. CBL has cancelled its plans for this project. No bonds were issued by the CDA. Interstate Properties, LLC, the majority landowner within the CDA District, and CBL hereby request Council's approval to dissolve the CDA. Council Member Fitzgerald offered a motion that the Council resolve to dissolve the CDA. 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

Vice-Mayor Peterson acknowledged that he had requested discussion of Council's option on School Board's option to use eminent domain for a high school site. He said, "I asked for this request to be placed on the agenda after listening to Council Member Fitzgerald on the radio when he said that he thought the School Board should go ahead and use eminent domain and then in the afternoon of the same day Council Member Lantz announced that he no longer supported the School Board's long range plan. He said he thought it was important that Council had the option of voting as a Council as to whether or not we thought that sort of move by the School Board was something that we could support admitting that the School Board does not have to listen to us. He said perhaps we might want to discuss whether or not we would like to ask the School Board to spend more time on planning. He said, "I do hope that the opinion of Council might carry some weight with the School Board along the lines of saying the community isn't ready to support this and we really need to think more community input needs to be made on this plan."

Council Member Fitzgerald suggested that comments made by him and Council Member Lantz were made as individuals. He said, "We have a responsibility to fund the school as best we can and beyond that how they spend that money is essentially none of our business. The policies they follow in spending that money particularly whether they use eminent domain or not are also none of our business. The School Board is capable of enlisting community input on their own and they don't need our help. It is not the role of this Council to tell the School Board what to do."

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Janice Fitzgerald, a resident living at 491 Garbers Church Road, expressed her concern about the lack of leadership of the City Council.

Chuck Heckman, a resident living at 1555 Shank Drive, addressed City Council and questioned why they were not able to meet with the School Board prior to the Council meeting this evening.

Planning and Community Development Director Turner introduced a request to amend Section 6-1-22 of the City Code to create a public hearing process at the Planning Commission level, as well as City Council for the vacation of streets and alleys. She said Planning Commission agreed it would be a good idea to have a public hearing at the Planning Commission level regarding the vacation of streets and alleys. The Planning Commission has been giving recommendations to the City Council without being able to access all of the information that the City Council might hear from interested or concerned neighbors. It is a strong perception that the action taken at the Planning Commission level is what will happen at City Council. Vice-Mayor Peterson offered a motion that the Council resolve to approve amending this section of the City Code and the language for the code should be made available at the next Council meeting.

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He explained that these funds would be used for software replacement. Vice-Mayor Peterson offered a motion that the Council resolve that this supplemental appropriation be approved for a first reading, and that:

\$9,000.00 chge. to: 1000-31010 Amount from fund balance

\$9,000.00 approp. to: 1000-310431-48173 Software (replacement)

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Peterson

Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

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Mayor Frank

Absent None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He explained that these funds would be used for supplies and equipment for police explorers post. Vice-Mayor Peterson offered a motion that the Council resolve that this supplemental appropriation be approved with a first reading, and that:

\$1,000.00 chge. to: 1000-31010 State Drug Forfeiture

\$1,000.00 approp. to 1000-310431-46100 Police Supplies

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

Business and Finance Director Triplett presented a request for a supplemental appropriation for the School Board. These funds represent unanticipated receipts from the Federal government that were not known during the budget process. No additional City dollars are required from City Council for the school division to receive these additional funds. Council Member Lantz offered a motion that the Council resolve that this supplemental appropriation be approved for a first reading, and that:

\$71,959.00 chge. to: 1111-33301 School Revenue Federal

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\$71,959.00 approp. to: 1111-111114-40610 Instruction

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

Bucky Berry, a resident of 877 North Main Street, complained that the Northern section of the City was being neglected and becoming a junky area.

At 9:36 p.m., Council Member Fitzgerald offered a motion that the Council resolve to enter a closed session for the purpose of discussing and considering prospective candidates for appointment to the following boards and commissions: a Charter Committee, the Board of Zoning Appeals, and the Industrial Development Authority. A closed session is permissible for this purpose pursuant to Section 2.2-3711.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 matters related to probable litigation. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.7 of the Code of Virginia (1950), as amended (the Code). Finally, the purpose of the closed session is for the discussion of matters concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business or industry's interest in locating or expanding its facilities in Harrisonburg. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.5 of the Code of Virginia (1950), as amended (the Code).

At 10:00 p.m., the closed session ended 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 session were convened, were heard, discussed or considered in the closed session by the City Council.

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Council Member Fitzgerald offered a motion that the Council resolve to create a Charter Committee and that Scott Sellers, 851 Vine Street, Ben Fordney, 1126 Chestnut Drive, Margaret E. Haynes, 1140 Hillcrest Drive, Michael A. Haines, 298 Franklin Street, and Greg Coffman, 66 Laurel Street, be appointed to it. The motion to resolve was approved with a unanimous vote of Council.

At 10:01 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR