

MINTUES - REGULAR MEETING OF CITY COUNCIL - OCTOBER 8, 2002

REGULAR MEETING

OCTOBER 8, 2002

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

and Chief of Police Donald Harper.

Vice-Mayor Rogers gave the invocation and Mayor Fitzgerald led everyone in the Pledge of Allegiance.

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading approval of Supplemental Appropriations for the Police Department. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent None

Planning and Community Development Director Turner introduced a request from Kenneth Kyger and James Madison University (JMU) to close a 3,900 square foot alley running east-west parallel and north of Patterson Street. The site is currently used for parking and for access at James Madison University. She reviewed the surrounding uses in the area. Kyger & Trobaugh Funeral Home has requested that the City close the alley behind their facility to allow them to purchase the property. The Funeral Home would like the

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additional land so that proper boundaries can be established for landscaping and maintenance. In its current condition the alley is non functional and cannot be discerned from the surrounding development. Because of the existing structures and parking lots that surround this alley, it would be highly unlikely that the City would be able to use the right-of-way for the originally intended purpose. The only adjoining neighbor is James Madison University. In a letter from their Real Property Administrator, the University has expressed interest in purchasing half of the alley for their own use. If this alley is closed, an additional survey should be drafted showing the equal division of the alley to both parties. The western portion of the alley was closed in 1989. She said that Planning Commission recommended approval of the request.

At 7:35 p.m., Mayor Fitzgerald 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, September 23, and Monday, September 30, 2002.

NOTICE OF INTENTION TO CLOSE

AN ALLEY BEHIND

KYGER & TROBAUGH FUNERAL HOME

IN THE CITY OF HARRISONBURG

City Council Chambers

Tuesday, October 8, 2002

7:30 p.m.

The Harrisonburg City Council will hold a public hearing on Tuesday, October 8, 2002, 7:30 p.m., at City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia, to consider the application of Kyger & Trobaugh Funeral Home to close a portion of an alley behind the funeral home.

A copy of the recommendation of the City Planning Commission along with a copy of the plat showing the portion of the alley to be close is 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 the 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 D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this request. There being no one desiring to be heard, the public hearing was declared closed at 7:36 p.m., and the regular session reconvened. Vice-Mayor Rogers offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

 Vice-Mayor Rogers

 Council Member Peterson

 Council Member Lantz

 Mayor Fitzgerald

Absent None

Planning and Community Development Director Turner introduced a request from Trinity Presbyterian Church to close and purchase a 5,503 square foot section of Beech Street. She explained that the site is a paper street and will not be developed by the City. Currently a water main, fire hydrant and water meter are located in the right-of-way; however, the applicant is placing a 20-foot water line easement centered on the main. She reviewed the surrounding uses in the area. Trinity Presbyterian Church is requesting that a portion of a paper street (Beech Street) between Maryland Avenue and New York Avenue be closed and sold to them. The Church is currently planning on an expansion of its existing building. Their property currently surrounds the right-of-way on three sides and the vacation of the right-of-way would facilitate planned improvements on the property. She said that the Planning Commission recommended approval of the request.

At 7:39 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening s second

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public hearing to order. The following notice appeared in the Daily News-Record on Monday, September 23, and Monday, September 30, 2002.

NOTICE OF INTENTION TO VACATE

**A PORTION OF BEECH STREET
IN THE CITY OF HARRISONBURG**

City Council Chambers

Tuesday, October 8, 2002

7:30 p.m.

The Harrisonburg City Council will hold a public hearing on Tuesday, October 8, 2002, 7:30 p.m., at City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia, to consider the application of Trinity Presbyterian Church to close a portion of Beech Street.

A copy of the recommendation of the City Planning Commission along with a copy of the plat showing the portion of the street 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 the 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 D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this request. There being no one desiring to be heard, the public hearing was declared closed at 7:40 p.m., and the regular session reconvened. Council

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Member Peterson offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent None

Planning and Community Development Director Turner introduced a request by John Devine to rezone a 6,950 square foot lot from R-2, Residential District to R-3C, Multiple Dwelling Residential District Conditional. She explained that the property is located at 590 East Market Street. The Comprehensive Plan's Land Use Guide designates this property as Professional. This classification is intended for professional service oriented uses with consideration to the character of the area. She reviewed the surrounding uses in the area. The purpose of the R-3 district is for medium to high-density residential uses and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping and restrained traffic flow. Several structures along the major thoroughfare of East Market Street have been rezoned to R-3 Conditional in recent years. Mr. Devine has proffered that the property would only be used for any use permitted in the R-1 or R-2 zoning district. He intends to use the building for his office. Because this would be a professional use in an area with some residential homes, the applicant has also proffered that business conducted with customers will be limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Saturday. The office will be closed on Sundays. Further proffers for this property include that the driveway entering from East Market Street would be clearly marked as one-way. Vehicles entering the property will then pull into diagonal parking spaces located in the rear of property. When exiting the property, vehicles will back up and continue down the driveway to the privately maintained Elizabeth Street. Staff has explained to Mr. Devine that the City does not provide service down this section of Elizabeth Street and care of the alley is the adjoining property owner's responsibility. Mr. Devine has proffered to clearly mark the new traffic pattern. Buffering along northern and eastern sides of the property has also been addressed. The applicant has proffered to plant Leland Cyprus trees every five feet on center to provide a shielding from the parking area and headlights. She said that the Planning Commission recommended approval of the request.

At 7:45 p.m., Mayor Fitzgerald 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, September 23, and Monday, September 30, 2002.

Notice Of Public Hearing

The Harrisonburg City Council will hold a public hearing on Tuesday, October 8, 2002, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.

REZONING John Devine

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Public hearing to consider a request by John Devine to rezone a 6,950 square foot lot from R-2, Residential District to R-3C, Multiple Dwelling Residential District Conditional. The property can be found on tax map 33-V-4 and is located at 590 East Market Street.

The Comprehensive Plan designates this area as Professional. These areas are designated for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District.

The Zoning Ordinance states that the current R-2, Residential District is intended for medium-density, single-family and two-family residential development. While the requested R-3, Multiple Dwelling Residential District is intended for medium- to high-density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-2 are single-family, 7,000 sq. ft. minimum and two-family, 5,500 sq. ft/unit and for R-3 are single-family, 6,000 sq. ft. minimum; two-family, 4,000 sq. ft/unit; multi-family, 3,000 sq. ft. minimum per unit; townhouses, 2,000 sq. ft. minimum per unit; and other uses, 6,000 sq. ft. minimum.

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 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 D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this request. There being no one desiring to be heard, the public hearing was declared closed at 7:46 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

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Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent None

Council Member Peterson introduced a request to amend the City Charter. He explained that currently if a council member dies or resigns, the other members appoint someone to fill the remainder of the council member's term. He proposed amending the City Charter to read that if the person resigns when there is more than two years, one hundred and fifty days remaining in the vacated term then the vacated seat shall be included on the ballot at the next regularly scheduled council election.

At 7:50 p.m., Mayor Fitzgerald 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 Saturday, September 28, 2002.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, October 8, 2002, at 7:30 p.m. in the City Council Chambers, 345 South Main Street, Harrisonburg, Virginia to consider the following.

An amendment to the City Charter providing that, should someone be appointed to fill a vacancy on City Council, and there are more than two years, one hundred and fifty days remaining in the vacated term, then the vacated seat shall be included on the ballot at the next regularly scheduled council election along with other seats normally scheduled for election, and the candidate receiving the most votes after the seats normally scheduled for election are filled shall serve in the vacated seat for the remainder of the original term.

All persons interested will have an opportunity to express their views at this public hearing.

Any person 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 D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this proposal.

Ben Fordney, a resident of 1126 Chestnut Drive, said that he would like to speak in favor of the amendment to change the charter of the City of Harrisonburg that would provide for a person who has been appointed to a vacant Council seat for more than half of the vacated term would be required to run in the next municipal election.

Mr. Fordney stated, This question you are discussing tonight involves the issue of the right of the voters of the City to decide who will represent them. If a person is appointed by this council to fill an unexpired term, it is theoretically possible for that person to serve a large percentage of that term, depending on when the council member resigns.

That person, no matter how long he or she serves has not been elected by the voters of this City. You would be acting on their behalf. I believe that all members of City Council should be elected by the people. A person who is serving by council appointment should run for election at the earliest possible opportunity. That person will be voting on issues affecting our community and should serve with the approval of the voters. I know that Councilmen Lantz and Rogers are concerned about experience and continuity. It is theoretically possible that four council seats could be open in a single election. Of course one way to solve this problem would be to expand the number of council members, but of course the door has been slammed shut on any revision of the charter to change council membership. In any case, I think fresh thinking by a new council member is not necessarily a bad thing. We all owe you our thanks for the time you put in, as council members, but isn't it true that much of what you decide is based on staff recommendations? Isn't judgment what is really required?

I understand that Rockingham County has a different procedure for appointed supervisors. I believe a person so appointed is up for election at the next election after appointment. I wonder if the county policy is more consistent with the Code of Virginia and perhaps Mr. Miller can address that point this evening. I am not saying that Harrisonburg is in violation of the code. I raise it only as a possibility.

We are really looking at a question that will arise very infrequently. I understand there have been only two occasions in the last twenty years when appointments have been made after a resignation. Let's look at the principle rather than the effect of a remote possibility.

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I urge you to consider the right of the voters when you consider this question. Thomas Jefferson said I am not one to fear the people. I hope that spirit will prevail this evening.

Bucky Berry, a resident of 877 North Main Street, suggested that Council Members should have some experience.

There being no others desiring to be heard, the public hearing was declared closed at 7:55 p.m., and the regular session reconvened.

The following discussion by Council Members relative to the charter amendment included concern with the proposal because appointees could serve up to four years, possibility of having four new Council Members at once, City could suffer from a lack of experience and continuity, could create the possibility of rapid turnover, Rockingham County elects members by district, Harrisonburg elects at-large, and a change should only be made to the charter if it would be an improvement to the current system. Vice-Mayor Rogers offered a motion to table this proposal indefinitely. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

 Council Member Peterson

 Council Member Lantz

 Mayor Fitzgerald

 No - Council Member Frank

 Absent None

City Treasurer Neal presented a request to amend Sections 12-1-4, 4-2-92, and 4-1-30 of the Harrisonburg City Code. She explained that currently the first two changes would address the willful non-compliance of the Business License Tax and the Meals Tax. The third change would address the

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allowance for Third Party collections for delinquent personal property taxes, miscellaneous receivables and other debts owed to the City. She said that for the business license tax she was referencing Section 12-1-3 of the City Code and explained that a brief interpretation of the code states that it is illegal to operate a business within the City without a business license. She said that currently the only repercussions to people/businesses who do not comply with the license requirements are that penalties and interests are added. Mrs. Neal said that she can take the businesses to court to obtain a judgment, but it is a lengthy process. By the time the collection action takes place, almost half of the businesses are no longer operating and the case is non-suited. The City loses the revenue that should have been paid upon submitting the application for the business license. The City has \$107,211 in outstanding debt in business licenses. The City collected over \$4 million in business licenses during July 1, 2001 and June 30, 2002. She said, It is a small amount compared to what the City collected for the fiscal year. The majority of the businesses within the City do comply with the law and it is not fair to all the people in compliance to allow these businesses to operate without a business license. Mrs. Neal said that she was taking 68 businesses to court in November for non-compliance. The proposed change is that if the business license tax is not paid within 90 days of origination of license by the Commissioner of the Revenue, and is determined to be the fault of the taxpayer, the Treasurer shall notify the business of their non-compliance by letter and phone using the address(s) and phone number(s) provided by the business, to inform said business that unless payment is made in full within 15 (fifteen) days of notification, the business shall be restricted by the installation of a padlock or other restrictive deterrent by the Harrisonburg Police Department and signage shall be posted as to the reason for the closing. Upon payment of the business license in full, bringing said business into compliance, the padlock shall be removed and the business can then resume.

Mrs. Neal said that she was proposing a similar change to the meals tax referenced Section 4-2-88 of the City Code and explained that a brief interpretation of the code states that all tax collection shall be deemed to be held in trust for the City. The City has \$42,854 in outstanding debt in meals tax. Between July 1, 2001 and June 30, 2002 the City collected almost \$5 million in meals tax. Currently businesses who file yet fail to pay the monies collected for the meals tax are allowed to file month after month with no serious repercussions. The proposed change states that if said tax shall remain unpaid for a period of two months from the date the same is due and payable, the collector of said tax for the City, the City Treasurer, shall cause the restriction of business operations by installation of a padlock or other restraining device on the place of business by the Harrisonburg Police Department and the placement of signage as to the reason for the closure. Upon payment of said tax held in trust by the City of Harrisonburg, the restraining device shall be removed and business can resume.

The last proposed change to the collection procedure would allow for third party collections. This is for the purpose of collecting personal property taxes, miscellaneous receipts, and other debt to the City of Harrisonburg. This is in addition to the current methods. This would allow third party collections and any associated fees to the collection agency. The benefit of hiring a collection agency is that the agency has a more expansive search capability throughout the United States. It would be an enhancement to the City's current method and would help to reduce the amount of delinquencies on the books. She said that she was limited to discovery only within the state of Virginia. The City has \$1,055,457 in outstanding debt between the years of 1997 and 2001 in personal property taxes. The collection agency has stated that it could collect a third more tax in addition to resolving approximately 35% in abatement. It should reduce the outstanding balance to \$344,000, which would be a tremendous benefit to the City.

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Council Member Peterson questioned the language of the third proposed change which states the City can use garnishment and third party collection and associated costs as provided by state law. Mrs. Neal said the collection agency she is currently reviewing does attach a 20% fee to the tax penalty and interest currently owed to the City. The City would receive all tax, penalty and interest and the delinquent taxpayer would be responsible for the 20% fee charged by the agency. Mrs. Neal said, It is a win-win situation for the City.

City Attorney Miller clarified that the City Treasurer was trying to collect the cost of collection.

Mrs. Neal noted that the Virginia Tax Code permits the Treasurer to add \$20.00 administrative fee and 20% to the debtors account. She reiterated that the majority of businesses in the City are in compliance.

Some discussion by Council Members relative to the amendments included padlocking a business before the court gets involved, whether 15 days of notification was enough time, burden of going to court on the City, increasing what the City can do once going to court, costing the taxpayers money to take businesses to court, extending a policing power to tax collection, uncollected taxes and forgiven debt forgiven, and using legal means to tighten the control.

Vice-Mayor Rogers offered a motion to amend and re-enact Section 12-1-4, 4-2-92, and 4-1-30 of the Harrisonburg City Code for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

No - Mayor Fitzgerald

Absent - None

Jenny Brockwell, Community Affairs Chairperson of the JMU Student Government Association, said that the committee's purpose is to strengthen the relationship between Harrisonburg and James Madison University through opening the lines of communication and developing a working relationship. Ms. Brockwell

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introduced several members of the committee. She said, We need you and you need us. We need each other to improve our relationship. Communications between Harrisonburg and JMU could include having students sit on community committees, having City officials speak to the student senate, getting the Daily News-Record on campus, and having The Breeze delivered to City officials. The biggest way to improve the relationship is through better communication. Mayor Fitzgerald acknowledged that James Madison students make a large contribution to the community. A large number of students serve in the Rescue Squad and participate in the Big Brothers/Big Sisters programs.

City Manager Baker presented a request to transfer funds to the Social Services Department. He explained that the foster care caseloads at the Social Services Department have increased tremendously this year and additional funding is needed for two new positions. Social Services Director Driver came to the podium and said that the agency has reviewed costs associated with the creation of these two positions, reviewed the existing FY 2003 budget, de-obligated funds associated with the two positions, and restructured funding through the IV-E program. By adjusting the current budget to reflect various expenditure changes to date, the cost associated with the new positions will require a supplemental appropriation of IV-E funding of \$51,777. Local funding in the amount of \$6,901 will be the required. Harrisonburg s share will be \$4,123 and Rockingham County s share will be \$2,778. Council Member Peterson offered a motion to transfer these funds:

\$4,123.00 chge. to: 1000-940111-49310 Reserve for contingencies

\$4,123.00 approp. to: 1000-910511-47071 Expenditure of Social Service District

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent - None

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Public Works Director Baker presented a request for a supplemental appropriation for the Public Works Department. He explained that these funds would be used for the installation of a pedestrian crossing walk light at the intersection of Port Republic Road and Devon Lane. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$2,000.00 chge. to: 1000-31809 Donations

516.73 chge. to: 1000-31901 Recoveries & Rebates

\$2,000.00 approp. to: 1000-410741-46070 Repair & Maintenance Supplies

516.73 approp. to: 1000-410241-43330 Maint. & Repairs/Machinery & Equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent - None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds would be used for additional training for investigators. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$2,800.00 chge. to: 1000-31010 Amount from fund balance

\$2,800.00 approp. to: 1000-310331-45530 Training/Travel

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The recorded roll call vote was taken as follows:

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

Absent - None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds were received from a Weed and Seed Mini Grant Program and would be used for interpreter fees. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$2,784.64 chge. to: 1000-31901 Recoveries & Rebates

\$ 193.75 approp. to: 1000-310231-43100 Professional Services

2,590.89 approp. to: 1000-310431-46140 Other operating supplies

The recorded roll call vote was taken as follows:

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

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Absent - None

Bucky Berry, a resident of 877 North Main Street, complained about the delay on the bridge repair on North Main Street.

Public Works Director Baker announced that the deck has been poured and is complete on the North Main Street bridge repair. The street should be open to two-way traffic on October 18, 2002. The contractor has also advised that the bridge repair work will be completed by November 1, 2002. Following further discussion and comments, Vice-Mayor Rogers offered a motion to direct City staff to present a report to City Council at the conclusion of the project. The motion was approved with a unanimous vote of Council.

Public Works Director Baker introduced Andrew Williams, Transportation Planner, for the City. Mr. Baker said that some of Mr. Williams' responsibilities would include conducting meetings with neighborhood groups to discuss traffic issues. A neighborhood meeting with the Pleasant Hill Acres neighborhood was held on Tuesday, October 1, 2002 to discuss traffic related issues. Approximately 30 residents attended the meeting and expressed concern with the number of vehicles on Central Avenue between Pleasant Hill Road and South Avenue and the speed of those vehicles. Most citizens agreed that Central Avenue supports a high volume of traffic, as it is a collector street. It was noted there is cut-through traffic along Central Avenue as there is limited east-west access from Main Street to High Street and vice-versa. As speeding was the number one issue a number of possible solutions were presented at the meeting. One option is to continue a double yellow line from South Avenue to Pleasant Hill Road plus add a white edge line on each side of the travel lanes. This would permit 10 feet travel lanes. The remaining 10 feet space from the edge line to the face of the curb would be used for parking, pedestrians and bicyclists. Narrowing traffic lanes have been effective in slowing traffic in other locations. He also said that consideration is being given to installing signs at the above intersections that will advise motorists to use South Avenue and Pleasant Hill Road as the east/west connector in lieu of Central Avenue. The City will continue to work with the neighborhood group in reviewing ideas that may result in a safer neighborhood.

Council Member Frank said that she had received a telephone call questioning what happened to the welcome sign listing civic organizations. The sign was on the corner of Vine Street and East Market Street. The sign was removed when construction began on a new building on the site. City Council agreed to refer a request to City staff for a recommendation for a location to erect a new welcome sign.

Council Member Lantz offered a motion to appoint a new Advisory Board for the Emergency Communication Center comprised of the Harrisonburg and Rockingham County Fire Chiefs, Harrisonburg Police Chief, Rockingham County Sheriff, and a representative of the rescue and fire volunteers. City Manager Roger Baker and County Administrator Bill O'Brien will also serve as the policy board for the Emergency Communication Center. The motion was approved with a unanimous vote of Council.

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At 9:30 p.m., Council Member Peterson offered a motion that Council enter a closed session for the discussion of matters related to the transfer of real property. A closed session is permissible for this pursuant to Section 2.2-3711.A.3 of the Code of Virginia (1950), as amended (the Code). In addition, the purpose of the closed session is for consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiation or litigating posture of the City Council, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel. 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).

At 11:04 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.

At 11:05 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR