

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

REGULAR MEETING

NOVEMBER 12, 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.

Council Member Frank 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 several Supplemental Appropriations for the Police Department and Public Works Department and amending and re-enacting Section 12-1-4(f), 4-2-92(e), and 4-1-30 of Harrisonburg City Code. The motion also included referring closing a portion of a street to the Planning Commission and the second reading of a rezoning request by John Devine. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

Planning and Community Development Director Turner introduced a request by Nuanta Warechatchai to rezone a 0.309-acre portion of tax map parcel from R-1, Single-Family Residential District

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to B-2C, General Business District (conditional). The site is located at 923 South High Street. The Comprehensive Plan designates this area as Low-Density Residential. This designation states that these areas consist of single-family detached dwellings with a maximum density of one to four units per acre. Low-density sections are found mainly in well-established neighborhoods and designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership. Mrs. Turner reviewed the surrounding uses in the area. She said that the applicant has proposed the construction of a 6,300 square foot building to house her expanded Oriental Food Market. She wanted to expand on tax map parcel 19-C-10, but because of her desire for a large structure, she was not able to provide the required parking on the existing lot. Moving the zoning and lot line back allows the applicant to provide adequate parking, while also allowing more open space between the proposed building and the new rear property line. In an effort to prevent highly intense or disruptive uses on the property the applicant has proffered uses limited to mercantile establishments, personal service establishments, restaurants and other shops and stores customary to shopping centers, general service or repair shops, warehousing and other storage facilities with floor area limited to twenty thousand square feet, plant nurseries, public uses, and accessory buildings and uses customarily incidental to any of the above listed uses. Furthermore, the applicant has opted to retain the special use provision that is permitted in the B-2 zoning that would allow her to apply to reduce the required side yard setback to zero feet along the lot lines of an adjoining parcels that are zoned B-2 or M-1. The applicant has proffered to restrict the placement of any dumpster to the front portion of the property currently zoned B-2. This will prevent additional disturbance at the rear of the property from occurring. The hours of operation have been limited to 7:00 a.m. through 11:00 p.m., seven days a week. The final proffer states that no public street connection will be made between Neyland Drive and the existing entrance on South High Street. Buffering the parcel from adjoining neighbors through landscaping has also been addressed. The applicant has proffered to plant Leland Cyprus trees every five feet on center and at a height of four feet at the time of planting to provide a screen along the northern and eastern property lines of the requested conditionally rezoned area. A privacy fence will be constructed at a height of six feet along the north-east property line of the parcel to provide screening between the R-1 zoned homes along Sunrise Avenue. The fence is to connect with the north-east wall of the new structure on the rear of the property and run the length of the property line to connect with the corner of the existing building fronting on South High Street. No plantings shall be required where the fence is present. She said that Planning Commission recommended approval of the request.

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

Notice Of Public Hearing

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

REZONING Wareechatchai

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Public hearing to consider a request by Nuanta Wareechatchai to rezone a 0.309 acre portion of tax map parcel 19-C-12 (923 South High Street) from R-1, Single-Family Residential District to B-2C, General Business District (conditional).

The Comprehensive Plan designates this area as Low-Density Residential. This designation states that these areas consist of single-family detached dwellings with a maximum density of 1 to 4 units per acre. Low-density sections are found mainly in well-established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

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 B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. No minimum lot size restrictions exist in the B-2, General Business 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 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 rezoning request.

Cy Khochareun, part owner of the family business, said that for the past thirteen years he and his family have been in business on South High Street. He said his family has tried to renovate the property making the business attractive to the location.

Dick Blackwell, Engineer with Blackwell Engineering and representing the applicant presented an overview of the project. He also reviewed the proffers submitted by the applicant at the Planning Commission meeting.

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Paul Campise, a resident of 331 Sunrise Avenue, said that he has known the applicants for over ten years. Before they owned the property, the area was in a state of disarray with lots of trash and people used the property to hang out and drink. The Warechatchai family has made drastic improvements to the property. For years this family has done everything the City has asked of them. As a neighbor, he is happy to have this family running their business on this property. There being no others desiring to be heard, the public hearing was declared closed at 7:50 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 - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

City Council agreed to schedule a public hearing to review the Capital Improvement Program (CIP) on December 10, 2002.

City Manager Baker presented a request to transfer funds toward the construction of a new SPCA facility. These funds will be taken from the Capital Project Fund - Public Safety Facility. Council Member Peterson offered a motion to transfer these funds:

\$500,000 chge. to: 1000-34291 Transfer from General Capital Projects

\$500,000 approp. to: 1000-350131-45657 SPCA

\$500,000 chge. to: 1310-910141-48606 Public Safety Building

\$500,000 approp. to: 1310-910141-49212 Transfer to General Fund

The recorded roll call vote was taken as follows:

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Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

City Manager Baker presented a recommendation from the Transportation Safety Committee regarding safety concerns expressed by Myers Avenue residents at the September 10th City Council meeting. He said that the Transportation Safety Commission recommended that No Parking At Any Time signs be installed on the West side of Myers Avenue from Franklin Street to Mt. View Drive. Council Member Frank offered a motion to install these signs. The motion was approved with a unanimous vote of Council.

City Manager Baker presented a request from the Downtown Harrisonburg Merchants Association. He explained that the association has requested financial assistance in purchasing banners for 41 new brackets in the downtown area. Council Members questioned the cost associated with the banners and suggested that the Downtown Harrisonburg Merchants Association discuss this project with the Arts Council. It was also questioned how these decorations would fit in with other decorations in the downtown area. Council Members agreed to ask the Downtown Harrisonburg Merchants Association to speak with the Arts Council and perhaps provide more information concerning costs of the banners at a later Council meeting.

Council Member Peterson requested the unanimous consent of Council to change the agenda by adding that Harrisonburg will remove the voluntary water restrictions established September 10, 2002. The motion was approved with a unanimous vote of Council.

Public Utilities Director Collins presented a brief overview of the City's water needs at build-out. He said that the City's current Comprehensive Plan was adopted in 1991. The Public Utilities Department is currently under construction contract arrangements to expand its Water Treatment Plant capacity to 15 million gallons per day. The project is expected to be completed in 2004. A sister project will be completed in 2006 and will provide raw water supply from the Shenandoah River. Upon completion of both projects, the City's water system should be at 15 mgd capacity. He reviewed the ultimate demand of the City's water supply in comparison to the recent expansion. He said that the Community Development Department provided data for developed and undeveloped land acreage for all zoning classifications as existed at the end of fiscal year 2002. Mr. Collins reviewed the information showing a correlation among user groups, zoning classifications

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and water consumptions. The report also provided itemization of 6.94 mgd water consumption throughout 5,720 acres of developed land within the City.

The following discussion by Council Members relative to the City's water needs at build-out included whether a commercial establishment or a multi-use residential establishment uses more water, changing uses could require restructuring of billing department, permit issued for justification of water need, future industrial development, and current trend has been that the City has lost more industries than it has gained.

Public Utilities Director Mike Collins asked Council to consider a dilemma the City experiences when serving Rockingham County customers because of the water and sewer moratorium. He said that the City has been constructing water lines along U.S. Route 33 corridor since 1898. He frequently receives requests to provide water to property owners who are providing easements across their property. He asked Council to take into consideration that if an easement is granted across a Rockingham County property owner, perhaps that property owner could be exempt from the moratorium. Since these property owners have worked with the City by providing easements across their property, it would be a respectful thing to do. However, the current City ordinance states that if a single family home was platted after November 1, 1992, the City cannot provide water. Mr. Collins suggested that Council consider exempting these property owners and changing the needed language to clean up the easements. He also reviewed other restrictions controlled by Rockingham County subdivision ordinances. He suggested that he and City Attorney Miller work together regarding exemptions from the moratorium.

Following further discussion and comments, Council requested that Mr. Collins present a recommendation for Council's consideration at a later meeting regarding lifting moratorium exemptions outside the City.

Mayor Fitzgerald presented a suggestion to give a tax incentive to property owners who convert rental units to single-family homes. Under the proposal, the City would freeze assessments for five years on converted property. Any increase in the assessment would then be phased in over several years. Freezing a property's assessment could save the owner thousands of dollars over a five-year period. He said, "The incentive I am proposing would hopefully encourage homeowners to fix up and return some of these homes to single-family use without worrying about their taxes going up." City Manager Baker offered a word of caution saying that City Attorney Miller should review this proposal very closely because if the City does not assess at 100% of market value the City could lose ABC funds. Council agreed to refer the proposal to City staff for a report with recommendations to be presented at a future Council meeting.

Council Member Peterson presented for Council's consideration amending and re-enacting sub-Section 6-2-6, Section 6-2-2, Section 16-10-6, and re-enacting Section 15-3-2 of the Harrisonburg City Code. He explained that for several months a committee of citizens has been working with staff members on possible changes to the various nuisance ordinances. One of the principle nuisances that causes friction in residential areas is excess noise. A proposed change in the noise ordinance would include that no person shall, knowingly or unknowingly, expose another person to any irritating, distracting, physically or emotionally harmful, unreasonably loud, disturbing or unnecessary noise, over which the other person has no control. He

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said that for the first offense of causing excess noise, a person would be charged with a Class 3 misdemeanor and sentenced according to state law and City Council is recommending the sentence should include 50 hours of community service. For each subsequent conviction of a violation of this Section within three years, the defendant shall be convicted of a Class 1 misdemeanor and sentenced according to state law in the discretion of the court and City Council is recommending that the sentence include 100 hours of community service. These are the changes being recommended for definition in the noise ordinance and the penalties for someone violating the ordinance. The committee is also suggesting amending the City Code by imposing a fee on landlords who have tenants that continually violate the noise ordinances. If within the space of two years there are three summonses issued to a specific resident for excess noise, the City would charge the owner of the property a nuisance fee of \$1,000. However, the owner or operator of the residential rental property shall not be subject to such nuisance fee if the owner or operator is able to demonstrate that the lease in question contains a provision that states that the landlord or its agent has the right to evict any tenant if the landlord or its agent receives notice from the Harrisonburg Police Department that three summonses have been issued within a one year period for violations occurring at the residential rental property in question and any one tenant living in that rental property has been a tenant for the entire year. He said, Landlords have an obligation to neighbors to supervise their tenants. The committee unanimously recommended these ordinance changes.

The following discussion by Council Members relative to the proposed changes included who will receive the summons tenant or landlord, extra work for the Police Department, problems addressed through this provision, whether landlords could be fined after evicting violating tenants, some landlords doing better job of screening tenants, how you establish whether landlords are trying to evict tenants, concerns that wording of the ordinances puts Council into a judicial role rather than a legislative function of the government, and perhaps the wording should state that the fine has an automatic right to appeal to City Council. Following further discussion and comments, Council Member Lantz offered a motion to approve amending these ordinances for a first reading. The motion also included directing City Attorney Miller to redraft the documents with the modifications suggested by City Council before a second reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

Mayor Fitzgerald led a discussion concerning two full-page ads placed in the Daily News-Record on October 26th urging people to vote in favor of the parks and education bonds referendum on the November 5 ballot.

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He said two issues of concern to some Council Members were that the ads were placed in the paper and it was the first time they were aware of the ads. He said, A government body should not be spending taxpayer money to tell people how to vote. Encouraging people to vote is one thing, but lobbying for a particular outcome; however, is quite another. It should not have been done. It was a bad call.

Council Member Peterson questioned why the ads were placed in the paper without discussing the issue with City Council. He said City Council voted unanimously to support the bond issues, but placing the ads in the newspaper could be characterized as being a political decision and political decisions are reserved solely for Council. I am opposed to paying for the ads.

Council Member Frank said, I was shocked to see the ads in the paper. I was told a decision was made at the City/County Liaison meeting. I am opposed to paying for the ads with taxpayers money.

Mayor Fitzgerald reiterated that taxpayer s money should not be spent telling people how to vote. He said, I am concerned about the way it happened. He questioned the cost of the ad and compared it with the real estate taxes he has paid while being on City Council. He said, Nobody asked me about it, nobody told me about it, and nobody gave me the opportunity to comment on it and I am the Mayor. I have to wonder how some of the other folks out there felt when they saw that the City had spent that much money to tell them how to vote. He reiterated that it should not have been done. Taking out the ad was a bad call and the process by which it happened was faulted because three Council Members found out about something this unusual, this extraordinary by seeing it in the paper. I don t have any particular suggestion about how to avoid this in the future other than for Council Members to let it be known in the strongest terms that when something this extraordinary happens that we should know about it in advance.

City Manager Baker responded by saying it was suggested placing the ad in the paper at the end of the City/County Liaison Committee meeting. He said, Mr. O Brien said he would prepare the ads, and we agreed that the City would split the cost. In 25 years of City government, I have found it is not unusual for a local government to advertise voting for bonds. They have done it in other localities. He also said that the Council had unanimously voted to support the bond referendums at a meeting in the summer.

Vice-Mayor Rogers said, I also did not know about the ads, so there were four Council Members not three who did not know. He also questioned whether legally the City was responsible for paying for the ad.

City Attorney Miller said, Part of the legal difficulty with this issue is the lack of statutory authorization to do ads like this. He further clarified that he could not find any authorization in the state code for this expenditure. I am not saying it is illegal, I cannot find any justification to say that it is legal. The City should be uncomfortable at spending public funds to advocate a particular manner of voting. I do not have any problem from a legal prospective with Council passing the resolution, but there is a big difference with Council making a political legislative statement and spending taxpayer dollars to then advocate a particular

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outcome in a vote. The state law covering taxpayer funded political ads is somewhat ambiguous. Virginia allows a local governing body to spend public funds on ads explaining the details of an upcoming referendum, as long as it does not present arguments by either proponents or opponents of the proposal. If that were all there was to it, the ads clearly violated state law.

Warren Dillenbeck, a resident of 1121 South Dogwood Drive, said that \$1,700 out of the total budget is a very small amount; however, it is a very important issue because it is taxpayer's money. The ads placed in the newspaper had no significant impact on the outcome of the bond vote. When you analyzed how the vote went statewide, whether ads had been placed or not been placed, it didn't change the outcome of the election. Free elections are a sacred issue in our democracy. It is very important for government not to influence elections. An election is an election and government should not touch that process. I think that the City and County owe the citizens of this community an apology. They owe the citizens an acknowledgement that it was in error and inappropriate.

Council Member Peterson offered a motion that it is not policy of this Council to support one side or another of a partisan issue to advertise for a direct yes or no vote on any issue in the state. The motion was approved with a three to two vote with Vice-Mayor Rogers and Council Member Lantz voting no.

Council Member Peterson offered a motion to withhold payment for the ads in the Daily News-Record. Following further discussion and comments, Council Member Peterson withdrew his motion to withhold payment.

Assistant City Manager Hodgen said that it was unfair for City Manager Baker to take the full blame of the decision. He said, I saw the advertisement before Roger did. Based on my experience previously in Botetourt County, we were given direction by our Board of Supervisors to actively promote the passage of a \$20 million bond issue. Maybe incorrectly I put this in the same classification as that situation, but the thought did not occur to me to suggest to Roger that we contact each Council Member individually before we placed the ad. There is blame to be shared if there is blame that needs to be placed.

Council Member Lantz said that it is very unfair to blame Roger Baker because, I encouraged it. I didn't see it as a problem. Had we not voted unanimously not to endorse the resolution and then the ad was run, it would have been a different situation. Roger was just acting in an administrator capacity trying to do what the desires of the Council were. I didn't see the need to call anybody. I didn't see it as a big issue.

Mayor Fitzgerald presented the following resolution for Council's consideration of approval:

Resolution Endorsing the Establishment of the

Harrisonburg Metropolitan Planning Organization

WHEREAS, pursuant to the 2000 decennial census, the Harrisonburg region, including the City of Harrisonburg, the Towns of Dayton and Bridgewater and the surrounding Rockingham County area has been designated as an urbanized area; and

WHEREAS, the State is required to designate the region as a Metropolitan Planning Organization (MPO); and

WHEREAS, the City Council of the City of Harrisonburg desires to support the Harrisonburg MPO to evaluate regional transportation needs and any requirements under the Clean Air Act; and

WHEREAS, the City Council desires to work in conjunction with Rockingham County, and the Towns of Dayton and Bridgewater to establish the Harrisonburg MPO.

NOW, THEREFORE, BE IT RESOLVED, that the Harrisonburg City Council does hereby endorse the establishment of the Harrisonburg MPO this 12th day of November, 2002.

Date

Joseph Gus Fitzgerald, Mayor

Attest:

Yvonne Ryan, CMC, City Clerk

City Manager Baker explained that 2000 census has established Harrisonburg, Dayton, Bridgewater and the surrounding Rockingham County areas as a Metropolitan area. This designation requires the formation of a transportation planning organization for the area. The area is eligible for MPO status because it has more than 50,000 people. It is estimated that approximately \$110,000 in Federal funding will be made

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available for planning purposes on an annual basis, with a 10% local match required. He said that if the MPO was not established, the localities designated as the metropolitan area will not be eligible to receive Federal funding on any roads projects. The resolution endorses the establishment of the Harrisonburg Metropolitan Planning Organization. The next step will be determining the composition of the MPO Board. Council Member Lantz offered a motion to approve this resolution. The motion was approved with a unanimous vote of Council.

Police Chief Harper presented for Council's consideration an application from Kathy Keith of Valley Transportation Service, Inc. for a Certificate of Public Convenience and Necessity to operate a taxicab business. He explained that the Police Department has conducted an investigation in accordance to City Code Section 14-1-1. Police Chief Harper recommended that the application be approved. Council Member Lantz offered a motion to approve the application and issue a Certificate of Public Convenience & Necessity for Travel Mates. The motion was approved with a unanimous vote of Council.

Mayor Fitzgerald presented a request to change the composition of the Parks and Recreation Advisory Commission. He explained that the City Code calls for a commissioner from each precinct in the City. At the time this code section was adopted, there were four precincts. Following the 2000 Census, one additional precinct was created, making five precincts. Following further discussion and comments, Council Member Lantz offered a motion that the new composition of the Parks and Recreation Commission be composed of four members from the East-voting ward and two members from the West-voting ward for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent - None

City Manager Baker presented a certified receipt of 2002 government election results provided by the Electoral Board.

United States Senate

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John W. Warner	3528
Jacob G. Hornberger, Jr.	356
Nancy B. Spannaus	537

House of Representatives

R. W. Bob Goodlatte	3650
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Council Member Lantz offered a motion that the Council accept the election results and that the City Clerk enter the names into the official minutes. The motion was approved with a unanimous vote of Council.

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 to approve this request for a first reading, and that:

\$61,369.00 chge. to: 1111-33301 School Revenue Federal

\$59,569.00 approp. to: 1111-111114-40610 Instruction

1,800.00 approp. to: 1111-111114-40680 Technology

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

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Council Member Frank

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 Grant Program and will be used to pay for overtime money and miscellaneous supplies. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$11,997.41 chge. to: 1000-31901 Recoveries & rebates

\$ 1,506.05 approp. to: 1000-310431-46140 Other operating

10,491.36 approp. to: 1000-310231-41020 Salaries/Wages OT

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

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 through a one-time special request and will be used for a tracking system for the drug task force. Council Member Peterson offered a motion to approve this request for a first reading, and that:

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\$5,000.00 chge. to: 1000-31901 Recoveries & rebates

\$5,000.00 approp. to: 1000-310231-42811 Machinery/Equipment (new)

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

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 DMV grant for salaries. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$16,225.50 chge. to: 1000-33524 DMV Grant

\$16,225.50 approp. to: 1000-310231-41020 Salaries/Wages Overtime

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

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Mayor Fitzgerald

Absent None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds will be used to replace computer hardware. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$1,500.00 chge. to: 1000-31010 Amount from fund balance

\$1,500.00 approp. to: 1000-310131-48172 Hardware (replacement)

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

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 grant and will be used for overtime and crime prevention. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$1,307.62 chge. to: 1000-33531 Federal Weed and Seed grant money

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\$ 624.70 approp. to: 1000-310231-41020 Salaries Wages overtime

682.92 approp. to: 1000-310431-46140 Other operating supplies

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

City Manager Baker presented a request for a supplemental appropriation for renovations at the Simms Building. He explained that when the 2002-2003 budget was prepared it did not include additional funds for renovations/upgrades at the Simms Building. City Council made a commitment of \$200,000 per year for five years for work at the building. These funds will cover the second year's appropriation. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$200,000 chge. to: 1000-31010 Amount from fund balance

\$200,000 approp. to: 1000-990111-49216 Transfer to Capital Projects

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

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Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

City Manager Baker presented a request to transfer funds for the Public Utilities Department. He explained that these funds will be used for upgrading sewer lines. Council Member Peterson offered a motion to approve this transfer request, and that:

\$200,000 chge. to: 1322-911161-48645 PHR & A I & I

\$200,000 approp. to: 1322-911161-48651 Upgrades

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

Kathy Whitten, a resident of 560 South Mason Street, said that she appreciated hearing the discussion concerning the noise issues and trying to encourage single-family home ownership in the City. She also said landlords renting to students should be probably be considered as a business and paying the business tax. She said, We encourage them not to keep their property up because we assess their property according to its value and if the value is less than obviously they are paying less tax. At the same time, they are damaging our

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neighborhoods when we need to be working together to strengthen it. She encouraged Council to pursue opportunities for more tax revenue. She questioned why students vehicles didn't have a City decal rather than from another locality. They should be citizens of our City. They should pay their fair share because they are certainly using their fair share of services in the City.

City Manager Baker announced that the City had hired an outside consultant to help with the Comprehensive Plan.

Council Member Peterson offered a motion that the proposed amendment to the City Charter be removed from a tabled item and discussed further. The motion failed with a three to two vote.

At 10:45 p.m., Council Member Peterson offered a motion that Council enter a closed session for the discussion of matters related to the acquisition 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 discussion concerning a prospective business or industry where no previous announcement has been made of the business or industry's interest in locating its facilities in the City. 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). In addition, the purpose of the closed session is for the discussion or consideration of prospective candidates for appointment to the following boards or commissions: the Harrisonburg Redevelopment and Housing Authority; the Harrisonburg Electric Commission, the Harrisonburg Parks and Recreation Commission, and; the Harrisonburg Planning Commission. 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).

At 11:10 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 11:11 p.m., there being no further business and on motion adopted the meeting was adjourned.

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CITY CLERK

MAYOR