

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

REGULAR MEETING

JULY 8, 2003

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; Carolyn W. Frank; Council Member Dorn W. Peterson; Council Member Hugh J. Lantz; City Clerk Yvonne Bonnie Ryan, CMC/MMCA, and Police Captain Malcolm Wilfong. Absent: 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 minutes of the consent agenda and to dispense with the reading of the minutes from the previous meeting. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

Planning and Community Development Turner introduced a request by Ralph Weller for a special use permit. She said that the applicant has requested a special use permit for his property to allow businesses and professional offices uses in the M-1, General Industrial Zoning District. The property is located at 1124 South High Street. She reviewed the surrounding uses in the area. The Comprehensive Plan s designates this area for commercial development supporting business and professional office uses. The applicant does have some off street parking for the current existing business, but additional off street parking will have to be installed if

## MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

the property is used for continued professional offices. 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, June 23, and Monday, June 30, 2003.

### **Notice Of Public Hearing**

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

**The Harrisonburg City Council will hold public hearings on Tuesday, July 8, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.**

**Special use permit Ralph Weller Property**

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**Public hearing to consider a request by Ralph Weller for the granting of a special use permit to allow business and professional offices in the M-1, General Industrial Zoning District under Section 10-3-97 (3) of the City's Zoning Ordinance. The property can be found on tax map 20-A-8 and is located at 1124 South High Street.**

**Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m. All persons interested will have an opportunity to express their views at these public hearings.**

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

**CITY OF HARRISONBURG**

**Roger Baker**

**City Manager**

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

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

## MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

Absent None

Planning and Community Development Turner introduced a request by Joe and Becky Puffenbarger to rezone two lots on Central Avenue. This request is to rezone two lots totaling approximately 10,107 square feet from B-2, General Business District to R-3, Multiple Dwelling Residential District. The lot is located at the intersection of Central Avenue and Ash Wood Street in the Park View section of the City. The Comprehensive Plan designates this area for commercial use. When the property came into the City through annexation it was zoned B-2 because the B-2 City classification was the closest zoning to the B-1 classification in the County. She noted that a house has been on the property since 1965 and has continued to be maintained as a single-family dwelling although it is a non-conforming status. It has not been a problem for the owners until recently when they wanted to refinance the property. Because the property is a non-conforming use, the lender expressed concern and questioned the non-conforming use. If the property would be significantly damaged or sat vacant for more than 24 consecutive months it would not be able to continue as a single-family dwelling. In order to satisfy the terms of the refinancing, the Puffenbarger are requesting this rezoning. Mrs. Turner reviewed comments made by staff and the Planning Commission concerning the rezoning request. She said that Planning Commission recommended approval of the request.

At 7:46 p.m., Mayor Fitzgerald 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, June 23, and Monday, June 30, 2003.

### **Notice Of Public Hearing**

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

**The Harrisonburg City Council will hold public hearings on Tuesday, July 8, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.**

**REZONING Puffenbarger property**

**Public hearing to consider a request by Joe and Becky Puffenbarger to rezone two lots totaling 10,107 square feet from B-2, General Business District to R-3, Multiple Dwelling Residential District. The properties can be found on tax maps 38-F-14 & 15 and are located at 928 Central Avenue (Park View).**

**The Comprehensive Plan designates this area as Commercial. This designation states that this area is suitable for retail, wholesale, or service functions**

**The Zoning Ordinance states that 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. The 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-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 these public hearings.**

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

**CITY OF HARRISONBURG**

**Roger Baker**

**City Manager**

Mayor Fitzgerald called on anyone desiring to speak for or against the rezoning request.

Becky Puffenbarger, a resident of 928 Central Avenue, said her family has owned the house since 1987 and wanted to rezone the property to obtain better financing because of lower interest rates. There being no others desiring to be heard, the public hearing was declared closed at 7:47 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this request for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

## MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

Planning and Community Development Director Turner introduced a request by M. Belmont Verstandig, Inc. to rezone a portion of a parcel on Garbers Church Road from R-1, Single-Family Residential District to M-1C, General Industrial Conditional. She said that this request would allow the existing communication towers to become conforming under the City's zoning regulation. The property is located at 521 Garber's Church Road. She reviewed the surrounding uses in the area. The M. Belmont Verstandig property was annexed into the City in 1983 and assigned an R-1, Single-Family Residential District designation, which was the closest match to Rockingham County A-1 zoning. The towers existed in the location prior to the annexation; however, no building permit records could be found for their construction in the City or County and were most likely built before the permitting process had been established. Verstandig Broadcasting provides radio and emergency warning services to the City of Harrisonburg and the surrounding areas through several radio stations. To perform these services the company must be able to provide a strong signal to specified areas. The tower configuration serves as an AM transmission through three aligned towers and FM transmission through one large tower. The FM tower and one of the AM towers fall within Rockingham County and is zoned A-2, which allows the towers through a special use permit. The two remaining AM towers are in the City and zoned R-1. The City does not permit communication towers by right or special use permit in the R-1 zoning classification. The land use guide in the Comprehensive Plan designates this area as Low-Density Residential. Although the rezoning request does not match the Land Use Guide designation, the nature of the services provided by Verstandig Broadcasting can be seen as a benefit for the entire community as opposed to the rezoning request only benefiting the property owner. Mrs. Turner reviewed the regulations regarding the towers if they were damaged or collapsed. Under the rezoning request for M-1C, the property owner has proffered the condition to only allow by special use permit communication towers, accessory buildings and related electronic equipment. She said that Planning Commission recommended approval of the request.

At 8:04 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, June 23, and Monday, June 30, 2003.

## **Notice Of Public Hearing**

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

**The Harrisonburg City Council will hold public hearings on Tuesday, July 8, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.**

**REZONING m. belmont verstandig, inc.**

**Public hearing to consider a request by M. Belmont Verstandig, Inc. with owner's representative Suzanne Mowbray to rezone a portion of tax map parcel 122-B-2 from R-1, Single Family Residential District to M-1C, General Industrial Conditional. The property is located at 521 Garbers Church Road.**

**The Comprehensive Plan designates this area as Low Density Residential. The low-density residential areas 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 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 Districts.**

**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 these public hearings shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG**

**Roger Baker**

**City Manager**

Mayor Fitzgerald call on anyone desiring to speak for or against the rezoning request.

David Penrod an attorney representing VerStandig Broadcasting said that the company did not have any future plans for the property and the only use would be the continued use of these two towers. The applicant and staff have been working together on this problem for almost a year. The applicant has been looking at a variety of different mechanisms to provide the station with the option of maintaining or replacing what is there and nothing more. They also looked at the possibilities of changing what is permitted in a R-1 zone and grandfathering telecommunications towers throughout the City. There being no others desiring to be heard, the public hearing was declared closed at 8:05 p.m., and the regular session reconvened. Council Member Peterson offered a motion to approve this request. The recorded roll call vote was taken as follows:

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

Planning and Community Development Director Turner introduced a request to grant a special use permit to allow communications towers under Section 10-3-97 (6) of the City's Zoning Ordinance. She said that staff is recommending that the special use permit be granted and that the following conditions be applied to the recommendation for approval: 1) If the communications provider goes off the air or their equipment no longer operates for more than twenty-four (24) consecutive months, then all equipment shall be removed from the property. 2) Only the towers shown on the submitted drawing and pictures shall be approved under the issuance of this special use permit. If any non-radio transmission equipment not shown on the drawing or pictures are placed on the towers, then the special use permit becomes violated and the permit will be null and void. 3) Placement of advertising of any kind is prohibited on the towers. 4) City staff shall review the special use permit annually, on the date of permit issuance, for compliance to the above conditions. If any of the above conditions are found to be in neglect, a certified letter will be sent to the property owner, at which time the property owner will need to bring the equipment into compliance. If the equipment is not brought into compliance within 10 days, then the special use permit will be held null and void and all equipment approved under the issuance of this permit shall be removed from the site. Planning Commission recommended approval of the request provided the conditions are attached.

The following discussion by Council Members relative to the request included: M-1 Conditional use allows only towers permitted by special use permit; rezoning would be required if radio station stops using towers for 24 consecutive months; and letting a future Council handle any requests based on the conditions at that time.

At 8:06 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 Monday, June 23, and Monday, June 30, 2003.

## **Notice Of Public Hearing**

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

**The Harrisonburg City Council will hold public hearings on Tuesday, July 8, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.**

**special use permit M. belmont verstandig, inc.**

**Public hearing to consider a request by M. Belmont Verstandig, Inc. with owner's representative Suzanne Mowbray for the granting of a special use permit to allow for the existing communications towers to become conforming under the City's zoning regulations. Special use permits are required for towers that exceed one hundred twenty-five (125) feet in height under Section 10-3-97 (6) of the City's Zoning Ordinance. The area can be found on a portion of tax map parcel 122-B-2 and is located at 521 Garbers Church Road.**

**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 these public hearings shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG**

**Roger Baker**

**City Manager**

Mayor Fitzgerald call on anyone desiring to speak for or against the special use permit. There being no one desiring to be heard, the public hearing was declared closed at 8:07 p.m., and the regular session reconvened. Council Member Lantz offered a motion to approve this special use permit request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

Council Member Peterson offered a motion to approve a second reading enacting Section 4-2-108 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

Council Member Lantz offered a motion to approve FY 2004 State Performance Contract for the Harrisonburg-Rockingham Community Services Board. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

Mayor Fitzgerald introduced a request amending the financing agreement with Virginia Resources Authority for the 1995 Solid Waste Bonds. The lower interest rate offered by the financial agreement will save the City approximately \$16,511 per year.

**RESOLUTION AUTHORIZING THE AMENDMENT OF THE FINANCING AGREEMENT DATED AS OF DECEMBER 1, 1995 BETWEEN THE CITY OF HARRISONBURG, VIRGINIA AND THE VIRGINIA RESOURCES AUTHORITY EXECUTED IN CONNECTION WITH THE ISSUANCE OF THE CITY OF HARRISONBURG, VIRGINIA SOLID WASTE DISPOSAL SYSTEM REVENUE BONDS, SERIES 1995 B**

WHEREAS, the City of Harrisonburg, Virginia (the "City") is a political subdivision of the Commonwealth of Virginia and, pursuant to its City Charter, is duly incorporated and empowered to finance, refinance and issue bonds;

WHEREAS, on December 28, 1995, the Virginia Resources Authority ("VRA") issued its \$6,000,000 Solid Waste Disposal System Revenue Bonds (City of Harrisonburg) Series 1995 B, (the "Refunded VRA Bonds") pursuant to an Indenture of Trust, dated as of December 1, 1995 (the "Prior Indenture") between VRA and SunTrust Bank (as successor to Crestar Bank, as trustee (the "Prior Trustee");

WHEREAS, VRA used a portion of the proceeds of the Refunded VRA Bonds to acquire from the City its General Obligation Solid Waste Disposal System Bonds, Series 1995 (the "City Bonds ") in the original principal amount of \$6,000,000, all pursuant to a Financing Agreement dated as of December 1, 1995 (the "Financing Agreement ") between the City and VRA.

WHEREAS, VRA intends to issue its Infrastructure Revenue Bonds (Pooled Loan Bond Program), Series 2003C (the "Series 2003C VRA Bonds"), and to use a portion of the proceeds thereof to refund, defease and redeem the City Bonds pursuant to a Master Indenture of Trust dated as of March 1, 2000, as previously supplemented and amended and as further supplemented by a Ninth Supplemental Indenture of Trust dated as of August 1, 2003 (the "Indenture") between VRA and Wachovia Bank, National Association, as trustee (the "Trustee");

WHEREAS, the refunding of the City Bonds and the issuance of the Series 2003C VRA Bonds is expected to result in considerable debt service savings to the City;

WHEREAS, in connection with the issuance of the Series 2003C VRA Bonds, the City Bonds will be transferred from the Prior Trustee to the Trustee on behalf of VRA;

WHEREAS, a draft of an Amendment Agreement (the "Amendment Agreement") between VRA and the City (See, Exhibit A), which provides, among other things, for the amendment and waiver of certain provisions of the Financing Agreement, the transfer of the City Bonds to the Trustee and the reduction in debt service payments thereunder, has been presented at this meeting;

WHEREAS, a form of an Allonge (the "Allonge"), which shall be attached to each outstanding City Bond (See, Exhibit B), evidencing the amendment of certain terms and the reduction in debt service payments of the City Bonds, has been presented at this meeting;

WHEREAS, it appears to be in the best interests of the City and its residents to amend the Financing Agreement as set forth in the Amendment Agreement;

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

1. **Authorization of Amendment Agreement and Form of Allonge.** The City determines that it is in the best interest of the City to execute and deliver the Amendment Agreement and an Allonge for each outstanding City Bond. The City authorizes the execution and delivery of the Amendment Agreement, provided that the resulting debt service on the City Bonds from such amendments will

result in a present debt service savings of at least three percent (3%).

2. **Approval of Amendment Agreement.** The form of the Amendment Agreement submitted to this meeting is approved. The Mayor and Vice-Mayor of the City, either of whom may act, are authorized to execute the Amendment Agreement in substantially such form, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the Mayor or Vice-Mayor, whose approval shall be evidenced conclusively by the execution and delivery thereof. All capitalized terms used but not otherwise defined herein shall have the same meaning as set forth in the Amendment Agreement.
3. **Execution of Allonges.** The form of the Allonge submitted to this meeting is hereby approved. The Mayor and Vice-Mayor of the City, either of whom may act, are hereby authorized and directed to execute and deliver an Allonge in substantially such form with respect to each City Bond then outstanding to reflect the same amended terms, as appropriate, as contained in the Amendment Agreement, together with such other completions, omissions, insertions and changes not inconsistent with this Resolution and the Amendment Agreement as may be approved by the Mayor or Vice-Mayor, whose approval shall be evidenced conclusively by the execution and delivery thereof. The Clerk of the City is hereby authorized to countersign each Allonge and affix the seal of the City thereon.
4. **Transfer and Waiver of Redemption Provisions of City Bonds.** The City agrees and consents to the defeasance and redemption of the City Bonds, the termination of the Prior Indenture and the transfer of the City Bonds from the Prior Trustee to the Trustee. The City agrees to waive any right to optional redemption of the City Bonds to the extent necessary to conform with the requirements of the Amendment Agreement.
5. **Arbitrage Covenants.** As provided in the Financing Agreement, the City covenants that it shall not take or omit to take any action the taking or omission of which will cause the City Bonds to be "arbitrage bonds," within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations applicable to the City Bonds (the "Code"), or otherwise cause interest on the City Bonds to be includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the City shall comply with any provision of law that may require the City at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the City Bonds, unless the City receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the City Bonds from being included in the gross income for federal income tax purposes of the registered owners thereof under existing law.
6. **Other Actions.** All other actions of officers of the City in conformity with the purposes and intent of this Resolution and in furtherance of the execution and delivery of the Amendment Agreement and the Allonges are ratified, approved and confirmed. The officers of the City are authorized and directed to execute and deliver all certificates and other instruments, including, but not limited to, an IRS Form 8038-G, considered necessary or desirable in connection with the execution and delivery of the Amendment Agreement and the Allonges pursuant to this Resolution.
7. **Effective Date.** This Resolution shall become effective immediately. The Clerk of the City is hereby authorized and directed to file a certified copy of this Resolution in the office of the City and with the Clerk of the Circuit Court of Rockingham County, Virginia.

Dated: July 8, 2003

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G. Fitzgerald

Mayor Joseph

**CERTIFICATE OF VOTES**

**The following is a record of the roll-call by the City Council of the City of Harrisonburg, Virginia regarding the foregoing Resolution RESOLUTION AUTHORIZING THE AMENDMENT OF THE FINANCING AGREEMENT DATED AS OF DECEMBER 1, 1995 BETWEEN THE CITY OF HARRISONBURG, VIRGINIA AND THE VIRGINIA RESOURCES AUTHORITY EXECUTED IN CONNECTION WITH THE ISSUANCE OF THE CITY OF HARRISONBURG, VIRGINIA SOLID WASTE DISPOSAL SYSTEM REVENUE BONDS, SERIES 1995 B at a regular meeting of the Council held on July 8, 2003.**

<b>MEMBER</b>	<b>AYE</b>	<b>NAY</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
<b>Joseph G. Fitzgerald, Mayor</b>	<b>X</b>			
<b>Larry M. Rogers, Vice Mayor</b>	<b>X</b>			
<b>Hugh J. Lantz</b>	<b>X</b>			
<b>Carolyn W. Frank</b>	<b>X</b>			
<b>Dorn W. Peterson</b>	<b>X</b>			

[SEAL]

**Dated: July 8, 2003**

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**Clerk,**

**City Council of the City of Harrisonburg, Virginia**

Glenn Hodge, an attorney with the law firm of Wharton, Aldhizer, and Weaver, said that the Virginia Resources Authority issued these bonds in 1995 for the City's Solid Waste Disposal System. Since interest rates are lower, adopting this resolution should save the City approximately \$215,000 over the life of the bonds. Council Member Frank offered a motion to adopt the resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

Assistant City Manager Kurt Hodgen presented a brief overview on Harrison Plaza (Harrisonburg Public Safety Building). He said plans and specifications are being developed for the fifth floor of the building, which will serve as the Emergency Communications and Operations Center (ECC/EOC) for Harrisonburg and Rockingham County. The third floor is now being occupied by the Fire Department Administration. Future plans call for the Harrisonburg Police Department to occupy the ground floor and the first and second floor. The final floor, the fourth, is not yet committed space; however, staff will recommend the possibility of constructing a new Council meeting chamber on this floor. He said that tentative plans call for moving the School Board and Weed & Seed offices to the fourth floor of Harrison Plaza and upon completion of the Simms renovations, each of these offices would move back into Simms.

The next item of business was a discussion of the Attorney General's opinion on advertising state and local referendum questions. Mayor Fitzgerald led a discussion concerning a two full-page ads placed in the Daily News-Record on October 26<sup>th</sup> urging people to vote in favor of the parks and education bonds referendum on the November 5th ballot. He said that at the time Council did not feel it was appropriate to place the ad in the newspaper. Virginia's Attorney General Jerry Kilgore has issued an opinion stating that municipalities cannot spend money on ads for or against referendums. Council Member Lantz questioned placing this item on the agenda. He also reminded everyone that Council had previously agreed to eliminate the practice of encouraging voters how to vote by placing ads in newspapers. Council Member Lantz offered a motion that this Council eliminate the practice of such ads. The motion was approved with a unanimous vote of Council.

Bill Blessing, Chairman of the Transportation Safety Commission, said that on January 22, 2002 City Council had asked for a transportation study. He said that members of the Transportation Safety Commission had agreed to undertake an educational and safety program. Brochures and posters have been printed promoting pedestrian safety. Most of the original brochures have been disturbed. The JMU Police Department have requested brochures and posters to distribute to students returning to classes in the fall. Mr. Blessing requested funds to pay for printing more brochures and posters. Following further discussion and comments, Council Member Peterson offered a motion to transfer funds for printing new brochures.

\$5,000.00 chge. to: 1000-940111-49310 Reserve for contingencies

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

\$5,000.00 approp. to: 1000-410241-45675 Transportation Safety

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

Todd Hersh, a resident of 801 Madison Street, said that he was disabled and depended on City buses for transportation, which had cost \$2.40 per week for bus rides. However, on July 1<sup>st</sup> the bus fares were increased. He purchased \$40.00 in coupons prior to July 1<sup>st</sup> to save money. The coupon indicates that it is redeemable for one person per fare. However, since the bus fares were increased, bus drivers have informed him that he must use two coupons for one bus ride. He requested that City Council ask the Transportation Department to honor the coupons purchased prior to July 1<sup>st</sup>. He also said increasing the fares made the situation harder for disabled or handicapped people living on limited incomes.

Council Member Peterson offered a motion to inform the Transportation Department to honor the coupons (one coupon per fare) purchased prior to July 1<sup>st</sup>. The motion was approved with a unanimous vote of Council.

Council Member Peterson said that on July 4<sup>th</sup> he and Mayor Fitzgerald had been approached by a citizen living on Circle Drive stating that she had seen at least 40 deer in her back yard. The citizen indicated it is impossible to keep any plants alive in her yard because of the deer.

Council Member Lantz commented that it wasn't unusual to see a lot of deer together at this time of the year. He said that it has been determined by the Virginia Game and Inland Fisheries that Harrisonburg's deer population is healthy. The Deer Population Task Force meets occasionally to discuss concerns from

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

residents.

Council Member Frank commended Vice-Mayor Rogers for encouraging businesses with high-tech positions to locate in the City.

Mayor Fitzgerald suggested that a check should be written to Mr. Crowther for the damage to his car caused by a City recycling truck. City Attorney Miller said that in a recent closed session, discussion was held regarding how the City could write a check, but he didn't know if it was appropriate to remind Council of the discussion. He said it would not set a precedent by settling this claim and paying Mr. Crowther. It will not prevent the City from using its sovereign immunity in other cases. Following further discussion and comments, Council agreed to ask City Manager Baker to telephone Mr. Crowther requesting documentation for the expenses he sustained as a result of the accident with a City recycling truck. Mr. Baker should present the documentation to Council at the meeting for its approval.

Vice-Mayor Rogers announced that at the annual City's Manager Convention on June 27<sup>th</sup>, Kurt Hodgen was named as Assistant City Manager of the Year.

At 9:15 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of the discussion of personnel matters. 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). The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

At 9:45 p.m., the closed session ended and the regular session reconvened. The following statement which was agreed to with a unanimous recorded vote of Council: I certify to the best of my knowledge belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of Title

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 8, 2003

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 in the closed session by the City Council.

At 9:46 p.m., there being no further business and on motion adopted the meeting was adjourned.

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CITY CLERK

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MAYOR