

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 9, 2003

REGULAR MEETING

SEPTEMBER 9, 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; 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 Lantz 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 a Supplemental Appropriation for the Police Department and amending and re-enacting Section 7-2-4 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

Mayor Fitzgerald presented for Council's consideration adopting the Joint Exercise of Powers Ordinance for a second reading:

AN ORDINANCE FOR THE JOINT EXERCISE OF POWERS BY

THE CITY OF HARRISONBURG, VIRGINIA AND

ROCKINGHAM COUNTY, VIRGINIA

Be it Ordained by the Council of the City of Harrisonburg and the Rockingham County Board of Supervisors as follows:

- 1. This ordinance shall remain in full force and effect until repealed by the Harrisonburg City Council or the Rockingham County Board of Supervisors.**

- 2. The purpose of this ordinance is to create the Rockingham-Harrisonburg Emergency Communications Center (ECC) for public safety operations, and to provide for the purchase, operation and maintenance of a two-way radio system for public safety and general government operations in the County and City.**

- 3. Financing for this joint undertaking shall be provided by appropriation from the Rockingham County Board of Supervisors and Harrisonburg City Council. The localities will cooperate in the filing of grant applications, and with any bond financing necessary for the construction, renovation and equipping of the ECC, and the purchase of infrastructure, emergency power, fixed, and non-fixed equipment. The Rockingham County Board of Supervisors and Harrisonburg City Council, upon recommendation by the Rockingham/Harrisonburg ECC Administrative Board shall approve the budget for this project. The Rockingham/Harrisonburg ECC Administrative Board shall agree upon the annual operation and maintenance budget, which shall be submitted to the governing bodies for final approval**

- 4. The cost for acquisition, construction, renovation, and equipping of the Emergency Communications Center located at Harrison Plaza, North Main Street, Harrisonburg, Virginia shall be apportioned equally between the County and City. Cost for the infrastructure, microwave, physical facilities, vendor services, emergency power and other fixed equipment which is part of the two-way radio communications system listed in the Needs Assessment Report prepared by CTA Communications, Inc. (listed in Appendix I), including its redundancy components, shall be apportioned equally between the County and the City. The cost for non-fixed equipment shall be apportioned 100% to the locality in which the agency principally operates, except for the equipment purchased for Harrisonburg Rescue Squad (HRS). The cost of HRS equipment shall be apportioned based on the distribution of calls responded to in each locality for the year prior to the purchase of the equipment. If this Ordinance remains in effect ten (10) years from the date the radio system is placed into service by the Emergency Communications Center, representatives of the County and the City shall meet within sixty (60) days of such anniversary date to evaluate the operation and use of the ECC to determine whether the cost for operating the ECC and the replacement of equipment should be reapportioned based upon an agreed upon formula utilizing any or all of the following factors: actual**

historical use of the ECC by the County and the City, population, land area, number of radios or other relevant measurement tool. Any change in the cost apportionment must be agreed to in writing by the County and the City. This ordinance (agreement) shall continue in full force and effect unless and until terminated by either the City or County giving written notice to the other of such termination at least five (5) years prior to the effective date of such termination. Such notice cannot be given during the first five (5) years of this agreement.

5. Upon termination of this ordinance (agreement) any property purchased and used jointly by the two localities shall be divided equally between the County and City.

6. There shall be a joint board responsible for the operation and maintenance of the system called the Rockingham/Harrisonburg ECC Administrative Board comprised of:

- a. Rockingham County Administrator
- b. Harrisonburg City Manager

The Chair of the Administrative Board will be rotated annually.

7. The duties and responsibilities of the Administrative Board include:

- a. Establish policies for ECC.
- b. Employ and direct Director of ECC
- c. Review and approve budget.
- d. Authorize positions, descriptions and salary ranges established for ECC.

8. There shall be an advisory board to the Administrative Board called the Rockingham/Harrisonburg Communications Advisory Board, is comprised of:

- a. Harrisonburg City Police Chief
- b. Harrisonburg City Fire Chief
- c. Harrisonburg City/Rockingham County Sheriff
- d. Rockingham County Fire & Rescue Chief
- e. President of Harrisonburg/Rockingham Emergency Services

Officers Association.

The Chair of the Communications Advisory Board will be rotated among the membership each year.

- 9. The duties and responsibilities of the Advisory Board include:
 - a. Review and recommend to Administrative Board all policies.**
 - b. Approve procedures to implement policies.**
 - c. Review and recommend budget to Administrative Board.****

10. The members of the Administrative Board and the Advisory Board serve by virtue of their county/city office, whose terms shall be coincident with holding such office.

11. The City shall serve as fiscal agent for the joint undertaking, and any employees of the ECC shall be City employees for payroll purposes, and be subject to the personnel policies of the City.

12. Liability and property insurance shall be provided by the policies of the City, and any increase in premiums caused by such coverage shall be included as an additional operational cost of the ECC, and funded as other operation and maintenance costs. Property insurance for non-fixed radio equipment shall be insured by the purchasing locality.

Authorized this _____ day of _____, 2003 on behalf of Rockingham County, Virginia

Dee E. Floyd

Chairman

The undersigned Clerk of the Rockingham County Board of Supervisors hereby certifies the foregoing is a true and correct copy of a Resolution duly adopted by the Rockingham County Board of

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Supervisors on _____, 2003.

Date: _____, 2003

Clerk, Rockingham County Board of Supervisors

Authorized this _____ day of _____, 2003 on behalf of the City of
Harrisonburg, Virginia

Joseph G. Fitzgerald, Mayor

The undersigned Clerk of the Council for the City of Harrisonburg hereby certifies the foregoing is a true and correct copy of a Resolution duly adopted by the Harrisonburg City Council on _____, 2003.

Council Member Peterson offered a motion to adopt the ordinance for a second reading. 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

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Mayor Fitzgerald presented for Council's consideration an ordinance repealing and re-enacting Title 15, Chapter 2, Animal Control of the Harrisonburg City Code. City Attorney Miller said that General Assembly has changed the definition of a dangerous and vicious dog and staff is recommending that Harrisonburg follow the state code definition. Council Member Peterson offered a motion to approve this ordinance for a second reading. 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 7:36 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, August 25, and Tuesday, September 2, 2003.

NOTICE OF

PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, September 9, 2003, at 7:30 p.m., in the City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia.

The Harrisonburg City Council will receive the views of citizens regarding the proposed use of funds paid under the Local Law Enforcement Block Grant as it relates to the Harrisonburg Police Department's entire budget. At this hearing, persons shall be given an opportunity to provide written and oral views to the City Council about the Department's budget and the relation of the Grant to the entire budget.

CITY OF HARRISONBURG

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Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against the local Law Enforcement Block Grant.

Police Chief Harper stated that the United States Department of Justice issues the local Law Enforcement Block Grant to assist localities in improving public safety. A public hearing must be held to receive these funds, which will be used to complete the Police Department in-car camera program. There being no others desiring to be heard, the public hearing was declared closed at 7:37 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this block grant. 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 Director Turner introduced a request by HSZ, LC to rezone three lots located at the intersection of Linda Lane and Country Club Road from B-2C, General Business District (conditional) to a different B-2C, General Business District (conditional). The Comprehensive Plan designates this area for Commercial use. She reviewed the surrounding uses in the area. The 1999 update to the Major Street Plan shows the expansion of Country Club Road to three lanes with bike lanes and sidewalk along the subject property's southern line. The plan also shows the extension of Linda Lane to four lanes. In the fall of 2000 this piece of property together with property adjacent across the railroad tracks was requested for rezoning by a company named CBL & Associates Properties. The rezoning request changed the zoning from M-1, General Industrial District to B-2C, General Business District (conditional). The company anticipated constructing a 575,000 square foot retail development on the site and proffered limiting uses, making road improvements to Market Street, Linda Lane and Country Club Road and traffic signal improvements. She also said that the property owner has requested that the proffered conditions established under the 2000 rezoning request be removed. The current zoning will remain in place for the rest of the property. Staff has reviewed the proffered conditions for the properties and supports removing the proffers on the subject property; however, staff has other concerns with the property that will prevent a full recommendation for approval. The concern centers on the 1999 Major Street Plan, which shows the extension of Linda Lane to Smithland Road and the expansion and redevelopment of Country Club Road. The City's Engineering Department has drawn a preliminary sketch showing how the proposed road may impact the

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subject lots. The applicant has submitted additional proffers making this request a conditional rezoning request. Mrs. Turner reviewed the additional proffers. She said that Planning Commission recommended approval of the request with a five to two vote.

At 7:45 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, August 25, and Tuesday, September 2, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, September 9, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.

REZONING HSZ, LC. property

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Public hearing to consider a request by HSZ, LC to rezone three lots totaling 2.47 acres from B-2C, General Business District (conditional) to B-2C, General Business District (conditional). The request would remove and replace existing proffers approved by City Council on September 12, 2000. The properties can be found on tax maps 13-C-3, 4, & 5 and are located at 1546, 1570, & 1578 Country Club Road.

The Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, wholesale, or service functions. These areas are found along major travel corridors and in the Central Business District of the City.

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

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CITY OF HARRISONBURG

Roger Baker

City Manager

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

Henry Clark, an attorney with Clark and Bradshaw, said the principals of HSZ, LC include Zane Showker, Steve Bradshaw, and Henry Clark. The proffers that were originally placed on the property are outdated. With the completion of Harrisonburg Crossing it is impossible to do some of the things that were proffered in 2000. However, in the future there may be some further interest in the development of the other parcels behind this property. If perhaps another project involving the other property doesn't go through, the City has made arrangement for the extension of Linda Lane. 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 Peterson offered a motion to approve this 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

Planning and Community Development Director Turner introduced a request to rezone approximately 15.84 acres from R-1, Single Family Residential District and R-3C, Multiple Dwelling Residential (conditional) to R-3, Multiple Dwelling Residential District and B-2C, General Business District (conditional). The property is located on the north side of West Market Street between 1250 and 1314 and along both sides of Stonecrest Drive between 1300 and 1461. She said that the Comprehensive Plan designates this area for Planned Residential-Medium Density land use classification. She reviewed the surrounding uses in the area. The first phase of the Wellington Subdivision was preliminary platted in 1998; however, because the project did not move forward, approval of the preliminary plat expired. In March of 2000, the developer re-submitted the previously plat and received approval which included 40 single-family home lots. In July of 2000, Planning Commission received a request to rezone 2.07 acres to a R-3 conditional zoning classification for the development of 29 townhouse units. Proffers for the part fronting on West Market Street limited the number of occupants to two unrelated individuals in each unit, eight dwelling units per building, and a landscape buffer and fence along part of the property line. She said that the applicant is requesting to take the portion currently zoned R-1, which requires single-family houses to be developed on

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lots of 10,000 square feet and change it to R-3, which allows single-family homes to be developed on lots of 6,000 square feet. The current developer, Tim Lacey, is also requesting that the remaining 2.08 acres be rezoned to B-2C to allow for commercial activities. Staff's basic underlying concern is the potential for conflict between incompatible uses (residential and commercial) abutting one another. She said staff has been working with the developer to try and alleviate some of the concerns. She reviewed some of the significant proffers submitted by the developer. In addition, because of the close proximity of these facilities to area schools, the developer proffered that the sale of alcohol would be prohibited and no pornographic, tattoo or piercing parlors would be permitted on the property. She said that concerns including traffic, lights, fast food restaurants, and dine-in restaurants were also discussed. Planning Commission evaluated the information and felt that the developer had given a lot of thought to the type of businesses that might not be compatible with residential uses. She said that Planning Commission recommended approving the request to rezone the property by a vote of four to one with one abstention and noted that Chairman Huffman had excused himself from the room due to a conflict of interest.

At 7:58 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, August 25, and Tuesday, September 2, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, September 9, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.

REZONING WELLINGTON SUBDIVISION

Consider a request by Tim Lacey Builder/Developer, LLC to rezone tax map parcels 124-N-1 through 7, 37-F-1 through 8, 37-E-1 through 7, 37-G-1, 10, and a portion of 37-G-2 (approximately 15.84 acres) from R-1, Single Family Residential District and R-3C, Multiple Dwelling Residential (conditional) to R-3, Multiple Dwelling Residential District and B-2C, General Business District (conditional). The property is located on the north side of West Market Street between 1250 and 1314 and along both sides of Stonecrest Drive between 1300 and 1461.

The Comprehensive Plan designates this area as Medium-Density Residential. The Medium-Density Residential designation states that these areas are near major thoroughfares or commercial areas. They contain a variety of housing types such as single-family, duplex, and two or three story apartments and densities can range from 1 to 15 units per acre.

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The Zoning Ordinance states that 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. While 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 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 and there are no minimum lot size restrictions 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 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 this rezoning request.

Tim Lacey, a resident of 300 Garbers Church Road and the developer, said it is very rare for a developer to appear before Council requesting a down zone or less density than was originally allowed on the property. Mr. Lacey said that he has been working on the project for approximately one year. He also developed the Westfield Subdivision. He reviewed concerns of surrounding property owners, his concern to keep the lots affordable, and matching the existing subdivision. This request would allow him is to extend the B-2 uses and continue building an affordable subdivision in the R-3 zoning. There are single-family residences abutting commercial uses in many spots in the City. He requested Council's support. There being no others desiring to be heard, the public hearing was declared closed at 8:00 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 Lantz

Vice-Mayor Rogers

Council Member Peterson

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Council Member Frank

Mayor Fitzgerald

Absent None

The next item of business was referring zoning changes concerning sexually oriented business (S.O.B. s) to the Planning Commission. Mayor Fitzgerald commented there has been some discussion in the community about the City adopting zoning changes to limit the location of sexually oriented businesses. He suggested referring copies of other localities zoning regulations to the Planning Commission for their recommendations or suggestions. Council Member Peterson offered a motion to refer these zoning changes to the Planning Commission with no deadline for action on it. The motion was approved with a unanimous vote of Council.

The next item of business was to consider setting minimum financial standards for organizations receiving City funds. Mayor Fitzgerald said that Section 4-2-9 of the Harrisonburg City Code describes the current regulations for contributions to outside agencies and charitable organizations. Some recent events have suggested perhaps the City needs to be more aware of its policy. Mayor Fitzgerald suggested asking the City Manager and Finance Director to prepare some regulations between now and the beginning of the budget process. Council agreed to let staff handle establishing any new procedures or regulations.

The next item of business was a discussion of Council Members salaries and whether to appoint an ad hoc citizens panel to study the issue of salaries for City Council.

Vice-Mayor Rogers commented that City Council makes decisions on millions of dollars every year. Council s salary should be brought up to standard as other departments in the City.

Mayor Fitzgerald said, People should not be voting on whether they should get \$10,000 dollars of somebody else s money without it going through somebody besides them.

Council Member Peterson commented that it might make everyone more comfortable to appoint a commission of previous Mayors or Council Members, but he said, The law of the commonwealth is we decide.

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Council agreed to place this item on the September 23rd agenda for citizen's input if they wished to address the issue.

Council Member Lantz offered a motion to reappoint the City Manager according to the terms of his contract. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Frank

Mayor Fitzgerald

No - Council Member Peterson

Absent None

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

RESOLUTION SUPPORTING

RAIL ALTERNATIVES TO COMPLIMENT

PLANNED IMPROVEMENTS TO I-81

WHEREAS, the I-81 corridor is increasingly the route of choice for truck travel in the Shenandoah Valley; and

WHEREAS, proper inclusion of a freight/passenger rail component in a comprehensive surface transportation policy assures notable reduction in needed interstate capacity and associated design and construction costs; and

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WHEREAS, the increased use of railroads to move freight will improve safety by reducing dangerous vehicular congestion on I-81, will improve energy conservation by reducing the amount of diesel fuel consumed for freight transportation, will improve the health of people and other living things in our community by lowering air pollution and toxic emissions along I-81, may improve the local economy by assuring time-competitive, low-cost rail shipping options for local businesses and industrial prospects and may eliminate the necessity for placing tolls on I-81; and

WHEREAS, 11 counties and several cities and towns along the Interstate 81 corridor have adopted resolutions supporting rail transportation; and

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Harrisonburg, Virginia, hereby calls upon federal, state and local government officials along the Interstate 81 corridor from Harrisburg, Pennsylvania, to Chattanooga, Tennessee, to work cooperatively with the rail companies to develop an intermodal railroad; and

BE IT FURTHER RESOLVED that the Council calls upon the Virginia Department of Transportation to seriously and objectively consider this option when reconstructing I-81.

Date

Mayor

Atteste:

Clerk of the City Council

Vice-Mayor Rogers said this resolution has been discussed and approved in other localities.

Council Member Lantz questioned whether the proposals supporting rail alternatives adequately addressed rail freight potential on I-81. He also questioned whether passenger rail component would assure notable reduction in lane capacity, would it improve the local economy, and would it eliminate the necessity for placing tolls on I-81. He said, I don't know if adding rail capacity will eliminate the necessity for placing tolls on I-81. He also suggested replacing the word (will) and substituting (may) in several places in the resolution.

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Council Member Peterson suggested removing the second (WHEREAS) paragraph, eliminating the word (lane) in the last sentence of the third (WHEREAS) paragraph, and substituting the word (may) for the last two (will s) in the fourth (WHEREAS) paragraph.

Vice-Mayor Rogers offered a motion to adopt the resolution as amended. The motion was approved with a unanimous vote of Council.

The next item of business was receiving public input on the Fluor and Star proposals for improving I-81. Council Member Peterson said that the state has requested that Harrisonburg comment within 60 days on the proposals by Fluor and Star for improving I-81. He suggested in order to provide an opportunity for everyone to be heard concerning these proposals that this item be included on the next two City Council agenda meetings.

The next item of business was selecting voting delegates for the Virginia Municipal League Conference scheduled for October 20-22, 2003. Council Member Peterson offered a motion naming City Manager Roger Baker as the voting delegate and Mayor Joseph Gus Fitzgerald as the alternate voting delegate. The motion was approved with a unanimous vote of Council.

The next item of business was a request to amend Section 14-1-39 of the Harrisonburg City Code. City Attorney Miller said that this change in the Certificate of Public Convenience and Necessity simply adds the requirement that when a certificate is issued, it states, among other things, that the holder of the certificate must offer taxi service to the public a minimum of 120 hours per week. He said it was questioned whether this change would also apply to buses, limousines and other types of vehicles receiving the Certificate of Public Convenience. He said perhaps the code should contain more specific language stating that certificates should be issued for for hire cars and taxicabs and include the requirement of 120 hours for taxicabs.

Council Member Peterson said perhaps a distinction should be made between limousine service and taxicab service. He requested that City Attorney Miller present proposals to City Council on how to distinguish between limousine service and taxicab service.

Martin Soloman, a resident of 33 A Maple Wood Court and owner of College Limousine Service, complained about how his original taxicab license was issued. He said he operates mostly on weekends and opposed changing the hours of operation to a minimum 120 hours.

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James Furr, a resident of 1639 Buttonwood Court and operator of ABC Cab, said the regulation probably would not effect his business. He said City regulations to receive a Certificate of Public Convenience are adequate, which includes background check and financial information.

Jon Keith, a resident of 5113 Ship Lane and owner of Yellow Cab Company, said many major metropolitan areas have deregulated taxicab service. He said that he was in favor of imposing the minimum of 120 hours per week to operate a taxicab service.

Council Member Peterson said Mr. Jon Keith has provided information regarding a recent documented studies on taxi regulations and deregulations from Price Waterhouse, North Carolina State University, and Dr. Paul Stephen Dempsey of the University of Denver. There is also an excellent taxi regulatory video developed by North Carolina State University interviewing public officials on the role of proper taxicab regulations. He requested that City staff provide copies of the research report and inquire about the availability of the video.

City Attorney Miller suggested that he and staff look into whether any company is operating with a sub-contractor because it could present a significant legal problems. There are insurance and bonding requirements and certificate requirements for the people who are operating taxicabs. Part of the certificate is an element stating how many cabs that company is allowed to operate with the bonding being in place for the protection of the public and the City.

Council Member Peterson offered a motion to table Section 14-1-39 and 14-1-42 of the Harrisonburg City Code. The motion was approved with a unanimous vote of Council.

The next item of business was a request to amend Sub-Section 4-2-92(b) of the Harrisonburg City Code. Commissioner of Revenue June Hosaflook explained that the General Assembly passed legislation to raise the maximum penalty for the wrongful and fraudulent use of meals tax funds other than remitting the tax. The law states that this act will constitute embezzlement. It also raises the penalty for this act from misdemeanor to a felony. She proposed that Harrisonburg amend the current City Code. Council Member Peterson offered a motion to approve changing the 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

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Mayor Fitzgerald

Absent None

City School Superintendent Donald Ford presented a request for a supplemental appropriation for the School Board. These funds were received from a Federal grant and requires no additional City dollars to receive these funds. Council Member Frank offered a motion to approve this request for a first reading, and that:

\$381,900.00 cage. to: 1111-33301 School Revenue Federal

\$381,900.00 approp. to: 1111-111114-40610 Instruction

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

City Manager Baker introduced a request from Nautilus Fitness Center to hold a Fab Four Miler race to benefit a non-profit agency. Cindy Williams announced that Nautilus Fitness has opened a new facility located at 381 Lucy Drive. She invited everyone to a grand opening celebration on October 17, 2003. The four-miler race has been scheduled for October 18th at 8:00 a.m. Vice-Mayor Rogers offered a motion to approve the race. The motion was approved with a unanimous vote of Council.

Vice-Mayor Rogers said that he had received a complaint from an elderly resident of the City. The citizen said residents are blowing grass back into the street making it very slick and dangerous for anyone walking.

RESOLUTION SUPPORTING

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City Council requested that the issue be addressed on City Span in a responsible and persuasive fashion.

At 9:07 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of discussion or consideration of prospective candidates for appointment to the Harrisonburg Parking Authority. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.1 of the Code of Virginia (1950), as amended (the Code). The discussion of a prospective business or industry where no previous announcement has been made of the business or industry interest in locating in Harrisonburg. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.5 of the Code of Virginia (1950), as amended (the Code). The discussion with legal counsel pertaining to possible litigation, where such consultation in open meeting would adversely affect the negotiating posture of the City. 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).

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 10:19 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 business 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 public business matters as were identified in the motion by which the closed meeting was convened, were heard, discussed or considered in the closed meeting by the City Council.

Council Member Peterson offered a motion that Peter A. Poirot, 423 Northfield Court, be appointed to a first term on the Harrisonburg Parking Authority to expire on November 28, 2006. The motion was approved with a unanimous vote of Council.

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At 10:20 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR