

MINUTES - REGULAR MEETING OF CITY COUNCIL - JANUARY 14, 2003

REGULAR MEETING

JANUARY 14, 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 Frank gave the invocation and Mayor Fitzgerald led everyone in the Pledge of Allegiance.

Mayor Fitzgerald announced that four snowplows decorated by the City's elementary students won the Judge's Special Award in the 2002 Christmas Parade.

Mayor Fitzgerald presented a Judges' Special Award to Kenny Knight representing the Public Works Department for its entries into the 2002 Christmas Parade. Mayor Fitzgerald read the following letter received from the Christmas Parade Committee: Congratulations, Your entry in the 2002 Christmas Parade received the Judges' Special Award. The Parade Committee would like to thank you for your participation and for all the work that you did to make this an enjoyable event for everyone involved especially the spectators.

City Manager Baker read the following letter from Joan Strickler, Executive Director of First Night. Dear Mr. Baker and City Council Members: On behalf of the entire Board of Directors of First Night 2003, I want to express our deepest appreciation for the excellent cooperation we received from the City, aspects of planning and coordinating another incident free and enjoyable New Year's celebration. Thank you for sponsoring us. We try to give our major partners credit whenever possible. Once again, the weather smiled upon us and it didn't have anything to do with George Heishman being the MC at the closing ceremony. It was good to see that many people came out to enjoy the activities we had planned. I am especially pleased with the way the Police, Public Works, and Fire Departments worked so well with us to make the celebration come off without a hitch. We heard comments from visitors to the area that they were very appreciative of the City's support for such a family centered and community spirited New Year's Eve Festival.

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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, General Funds Reserve and a rezoning request by Fairfield Language Technologies. The motion also included referring closing a portion of a street to the Planning Commission. 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 for a special use permit to locate a religious institutional use within the M-1, General Industrial District zoning classification. The site is located at 760 Waterman Drive. The City's Zoning Ordinance does allow religious uses in the M-1, General Industrial Zoning District with a special use permit. The site is currently undeveloped. She reviewed the surrounding uses in the area. The applicant has requested a special use permit to construct a church on the property. Staff recommended approval of the special use permit, but noted that the church was in an industrial zoning classification and should be aware there could be intensive industrial uses in the area in the future. She suggested that the Church might want to develop a landscaping buffer to isolate itself from the surrounding properties. Furthermore, staff encourages the church to retain a many existing trees as possible during any construction that may take place on this property. Mrs. Turner said the only condition staff recommended be placed on this special use permit for the church, is that there should be outdoor lighting provided to illuminate any parking areas, walkways and entrances to provide security for church patrons. She said that Planning Commission recommended approval of the special use permit request.

At 7:40 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, December 30, 2002 and Monday, January 6, 2003.

Notice Of Public Hearing

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The Harrisonburg City Council will hold public hearings on Tuesday, January 14, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.

SPECIAL USE PERMIT Iglesia Nueva Vida Pentecostes

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Public hearing to consider a request by the church, with representative Pastor Abel Castro, for a special use permit {per section 10-3-97 (9) of the Zoning Ordinance} to locate a religious institutional use within the M-1, General Industrial District. The church will be built at 760 Waterman Drive on tax map parcel 38-A-7A.

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

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

CITY OF HARRISONBURG

Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this special use permit. There being no one desiring to be heard, the public hearing was declared closed at 7:41 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
 Council Member Frank
 Mayor Fitzgerald

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Absent None

Planning and Community Development Director Turner introduced a request for a special use permit to co-locate communication antennas on an existing building at the Hampton Inn. The property is zoned B-2 General Business District zoning classification and is located at 85 University Boulevard. She reviewed the surrounding uses in the area. In October 1997, a special use permit was granted to CFW Wireless to locate six antennas on the rooftop of the Hampton Inn at a height not to exceed six feet above the parapet wall. The Hampton Inn applied for an electrical permit in October 1997 and placed a configuration of four antennas on the rooftop. Another special use permit was approved in May 1999 that allowed Triton PCS to place six antennas on the Hampton Inn. The antennas were conditioned to meet all specifications contained on the submitted plans and that equipment not operated for a continuous period of 24 month shall be considered abandoned and removed within 90 days. The Triton antennas were approved to extend to a height of 54 feet 6 inches, which is 9 feet 4 inches above the parapet roof. In June 1999, Triton was granted a building permit. The permit allowed them to place six antennas according to their proposed plan approved during their May 1999 special use permit process. Currently, the Hampton Inn supports ten antennas that are visible from the surrounding area. She said that staff is recommending that the special use permit request be granted with the following conditions: 1) If the cell provider goes off the air or their equipment no longer operates for more than twelve (12) months, then all equipment associated with that company shall be removed from the building. 2) Only the equipment shown on the submitted drawing shall be approved with issuance of the special use permit. All equipment would have to be removed from the roof if the special use permit was violated. 3) A screening material shall be constructed to raise the parapet wall an additional twelve feet to visually obscure the panels and equipment attached to the roof of the building. 4) Placement of advertising of any kind is prohibited on the antennas. 5) City staff shall review the special use permit annually, for compliance of the conditions. If any of the conditions are found to be in neglect, a certified letter will be sent to the property owner, at which time they 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 until null and void and all equipment approved under the issuance of the permit will have to be removed from the rooftop. She said that Planning Commission voted six to one to approve the request.

At 7:50 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, December 30, 2002 and Monday, January 6, 2003.

Notice Of Public Hearing

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The Harrisonburg City Council will hold public hearings on Tuesday, January 14, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.

SPECIAL USE PERMIT Valley Motel Company

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Public hearing to consider a request by Valley Motel Company (Hampton Inn), with representative Cellco Partnership, for a special use permit {per section 10-3-91(4) of the Zoning Ordinance} to co-locate communication antennas on an existing building, on property identified as tax map parcel 78-B-2 at 85 University Boulevard.

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

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

CITY OF HARRISONBURG

Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this special use permit.

Gregory S. Tully, Director of Planning and Zoning for Site Solutions, LLC, located in Roanoke, VA said that he was representing Verizon Wireless and the Valley Hotel Company and was available to answer questions. There being no others desiring to be heard, the public hearing was declared closed at 7:51 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

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Mayor Fitzgerald

Absent None

Mayor Fitzgerald presented for Council's consideration a second reading re-enacting Section 15-3-2 of the Harrisonburg City Code. He explained that this ordinance was adopted for a first reading at the November 26, 2002 City Council meeting. He reminded everyone that although this item was not a public hearing, he would allow comments from the audience.

Cindy Whitlock, a member of the Board of Directors of the Harrisonburg/Rockingham Association of Realtors, said that she was appearing on behalf of 260 members of the association. The realtors expressed concern about the new proposed ordinance. She said the realtors appreciated the sensitive nature of the matter before Council and Council's desire to ensure that the City protect the integrity of its neighborhoods. She said the opinion of the realtors was that City Council is neither authorized to enact or enforce such an ordinance under its grant of general police powers. The Code of Virginia must grant authority to local governments to adopt an ordinance such as the one under consideration. She requested that Council consider alternatives to this ordinance.

Kevin Williams of Forbes Development said that many of the local landlords had asked him to speak on their behalf. He reviewed general points concerning the new proposed ordinance: 1) He questioned City Council power to control all things detrimental to the health and welfare of the community. Does Council have the same power to impose a fee on offending tenants? 2) Will people use this new ordinance to punish landlords and try to drive rental housing out of their neighborhoods? 3) Does the property make the noise or the people within the property? Landlords would be required to evict someone if a person with whom they had no relationship had a noise violation the previous year. 4) Paragraph (b) language is not clear. There are many interpretations. 5) There are some good ideas in the ordinance, but noise does not just occur in rental housing. 6) Are the courts going to allow the landlords to evict people for being accused of a noise violation? He suggested that all the kinks needed to be worked out before the implementation is put in place and adopted. This proposal should go back to the committee and be reworked to contain representatives from the student housing community.

Bucky Berry, a resident of 877 North Main Street, said it wasn't fair to the rest of the citizens living in Harrisonburg to allow college kids to drink, play loud music and trash lawns. He requested that this ordinance be adopted.

Council Member Peterson stated that he wanted to address the concerns mentioned by Mr. Williams. He pointed out that City Council adopted the noise ordinance in November 2002, which contained a class three misdemeanor for violations. He emphasized that this proposed ordinance is not picking on anybody. He said, I trust the Police Officers. He also said that during the last few years 85-90% of summons have been turned into convictions, which states that Police Officers are not being misled. If landlords try to evict troublesome tenants, no fine will be levied. The committee might have to tighten the language in paragraph (b), but it wasn't the intent to kick everybody out of the apartment complex for one noisy tenant. Landlords will have mechanism for defending themselves in court and hopefully will educate and control their tenants.

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The question whether courts would allow landlords to evict tenants could not be answered.

Following further discussion and comments, Council Member Peterson offered a motion to table this issue. The motion was approved with a unanimous vote of Council.

Commissioner of the Revenue Hosaflook presented a brief overview on implementing a cigarette tax in the City. She explained that the City has the authority under existing State Code to impose a cigarette tax. According to the Weldon Cooper Center, 19 cities collect a cigarette tax. She said that she selected five cities in Virginia based on population and location to gather information and conduct a comparative analysis. The cities were Charlottesville, Fredericksburg, Lynchburg, Petersburg, and Winchester. She reviewed the rates in the cities and noted that a discount to cover the cost of fixing the stamps to the cigarette packs is offered to the dealers and sellers when they purchase the stamps. A proposed bill to cap localities tobacco tax at 25 cents per pack is being introduced in the General Assembly, which could take effect later this year.

Carolyn Gilmer, store manager for the Smokehaus, said that she has customers coming from Charlottesville and West Virginia to purchase cigarettes from her store due to the City's low prices. It's not going to be economically sound and it's going to have a negative impact on businesses. It would put the small businesses out of business.

The following discussion by Council Members relative to the proposed cigarette tax included whether to consider a smaller tax of 10 or 15 cents, whether imposing a tax of more than 25 cents a pack could be grandfathered in, whether it would be significant extra revenue, regressive tax, and concern that the relatively small amount of annual revenue generated by the tax would not justify the potential loss of business.

City Manager Baker presented a brief report on implementing a tax incentive to property owners who convert rental units to single-family homes. He said that information could not be found that any locality in Virginia offered the tax incentive. Commissioner of Revenue Hosaflook came to the podium and said that the market value is used in determining appraisals of real estate property in the City and particularly residential property. Real estates sales in the neighborhood are also reviewed. Whether a house is rented or owned does not necessarily increase the value of the property. It depends on the trend of the neighborhood. Following further discussion and comments, Council agreed to ask City staff to prepare an ordinance for Council's consideration at the February 11, 2003 meeting.

City Manager Baker presented the following resolution for Council's consideration.

HARRISONBURG AUXILIARY POLICE FORCE RESOLUTION

BE IT RESOLVED, that members of the Harrisonburg Auxiliary Police Force are hereby authorized to be included as employees of the City of Harrisonburg for the purposes of the Workers Compensation Act of the Commonwealth of Virginia and entitled to all coverage under said Act.

Date

Joseph Gus Fitzgerald, Mayor

Attest:

Yvonne Ryan, CMC, City Clerk

City Manager Baker said that since an auxiliary police force exists in the City, it is necessary for the group to be covered by the City's Workers Compensation Insurance. The cost is approximately \$20.00 per person per year. Council Member Peterson offered a motion to adopt the resolution as presented. The motion was approved with a unanimous vote of Council.

City Manager Baker presented a request to transfer funds from Reserve for Contingencies to General Properties. He explained that these funds will be used for unexpected repairs to a boiler, insurance and heating at the Simms Building. Council Member Peterson offered a motion to transfer these funds:

\$26,141.00 chge. to: 1000-940111-49310 Reserve for contingencies

\$9,000.00 approp. to: 1000-430221-43330 Maint. & Rep. Mech. & Equipment

3,000.00 approp. to: 1000-430221-43360 Maint. & Rep. Bldg. & Grounds

7,800.00 approp. to: 1000-430221-45125 Heating Simms Building

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910.00 approp. to: 1000-430221-45310 Boiler & Machinery Insurance

1,110.00 approp. to: 1000-430221-45340 Other Property Insurance

21.00 approp. to: 1000-430221-45370 Pub Official Liability Insurance

4,300.00 approp. to: 1000-430221-46070 Repair & Main. Supplies

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

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds will be used to purchase auxiliary police uniforms. Council Member Peterson offered a motion to approved this request for a first reading, and that:

\$1,000.00 chge. to: 1000-31809 Donations

\$1,000.00 approp. to: 1000-310231-46110 Uniforms

The recorded roll call vote was taken as follows:

Vote: Yes Council Member Lantz
 Vice-Mayor Rogers

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Council Member Peterson

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 will be used to install a flag and flagpole at Harrison Plaza. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$2,860.00 chge. to: 1000-31010 Amount from fund balance

\$2,860.00 approp. to: 1000-310131-46140 Other operating expenses

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

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds received from a DMV mini grant will be used to purchase bicycle helmets. Council Member Peterson offered a motion to approve this request for a first reading, and that:

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\$557.20 chge. to: 1000-33524 Federal DMV grant

\$557.20 approp. to: 1000-310231-46140 Other operating supplies

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

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

\$7,541.93 chge. to: 1000-33524 Federal DMV grant

\$7,541.93 approp. to: 1000-310231-41020 Salaries/wages OT

The recorded roll call vote was taken as follows:

Vote: Yes Council Member Lantz

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Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent - None

City School Business and Finance Director Triplett presented a request for a supplemental appropriation for the School Board. He explained that these funds were received from unanticipated receipts from the Federal Government that were not known during the budget process. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$99,881.00 chge. to: 1111-33301 School Revenue Federal

\$78,516.00 approp. to: 1111-11114-40610 Instruction

21,365.00 approp. to: 1111-11114-40680 Technology

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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Public Works Department Director Baker presented a request for a supplemental appropriation for the Police Department. He explained that these funds will be used to purchase real estate, which is currently being leased and identified as parking lots on both sides of East Water Street. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$159,000 chge. to: 2015-31010 Amount from Fund Balance

\$159,000 approp. to: 2015-410641-48282 Land

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

Kathy Whitten, a resident of 560 South Main Street, said that she appreciated Council Member Frank disclosing the ownership of rental property. She said, It is important for our citizens to know if Council Members own rental property and function as landlords. She questioned whether being a landlord would constitute a conflict of interest on voting on this matter. She said representing a realtors association of 200 plus sounds impressive, but City Council has a more impressive job of representing the citizenry of Harrisonburg. She said if the landlords would spend as much time working on the problem as it has been presented and not complain about the \$1,000 fine, it would be better for everyone. The landlords seem to be very concerned about their pocketbook rather than the behavior of their tenants the City has to deal with. That should be their first concern. When you buy rental property landlords should be aware of the problems that goes with having tenants. She said her husband has had his sleep disturbed many nights because of surrounding tenant behavior problems. Landlords should have to disclose if a nuisance clause exist in their contracts.

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Bucky Berry, a resident of 877 North Main Street, complained about yellow cabs cars not obeying the school zone on streets.

At 9:40 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 Parks and Recreation 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 10:00 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of Council: I certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of Title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such matters as were identified in the motion by which the closed session were convened, were heard, discussed or considered in the closed session by the City Council.

Council Member Peterson offered a motion that William K. Latham, 427 Mountain View Drive, be appointed to a first term on the Harrisonburg Parks and Recreation Commission to expire on December 31, 2006. The motion was approved with a unanimous vote of Council.

At 10:05 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

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REGULAR MEETING

JANUARY 28, 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 several Supplemental Appropriations for the Police Department, School Board, and Public Works Department. 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

Eddie Bumbaugh, representing Harrisonburg Downtown Renaissance, presented an overview of a revitalization program for downtown. He said that the group was created in March/April of 2002 to evaluate a proposal to create a pedestrian mall downtown. A 26 member advisory committee was formed which included property owners, organizational representatives, and City officials. Mr. Bumbaugh read the following mission statement developed by the group: Harrisonburg Downtown Renaissance will work in

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partnership with the community to develop a comprehensive vision and master plan to revitalize downtown Harrisonburg into a prosperous and vibrant City center. The group developed five objectives including strengthening the downtown district's existing economic base, preserving the City historic and cultural heritage, enhancing the physical appearance, promoting downtown generally, and building cooperation and consensus while improving the quality of life of the citizens. He said eight public meetings were held during 2002 to gather information on past local revitalizations efforts and to listen to suggestions and ideas from other communities. He said that the group recommends not forming a pedestrian mall. However, the group asked for the City's cooperation in working with Harrisonburg Downtown Renaissance and other groups wishing to sponsor events that may require increased pedestrian use of the square or other streets on a case-by-case basis. City Council adopted a goal August 3, 2002, To revitalize downtown Harrisonburg as the focus of the community. He said, Now is the time to seize the moment and keep the momentum going. Build on past efforts that were not sustained with the hope of creating a future that is sustained.

Steve Knickrehm, Harrisonburg Downtown Renaissance Committee Member, said revitalization is part of a national trend and Harrisonburg is not on its own. The group is trying to capitalize on expectations of citizens for a vibrant community center and expectations of tourists. He reviewed the many strengths and assets the downtown area has including the courthouse, Massanutten Regional Library, Joshua Wilton House, Harrisonburg Municipal Building, Dave's Downtown Taverna, Harrison Plaza, Virginia Quilt Museum, WHSV-TV 3, Artful Dodger, The Market Place, Court Square Theater and Calhouns. He also said that several projects are underway adding to the downtown environment including the Hardesty-Higgins House, a future park site partnered between the HRHA and Friends of Blacks Run Greenway and the Keezell Building. Rehabilitating buildings often creates more jobs than building new facilities. Facade improvements are likely to increase sales. Locally owned businesses return 60 cents of each retail sales dollar to the community. Revitalization efforts preserve our history and generate additional tourism dollars. Downtown investment pays off for residents, business people, visitors, elected officials and City leaders. The committee wants the City to join the Virginia Main Street program, which would make Harrisonburg eligible for technical assistance, training and other benefits. He reviewed the four points and eight principles that comprise the Main Street approach.

Gary Stiteler, Harrisonburg Downtown Renaissance Committee Member, said the committee was requesting that City Council adopt a resolution supporting The Harrisonburg Downtown Renaissance application to join the Virginia Main Street Program, \$80,000 per year in annual operating funds, and office space. He reviewed a map of the downtown renaissance district, organizational structure, executive director responsibilities, and projected 2003-04 budget. He said that the committee was requesting \$80,000 in financial assistance from the City toward the projected \$100,000 budget. He reviewed the tasks of the design, promotion, and economic development committees. He also reiterated now is the time to seize the moment and keep the efforts moving forward.

The following discussion by Council Members relative to Harrisonburg Downtown Renaissance presentation included how other localities support its designated community projects, community goals, local business investments, funding, housing, and protecting the City's existing investments already in the downtown area. Following further discussion and comments, Council agreed to table this issue until the February 11th City Council meeting.

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City Manager Baker presented for Council's consideration a request by the March of Dimes, Piedmont-Shenandoah Valley Division's. He explained that the group is sponsoring a WalkAmerica event on Saturday, April 26, 2003. The event is scheduled to begin at 9:00 a.m. and end at approximately 1:00 p.m. The walk route will travel through downtown Harrisonburg and the surrounding area. The group has obtained the necessary insurance. Council Member Frank offered a motion to approve this request. The motion was approved with a unanimous vote of Council.

City Manager Baker presented for Council's consideration a request by Freewill Baptist Church to receive City water. Ray Nicely, Director of Planning with Valley Engineering, and representing Freewill Baptist Church explained that the church has an opportunity to purchase a parcel of land situated in Rockingham County, but connecting with the City's corporate line at Vine Street. The church is requesting that water and sewer be extended to this parcel under the moratorium condition.

Council Member Peterson commented that the Harrisonburg's Major Street Plan shows future plans for Woods Street (paper street) connecting at the intersection with the corner of Vine Street. He requested that the church keep that corner vacant for future use if water and sewer service is granted. Following further discussion and comments, Vice-Mayor Rogers 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
 Vice-Mayor Rogers
 Council Member Peterson
 Council Member Frank
 Mayor Fitzgerald

Absent None

City Manager Baker presented for Council's consideration a request to sell two lots on Garber's Church Road. He explained that when the City purchased land from David Walsh two lots were created from the sale. Selling these lots will allow the City to place the land back on the tax rolls. Council directed the City Manager to place the lots on the market. The direction also included discussing the issue with the Golf Course Advisory Committee.

City Manager Baker presented for Council's consideration approving a resolution for the Fire Department for a lease purchase agreement for a new fire truck. The fire truck should be delivered around the

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first of February. The City has already made a down payment of \$90,857.75 on the truck and plans to finance the remaining \$272,571.75 with a three-year lease purchase arrangement. Council Member Peterson offered a motion to approve this resolution. 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 four resolutions naming the City Manager as the Designated Agent for the City of Harrisonburg. This action is necessary to apply for four grants from the Department of Justice. These grants are to be used to purchase training and equipment for use during incidents involving acts of terrorism. Council Member Peterson offered a motion to approve these resolutions. 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 explained that the 2000 census has established Harrisonburg, Dayton, Bridgewater and the surrounding Rockingham County area 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. Mr. Baker pointed out that if the MPO Board was not established, the localities designated, as the metropolitan area will not be eligible to receive Federal funding on any road

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projects. Three members will represent Rockingham County, three members for Harrisonburg, and one each for the towns of Dayton and Bridgewater. Council Members expressed some concern regarding the composition of the MPO Board, but agreed to appoint members to the board. Following further discussion and comments, Vice-Mayor Rogers offered a motion that Mayor Joseph Gus Fitzgerald, Council Members Hugh Lantz and Dorn Peterson be appointed as Harrisonburg's representatives on the MPO Board. The motion was approved with a unanimous vote of Council.

Bucky Berry, a resident of 877 North Main Street, complained about his deteriorating sidewalks.

David Purdro, 3713 Dry Run Road in Luray, Virginia said an article appeared in the Northern Virginia Daily sports sections discussing the possibility of an Appalachian Minor League Baseball Team relocating or expanding into the Shenandoah Valley. He asked whether the City of Harrisonburg had given thought into refurbishing the stadium located in the City in order to attract such a team.

Mayor Fitzgerald commented that it is an interesting topic and perhaps it should be an item for discussion at a future Council meeting. He suggested that a conversation should be initiated outside a Council meeting.

Council Member Lantz commented that improvements needed to be done at the stadium regardless of who played at the stadium. Steps are crumbling and the overall stadium is dangerous.

Glenn Loucks, a resident of 915 North Main Street, said that he represented a group preparing an alternate proposal for consideration regarding the nuisance ordinance. He insisted that landlords were not receiving notification of tenant violations because reports are not being written by the Police Department regarding the majority of noise complaints. Following further discussion and comments, Mr. Loucks was reminded that this issue was referred to a Citizens Committee chaired by Council Member Peterson for further discussion. Council Member Peterson said if the landlords were ready to present an alternate proposal, he would call a committee meeting. However, if they had specific questions regarding the mechanisms of the proposed ordinance perhaps they should meet with him and the City Attorney before calling a committee meeting.

Jordan Roller, majority owner of the village of Forest Hills, expressed concern that if drinking laws could not be enforced perhaps new legislation was needed. People who are breaking the law should be responsible for paying the cost.

Mayor Fitzgerald commented that it would be easier for Council Members to consider and prepare for unknown topics being discussed at the end of the meeting if they were made aware these topics would be

MINUTES - REGULAR MEETING OF CITY COUNCIL - JANUARY 28, 2003

coming up. He requested that individuals/groups make requests to be placed on the agenda.

Council Member Peterson offered a motion that James Ted Byrd, 238 Campbell Street, be appointed to a second term on the Industrial Development Authority to expire on April 24, 2007. The motion was approved with a unanimous vote of Council.

Council Member Peterson offered a motion that Roland M. L. Santos, 701 Ohio Avenue, be appointed to a second term on the Industrial Development Authority to expire on April 24, 2007. The motion was approved with a unanimous vote of Council.

Council Member Peterson offered a motion that Edward J. Baldwin, Jr., 66 Middletown Street, be appointed to a fourth term on the Blue Ridge Disability Services Board to expire on February 1, 2006. The motion was approved with a unanimous vote of Council.

At 9:30 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 11, 2003

REGULAR MEETING

FEBRUARY 11, 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.

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

Council Member Peterson offered a motion to approve the 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 Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent - None

Kate Hoffmeyer, Olga Mazur, and Anika Swartz, from the cast of Cinderella, presented a brief performance of a musical to be held at the Harrisonburg High School Auditorium February 20-23. City Council was invited to attend the performances.

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 11, 2003

City Manager Baker presented the following resolution for Council's consideration. Harrisonburg Downtown Renaissance committee members made a detailed presentation to Council January 28. Action on the resolution was tabled January 28, 2003.

CITY OF HARRISONBURG

RESOLUTION

AUTHORIZING PARTICIPATION IN THE VIRGINIA MAIN STREET AFFILIATE PROGRAM

WHEREAS, the Virginia Main Street Program has been established in the Virginia Department of Housing and Community Development to assist localities in developing public-private efforts to revitalize their downtown commercial areas, and

WHEREAS, interested Virginia cities, towns and counties that are exploring downtown revitalization may participate as Affiliate Communities, and

WHEREAS, Affiliate Communities will have access to all Virginia Main Street training and limited technical and on-site assistance, as resources permit, and

WHEREAS, participation as an Affiliate Community provides invaluable networking opportunities, linking communities currently undergoing revitalization and communities that have experienced revitalization, and

WHEREAS, Harrisonburg Downtown Renaissance desires to participate in the Virginia Main Street Affiliate Program,

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF HARRISONBURG

SECTION 1. That Harrisonburg Downtown Renaissance applies for selection to participate in the Virginia Main Street Affiliate Program with the specific goal of economically revitalizing the designated Main Street district within the context of preserving our rich historic and cultural heritage using the

Main Street Approach.

SECTION 2. It is recognized that downtown revitalization requires an on-going commitment, continuous attention and a full public-private partnership. The Main Street Program is considered one of many economic and community development tools used by a locality.

SECTION 3. The City of Harrisonburg understands that participation as an Affiliate Community does not guarantee selection as a Designated Main Street Community, and Harrisonburg will be eligible to receive Affiliate Community services from Virginia Main Street as long as requirements stated in the Program Guidelines are met.

SECTION 4. That Harrisonburg Downtown Renaissance is designated to assist in the submission of the application.

ADOPTED THIS 11th day of February, 2003.

Joseph Gus Fitzgerald, Mayor

Attest:

Yvonne Ryan, CMC, City Clerk

Council Member Peterson offered a motion to approve the resolution for the Harrisonburg Downtown Renaissance. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 11, 2003

Vice-Mayor Rogers

Mayor Fitzgerald

Absent - None

Public Works Director Baker presented an overview of a Port Republic Road Corridor study conducted by Hayes, Seay, Mattern and Mattern (HSMM). Drew Williams, Transportation Planner, for the City said that HSMM collected information from VDOT, JMU, and the City in preparing the report. The consultants made the following recommendations: 1) Modify the existing signal timings and phasings along Port Republic Road. This modification includes the coordination of traffic signals in the corridor. 2) Follow up with James Madison University and VDOT to ensure that the current study of the intersection of Bluestone and the entrance to the parking deck is completed and that the issues affecting traffic on Port Republic Road are addressed satisfactorily. 3) At Neff Avenue, consider reconfiguration of the intersection including dedicated left and right turning movements. 4) At Bluestone Drive, relocate the stop bar for the southbound right-turn movement closer to the existing crosswalk. Moving the stop bar will improve visibility and enhance the ability to turn right on red, improving the safety and efficiency of this movement. 5) Consider the addition of pedestrian crossing signs in advance of Bluestone Drive to inform drivers of the high levels of pedestrian activity in this location. 6) At Devon Lane, consider striping or widening the northbound approach to accommodate an exclusive left-turn lane. 7) Monitor traffic at Bluestone to ensure that extraordinary delays are not experienced for traffic turning left from Bluestone onto Port Republic Road. 8) Consider the development of a Traffic Management Plan for use during major university events. Students using the City's bus system would alleviate traffic congestion on Port Republic Road. He said that since a parking garage was constructed on the JMU campus, ridership on the buses has declined.

The following discussion by Council Members relative to the report included: adding an exclusive right turn movement and exclusive left turn movement at the intersection of Port Republic Road and Neff Avenue; concern that in 1998 Devonshire Home Owners Association donated land to the City to avoid interference with parking along Devon Lane; JMU's parking deck having negative impact on bus service; and discussion with JMU about installing a traffic signal at the parking deck. Following further discussion and comments, Council agreed to the recommendations submitted by Hayes, Seay, Mattern & Mattern with the exception of striping or widening the northbound approach to accommodate an exclusive left-turn lane at Devon Lane.

Public Utilities Director Collins presented a brief overview of the City's water moratorium. He said that the City stopped selling water to county customers over a decade ago because of water and sewer capacity concerns. Currently the City provides approximately 90,000 gallons a day to county customers. Harrisonburg residents currently use an average of 6.5 million gallons daily. Mr. Collins said with the addition to the City's treatment plant, scheduled to be completed next year, and additional water lines set to open in 2006, the plant's capacity will jump to 15 million gallons per day. He proposed allocating Harrisonburg's daily distribution to the county at 1.4 million gallons. The City plant would still have a substantial cushion for high-demand days and the plant could also handle moderate increases in water use due to additional development. Mr. Collins reviewed the language in subsection (b) and (c) of the proposed

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ordinance and noted that county residents would have to get authorization from the Director of Public Utilities to hook up to the City's water system. Commercial or industrial customers would have to obtain City Council approval. Mr. Collins also expressed concern about potential drought conditions until the City's water treatment plant is completed in 2004.

The following discussion by Council Members relative to lifting the water moratorium included receiving additional dollars from the county each year could keep water rates low for City residents, additional water capacity benefits the City, water restrictions in the past, water in the future, effective date, and lifting moratorium could also serve as a pre-emptive strike against a state mandate to share resources. Council requested that City Manager Baker and City Attorney Miller review the draft ordinance and present it at the February 25th Council meeting for a first reading.

City Manager Baker presented for Council consideration distribution of Dog and Cat Sterilization Funds received from the Department of Motor Vehicles. He explained that these funds were generated by a special Virginia license plate program. The locality will receive \$735.00. Council agreed to table distribution of these funds until the February 25th meeting.

Social Services Director Driver presented a request for a supplemental appropriation for the Social Services District. He explained that additional funding is needed to pay for expenditures that are mandated by the Comprehensive Services Act. The additional funds are needed due to the increase number of children being served and the higher cost of providing services. Vice-Mayor Rogers offered a motion to approve this request for a first reading, and that:

\$253,344.00 chge. to: 1000-31010 Amount from fund balance

\$253,344.00 approp. to: 1000-910511-47071 Expenditure of Social Services District

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent - None

Bucky Berry, a resident of 877 North Main Street, complained about City employees not wearing identification badges.

Lisa Hawkins, attorney with Keeler and Obershain, P.C., presented the following resolution of support from the Chamber of Commerce.

RESOLUTION OF SUPPORT

WHEREAS, the Harrisonburg-Rockingham Chamber of Commerce believes that a vibrant downtown in the City of Harrisonburg is vital to the economic success of the City, County and surrounding community; and

WHEREAS, the Chamber has long supported downtown revitalization efforts, and

WHEREAS, the Chamber recognizes the volunteer dedication and commitment of the Downtown Retail Merchants Association, the Citizens for Downtown and the newly formed Harrisonburg Renaissance group and others,

Be it therefore that the Harrisonburg-Rockingham Chamber of Commerce urges the City Council of Harrisonburg to authorize the City of Harrisonburg to become an affiliate of the Virginia Main Street program to access its immense resources for downtown redevelopment,

And be it also resolved that the Chamber supports a coordinated effort amongst all groups working for the betterment of downtown Harrisonburg,

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 11, 2003

And be it also resolved that the Chamber asks the City of Harrisonburg to explore funding of a professional position to coordinate such activities, and base funding for certain development projects at a level which the City's budget will allow.

Adopted by the Board of Directors of the Harrisonburg-Rockingham Chamber of Commerce on Thursday, January 30, 2003.

Christine Michaels

Executive Director

Ralph Geddes, a resident of 395 Franklin Street, suggested that the City utilize its water supply better for the residents.

Randy Fauls, a resident of 267 Pear Street, complained about the visibility and safety of cars entering his auto repair shop. Council referred this issue to the City Manager for a recommendation.

At 9:05 p.m., Council Member Lantz offered a motion that Council enter a closed session for the purpose of discussion or consideration of prospective candidates for appointment to the Board of Zoning Appeals, Industrial Development Authority, and the Golf Course Advisory Committee. 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). A closed session will also be for the purpose of the discussion or consideration of the acquisition of real property for a public purpose, or the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City Council. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.3 of the Code of Virginia (1950), as amended (the Code). A closed session will also be for the purpose of consultation with legal counsel pertaining to actual or probable litigation, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the Council. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.7 of the Code of Virginia (1950), as amended (the Code).

At 10:00 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of Council: I certify to the best of my knowledge 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.

MINUTES - REGULAR MEETING OF CITY COUNCIL - FEBRUARY 11, 2003

Council Member Lantz offered a motion that Jack E. Smith, 1043 Meadowlark Drive, be appointed to a first term on the Harrisonburg Golf Course Advisory Committee to expire on March 21, 2006. The motion was approved with a unanimous vote of Council.

Council Member Lantz offered a motion that Harold Teer, 1693 Massanetta Springs Road, be appointed to a first term on the Harrisonburg Golf Course Advisory Committee to expire on March 21, 2007. The motion was approved with a unanimous vote of Council.

Council Member Lantz offered a motion that George W. Pace, 503 Fairway Drive, be appointed to a first term on the Harrisonburg Golf Course Advisory Committee to expire on March 21, 2005. The motion was approved with a unanimous vote of Council.

At 10:02 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

REGULAR MEETING

FEBRUARY 25, 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 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 a Supplemental Appropriation for the Social Services District. The recorded roll call vote was taken as follows:

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

Absent -- None

Planning and Community Development Director Turner introduced a request from Eldon and Kathryn Suter, to close and purchase a portion of City right-of-way along Rockingham Drive and Third Street. She explained that the 22,856 square foot section of right-of-way is located west of the intersection of North Dogwood Drive (paper street) and Third Street. She reviewed the surrounding uses in the area. She said that these streets were dedicated to the City in 1952, but were never improved to street standards. Currently, the streets are used as part of the Suter's farm, where they have fenced in the property to facilitate the grazing of their cattle. The City has plans for the extension of sewer down the existing Rockingham Drive right-of-way and for the looping of water lines in the area. She also said that to facilitate these future plans, staff recommended that if this request was approved, the City maintain a thirty (30) foot water and sewer easement along the same area as the existing Rockingham Drive right-of-way. The applicant agreed to the condition. Mrs. Turner also discussed concerns and questions expressed at the Planning Commission meeting. She said that Planning Commission recommended approval of the request.

At 7:40 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, February 10, and Monday, February 17, 2003.

052
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**NOTICE OF INTENTION TO CLOSE
A PORTION OF CITY
RIGHT-OF-WAY ALONG
ROCKINGHAM DRIVE AND THIRD STREET
IN THE CITY OF HARRISONBURG
City Council Chambers
Tuesday, February 25, 2003
7:30 p.m.**

The Harrisonburg City Council will hold a public hearing on Tuesday, February 25, 2003, 7:30 p.m., at City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia, to consider the application of Eldon and Kathryn Suter to close and purchase a portion of City right-of-way along Rockingham Drive and Third Street. The 22,856 square foot section of right-of-way is located west of the intersection of North Dogwood Drive (paper street) and Third Street.

A copy of the recommendation of the City Planning Commission along with a copy of the plat showing the portion of the alley to be closed is available at the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.

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

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

**CITY OF HARRISONBURG
Roger D. Baker
City Manager**

Mayor Fitzgerald called on anyone desiring to speak for or against approving this request. Lisa Hawkins, attorney with Keeler and Obershain, P.C., said that she had been working with the Suters on this project. These streets were originally dedicated in 1952. The Suters will grant the water and sewer easement. There being no others desiring to be heard, the public hearing was declared closed at 7:43 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 Frank
Council Member Lantz
Vice-Mayor Rogers
Council Member Peterson
Mayor Fitzgerald

Absent - None

051
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City Manager Baker presented the following resolution for Council's consideration.

**RESOLUTION OF THE
COUNCIL OF THE CITY OF HARRISONBURG
CONCERNING THE
SALE OF CERTAIN REAL ESTATE,
NAMELY
.37 ACRES KNOWN OF AS
1781 WEST MARKET STREET**

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

WHEREAS, the City of Harrisonburg, Virginia (the City) has received an offer to purchase, for \$115,000, that lot containing .37 acres of property located at the corner of West Market Street and Garbers Church Road, known of as 1781 West Market Street, and also known of as tax map parcel 123-C-1, from Thomas M. Jalbert and Rebecca D. Jalbert, the Purchase Agreement being dated January 26, 2003, and

WHEREAS the sale has been the subject of a public hearing, as required by law, and

WHEREAS it appears to be in the best interest of the City to sell the referenced parcel to the Jalberts under the standard terms and conditions of the Purchase Agreement, it is therefore

RESOLVED by the Council of the City of Harrisonburg, Virginia that the City Manager and City Attorney take whatever reasonable actions necessary to complete the sale of the referenced real estate to Thomas M. Jalbert and Rebecca D. Jalbert for \$115,000.00, as set forth in the Purchase Agreement.

So Resolved this 25th day of February, 2003.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

City Manager Baker said that the City purchased the property located at the corner of West Market Street and Garbers Church Road during the process of widening Garbers Church Road. A water pump station was also built on the property. Selling this property will allow the City to place it back on the tax rolls.

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, February 17, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, February 25, 2003, at 7:30 p.m. in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:

SALE OF PROPERTY LOCATED AT 1781 WEST MARKET STREET

Public Hearing to consider the sale of city-owned property located at 1781 West Market Street and identified as Tax Map # 123 C 1.

All persons interested will have an opportunity to express their views at this public hearing. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

City of Harrisonburg
Roger D. Baker
City Manager

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

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

Absent - None

Mayor Fitzgerald announced that a request by Interstate Properties, LLC will be considered by City Council at a future meeting.

John Neff, President of the Arts Council of the Valley (ACV), presented an overview of ACV's annual report. He said that the past year has been interesting, rewarding, and challenging. He reviewed accomplishments of the organization. The Arts Council's three basic visions include boosting the local economy, being a component and instrument of economic development, and playing a positive role in downtown revitalization. The organization has been orchestrating and collaborating with other organizations to support programs enhancing the quality of life in the community. Currently, the Arts Council has over 130 members, including individual artists, supporters, and organizations. The organization is led by a board that believes in what can be accomplished. Having a vibrant community where arts and culture thrive is the mission and vision of the organization. Some of the accomplishments for 2002 include distributing \$37,000 grant funding to OASIS, Virginia Quilt Museum, The Playhouse, The Court Square Theater, Blue Ridge Theatre Festival, and Rockingham Ballet Theatre. The Arts Council

offered an exciting array of films, concerts, theater, dance, and family entertainment to over 2,000 City residents who attended, attracting an additional 1,800 County residents, and 1,000 non-local visitors. The focus is to intensify efforts in downtown Harrisonburg. Mr. Neff said, "We answered a challenge of providing a community celebration of the fourth of July with a first annual Valley 4th celebration. An estimated 4,500 people enjoyed children's arts activities, music, a community living map, and a fireworks extravaganza that no one thought would end." The Arts Council became the incubator for the Harrisonburg Children Museum providing support during the critical early stages of growth of the organization. Local events have been well publicized and an expanded web site has been launched. Great things have been accomplished, but the group is only beginning. Mr. Neff thanked City Council for its financial support.

Mr. Neff introduced Robin Iten, the new Executive Director of the Arts Council of the Valley. Ms. Iten reviewed the Arts Council of the Valley plans and goals for years 2003 through 2008. She said for the current year a top priority is a comprehensive fundraising effort. The group will continue working with the Court Square Theater, grant program, offer a mini-grant program, focus on partnerships and collaborations for local events and Valley 4th, creating a community box office, market the arts and cultural district in downtown, conduct a needs assessment of artists and arts organizations, and continue monthly networking meetings and quarterly arts forums. Goals to be accomplished by 2008 include an endowment for the arts, build financial support for the arts from private donors, match and exceed the public funding, have an exciting program of public art and other aesthetic enhancements, comprehensive arts education programs in both the schools and the community, have a community center for the Arts, provide artist in residence programs, undertake research projects, have a community arts festival, increase participation in the arts through outreach to diverse communities, and increase tourism, economic impact, education and quality of life through the arts. Ms. Iten thanked City Council for the visible and financial support.

Mayor Fitzgerald said that distribution of the Dog and Cat Sterilization Funds, which were received from the Department of Motor Vehicles special license program, was tabled at the February 11, 2003 Council meeting.

Dianne Hersh said that Valley Cats is a non-profit, no-kill all volunteer organization. The organization was started in March 2000 to help stray cats and feral "alley cats" in Harrisonburg and Rockingham County. Valley Cats traps cats living in dangerous locations such as shopping centers and dumpsters. The cats are spayed and neutered and are relocated to either farms or homes. Since Valley Cats does not have a shelter, foster homes are used to socialize the cats and kittens until they can be adopted. Funding is provided through donations helping to cover veterinarian costs for spaying/neutering, health care, food, and supplies. Valley Cats feeds approximately 150-300 cats per day. Valley Cats helps stray pets that are lost or abandoned by irresponsible pet owners and feral "alley cats" from multiplying because they are not spayed or neutered. She said that Valley Cats can be contacted at 437-0854 or P.O. Box 545, Harrisonburg, VA.

Suzanne Ackerman said that Cats Cradle was formed in 1998 with the mission of providing no-kill alternatives for strays and homeless cats. In 2001, 461 cats were spayed/neutered. In 2002,

873 cats were spayed/neutered. The goal for 2003 is spaying/neutering 1,200 cats. Cats Cradle is a volunteer group very similar to Valley Cats. The group works a lot with people owning companion cats who cannot afford to spay/neuter their pets. Cats Cradle can be contacted at 438-5522 or P.O. Box 2152, Harrisonburg, VA.

Ann Anderson said since 1998 the Rockingham/Harrisonburg S.P.C.A. has offered PetFix. It is a program that involves participating with local veterinarians in offering reduced spay/neuter services to residents of Rockingham County and the City of Harrisonburg. To date the S.P.C.A. has spayed/neutered 2,583 pets through the program. The S.P.C.A has invested over \$35,000 in the program. Funds received from the City and County have been utilized in this program. Should the City award any additional appropriations, the funding will go toward this program, which is open to all dogs and cats. She also pointed out that these organizations (Valley Cats, Cats Cradle, and the S.P.C.A.) work together to spay/neuter these unwanted or abandoned pets.

Council Member Lantz suggested that Animal Friendly license plates should be promoted in our locality. Following further discussion and comments, Council Member Frank offered a motion to distribute the funds between Valley Cats and Cats Cradle. The recorded roll call vote was taken as follows:

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

Absent – None

Mayor Fitzgerald presented for Council's consideration an ordinance granting partial exemption for certain rehabilitated or renovated residential structures. To qualify for the partial exemption a real estate owner would need to convert the property from rental property to single-family owned occupied property.

City Attorney Miller explained that the overall plan involves multi-family residential property being converted to single-family residential use. The owner would be eligible for a partial exemption from real estate taxes equal to that portion of the tax resulting from an increase in assessed value. He reviewed the qualification for the partial exemption. Following further discussion and comments. City Council agreed to table adopting this ordinance until the March 11th meeting.

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds were received from a DMV mini grant for DUI overtime enforcement. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$1,481.75 chge. to: 1000-33524 DMV Federal money

\$1,481.75 approp. to: 1000-310231-41020 Salaries/wages OT

The recorded roll call vote was taken as follows:

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

Absent – None

Mayor Fitzgerald presented for Council's consideration amending and re-enacting Section 7-2-4 of the Harrisonburg City Code. He said it has been discussed holding a joint work session with Planning Commission and Mike Collins on lifting the water moratorium. Council requested that staff schedule a joint work session with the Planning Commission and Mike Collins.

Mayor Fitzgerald presented a request to transfer funds for the Public Utilities Department. Public Utilities Director Collins explained that these funds will be used for upgrading sewer lines. Council Member Lantz offered a motion to approve this transfer request, and that:

\$300,000.00 chge. to: 1322-911161-48645 PHR & A – I & I

\$300,000.00 approp. to: 1322-911161-48651 Upgrades

The recorded roll call vote was taken as follows:

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

Absent – None

Bucky Berry, a resident of 877 North Main Street, complained about the City requiring a business license for a business making under \$10,000.

RuthDae Scott, a resident of 511 Northglen Lane, said that the City did a good job on snow removal. She also said it was a pleasure to see the football on the water tower. She suggested that Harrisonburg become a model City with traffic signals.

Council Member Peterson offered a motion that David Mills, 485 South Mason Street, be recommended to the Circuit Court for a first term on the Board of Zoning Appeals to expire on March 20, 2008. The motion was approved with a unanimous vote of Council.

Council Member Peterson offered a motion that Dennis L. Snyder, 964 Wren Way, be appointed to a first term on the Industrial Development Authority to expire on March 14, 2007. The motion was approved with a unanimous vote of Council.

City Attorney Miller said that City Council had discussed a request by Freewill Baptist Church at the January 28th meeting. Freewill Baptist Church has an opportunity to purchase a parcel of land situated in Rockingham County, but connecting with the City's corporate line at Vine Street. The church is requesting that water and sewer be extended to this parcel under the moratorium condition. It was questioned whether in the future the City would need some space to widen or extend streets in the area. He said that staff has reviewed the request and has no reservation about widening or extending streets in the area. Council Member Peterson offered a motion to grant water and sewer connection to the Freewill Baptist Church. The motion was approved with a unanimous vote of Council.

At 8:50 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of the discussion or consideration of the acquisition of real property for a public purpose, or the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City Council. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.3 of the Code of Virginia (1950), as amended (the code). The motion was approved with a unanimous vote of Council.

At 9:27 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 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 9:28 p.m., there being no further business and on motion adopted the meeting was adjourned.


CITY CLERK


MAYOR

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 11, 2003

REGULAR MEETING

MARCH 11, 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. 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 the City of Harrisonburg to rezone the Hardesty-Higgins House property from B-2, General Business District to B-1, Central Business District. The property is located at 212 South Main Street. She said that the Land Use Guide designates this property as Commercial. She also said that because the house is located very close to the property lines, it does not meet the required zoning setbacks. She reviewed the surrounding uses in the

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area. The Hardesty-Higgins House (also known as the Craft house) is a historical building. It is the second oldest house in the City. It was used as the headquarters for union troops during the Civil War. In 2002, the City applied to the Transportation Enhancement Program for a grant for funding to renovate the building. The building will be the new location for the Harrisonburg-Rockingham Convention and Visitors Bureau and newly established Transportation Heritage Museum will be located in it. 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 public hearing to order. The following notice appeared in the Daily News-Record on Monday, February 24, and Monday, March 3, 2003.

Notice Of Public Hearing

The Harrisonburg City Council will hold a public hearing on Tuesday, March 11, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.

REZONING Hardesty-Higgins House

-

Public hearing to consider a request by the City of Harrisonburg to rezone a 21,633 square foot lot from B-2, General Business District to B-1, Central Business District. The property can be found on tax map 26-H-2 and is located at 212 South Main Street.

The Comprehensive Plan designates this area as Commercial. Commercial uses include retail, wholesale, or service functions. These areas are found along the 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. While, the B-1, Central Business District is intended as an urban and regional center for the conduct of commercial, financial, professional and governmental activities to which the public requires direct and frequent access. No minimum lot size restrictions exist in either 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 this public hearing.

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

CITY OF HARRISONBURG

Roger D. Baker

City Manager

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

Bob Sullivan, a resident of 65 Paul Street, said that he endorsed the rezoning request. It is a step on the way to preserving a very valuable part of Harrisonburg's history. He noted that it was the home of the first Mayor of the City and the second oldest house standing in Harrisonburg. 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 Peterson offered a motion to approve this request. The recorded roll call vote was taken as follows:

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Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

City Engineer Rublee presented an overview on re-mapping the floodplain boundaries. He said the City's floodplain mapping began in 1974. A study done by the Soil Conservation Service included Blacks Run and the Sunset Heights branch of Cooks Creek. The current floodplain maps issued by FEMA in 1989 are outdated and inaccurate. Harrisonburg has a 100-year flood plain which has been determined that in any given year there is a one percent chance of a major flood occurring in Harrisonburg. He reviewed the discrepancies with the overlay floodplain maps onto the topography survey and the current problems with the floodplain maps. He also said that the zoning ordinance is based on an overlay concept. In 1998, FEMA began a program to create digital-format floodplain maps for posting on the Internet. At the time, it was thought that FEMA was providing a more detailed upgraded map to improve some of the inaccuracy problems. In reality, FEMA intended only to add a few additional streets to the existing maps and re-issue them digitally. Staff addressed numerous concerns to FEMA, stating that the City would not support re-issuance of the digital maps in the proposed format. In October 2000, the City entered into an agreement with FEMA, under their newly created Community Technical Partners (CTP) program, to re-study and re-map all of the City's floodplain areas. The CTP agreement includes access to matching grant funding for the project. To date, the City has received \$10,000 in grant money for the first phase of the study. This phase is the 5-mile section of Blacks Run from the South City limits to South Main Street at Monument Avenue. An additional \$30,000 in grant funds has been allocated to the City for continuation of the overall project. He said that the staff time involved to get this far has been considerable, and yet 13.3 miles of stream remain to be modeled. It was felt that City staff would not be able to complete the project in accordance with FEMA's timeline, and thus would risk losing the allocated grant funding. Upon request from the City, FEMA agreed to amend the agreement to allow the hydraulic analysis to be performed by a consultant hired by the City. Staff has negotiated a proposed contract with Watershed Concepts, a division of Hayes, Seay, Mattern & Mattern, to provide these services. Fees for their work will be paid using a combination of grant funds and City-budgeted funds from the 2002/2003 and 2003/2004 budgets. Staff is hoping to gain considerably more accurate maps and a better opportunity for regulating the ordinance. Mr. Rublee read the following paragraph which was included in the handout information: Up-to-date, accurate floodplain mapping and data will be invaluable to City staff, insurance agents, developers, builders, engineers, realtors, homeowners and others involved in land use and land development. Inclusion of digital mapping in the City's GIS system will provide access to these maps to all interested parties, and will aid in planning for future projects. In the future, it will be necessary for City Council to adopt the new maps. City Manager Baker recommended transferring funding for the project from Reserve for Contingencies. Council Member Peterson offered a motion to transfer these funds:

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\$24,500 chge. to: 1000-940111-49310 Reserve for Contingencies

\$24,500 approp. to: 410121-48191 Engineering / Mapping

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 presented a request from Rockingham County. He explained that Rockingham County would like to install a sewer pump station in the Smithland Road area. He said that staff had some concerns with the request and suggested that a site plan be submitted before the request is granted. Following further discussion and comments, City Council agreed to table this request until the March 25th meeting.

Bob Wease, General Manager/owner of the Harrisonburg Turks, presented an overview of repairs needed at Veterans Memorial Stadium (VMS). He said stadium repair included replacing crumbling steps, renovating/enlarging the press box, repairing bathrooms, and replacing the net behind home plate. Through pledges and Turk donations, some funding has been received for the repairs, but additional funding will be needed.

The following discussion by Council Members relative to VMS repairs included: VMS owned by City School Board; steps liability issue; press box enlargement; repair responsibility, and future of baseball at the stadium. Following further discussion and comments, Council requested that City Manager Baker and School Superintendent Ford review the safety concerns and present a report at the March 25th Council meeting.

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Dr. William Lee, a resident of 1157 Nelson Drive, presented an overview of initiating a tobacco tax in the City. Dr. Lee said, I am appearing before Council to ask you to significantly tax the sale of tobacco products within the City of Harrisonburg. He also presented a petition signed by 40 physicians. Statistics indicate that one out of every five deaths each year are caused by tobacco. Statistics reproducibly show that a 60-cent tax on each pack of cigarettes will decrease consumption. He said it is a problem to get people to stop smoking. Education is good, but it doesn't decrease smoking; enforcing underage restrictions is a great idea, but it doesn't decrease smoking; enforcing clean air areas (restricting areas to smoke) is a step forward; however, two effective ways of getting people to stop smoking are talking to people after a heart attack and raising the price. Applying a tobacco tax will improve the health of the community. He said arguments will include: Is it fair? Does it target the poor? Aren't smokers penalized enough already? Will it hurt Virginia tobacco farmers? What about lost sales to City convenience and tobacco stores? He emphasized that studies have shown that every time taxes are raised on cigarettes two things happen: revenue to the locality increases and tobacco consumption decreases. He encouraged City Council to consider adopting a tax on tobacco products.

The following discussion by Council Members relative to the proposed tax on tobacco products included: revenue generated, amount of tax increase, not enacting tax increase until Rockingham County enacts tax, and statistics showing enacting tax on tobacco products doesn't decrease consumption.

Harrisonburg Redevelopment and Housing Authority Director Michael Wong presented an overview of the renovation plans for the Simms Center. He said plans for the Simms project include recognizing the historical significance of the facility through preservation activities and the possibility of establishing a museum. A new edition to the whole Simms project is the Arc Op Shop of Harrisonburg/Rockingham County. Mr. Wong reviewed the proposed funding expected from several sources for the Simms project, which will allow historical preservation of the facility, shows a use of mixed financing, expanding services to a targeted population and re-enforcing a collaborative partnership philosophy that has been the theme. Continued programs currently operating at the center include adult education classes, GED/ESL classes, family activities, and community meeting rooms. During the past year, HRHA has conducted analysis studies, held six community meetings, completed a market study, hired a historical consultant, and developed an advisory committee. He also said that the proposed plan for the food court, meeting and banquet facility have been removed from the project. A public hearing has been scheduled for the March 25th Council meeting. Following further discussion and comments, Council agreed to approve the general concept of the project.

Bucky Berry, a resident of 877 North Main Street, complained about the Police Department not enforcing the City Code regarding snow removal.

Jakob Barnett, Race Director for the James Madison University Triathlon Club presented a request to hold a triathlon race in the spring of 2004. He said that a triathlon consists of biking, running, and swimming and reviewed the racecourse. This event is designed to attract newcomers to the sport of the triathlon, and present local athletes with a realistic challenge to complete. City Manager Baker said staff reviewed the request and had some difficulty following the bike route. He also noted that April 24, 2004 has been scheduled as Walk America Day, which could involve a conflict if this event was scheduled for the same day.

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Council suggested that Mr. Barnett coordinate this event with Harrisonburg staff and perhaps other groups.

Mayor Fitzgerald presented for Council's consideration an ordinance adopting partial tax exemption to property owners who convert rental units to single-family homes. City Attorney Miller reviewed the language changes in the proposed ordinance including adding UR Urban Residential District, Articles H, I, and Z in the Zoning Ordinance stating a structure should be in existence no less than 15 years, adding the word legally, deleting the section defining what family means, noting that exemption would apply to the greater of 20% of the previous assessed value before rehabilitation, or the increase in assessment because of the rehabilitation. Commissioner of Revenue Hosaflook has stated that phasing out exemptions will have to be done manually rather than using computer software. Council Member Peterson proposed amending the ordinance to read gradual decrease and increase the term of the exemption to seven years. Council Member Peterson offered a motion to approve this ordinance as amended for a first 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

City Manager Baker presented a request for a supplemental appropriation for the Fire Department. He said that these funds were received from a grant and will be used for domestic preparedness. Council Member Frank offered a motion to approve this request for a first reading, and that:

\$44,105.47 chge. to: 1000-33532 Domestic Preparedness equipment Program

\$3,777.72 approp. to: 1000-350532-48213 Project DOJ/Dem1 1999 Grant

7,558.68 approp. to: 1000-350532-48213 Project DOJ/Dem2 2000 Grant

7,673.01 approp. to: 1000-350532-48213 Project DOJ/Dem3 2001 Grant

25,096.06 approp. to: 1000-350532-48213 Project DOJ/Dem4 2002 Grant

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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

Police Chief Harper presented a request for a supplemental appropriation for the Police Department for bulletproof vests. He explained that these funds were received from a Federal grant to purchase bulletproof vests. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$5,956.00 chge. to: 1000-33504 bulletproof vest grant

\$5,956.00 approp. to: 1000-310231-48140 bulletproof vests

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

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Absent None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department for new surveillance equipment. He explained that these funds were received from state asset seizure drug fund and will be used to purchase surveillance equipment. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$4,000.00 chge. to: 1000-31010 Amount from Fund Balance

\$4,000.00 approp. to: 1000-310331-48211 Machinery/Equipment

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 explained that the Commonwealth Transportation Board would meet on March 26, 2003. Mr. Baker recommended the following list be submitted: four laning Stone Spring/Erickson Avenue from West City limits to East City limits, four laning Port Republic Road from Devon Lane to East City limits; four laning Mt. Clinton Pike from Virginia Avenue to West City limits, widening South Main Street between Route 704 and I-81 entrance ramps to a four-lane with center turn lane; upgrading East Market Street from Cantrell Avenue to the East City limits to six lanes; widening Country Club Road from East Market Street to I-81; upgrading Pleasant Valley Road from South Main Street to the City limits; and noting that the City supports the improvements to I-81 including the interchange in their present locations. Council Member Peterson offered a motion to approve this list. The motion was approved with a unanimous vote of Council.

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Council Member Peterson offered a motion that Charles (Chuck) P. Farthing, 1015 Blaze Court, be appointed to a second term on the Harrisonburg Golf Course Advisory Committee to expire on March 21, 2007. The motion was approved with a unanimous vote of Council.

At 9:47 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). Further, the purpose of the closed session will be for the acquisition of real estate. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.3 of the Code of Virginia (1950), as amended (the code). The motion was approved with a unanimous vote of Council.

At 10:10 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 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.

City Council authorized City Manager Baker to purchase real estate on Garbers Church Road.

At 10:12 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

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REGULAR MEETING

MARCH 25, 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; City Clerk Yvonne Bonnie Ryan, CMC/MMCA, and Chief of Police Donald Harper. Absent: Council Member Hugh J. Lantz.

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

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading approval of a Supplemental Appropriation for the Police Department, Fire Department and rezoning the Hardesty-Higgins House property. The motion also included adopting Section 4-2-29 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent Council Member Lantz

Harrisonburg Redevelopment and Housing Authority Director Michael Wong presented the following resolution for Council's consideration of approval:

RESOLUTION APPROVING THE HARRISONBURG REDEVELOPMENT

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AND HOUSING AUTHORITY S APPLICATION FOR A VIRGINIA COMMUNITY DEVELOPMENT BLOCK GRANT AND RESOLUTION IN SUPPORT OF RENOVATIONS TO THE LUCY F. SIMMS CONTINUING EDUCATION CENTER

WHEREAS, the City of Harrisonburg, Virginia (the City), in partnership with the Harrisonburg Redevelopment and Housing Authority (the Authority) has decided to assist in the renovation of the Lucy F. Simms Continuing Education Center (the Simms Project); and,

WHEREAS, the Simms Center will be renovated and utilized as a community education center in order to promote life long learning and to enhance the health, safety and welfare of the citizens of the Harrisonburg/Rockingham County community; and,

WHEREAS, funding for the Simms Project is expected to come from the following sources:

1. The Boys and Girls Club Capital Campaign	\$ 1,500,000
2. The Arc Op Shop of Harrisonburg/Rockingham County	500,000
3. Community Development Block Grant	700,000
4. Historical Tax Credits	800,000
5. City Contribution	<u>2,000,000</u>
Total:	\$ 5,500,000

WHEREAS, public notice and a public hearing concerning the City s contribution to the Simms Project pursuant to Section 15.2-2606 of the Code of Virginia has been held prior to the adoption of this resolution this 25th day of March; and,

WHEREAS, community input and participation concerning the Simms Project have been received through advertised community meetings held on March 6, 7 and 27, and April 13, 2002 and March 17, 2003; and,

WHEREAS, the City must have a plan to provide funding for the Simms Project in order to apply for the Community Development Block Grant; and,

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WHEREAS, approximately 697 people will benefit from the Simms Project. These people include children who receive services through the Boys and Girls Club, adults who receive continuing education and job training through the Arc Op Shop of Harrisonburg/Rockingham County, and other members of the community who will benefit from a community center devoted to life long learning. It is estimated that approximately 517 of the people who will benefit from the Simms Project will be low and moderate income persons; and,

WHEREAS, approximately 20 jobs will be created by the Simms Project;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisonburg, Virginia, that:

- 1. The City approves the foregoing recitals, which are incorporated in, and deemed a part of, this Resolution as if fully set forth herein.**

- 2. The City agrees to contribute two million dollars (\$2,000,000) in order to provide for the completion of the Simms Project. The City may decide to borrow this contribution through a low interest EDGE loan or some other financing.**

- 3. The City agrees to take such actions as are reasonably necessary in the judgment of the City Council to enable the Simms Project to qualify for Historical Tax Credits, which actions shall include transferring ownership of the Simms Project to a taxable entity with an option to repurchase by the City. The details of such actions shall be set forth in future resolutions(s) of the City.**

- 4. The City agrees to continue to fund the operating costs of the Simms Project, including providing heating, cooling, facility repair, janitorial, landscaping and other services that are currently provided by the City during the time that the Simms Project has been transferred to a taxable entity, which time shall be approximately five years from the date of completion of the Project.**

- 5. The City Council approves the City's Virginia Community Development Block Grant Proposal, and authorizes Roger D. Baker, City Manager and Joseph G. Fitzgerald, Mayor, either of whom may act, to sign and submit all appropriate information necessary to apply for the Block Grant.**

This resolution shall take effect immediately upon its adoption.

READ AND ADOPTED: March 25, 2003

CERTIFICATE

	AYE	NAY	ABSTAIN	ABSENT
Joseph G. Fitzgerald, Mayor	X			
Larry M. Rogers, Vice-Mayor	X			
Carolyn W. Frank	X			
Hugh J. Lantz				X
Dorn W. Peterson	X			

Record of the roll call vote by the City Council of the City of Harrisonburg, Virginia, upon reading on a resolution titled "RESOLUTION APPROVING THE HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY S APPLICATION FOR A VIRGINIA COMMUNITY DEVELOPMENT BLOCK GRANT AND RESOLUSION IN SUPPORT OF RENOVATIONS TO THE LUCY F. SIMMS CONTINUING EDUCATION CENTER," taken at a regular meeting of the City Council held on 3-25-03. Dated: March 25, 2003

(SEAL)

Mayor, City of Harrisonburg, Virginia

ATTEST: _____

Clerk, City Council of the City of
Harrisonburg, Virginia

The undersigned Clerk of the City Council of the City of Harrisonburg, Virginia (the City Council) hereby certifies that the foregoing is a true, correct and complete copy of a Resolution adopted by the City Council at its meeting duly called and held on March 25, 2003, in accordance with law, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect as of the date hereof.

WITNESS my hand and the seal of the City of Harrisonburg, Virginia this 25th day of March, 2003.

Clerk, City Council of the
City of Harrisonburg, Virginia

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Mr. Wong said adopting this resolution would support the renovations to the Lucy F. Simms Continuing Education Center (Simms Project). Funding for the Simms Project will be provided from several sources including Boys/Girls Club, Arc Op Shop, Community Development Block Grant, Historical Tax Credits and City Contribution. Renovations for the facility include expanding office space for the Boys/Girls Club and Arc Op Shop, program space for the Boys/Girls Club and Arc Op Shop, adult education classrooms, job training classrooms, computer lab space for the Boys/Girls Club, and Arc Op Shop, family activities, police substation, and community meeting rooms. Mr. Wong also said that the resolution establishes and maintains the facility as a historical site, transfers ownership of the Simms Project to a taxable entity with an option to repurchase by the City. The Harrisonburg Redevelopment and Housing Authority held a public hearing on March 17, 2003 and approved the resolution.

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 Wednesday, March 12, and Wednesday, March 19, 2003.

**NOTICE OF PUBLIC HEARING ON
PROPOSED RESOLUTION BY THE
CITY OF HARRISONBURG, VIRGINIA
IN SUPPORT OF RENOVATIONS TO
THE LUCY F. SIMMS CONTINUING
EDUCATION CENTER AND
PROPOSED CITY COMMITMENT OF
\$2,000,000 TO THE SIMMS PROJECT**

On Tuesday, March 25, 2003 at 7:30 p.m., the Harrisonburg City Council will hold a public hearing to receive comments on a resolution in support of renovations to the Lucy F. Simms Continuing Education Center (the Project) and a proposed commitment by the City of \$2,000,000 to the Project. The resolution will set forth the anticipated sources of funding and other needed support from the City. Such City support shall include a commitment to transfer the Project to a taxable entity with an option for the City to repurchase the Project in order to qualify the Project for Historical Tax Credits, and an agreement to continue to provide maintenance services to the Project. The Resolution will also authorize the City of Harrisonburg to submit a Virginia Community Development Block Grant Proposal in order to apply for a grant that will assist in financing the Project. The public hearing will be held in the Harrisonburg City Municipal Building, 345 South Main Street, Harrisonburg, Virginia 22801. For further information, please contact Roger D. Baker, City Manager (540) 432-7701.

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

Donna Warble, said that she has worked in the Simms building for 34 years.

Mark Seymour, Executive Director of the Arc and Op Shop, said the shops are committed to the community. Funding is received through United Way and Medicaid Mental Retardation Waiver reimbursement. Since 1962, the Arc and Op Shop has provided a choice for individuals who sometimes have the fewest choices in life, mental retardation and other developmental disabilities. Through the Arc and Op Shop, individuals are offered choices in skill development, socialization, and community interaction. They are given choices in goal planning for today and the future. There being no others desiring to be heard, the public hearing was declared closed at 7:40 p.m., and the regular session reconvened. Vice-Mayor Rogers offered a motion to approve this resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent Council Member Lantz

Senior Planner Anderson introduced a request to transfer land for construction of a new fire station at 299 Lucy Drive. Currently the fire station is located at 2465 East Market Street. Both lots are zoned B-2 General Business District and comply with the Comprehensive Plan and Zoning Ordinance. He said that Planning Commission recommended approval of the land transfer by a vote of six to zero with one member absent.

At 7:44 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, March 17, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, March 25, 2003, at 7:30 p.m. in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:

EXCHANGE OF PROPERTY LOCATED AT 2465 EAST MARKET STREET

FOR PROPERTY LOCATED AT 299 LUCY DRIVE

Public Hearing to consider the exchange of city-owned property located at 2465 East Market Street and identified as Tax Map # 71 I 2A for property located at 299 Lucy Drive and identified as Tax Map # 80 C 6.

All persons interested will have an opportunity to express their views at this public hearing. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

City of Harrisonburg

Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against transferring the land.

Franklin Blatt representing the applicants presented an overview of the project. He reviewed the proposed plan by Joe Bowman Auto Plaza which includes building a new fire station on Lucy Drive and trading it for the current fire station number three on East Market Street. The old fire station will be demolished to clear way for a new Saturn dealership at Joe Bowman Auto Plaza. It is a win-win situation for everyone. The City will have a brand new fire station up to code and Joe Bowman Auto Plaza will have a new Saturn dealership. He noted that hopefully the new building would be in operation by June 1, 2003. Mr. Blatt requested that City Council adopt the following resolution.

RESOLUTION

WHEREAS, Hi-Sky Enterprises, LLC, a Virginia limited liability company, wishes to acquire

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the City of Harrisonburg fire station on East Market Street by exchanging a new fire station being constructed on Lucy Drive in the City of Harrisonburg, Virginia; and

WHEREAS, the City Manager of the City of Harrisonburg has entered into a proposed Exchange Agreement, dated March 21, 2003 to facilitate the exchange of real estate with all improvements thereon; and

WHEREAS, pursuant to Section 15.2-1800 of the Code of Virginia, 1950, as amended, the City Council of the City of Harrisonburg is required to hold a public hearing on the exchange of real property; and

WHEREAS, on March 25, 2003, the City Council, after duly advertising the same, held the public hearing concerning the exchange of said real estate with all improvements thereon; and

WHEREAS, the City Council, after said public hearing, has determined that it is in the best interest of the City and its citizens to proceed with the exchange agreement as proposed;

NOW, THEREFORE, BE IT RESOLVED that the City Manager is directed to proceed with the Exchange Agreement as proposed and upon determining that the new fire station is constructed as per the Exchange Agreement, the City Manager shall execute a Deed of Exchange and accept the real estate with the newly constructed fire station pursuant to Section 15.2-1803 of the Code of Virginia, 1950, as amended.

ADOPTED AND APPROVED this 25th day of March, 2003.

MAYOR

ATTEST:

CLERK OF THE COUNCIL

There being no others desiring to be heard, the public hearing was declared closed at 8:00 p.m., and the regular session reconvened. Council Member Peterson offered a motion to accept the resolution as proposed. The recorded roll call vote was taken as follows:

RESOLUTION

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Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent Council Member Lantz

City Manager Baker presented the following resolution for Council's consideration of approval:

Resolution Designating April as Clean-up/Fix-up Month

WHEREAS, the mission statement of the City of Harrisonburg expresses the intent to preserve and enhance the quality of life that is unique to the community; through promoting a partnership among citizens, elected officials and City employees; and

WHEREAS, it is also the City's desire to project an image of community pride, friendliness and livability; and

WHEREAS, the City Council seeks to encourage all citizens, businesses, schools, universities, civic groups, City employees and others to participate in a mutual effort to further enhance and beautify the City through fixing up and cleaning up public and private properties; and

WHEREAS, April 26, 2003, will be the annual Blacks Run Clean-up Day in Harrisonburg; and

WHEREAS, April 26, 2003, will also see the dedication of Liberty Park, a portion of the developing Blacks Run Greenway;

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NOW, THEREFORE, BE IT RESOLVED, that the City Council of Harrisonburg, Virginia does hereby designate the month of April as Spruce Up Month in the City of Harrisonburg.

Date

Joseph Gus Fitzgerald, Mayor

Attest:

Yvonne Ryan, CMC, City Clerk

Patty May, past president of the Board of Directors of the Chamber of Commerce, requested that City Council designate the month of April as Clean-up/Fix-up Month to encourage all citizens, businesses, schools, universities, civic group, and City employees to participate in a mutual effort to further enhance and beautify the City through fixing up and cleaning up public and private properties. She also requested that Council endorse April 26th as the official Blacks Run Community-Wide Clean-up Day in Harrisonburg. Mayor Fitzgerald also noted that Liberty Park will be dedicated on April 26th. Liberty Park is a project of the Blacks Run Greenway. Vice-Mayor Rogers offered a motion to approve this resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent Council Member Lantz

Senior Planner Anderson introduced a request by the JMU/Harrisonburg Downtown Committee to allow City buses to provide free transportation for an event on April 11, 2003. The committee was formed to introduce citizens to the City's Arts and Cultural District. The committee is sponsoring the upcoming Harrisonburg Museum & Galley Walk on April 11, 2003 from 5:00 p.m. to 8:00 p.m. Many downtown businesses, several museums, and art galleries will be open. He said it is a free program and the public is

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welcome to attend. Due to the extent of the Arts and Cultural District, the Committee is asking City Council to consider allowing City buses to provide free transportation to visitors who wear a Galley walk sticker. In addition, the Committee is requesting that the Municipal Building remain open until 8:00 p.m., to facilitate the review of the Youth Art exhibit in City Council Chambers and the entrance hall. Council Member Peterson offered a motion to approve this request as presented. The motion was approved with unanimous vote of Council Members present.

Senior Planner Anderson presented for Council's consideration creating an urban park directly across from the Massanutten Regional Library. He explained that the Planning Commission had restructured the Landscape Committee about a year and half ago to follow the Lynchburg Leaf Program. One of the goals of the committee was to develop a strategy for creating urban parks. The property is located at 181 South Main Street and has been donated by the Denton family. Several key locations surround the park including Massanutten Regional Library, Hardesty-Higgins House, Thomas Harrison House, and the Blacks Run Greenway. This park will act as a hub for activity throughout the downtown area and will provide a peaceful and beautiful spot amongst the urban landscape of Harrisonburg. An important feature of the park will be a large waterfall. The proposed area is approximately 15 feet wide and 72 feet in length. The projected budget is between \$50,000 and \$60,000. The committee hopes to raise funds, ask the City to accept the land donated by the Denton family, and then work as a depository for donated funds from contributors. The park collates well with current proposed plans for the downtown area. It can stimulate interest in the downtown area and promote more pedestrian traffic downtown. It is close to major historical sites, provides a place for people to sit and relax while shopping, or perhaps just read a book during lunch hour. It's close to Blacks Run Greenway, which will become a major component in the downtown area in the future. He reviewed the landscape plan for the site and noted that the site will be handicap accessible. Security issues and concerns have been addressed. Council Member Peterson offered a motion that the City accept the donated land and serve as the depository for the money allowing the project to move forward. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent Council Member Lantz

Dr. Donald Ford, Superintendent of Harrisonburg City Schools, presented the School Board's proposed 2003-2004 budget. The proposed school budget provides a breakdown of anticipated revenue and expenditures for the coming year. He said that expenditures have increased from \$35,920,578 to \$39,220,032 or a 9.19% increase over the current budget. However, Dr. Ford said when a current pending supplemental appropriation for \$626,351 is added to 2002-2003 appropriation, the increase would be 7.3%. He said, "Our total budget for next year is dramatically inflated by a Federal technology grant for which we have agreed to

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be the fiscal agent for a twenty-school division consortium. He reviewed the significant budget increase which include maintenance and operations at \$77,172, textbooks \$53,080, bus transportation \$77,750, utilities \$62,373, and health insurance \$437,158. He also mentioned that debt service for the school division was moved for accounting purposed to the City's budget beginning in 2002-2003 fiscal year. The debt service for 2003-2004 is \$4,474,921.78. This is a reduction in school debt service of \$1,041,471. The revenue estimates for the school division to support the expenditures are divided into state, federal, other, local, and unappropriated fund. He reviewed the increase in local funds during the past three years and emphasized that the school division continues to have substantial needs. The City has attained full accreditation of all the schools, despite the fact that in excess of 30% of the students speak English as a second language, between 16%-18% of students receive special education services and 43% of students are eligible for Title I services. Meeting the needs of a very diverse student population has become a difficult challenge for the School Board; however, Harrisonburg has done a remarkable job in providing education for the children in the City. He requested that City Council give serious consideration to the budget requests that have been made through the School Board budget. He said, I want to reiterate that although these are difficult financial times, it is important for the level of commitment that the School Board has experienced in the past from City Council to the schools to continue.

Council Member Peterson said, Dr. Ford, is it normal for the School Board to expect to receive a supplemental appropriation from the federal government in the future?

School Superintendent Ford responded that the technology grant the School Board received is divided into approximately two \$900,000 awards, one for this year and one for next year. He said, We don't believe within the consortium we can spend more than \$600,000. The School Board intends to request that a supplemental appropriation for this year carry over \$300,00 to next year resulting in the \$1.2 million which will be in the technology grant for next year. Dr. Ford could not provide information regarding exactly how much money Harrisonburg will receive out of the twenty-school division consortium.

Council Member Peterson questioned whether a released news report from the state regarding a salary increase of 2.25% for teachers was included in the projected average 4% increase for teachers?

School Superintendent Ford responded no because at the time the School Board adopted the budget, the money for the teacher's salary increases were stated in such a way, that if it was included and state economic forecast didn't materialize, then the School Board would be projecting too much money. The Governor's announcement solidifies that the money should be included in the budget. It is estimated that an additional \$50,000-\$60,000 might be generated from state revenues for the City.

Council Member Peterson commented that when various increases and decreases were compared in debt service, certainly in the last budget cycle, City Council accepted the increase in debt service of \$2.2 million for the schools. However, it was known that the increase was only for one year at \$2 million and then the next year it would decrease by \$1.2 million.

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Council Member Frank commented that debt service funding was included in the decision to build a \$41.5 million new high school.

City Manager Baker questioned the discrepancy in the ADM numbers.

School Superintendent Ford answered that he wasn't sure any one of the three numbers was correct. He said that the School Board has never accepted the state figures for basing the budget estimates because they vary so greatly. The state estimates are typically higher than the number of students in the City schools. The confusion occurring this year is because the School Board based the budget on 4,025 students. He indicated that it is a conservative number.

Mayor Fitzgerald again questioned the projected 4% salary increase for teachers and how much anticipated funding would be received from the state.

School Superintendent Ford said that the budget includes a projected average 4% increase for teachers. He also said that usually the School Board does not separate out the raise increase from the state, locality or federal government. The amount of money that goes to the salaries is actually a composite of looking at all the funds that are available. The 4% will be applied to salary categories with some adjustments made at individual steps. This will result in some individual increases being either higher or lower than 4%. However, when the state provides funding it must be used for SOQ (Standard of Quality positions). The number of positions in Harrisonburg are far beyond the standard of quality positions.

City Manager Baker presented a request from Rockingham County to place a pump station on Smithland Road. This request had been tabled from the March 11th Council meeting. The city engineer has met onsite with County representatives to review the placement of the proposed pump station. It was determined that the site could be moved slightly uphill from the location indicated on the sketch. In addition, the County consultants will need to confirm that the new location will not impact a sinkhole in the vicinity or conflict with drainage areas needed as part of the future Smithland Road expansion. He said that staff recommended approval of the request. He also noted that once the pump station is constructed it would belong to the City. 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 Frank

Mayor Fitzgerald

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Absent Council Member Lantz

City Manager Baker explained that the John D. Eiland Company has again requested sponsoring Fundfest Concert Series. The concert series will be held on alternating Wednesday evenings and will again provide fund raising opportunities for a number of local charities. Mr. Baker also said that over the years the annual Fundfest events have contributed over \$45,000 to local grass root charities. Vice-Mayor Rogers offered a motion to approve the Fundfest Concert Series. The motion was approved with a unanimous vote of Council Members present.

City Manager Baker presented a request to transfer funds for the Public Works Department. He explained that the City has exceeded its snow and ice removal budget. Council Member Peterson offered a motion to approve this transfer request, and that:

\$150,000 chge. to: 1000-940111-49310 Reserve for Contingencies

\$ 40,000 approp. to: 1000-410541-41020 Salaries & Wages Overtime

3,000 approp. to: 1000-410541-42010 FICA

10,000 approp. to: 1000-410541-44304 C.S. Powered Equipment Supplies

3,000 approp. to: 1000-410541-44200 Central Garage

4,000 approp. to: 1000-410541-46140 Other Operating Supplies

1,000 approp. to: 1000-410541-46070 Repair & Maintenance Supplies

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

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Absent Council Member Lantz

City Manager Baker presented a request for a supplemental appropriation for the General Capital Projects Fund. He explained that these funds are part of the proceeds from the sale of a house and land at 1781 West Market Street. The funds will be used to purchase a house and land that is needed by the City for the Erickson Avenue project. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$100,000 chge. to: 1000-34012 Sale of Land

\$100,000 approp. to: 1000-990111-49216 Transfer to Capital Projects Fund

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent Council Member Lantz

Vice-Mayor Rogers said that he will be attending the Commonwealth Transportation Board meeting on March 26th to express his concern regarding the safety of I-81.

City Manager Baker announced that School Superintendent Ford, Assistant City Manager Hodgen, City Building Official Baldwin and Bob Wease, General Manager/owner of the Harrisonburg Turk, toured Veterans Memorial Stadium. At the March 11th Mr. Wease had presented an overview of repairs needed at the stadium. The School Board will address these concerns at its April 1st meeting.

City Manager Baker announced that a School Liaison Committee meeting will be held April 1, 2003.

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City Manager Baker said that at the February 11th City Council meeting Randy Fauls, a City resident, had complained about the visibility and safety of cars entering his auto repair shop. He said Mr. Fauls had requested that a guardrail be placed in front of his business on Pear Street. Mr. Baker stated there are guidelines in the Uniform Manual of Traffic Control Devices that the City has to follow. The manual states that a guardrail (or guide rail as it is called) cannot be installed in this area because it is not large enough. The guide rail is not intended to prevent a vehicle from going over a bank. It is intended to guide a vehicle back into the road. Mr. Baker said that staff doesn't recommend placing a guide rail in the area.

Council Member Peterson offered motion that Kathy Whitten, 560 South Mason Street, be appointed to a first term on the Blue Ridge Community College Board of Trustees to expire on June 30, 2007. The motion was approved with a unanimous vote of Council Members present.

At 9:03 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

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REGULAR MEETING

APRIL 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; Council Members 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 a Supplemental Appropriation for the General Capital Projects Fund. The motion also included referring Section 7-2-4 of the Harrisonburg City Code to the Planning Commission. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

Business and Finance Director Triplett presented a request for a supplemental appropriation for the School Board. These funds represent unanticipated receipts from the Federal Government that were not known during the budget process. No additional City dollars are required from City Council for the school division to receive these additional funds.

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At 7:35 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, March 31, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, April 8, 2003 at 7:30 p.m. in the City Council Chambers, 345 South Main Street, Harrisonburg, Virginia to consider the following.

It is the intent of the City Council to amend the fiscal year 2002-2003 budget by an amount of \$626,351.00 in order to appropriate funds for the following:

School Fund:

Technology	\$626,351.00
Total	\$626,351.00

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

CITY OF HARRISONBURG

Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this supplemental appropriation. 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 Peterson offered a motion to approve this request for a first reading, and that:

\$626,351.00 chge. to: 1111-33301 School Revenue Federal

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\$626,351.00 approp. to: 1111-111114-40680 Technology

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

City Manager Baker presented the proposed 2003-2004 budget. He said that a public hearing will be held on April 22 with final approval suggested on May 13th. He reiterated that the City continued to be in a growth situation as evidenced by the latest population figures of 42,200 as estimated by the Weldon Cooper Center of Public Service. The City continues to be one of the fastest growing cities in the state. The proposed budget recognizes the increased demand for services while being sensitive to the need to hold expenditure levels to a minimum. The proposed budget represents a 40.4% decrease in net expenditures from the fiscal year 2003 budget as amended (5.8% increase when compared to the original 2003 budget), while moving forward towards many of the City's priorities. The decrease from the current year budget is mainly due to a decrease in capital projects expenditures. The General Fund budget includes a recommended one (1) percent increase in the meals tax, implementation of a cigarette tax of fifty (.50) cents per pack and the use of \$954,605 in budgetary revenue from the fund balance. Other significant contributions include \$200,000 from Harrisonburg Electric Commission and \$508,950 from Real Estate taxes. He also said that in the future the City may have to consider developing some new revenue generating options and suggested considering reassessment of real estate annually instead of biennially. The budget format is similar to prior years, with detailed explanations by fund and by major function areas in the General Fund. A number of charts and graphs have also been included in order to assist with the explanation of the budget document. Mr. Baker reviewed the 2000 retreat goals. The proposed budget reflects sensitivity to the need to keep expenditure levels to a minimum; even though, there are proposed tax rate increases recommended in the General Fund. It also reflects a commitment to the City's adopted Mission Statement, Organizational Values, 2000 City Council Retreat Goals and Total Quality Management. Primary emphasis is placed on **EDUCATION, PUBLIC SAFETY, ROAD AND PUBLIC UTILITIES**. General Fund revenues are projected to increase by \$4,859,184 (less transfers from other funds, proceeds from debt and fund balance). This increase represents an 9.3% increase from the current year's budget. The amount of fund balance designated to be used to balance the budget, \$954,605, follows the guidelines in the City's Financial Management Policies by matching it with the costs of one-time capital expenditures, while maintaining at least 10% of General Fund

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expenditures plus an adequate amount for cash flow undesignated fund balance. The City continues to have the second lowest nominal real estate tax rate among all independent cities. The City is currently sixth for personal property tax rates for motor vehicles based on an adjusted effective rate among all independent cities. The Police Department's proposed budget includes four (4) new Police Officer II positions and two part-time positions. The Fire Department's operating budget has decreased by 9.7%. Three new firefighters are being proposed in the budget to alleviate overtime pay and allow employees the opportunity to use more of their vacation time. The Public Works Department budget shows an overall 2.7% decrease in funding. Proposed expenditures include resurfacing 4.13 miles of streets, replacing older trucks, replacing various construction equipments, replacing deteriorated sidewalks, new traffic signals, and adding two new positions in the Traffic Engineering department. The Health Department budget has increased 4.2% compared to the 2003 budget. The overall Parks and Recreation's budget will remain at level funding compared to the current fiscal year. The budget includes replacing vehicles, basketball court lighting, parking lot and pathway paving, renovations of the exercise room, renovations to the bathhouse, renovations at Purcell Park athletic fields, fencing replacement, and renovations of field number four at the Ramblewood complex. Planning and Community Development reflects a 10% increase compared to fiscal year 2003. This increase is primarily due to the employee reclassifications. Funding is provided for the continuation of the update to the City's Comprehensive Plan. The Economic Development Department funding will increase substantially by \$590,012 compared to the current year budget. This increase is due to the first of three payments that will be made to AIG Baker for offsite infrastructure improvements at the Harrisonburg Crossing Shopping Center. Marketing expenditures remain level in order to aggressively recruit businesses for the remaining parcel within the Harrisonburg Technology Park and other economic development opportunities within the City. Funds are also included to continue the City's involvement with the Shenandoah Valley Partnership. In the non-departmental contributions most items that have been funded in previous years are proposed to remain at current year levels. Two new programs that have not received funding in previous years are being proposed. A contribution of \$80,000 to the Downtown Renaissance Committee is proposed and \$6,000 for the Harrisonburg Little League Association is included. This contribution will take the place of some of the direct and in-kind services and support that the Parks and Recreation Department have been providing in previous years. The operating appropriation for the Massanutten Regional Library is proposed to increase 2.1% compared to fiscal year 2003 levels. The Juvenile Detention Center shows an increase of 47.1% based on this year's usage. This sizable increase is primarily due to the City of Charlottesville and the County of Albemarle deciding to construct a separate joint detention home. It is also proposed that Central Garage continue to provide labor for the Harrisonburg Rescue Squad's vehicle maintenance, if they pay for parts and supplies; and that each Rescue Squad volunteer that is a City resident receive one free auto decal. Joint Operations covers the City's share of judicial, sheriff and jail expenditures and a portion of the Health Department's rent. The majority of the increase is due to an increase of 57.4% within the Comprehensive Services Act budget. The administrative split will remain at 61% for Rockingham County and 39% for the City. The budget also includes supporting the Weed and See program. The contribution to the Shenandoah Valley Regional Airport remains unchanged at \$45,000 and Reserve for Contingencies is budgeted at \$200,000 for unplanned expenditures. General Fund debt service has decreased \$1,018,618. This decrease is due to the fact that one of the City's outstanding Virginia Public School Authority (VPSA) bond issues was completely retired during fiscal year 2003. Also, due to the structure of the \$41.5 million VPSA bond issue in November 2001, the City actually paid about 16 months of interest in the fiscal year 2003 budget. Proposed expenditures in the General Capital Projects Fund includes Port Republic Road improvements, city-wide drainage program, two way communications project, Simms building renovations, widening of Cantrell Avenue, improvements to Garbers Church Road, Hardesty-Higgins House renovation, extension of Erickson Avenue and improvements to Stone Spring Road.

Mr. Baker said that schools represent the largest single expenditure in the City budget. The proposed transfer and school related debt service expenditures paid from the General Fund is 40.2% of the total General Fund

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budget. The proposed School Fund budget is \$3,772,735 or 10.6% higher than the original fiscal year 2003 budget. The Water Fund budget has decreased 18.3% from the current budget. An approximate three percent rate increase is being proposed to assist in funding the debt service payments on the June 2002 bond issue. The Sewer Fund budget has decreased 0.9% from the current budget. Capital projects include a new Central Stores warehouse; Smithland Road extension; oversizing and extensions, inflow and infiltration abatement; sewer main upgrades and continued work on the Blacks Run Interceptor. The Sanitation Fund budget has increased 12.5%. The current monthly residential collection fee of \$10.00 is proposed to increase to \$12.00 per month to assist with the cost of collecting, processing and disposal of solid waste. The Parking Authority Fund will remain at level funding. The Golf Course Fund represents an increase of 36.8% from the current year. Staff has identified objectives for the golf course including an aggressive marketing plan; developing a business plan, maintaining the facility to the highest quality ensure maximum player enjoyment, challenge and return play; developing partnerships with the school systems and local colleges to maximize play during the weekdays; and working jointly with the First Tee Program to provide instructional programs and educational opportunities for all youth. The Central Garage Fund has increased only 3.8%.

Council Member Peterson proposed scheduling a work session on April 15th at 7:00 p.m.

Police Chief Harper presented for Council's consideration an application from Boris R. Caballero and Aldo Pinedo of Latino Cabs for a Certificate of Public Convenience & 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.

The following discussion by Council Members relative to the request included: expressed concern supporting a taxi service catering to only Hispanics; commented transportation should be provided for everyone; questioned changing the name on the submitted application; entrepreneur becoming successful in the United States by noticing a market that is not adequately served and trying to serve it; noted that City Council sets the rates for taxicabs, many cities regulating its cab services; and suggested examining City regulations on how to manage the increasing number of smaller taxi companies.

Aldo Pinedo, said that he wanted to provide a service for Hispanic immigrants who can't communicate with English-speaking taxi drivers, but would provide taxicab service for the entire community. The business will operate 24 hours a day and seven days a week.

John Keith, owner and operator of Yellow Cab Company, said that he has been in taxicab service since 1995. He acknowledged there is a language problem; however, three years ago his company implemented a computer dispatch to help with the language problem. He noted that Hispanic use his taxi service.

Boris R. Caballero and Aldo Pinedo agreed to change the name to Fiesta Cab.

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Following further discussion and comments, Council Member Peterson offered a motion to approve the application with the understanding that line three of the application has been modified to read Fiesta Cab. The motion also included a suggestion by Council Member Lantz that Council consider examining future requests for taxicab services. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

 Council Member Frank

 Council Member Lantz

 Vice-Mayor Rogers

 Mayor Fitzgerald

Absent None

Transportation Planner Drew Williams presented a brief overview of traffic calming measures in the Eastover Neighborhood. He said that a Neighborhood Traffic Calming Program meeting was held March 5th with a majority of the residents of the Eastover Neighborhood. Speed and traffic volume were major concerns for residents, along with growing concern that increased traffic will cut through their neighborhood as a result of the completion of Harrisonburg Crossing Shopping Center. A number of residents felt that while the parking lots at James Madison University were a factor, they were not the main contributor to cut-through traffic. Mr. Williams said that the City has added additional speed signs in the neighborhoods. Orange placards have been placed over the speed limit signs and a stop sign has been added at the intersection of Eastover Drive and Paul Street. He said other options discussed with the neighborhood include putting islands on Paul Street and Eastover Drive and at the intersection of Cardinal/Duke Drive and Paul Street. Also, a diverter has been recommended at the intersection of Eastover Drive and Reservoir Street. The City is prepared to install islands on a trial/temporary basis at no cost to residents to see what effects the improvements would have on the neighborhood; however, if the residents of the neighborhood wish to install islands permanently, they will be asked to participate in financing and maintaining the project. Assistant City Manager Hodgen questioned if the residents realized the diverter at Eastover Drive and Reservoir Street would also affect them. Mr. Williams said it was made clear any changes would affect residents as well as everybody else. Public Works Director Baker assured Council and residents of the Eastover neighborhood that the City is working with emergency services regarding how the diverter will work. Diverters that will impact emergency services will not be proposed.

City Manager Baker presented for Council's consideration approval of Harrisonburg Metropolitan Planning Organization Memorandum of Understanding Program.

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The following discussion by Council Members relative to the makeup of the MPO board included: Questioned language in paragraph one of Article I Geographic Scope of the Process; whether a new jurisdiction shall automatically be eligible; equal voting power; voting proportions; Harrisonburg in a minority position despite representing 70% of population; City has reservations about makeup of the board; agreement should be reached before document is signed; confusing language in document; clarification of members or voting representatives; changes in document could complicate the whole approval process; forced to include four localities of different sizes and different characters; almost impossible to get a reasonable voting plan; document stating that amendments to this AGREEMENT may be made by written agreement among all parties to this AGREEMENT; short time frame dedicated by Federal Highway Administration and Virginia Department Of Transportation; unclear who is eligible to vote; and whether clarification in document should add non before voting member. Following further discussion and comments, Council Member Lantz offered a motion to amend ARTICLE I, paragraph one, by inserting (non) before voting member in the sentence. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent - None

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

Resolution

WHEREAS, on February 5, 2003, Secretary of State Colin Powell addressed the United Nations and presented surveillance photographs and audio intercepts pointing to Iraq's continued weapons of mass destruction capabilities, as well as allegations of a Baghdad-al Qaeda link; and

WHEREAS, on March 17, 2003, after the United States and its coalition partners had exhausted all reasonable efforts to avoid military conflict, President of the United States George W. Bush made one last effort to avoid military conflict by giving Iraq's leader, Saddam Hussein, 48 hours to go into exile or face a U.S. invasion; and

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WHEREAS, on March 19, 2003, after President Bush's ultimatum expired, the United States launched Operation Iraq Freedom with its first strikes against Iraq; and

WHEREAS, citizens of Harrisonburg have family, friends and neighbors who are members of the Armed Forces of the United States and are presently stationed in the Middle East,

NOW, THEREFORE, BE IT RESOLVED that the Harrisonburg City Council acting on behalf of the citizens of Harrisonburg, Virginia, does hereby recognize the sacrifices being made by our citizens to protect the cause of freedom throughout the world; and

BE IT FURTHER RESOLVED that the City Council pledges support to our troops in the Middle East and their families, and to those men and women serving in the Armed Forces throughout the world who are providing assistance to our troops in the Middle East; and

BE IT FURTHER RESOLVED that the City Council calls upon all people to meet this global challenge and stand together in countries, states, cities, counties, towns and villages around the world in united support of the men and women stationed in the Middle East.

Given under our hand this eighth day of April in the year two thousand three, A.D.

Joseph Gus Fitzgerald, Mayor

Larry M. Rogers, Vice-Mayor

Carolyn W. Frank, Council Member

Hugh J. Lantz, Council Member

Dorn W. Peterson, Council Member

Attest: Yvonne Ryan, CMC, City Clerk

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Mayor Fitzgerald said that this resolution supports our U.S. Troops in the Middle East. He read the following conclusion of the resolution: The Harrisonburg City Council acting on behalf of its citizens recognizes the sacrifices being made by our citizens to protect the cause of freedom, pledges support to our troops in the Middle East and their families, and to those throughout the world providing assistance to our troops, and that the Council calls upon all people to meet the global challenge and stand together in countries, states, cities, counties, towns and villages around the world in support of the men and women stationed in the Middle East. Vice-Mayor Rogers offered a motion to adopt this resolution as presented. The motion was approved with a unanimous vote of Council.

Council Member Lantz offered a motion that Council appoint Mike Collins, to the Environmental Quality Committee, Lester Seal, to the Finance Committee, Roger Baker and Tom Miller, to the General Laws Committee, Kurt Hodgen, to the Human Development & Education Committee, and Reggie Smith, to the Transportation Committee on the Virginia Municipal League police committees. The motion was approved with a unanimous vote of Council.

City Manager Baker presented the following resolution for Council's consideration of approval:

PROJECT PROGRAMMING RESOLUTION

WHEREAS, in accordance with Virginia Department of Transportation construction allocation procedures, it is necessary that a request by Council resolution be made in order that the Department program urban highway projects in the City of Harrisonburg; now

THEREFORE BE IT RESOLVED, that the City of Harrisonburg, Virginia requests the Virginia Department of Transportation to establish the following projects for the reconstruction and extension of Stone Spring/Erickson Avenue from the East City limits to the West City limits.

- 1. 1. Stone Spring Road from the intersection with South Main Street (Route 11) to the East Corporate Limits of the City; identified as Project: U000-115-123, PE-101, RW-201, C-501; with the estimated cost of \$1,658,000 for Preliminary Engineering.**
- 2. 2. Erickson Avenue from the intersection of South High Street (Route 42) to the intersection of South Main Street (Route 11) and identified as Project: U000-115-128, PE-101, RW-201, C-501, with the estimated cost of \$735,000 for Preliminary Engineering.**
- 3. 3. Erickson Avenue from 0.5 mile west of Garbers Church Road (Route 910) to the intersection of South High Street (Route 42); identified as Project: U000-115-127, PE-101, RW-201, C-501, with the estimated cost of the \$736,000 for Preliminary Engineering.**

BE IT FURTHER RESOLVED, that the City of Harrisonburg hereby agrees to pay its share of the total costs for construction of this project, and that if the City of Harrisonburg subsequently elects to cancel this project, the City of Harrisonburg hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

BE IT FURTHER RESOLVED, that this project takes priority over all presently requested projects.

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to sign the necessary VDOT agreements.

Adopted and approved this 8th day of April, 2003.

MAYOR

Attest:

CLERK OF COUNCIL

City Manager Baker said adopting this resolution establishes the Stone Spring/Erickson Road project. Upon adoption, the project will be recognized by VDOT making future expenditures eligible for re-imbusement. Council Member Lantz offered a motion to approve this resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

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Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent - None

City Manager Baker presented the following resolution for Council's consideration of approval:

**RESOLUTION APPROVING THE ISSUANCE BY THE HARRISONBURG REDEVELOPMENT
AND HOUSING AUTHORITY OF ITS MULTIFAMILY RESIDENTIAL RENTAL HOUSING
BONDS FOR THE ACQUISITION AND REHABILITATION OF THE APPROXIMATELY 294
UNIT**

GLENWOOD FARMS APARTMENTS MULTI-FAMILY HOUSING FACILITY

LOCATED IN HENRICO COUNTY, VIRGINIA

WHEREAS, the Harrisonburg Redevelopment and Housing Authority (the Authority) is authorized to advertise and hold public hearings relative to the issuance of private activity bonds; and,

WHEREAS, the Authority considered the request of Renaissance Glenwood, LP, a Virginia limited partnership, whose address is 489 Fifth Avenue, 34th Floor, New York, New York 10017 (the Company), for the issuance by the Authority of its tax-exempt multifamily rental housing revenue bonds in the maximum principal amount not to exceed \$7,500,000 and its taxable multifamily residential housing revenue bonds in the maximum principal amount not to exceed \$2,500,000, upon the terms and conditions to be mutually agreed upon between the Authority and the Company (the Bonds), to finance a portion of the cost of acquiring and rehabilitating an approximately 294 unit multifamily residential rental housing project known as Glenwood Farms Apartments (the Project), located at 2709 Byron Street in Eastern Henrico County, Virginia (the County); and,

WHEREAS, pursuant to Section 36-23 of the Code of Virginia of 1950, as amended (the Virginia Code), the Authority may exercise its powers in the territorial boundaries of the County by issuing the Previously Approved Bonds and the Additional Bonds (as hereinafter defined) for the Project provided the governing body of the County adopts a resolution (the Section 36-23

Resolution) declaring there is a need for the Authority to exercise its powers within the County; and,

WHEREAS, the County has adopted a 36-23 Resolution authorizing the Authority to exercise its powers in the County with respect to the Project; and

WHEREAS, the Company has requested that the Authority agree to issue an additional \$2,500,000 of its tax exempt multifamily residential rental housing revenue bonds under the Act (the Additional Bonds), which, when combined with the Previously Approved Bonds, would allow the Authority to issue a total of up to \$10,000,000 of tax exempt multifamily residential rental housing revenue bonds and a total of up to \$2,500,000 of its taxable multifamily residential rental housing revenue bonds for the acquisition and rehabilitation of the Project; and

WHEREAS, on March 26, 2003, the Authority conducted a public hearing on the issuance of the Additional Bonds and, by adoption of a resolution (the Official Intent Resolution), declared its official intent to issue the Additional Bonds to finance the Project, and recommended that the City Council of the City of Harrisonburg (the City Council) approve the issuance of the Additional Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the Internal Revenue Code), provides that the applicable elected representatives of the governmental unit issuing private activity bonds and the applicable representatives of the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located, shall approve the issuance of such bonds; and,

WHEREAS, the Authority, as the issuing governmental unit, has no applicable elected representative and the City is the next highest governmental unit with such a representative; and,

WHEREAS, the members of the City Council constitute the applicable elected representatives of the City of Harrisonburg; and,

WHEREAS, Chapter 514 of the 1983 Acts of the General Assembly of Virginia requires that any government entity established by or pursuant to an Act of the General Assembly that proposes to issue bonds that are industrial development bonds within the meaning of Section 103(b) of the Internal Revenue Code of 1954, as amended, shall, with respect to such bonds, comply with the procedures set forth in Virginia Code Sections 15.2-4906 and 15.2-4907; and,

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

WHEREAS, Virginia Code Section 15.2-4906 requires that, within sixty (60) calendar days after the public hearing, the City Council approve or disapprove the financing of any facility recommended by the Authority; and,

WHEREAS, the Authority has adopted the Official Intent Resolution recommending that the City Council approve the issuance of the Bonds and a copy of the Official Intent Resolution, a reasonably detailed summary of the comments, if any, expressed at the public hearing and the Fiscal Impact Statement required by Virginia Code Section 15.2-4907, have been filed with the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisonburg, Virginia, that:

- 1. The City Council approves the foregoing recitals, which are incorporated in, and deemed a part of, this Resolution as if fully set forth herein.**

- 2. The City Council approves the issuance of the Bonds by the Authority, for the benefit of the Company, to the extent of and as required by Section 147(f) of the Internal Revenue Code, Chapter 514 of the 1983 Acts of the Virginia General Assembly, and Virginia Code Sections 15.2-4906 and 15.2-4907, to permit the Authority to assist in the financing of the Project.**

- 3. The approval of the issuance of the Bonds as required by Section 147(f) of the Internal Revenue Code, Chapter 514 of the 1983 Acts of the Virginia General Assembly, and Virginia Code Sections 15.2-4906 and 15.2-4907, does not constitute an endorsement to the prospective owners of the Additional Bonds of the creditworthiness of the Project or the Company and the Additional Bonds shall provide that neither the City of Harrisonburg nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and monies pledged thereto, and that neither the faith and credit nor the taxing power of the City of Harrisonburg or the Authority is pledged to the payment of the principal of the Bonds or the interest thereon or other costs incident thereto.**

- 4. In approving this resolution, the City of Harrisonburg, including its elected representatives, officers, employees and agents, shall not be liable, and hereby disclaim all liability for any damages to any person, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.**

This resolution shall take effect immediately upon its adoption.

READ AND ADOPTED: April 8, 2003

CERTIFICATE

Record of the roll call vote by the City Council of the City of Harrisonburg, Virginia, upon reading on a resolution titled "RESOLUTION APPROVING THE ISSUANCE BY THE HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY OF ITS MULTIFAMILY RESIDENTIAL RENTAL HOUSING BONDS FOR THE ACQUISITION AND REHABILITATION OF THE APPROXIMATELY 294 UNIT GLENWOOD FARMS APARTMENTS MULTI-FAMILY HOUSING FACILITY LOCATED IN HENRICO COUNTY, VIRGINIA," taken at a regular meeting of the City Council held on April 8, 2003:

	AYE	NAY	ABSTAIN	ABSENT
Joseph G. Fitzgerald, Mayor	X			
Larry M. Rogers, Vice-Mayor	X			
Carolyn W. Frank	X			
Hugh J. Lantz	X			
Dorn W. Peterson	X			

Dated: April 8, 2003

[SEAL]

Mayor, City of Harrisonburg, Virginia

ATTEST: _____

Clerk, City Council of City of Harrisonburg, Virginia

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

The undersigned Clerk of the City Council of the City of Harrisonburg, Virginia (the City Council) hereby certifies that the foregoing is a true, correct and complete copy of a Resolution adopted by the City Council at its meeting duly called and held on April 8, 2003, in accordance with law, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect as of the date hereof.

WITNESS my hand and the seal of the City of Harrisonburg, Virginia this 8th day of April, 2003.

Clerk, City Council of the
City of Harrisonburg, Virginia

Harrisonburg Redevelopment and Housing Authority Director Michael Wong explained that this financing would be through the Redevelopment and Housing Authority authorizing the sale of these bonds for a project in Henrico County. The bonds will not be a debt or obligation of the City. Council Member Peterson offered a motion to approve this resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

 Council Member Frank

 Council Member Lantz

 Vice-Mayor Rogers

 Mayor Fitzgerald

Absent None

City Manager Baker announced that the Virginia Main Street has accepted Harrisonburg as an affiliate community of the Virginia Main Street Program.

City Manager Baker announced that Harrisonburg's skate park will open April 22, 2003.

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At 9:50 p.m., Council Member Lantz 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 motion was approved with a unanimous vote of Council.

At 10:14 p.m., the closed session ended and the regular session reconvened. The following statement 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 and 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 10:15 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

MINUTES - REGULAR MEETING OF CITY COUNCIL - APRIL 22, 2003

REGULAR MEETING

APRIL 22, 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 Members 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 School Board. The recorded roll call vote was taken as follows:

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

Absent None

At 7:32 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 Wednesday, March 26, and Saturday, April 19, 2003.

NOTICE OF PUBLIC HEARING

The City of Harrisonburg is currently preparing its annual grant application for Operating and Capital Funds for FY 03-04. This application will be held on Tuesday, April 22, 2003 at the City Council meeting. This meeting will be held in Council Chambers in the Municipal Building at 7:30 p.m. All interested citizens are encouraged to attend.

Comments and suggestions for the Transit System are encouraged and welcomed. Please contact Reggie Smith or Vickie Conley before April 21, 2003, at 540-432-0492; or mail comments to Harrisonburg Public Transit, 475 East Washington Street, Harrisonburg, VA 22802.

Transportation Director Smith explained that this is the annual grant application for public transportation funds for fiscal year 2003-2004. The application funds include state formula assistance, state capital assistance, and commits the City for matching funds for the grant application. He said a federal funding resolution would be submitted at a later meeting.

Mayor Fitzgerald called on anyone desiring to speak for or against the grant application for transportation funds.

Betty Newell, president of the Board of Directors for Community Association for Rural Transportation (CART) said that she was speaking in support of the grant application for Harrisonburg Transportation Department. She said that the City's transportation system is well managed, the office staff and dispatchers are very helpful, and the drivers are service oriented and provide excellent customer service. There being no others desiring to be heard, the public hearing was declared closed at 7:33 p.m., and the regular session reconvened. Vice-Mayor Rogers offered a motion to adopt the resolution supporting the grant application. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

MINUTES - REGULAR MEETING OF CITY COUNCIL - APRIL 22, 2003

Absent None

City Manager Baker presented the proposed 2003-2004 budget. He said that the budget was presented to Council at the April 8th meeting and a work session was held on April 15th. The City's Charter requires that the budget be adopted by June 1, 2003. He reiterated that the City continues to be in a growth situation as evidenced by the latest population figures of 42,200. The proposed budget represents a 40.4% decrease in net expenditures from the fiscal year 2003 budget as amended while moving forward toward many of the City's priorities. The decrease from the current year budget is mainly due to a decrease in capital projects expenditures. The guiding force behind this budget has been staff's continued commitment to the cost efficient delivery of services and attainment of Council's goals. A continued major commitment remains to the funding for education, public safety, roads, public utilities and the maintenance of existing infrastructure. The General Fund budget includes a recommended one (1) percent increase in meals tax, implementation of a cigarette tax of fifty (.50) cents per pack and the use of \$954,605 in budgetary revenue from the fund balance. He also said that in the future the City may have to consider developing some new revenue generating options and suggested considering reassessment of real estate annually instead of biennially. The City continues to have the second lowest nominal real estate tax rate among all independent cities. Two new programs that have not received funding in previous years are being proposed. A contribution of \$80,000 to the Downtown Renaissance Committee is proposed and \$6,000 for the Harrisonburg Little League Association is included. He reviewed other operating appropriation increases including the Massanutten Regional Library and Juvenile Detention Center. Mr. Baker said that schools represent the largest single expenditure in the City budget. The Water Fund and Sewer Fund budget have decreased. The Sanitation Fund budget has increased and the current monthly residential collection fee of \$10.00 is proposed to increase to \$12.00 per month to assist with the cost of collecting, processing and disposal of solid waste. At the April 15th City Council work session, it was recommended reducing the budget's proposed cigarette tax from fifty (.50) cents to thirty (.30) cents, increasing the transient occupancy tax by 1%, increasing appropriation to the Free Clinic by \$3,500, increasing appropriation to the Convention and Visitors Bureau by \$30,000 and reducing the proposed school board appropriation by \$500,000.

At 7:53 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, April 14, 2003.

CITY OF HARRISONBURG, VIRGINIA

PROPOSED BUDGET FOR

FISCAL YEAR ENDED JUNE 30, 2004

For information and fiscal planning purposes only

A public hearing will be held by the Harrisonburg City Council on Tuesday, April 22, 2003 at 7:30 p.m. in the Harrisonburg Municipal Building, 345 South Main Street, Harrisonburg, Virginia. Interested citizens are encouraged to attend and express their views.

MINUTES - REGULAR MEETING OF CITY COUNCIL - APRIL 22, 2003

<u>Revenues By Funds</u>	<u>2002-03</u>		2003-04	
	<u>Original</u>	<u>Amendments</u>	<u>Amended</u>	As <u>Proposed</u>
Operating:				
General	56,980,181	2,097,557	59,077,738	58,762,611
School	35,412,183	508,395	35,920,578	39,532,063
Water	5,819,144	365,320	6,184,464	5,030,962
Sewer	6,160,563	18,757	6,179,320	6,125,697
Public Transportation	4,199,508	194,640	4,394,148	5,537,058
Sanitation	7,286,706	82,486	7,369,192	8,287,649
Parking Authority	266,034	159,000	425,034	401,568
Golf Course	958,849	1,803	960,652	1,314,473
Central Garage	636,291	-----	636,291	660,480
Central Stores Operating	<u>89,522</u>	<u>(30,751)</u>	<u>58,771</u>	<u>58,764</u>
Total Operating	<u>117,808,981</u>	<u>3,397,207</u>	<u>121,206,188</u>	<u>125,711,325</u>

-

Capital Projects:

General Capital Projects	1,790,000	12,346,802	14,136,802	5,822,800
School Capital Projects	--	39,722,193	39,722,193	--
Water Capital Projects	1,599,527	14,860,040	16,459,567	500,000
Sewer Capital Projects	872,217	2,424,235	3,296,452	631,129
Sanitation Capital Projects	3,940,968	24,510,900	28,451,868	838,927
Park Auth Capital Projects	20,000	84,234	104,234	166,000

MINUTES - REGULAR MEETING OF CITY COUNCIL - APRIL 22, 2003

Golf Course Capital Projects	-----	778,773	778,773	-- -
Total Capital Projects	<u>8,222,712</u>	<u>94,727,177</u>	<u>102,949,889</u>	<u>7,958,856</u>
Total	<u>126,031,693</u>	<u>98,124,384</u>	<u>224,156,077</u>	<u>133,670,181</u>

Expenditures By Funds

Operating:

General	56,980,181	2,097,557	59,077,738	58,762,611
School	35,412,183	508,395	35,920,578	39,532,063
Water	5,819,144	365,320	6,184,464	5,030,962
Sewer	6,160,563	18,757	6,179,320	6,125,697
Public Transportation	4,199,508	194,640	4,394,148	5,537,058
Sanitation	7,286,706	82,486	7,369,192	8,287,649
Parking Authority	266,034	159,000	425,034	401,568
Golf Course	958,849	1,803	960,652	1,314,473
Central Garage	636,291	-----	636,291	660,480
Central Stores Operating	<u>89,522</u>	<u>(30,751)</u>	<u>58,771</u>	<u>58,764</u>
-				
Total Operating	<u>117,808,981</u>	<u>3,397,207</u>	<u>121,206,188</u>	<u>125,711,325</u>
-				

Capital Projects:

General Capital Projects	1,790,000	12,346,802	14,136,802	5,822,800
School Capital Projects	--	39,722,193	39,722,193	--
Water Capital Projects	1,599,527	14,860,040	16,459,567	500,000
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Sanitation Capital Projects	3,940,968	24,510,900	28,451,868	838,927
Park Auth Capital Projects	20,000	84,234	104,234	166,000
Golf Course Capital Projects	-----	778,773	778,773	--
 Total Capital Projects	 8,222,712	 94,727,177	 102,949,889	 7,958,856
 Total	 <u>126,031,693</u>	 <u>98,124,384</u>	 <u>224,156,077</u>	 <u>133,670,181</u>

Mayor Fitzgerald called on anyone present desiring to speak either for or against the proposed 2003-2004 budget.

Ralph Geddes, a resident of 395 Franklin Street, reminded Council of the historical tea tax. He suggested increasing the wine and beer sales tax. He also questioned how much taxpayers could absorb in the next five years.

Steve Pence, a nonresident of the City, but owning a business at 1967 Medical Avenue, said he was concerned about the cigarette tax. The impact the cigarette tax will have is more important than the increased revenue it will generate. Second hand tobacco smoke causes extensive illness and death to those surrounding the smokers. It is well known that cigarette smoke can cause many of the 5,000 chemicals in each cigarette to become airborne leading to irritation and inflammation of the lungs. He said that he has many patients who are not smokers, but have to suffer the exposure from someone who is addicted. If raising the cost of cigarettes by imposing a tax on them can actually get people to stop smoking, it will be worth the effort without the increased revenue.

Bucky Berry, a resident of 877 North Main Street, said that children are the future of the community.

Mick Swayne, a resident of 1560 Gilmer Circle, questioned cutting \$500,000 from the school budget. He reviewed the possible impact it could have and asked Council to reconsider.

Liz Thompson, an employee of the Office on Children and Youth, said the tax on cigarettes would affect youth's tobacco use in the community. She said that 80% of smokers start before they are 18 years old. Increasing tobacco prices will reduce tobacco use.

Dr. William Lee, a resident of 1157 Nelson Drive, encouraged City Council to increase the tax to 60-cent on each pack of cigarettes. He insisted more people will stop smoking if the tax is higher. He emphasized that studies have shown that every time taxes are raised on cigarettes two things happen: revenue to the locality increases and tobacco consumption decreases.

Ron Shelton a social worker at Rockingham Memorial Hospital said he has watched hundreds of individuals and families suffer because of tobacco use. It is important to educate the youth before they start experimenting with smoking.

MINUTES - REGULAR MEETING OF CITY COUNCIL - APRIL 22, 2003

David Ehrenpreis, a resident of 282 Franklin Street, congratulated City Council for funding the Downtown Renaissance. He also questioned cutting \$500,000 from the school budget.

Lynn Rexrode, a resident of 583 Hawkins Street, questioned the survey conducted by doctors and the effect it will have on smokers. He said, I am a smoker and I would love to stop smoking, but I can't because I am addicted.

Polly Fravel, a resident of 749 Northfield Court, said as an educator she sees every step of the school budget process from the fall to the spring when it is submitted to City Council. Teachers, principals, administrators, Dr. Ford and the School Board worked diligently on being fiscally responsible in the use of their resources. Everyone analyzed and evaluated their needs resulting in a bare bones budget. City Council has worked very hard in the past to provide funds allocated with new monies generated by additional revenues.

Mike Arehart, owner of Kline Dairy Bar, said that he wasn't protesting taxes or criticizing the budget. He said he was not in favor of increasing the meals tax and suggested increasing taxes in some other manner.

Erie Plowman, a resident of 2201 Lake Terrace Drive, said that he was a native Harrisonburg resident and one of the owners of Calhoun Restaurant. He said that he opposed the additional 1% meals tax. Restaurants are always one of the heaviest taxed industries in the City. He said, It is the simplest of economics that when you spend more than you collect, there will be a shortfall. He said 90% of his business comes from local residents.

David Sonifrank, owner of Smokin Pig Restaurant, said smoking is a very bad habit and if it was possible to tax it out of his wallet then perhaps he could be persuaded to stop smoking. Nevertheless, it isn't fair to hit one particular market. He also opposed the proposed 1% increase in the meals tax.

Betty Newell, President of CART explained that CART provides transportation services for elderly, disabled and low-income residents of Harrisonburg and Rockingham County. CART does not duplicate services provided by Harrisonburg; however, at times transportation has been provided to the University of Virginia Medical Center. Sometimes service is provided late at night because City buses have stopped running.

RuthDae Scott, a resident of 511 Northglen Lane, said two of the proposed taxes are minority taxes. Minority taxes do not generate revenue; however, they can generate rebellion. She said that she was a smoker and supported the cigarette tax; however, she could not support the meals tax because it was not fair to everyone.

Dr. Donald Ford, Superintendent of Harrisonburg City Schools, indicated his support for the proposed budget, which keeps school expenditures for next year at the level adopted by the School Board. He said that the School Board recognizes it is a difficult year financially for the City and it is necessary to utilize the school's unappropriated funds. However, utilizing the school's reserve funds to help pay for next year's school budget is a major departure from past practice. He said the School Board's overall budget does increase 9.19% over the current budget, but it contains a technology grant of \$1.2 million. The technology grant is available to a consortium of twenty school divisions. The school reserve fund is \$1,232,047.84. It is expected that the City will receive additional funds from the state because it has more students than was anticipated. He said that his staff tries to manage the budget carefully and prudently. Teacher's salaries climbed to the top 25% in the state, which was a goal of the School Board and supported by City Council.

Greg Coffman, a resident of 66 Laurel Street and chairman of the School Board, explained that the School Board is very aware of the financial concerns that everyone is facing. The School Board does have over \$1.2 million in reserve funds because of cost containment measures and an increase in state revenues. He said that the School Board has been conservative in its spending. However, using the reserve funds for next year will result in eliminating any reserve funds for the following year. The growth in student population has created a

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tremendous need within the school system.

Susan Fitch, a resident of Mockingbird Drive and a member of the School Board, said that Harrisonburg enjoys a remarkable public school system even with the tremendous amount of growth and the constraint of the classrooms. All six schools at every level are fully accredited by the state. Because of the hard work and dedication by teachers and administrators the City's public schools rank near the top in the state in the SOL results.

Dr. Cathy Shusher, a resident of 520 South Mason Street and a member of the School Board, said that Harrisonburg has longed been recognized for its excellence in public education. The City is changing and requires greater needs for resources and retaining teachers. The changing demographics require more time and planning and implementing than has been anticipated or required. The teachers must have that commitment and quality recognized and appreciated in the form of the recommended pay raises.

Tom Mendez, a resident of 141 Diamond Court and a member of the School Board, urged Council Members to carefully consider the choices and continue to fund education as it has in the past. It is clear that funding levels and available resources directly affect the quality of education offered by the City. The choices made will affect 4,028 students and their parents.

Sally Strickler, a resident of 1015 Smithland Road, said that she opposed the cut to the School Board's request for funding. The children are the future and an investment needs to be made in them. She expressed concern with the challenges teachers are facing every day.

Jean Swartz, a resident of 749 Woodland Drive, encouraged City Council to provide the full funding to the School Board.

There being no others desiring to be heard, the public hearing was declared closed at 9:06 p.m., and the regular session reconvened.

Council Member Peterson commented that City Council cannot make any statements regarding how the \$500,000 decrease in School Board funding are made. He said that during the past years, City Council has funded schools with quite large increases yearly so that the schools could get to their goal of having teachers paid higher than 75% of the school districts in the state. The level has been reached. He said, Continuing as in years past to give school employees bigger raises than people working for the City is unfair. The School Board will have to decide whether they want to make cuts in other areas or continue to give higher pay raises to teachers.

Mayor Joe Fitzgerald commented that \$2 million in new taxes are too much for the amount of new services that will be delivered. The proposed cigarette tax at 30 cent a pack will have a larger impact on the number of people smoking. He said, I am concerned that increasing the meals tax another penny breaks the 10% barrier. Increasing the cigarette tax and meals tax would be necessary if we had an emergency, but I don't think that we have an emergency. Cutting \$500,00 from the school budget is too much because they were willing to make up a lot of the new needs from the \$1.2 million in undesignated funds. It is money that the School Board has saved in past budgets. He also said that \$1.3 million in funding for the golf course next year is too much as we are only guessing that the average month in golf course revenues for the up coming year is going to double. He suggested that City Council discuss the school budget again.

Jean Swartz, a resident of 749 Woodland Drive, encouraged City Council to provide the full funding to the S

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Council Member Lantz commented that the golf course hasn't used any taxpayer dollars. He thanked the 22 speakers who spoke on the budget. No one made any nasty remarks or personal comments. This has been a hard budget. He said he received many telephone calls saying don't increase the cigarettes tax, don't increase the meals tax, don't increase the hotel tax, reduce the revenue, or cut school funding. There are a lot of needs, but the City only has so much revenue. He said in the state of Virginia over half of the localities do not have a cigarette tax. Very few go beyond 30 cents. It is a very difficult decision. He said, I have always supported the schools in the past, but a 4% increase in salaries will put Harrisonburg even further up the scale. Most of the departments in the City for the past four years have not received an increase in funding. Harrisonburg residents rank in the bottom one-fourth of all cities in the state of Virginia.

Vice-Mayor Rogers said that if schools needed more money at the end of the year, he would support providing additional money. He encouraged the School Board to apply for additional state funding.

Council Member Peterson offered a motion to approve the 2003-2004 budget for a first reading as amended: decrease the amount of transfer from the General Fund to the school budget by \$500,000, add \$30,000 in contribution to the Convention & Visitors Bureau, add \$3,500 in contribution to the Harrisonburg Free Clinic, reduce the budget's proposed cigarette tax from 50 cents to 30 cents, and increase transient occupancy tax by 1%. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

No - Mayor Fitzgerald

Absent None

Planning and Community Development Director Turner introduced a request by George R. Brunk, III to reconfigure 4.027 acres into three lots. The property is zoned R-2, Residential District and is located at 983 and 987 Summit Avenue. The preliminary plat request is to reconfigure the property into three lots with a variance to the Subdivision Ordinance. There are two houses existing on the southern portion of the area, and the subdivision would allow for the construction of a third house on the new front lot without obstructing the view from the current structures. The reconfiguration will create three nearly equally apportioned lots side by

Jean Swartz, a resident of 749 Woodland Drive, encouraged City Council to provide the full funding to the S

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side along the ridgeline, each with large front yards and an unobstructed view to the east. All lots would be accessed from a driveway entering off Mt. Clinton Pike. A variance to the City's subdivision ordinance is permitted in cases that involve unusual severe topography or hardship situations. In the Capital Improvement Program there is a project to widen Mt. Clinton Pike at some point in the future to four lanes with perhaps a center turn lane with curb and gutter, sidewalk and bike lanes. She reviewed the agreement with the Brunk family, which includes dedicating some right-of-way, and deed restriction of any house being built on the proposed lot. She said that Planning Commission recommended approval of the request.

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

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

Absent None

City Manager Baker presented for Council's consideration a request from the Harrisonburg-Rockingham Historical Society to hold an antique car show at Silver Lake on May 9-10, 2003. He said that although other events will be held at the annual MayFair only the antique car show will be on City property. Vice-Mayor Rogers offered a motion to approve this request. The motion was approved with a unanimous vote of Council.

Financial Director Seal presented a request to transfer funds for the Information Technology (Data Processing) Department. He explained that these funds will be used for software maintenance and purchasing furniture and fixtures. Council Member Lantz offered a motion to approve this transfer request, and that:

\$16,625.00 chge. to: 1000-940111-49310 Reserve for Contingencies

\$11,000.00 approp. to: 1000-122011-43320 Service contracts

Jean Swartz, a resident of 749 Woodland Drive, encouraged City Council to provide the full funding to the S

MINUTES - REGULAR MEETING OF CITY COUNCIL - APRIL 22, 2003

5,625.00 approp. to: 1000-122011-48220 Furniture and fixtures

The recorded roll call vote was taken as follows:

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

Absent None

City Manager Baker presented a request to increase the City's budgeted revenues and expenditures. He explained that these funds were generated by a special Virginia license plate program. Council agreed at the February 25th meeting to divide one-half of the proceeds to Valley Cats and one half to Cats Cradle. Council Member Lantz offered a motion to approve this request for a second reading, and that:

\$745.58 chge. to: 1000-322207 Animal Friendly License Plates

\$372.79 approp. to: 1000-910411-45892 Valley Cats

372.79 approp. to: 1000-910411-45893 Cats Cradle

The recorded roll call vote was taken as follows:

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

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Council Member Peterson

Mayor Fitzgerald

Absent None

School Superintendent Ford 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 division to receive these additional funds. Vice-Mayor Rogers offered a motion to approve this request for a first reading, and that:

\$13,919.00 chge. to: 1111-33301 School Revenue Federal

\$13,919.00 approp. to: 1111-111114-40610 Instruction

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

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 money. Council Member Lantz offered a motion to approve this request for a first reading, and that:

Jean Swartz, a resident of 749 Woodland Drive, encouraged City Council to provide the full funding to the S

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\$5,400.19 chge. to: 1000-33531 Weed and Seed

\$5,400.19 approp. to: 1000-310231-41020 Salaries/wages overtime

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent - None

Parks and Recreation Department Director Foerster presented a request for a supplemental appropriation for the Parks and Recreation Department. He explained that these funds are reimbursement for purchases made possible by a private donation. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$15,697.00 chge. to: 1000-31914 Recovered Cost

15,000.00 chge. to: 1000-31809 General Donations

800.00 chge. to: 1000-31809 Donations

1,220.00 chge. to: 1000-31901 Recoveries & Rebates

7,519.72 chge. to: 2016-31818 Donations First Tee

5,000.00 chge. to: 2016-34210 Transfer from General Fund

\$15,697.00 approp. to: 1000-710571-43330 National Guard Armory-Maint. & Repair

Jean Swartz, a resident of 749 Woodland Drive, encouraged City Council to provide the full funding to the S

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5,610.00 approp. to: 1000-710171-46130 Recreational Supplies

4,390.00 approp. to: 1000-710171-43360 Main. & Repair, Bldgs. & Grounds

5,000.00 approp. to: 1000-990111-49185 Transfer to Golf Course Fund

800.00 approp. to: 1000-710171-46130 Recreational Supplies

1,220.00 approp. to: 1000-710871-43360 Athletics

12,519.72 approp. to: 2016-720371-46144 First Tee

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

Bucky Berry, a resident of 877 North Main Street, requested permission to mow and maintain the lawn at the new Rescue Squad Building. Mayor Fitzgerald asked Mr. Berry to contact City staff.

Ted Cole representing Davenport & Company presented for Council's consideration a refinancing opportunity for the City of Harrisonburg's General Obligation Public Improvement Bonds, Series 1996. He explained that Davenport, on behalf of the City, drafted, distributed, negotiated, and received bids from financial institutions interested in providing the City with the necessary funding required to refinance the City's existing General Obligation Public Improvement Bonds, Series 1996. Mr. Cole reviewed the six firm proposals received and said that Shenandoah National Bank in Staunton offered the lowest proposal. If City Council approves refinancing these bonds and accepting the proposal from Shenandoah National Bank documents could be submitted for final approval in early May. He reviewed the fees, expenses and terms of the resolution. Council Member Lantz requested that the words "shall not exceed \$35,000" be changed to "will not exceed \$35,000". It was pointed out that costs were not included in the resolution. Council Member Peterson offered a motion to approve the resolution as submitted. The recorded roll call vote was taken as follows:

Jean Swartz, a resident of 749 Woodland Drive, encouraged City Council to provide the full funding to the S

MINUTES - REGULAR MEETING OF CITY COUNCIL - APRIL 22, 2003

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

Police Chief Harper presented an agreement with James Madison University Police Department in a cooperative patrol area. He explained that the area consists of largely concentrated university students living off campus. By agreement, officers of the James Madison University Police Department will be appointed as special police officers of the Harrisonburg Police Department within this designated corporate patrol area. This agreement will give James Madison University Police Officers the same authority as the Harrisonburg Police Officers and will be jointly patrolled by both departments. Council Member Peterson offered a motion to approve this agreement. The motion was approved with a unanimous vote of Council.

At 10:05 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 motion was approved with a unanimous vote of Council.

At 10:20 p.m., the closed session ended and the regular session reconvened. The following statement 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 and 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.

Council Member Peterson offered a motion to increase the City Attorney budget by \$1,280.00 for FY 2003-2004. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Jean Swartz, a resident of 749 Woodland Drive, encouraged City Council to provide the full funding to the S

MINUTES - REGULAR MEETING OF CITY COUNCIL - APRIL 22, 2003

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

At 10:21 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

REGULAR MEETING

MAY 13, 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; Council Member Hugh J. Lantz; City Clerk Yvonne Bonnie Ryan, CMC/MMCA, and Chief of Police Donald Harper.

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

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading approval of a Supplemental Appropriation for the Police Department, School Board and the Parks and Recreation Department. 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

APPROPRIATION ORDINANCE
OF THE CITY OF HARRISONBURG, VIRGINIA
For the Fiscal Year Ending June 30, 2004

AN ORDINANCE MAKING APPROPRIATION OF SUMS OF MONEY FOR NECESSARY EXPENDITURES TO THE CITY OF HARRISONBURG, VIRGINIA, FOR THE FISCAL YEAR ENDING JUNE 30, 2004. TO PRESCRIBE THE TERMS, CONDITIONS, AND PROVISIONS WITH RESPECT TO THE ITEMS OF APPROPRIATION AND THEIR PAYMENTS; AND TO REPEAL ALL ORDINANCES WHOLLY IN CONFLICT WITH THIS ORDINANCE, AND ALL PARTS OF ORDINANCES INCONSISTENT WITH THIS ORDINANCE TO THE EXTENT OF SUCH INCONSISTENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:

SECTION I - GENERAL FUND (1000)

That the following sums of money be and the same hereby are appropriated for general government purposes herein specified for the fiscal year ending June 30, 2004:

Paragraph One - City Council and Clerk (110111)

For the current expenses and capital outlays of the CITY COUNCIL AND CLERK, a division of the Legislative Department, the sum of one hundred four thousand, nine hundred seventy-four dollars (\$104,974) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$44,122
(2)	Other Operating Expenses	56,352
(3)	Capital Outlays	4,500

Paragraph Two - Office of City Manager (120111)

For the current expenses and capital outlays of the OFFICE OF CITY MANAGER, a division of the General and Financial Administration, the sum of three hundred eleven thousand, four hundred seventy-five dollars (\$311,475) is appropriated from the General Fund to be apportioned as follows:

MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

(1)	Personal Services	\$221,580
(2)	Other Operating Expenses	88,395
(3)	Capital Outlays	1,500

Paragraph Three - Office of City Attorney (120411)

For the current expenses of the OFFICE OF THE CITY ATTORNEY, a division of the General and Financial Administration, the sum of sixty-nine thousand, four hundred sixteen dollars (\$69,416) is appropriated from the General Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$69,416
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Paragraph Four - Department of Human Resources (120511)

For the current expenses of the DEPARTMENT OF HUMAN RESOURCES, a division of the General and Financial Administration, the sum of one hundred sixty-two thousand, twenty-seven dollars (\$162,027) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$107,314
(2)	Other Operating Expenses	54,713

Paragraph Five - Independent Auditor (120811)

For the current expenses of the INDEPENDENT AUDITOR, a division of the General and Financial Administration, the sum of eight thousand, two hundred dollars (\$8,200) is appropriated from the General Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$ 8,200
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MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

Paragraph Six - Commissioner of Revenue (120912)

For the current expenses and capital outlays of the COMMISSIONER OF REVENUE, a division of the General and Financial Administration, the sum of three hundred forty-one thousand, two hundred thirty-six dollars (\$341,236) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$235,741
(2)	Other Operating Expenses	99,295
(3)	Capital Outlays	6,200

Paragraph Seven - Board of Real Estate Assessors (121012)

For the current expenses and capital outlays of the BOARD OF REAL ESTATE ASSESSORS, a division of the General and Financial Administration, the sum of one hundred fifty-nine thousand, fifty-six dollars (\$159,056) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$109,829
(2)	Other Operating Expenses	45,227
(3)	Capital Outlays	4,000

Paragraph Eight - Board of Equalization (121112)

For the current expenses of the BOARD OF EQUALIZATION, a division of the General and Financial Administration, the sum of one thousand, one hundred fifty dollars (\$1,150) is appropriated from the General Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$1,150
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MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

Paragraph Nine - City Treasurer (121313)

For the current expenses and capital outlays of the CITY TREASURER, a division of the General and Financial Administration, the sum of four hundred thirty-seven thousand, six hundred fifty-five dollars (\$437,655) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$261,402
(2)	Other Operating Expenses	165,253
(3)	Capital Outlays	11,000

Paragraph Ten - Department of Finance (121511)

For the current expenses and capital outlays of the DEPARTMENT OF FINANCE, a division of the General and Financial Administration, the sum of two hundred seventy-five thousand, eight hundred thirty-six dollars (\$275,836) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$171,557
(2)	Other Operating Expenses	101,779
(3)	Capital Outlays	2,500

Paragraph Eleven - Retirement Board (121711)

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For the current expenses of the RETIREMENT BOARD, a division of the General and Financial Administration, the sum of twelve thousand, nine hundred eighteen dollars (\$12,918) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$12,000
(2)	Other Operating Expenses	918

Paragraph Twelve - Information Technology (122011)

MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

For the current expenses and capital outlays of INFORMATION TECHNOLOGY, a division of the General and Financial Administration, the sum of three hundred ninety-four thousand, seven hundred sixty-four dollars (\$394,764) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$206,965
(2)	Other Operating Expenses	150,499
(3)	Capital Outlays	37,300

Paragraph Thirteen - Purchasing Agent (122211)

For the current expenses of the PURCHASING AGENT, a division of the General and Financial Administration, the sum of ninety-three thousand, six hundred ten dollars (\$93,610) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$72,362
(2)	Other Operating Expenses	21,248

Paragraph Fourteen - Electoral Board and Officials (130114)

For the current expenses and capital outlays of the ELECTORAL BOARD AND OFFICIALS, a division of the Board of Elections, the sum of one hundred twenty-nine thousand, five hundred twenty-five dollars (\$129,525) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$75,260
(2)	Other Operating Expenses	48,265
(3)	Capital Outlays	6,000

Paragraph Fifteen - Police Administration (310131)

MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

For the current expenses and capital outlays of the POLICE ADMINISTRATION, a division of the Department of Public Safety, the sum of three hundred eleven thousand, seven hundred fifty-eight dollars (\$311,758) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$115,446
(2)	Other Operating Expenses	195,312
(3)	Capital Outlays	1,000

Paragraph Sixteen - Police Operations Division (310231)

For the current expenses and capital outlays of the POLICE OPERATIONS DIVISION, a division of the Department of Public Safety, the sum of two million, nine hundred seventeen thousand, four hundred fifty-five dollars (\$2,917,455) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$2,110,817
(2)	Other Operating Expenses	780,703
(3)	Capital Outlays	25,935

Paragraph Seventeen - Police Criminal Investigation Division (310331)

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For the current expenses and capital outlays of the POLICE CRIMINAL INVESTIGATION DIVISION, the sum of seven hundred thousand, five hundred eighty-six dollars (\$700,586) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$505,201
(2)	Other Operating	193,885
(3)	Capital Outlays	1,500

MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

Paragraph Eighteen - Police Support Services (310431)

For the current expenses and capital outlays of the POLICE SUPPORT SERVICES, a division of the Department of Public Safety, the sum of one million, five hundred ninety thousand, nine hundred seventy-eight dollars (\$1,590,978) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$889,467
(2)	Other Operating Expenses	518,286
(3)	Capital Outlays	183,225

Paragraph Nineteen - Emergency Operations Center (310432)

For the current expenses and capital outlays of the EMERGENCY OPERATIONS CENTER, a division of the Department of Public Safety, the sum of forty-seven thousand, nine hundred fifty-one dollars (\$47,951) is appropriated from the General Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$45,851
(2)	Capital Outlays	2,100

Paragraph Twenty - Fire Administration (320132)

For the current expenses of the FIRE ADMINISTRATION, a division of the Department of Public Safety, the sum of two hundred eighty thousand, seven hundred twenty-four dollars (\$280,724) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$180,305
(2)	Other Operating Expenses	100,419

Paragraph Twenty-One - Fire Suppression (320232)

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For the current expenses and capital outlays of the FIRE SUPPRESSION, a division of the Department of Public Safety, the sum of three million, three hundred sixty-three thousand, two hundred ninety-seven dollars (\$3,363,297) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$2,234,514
(2)	Other Operating Expenses	1,025,858
(3)	Capital Outlays	102,925

Paragraph Twenty-Two - Fire Prevention (320332)

For the current expenses of FIRE PREVENTION, a division of the Department of Public Safety, the sum of one hundred eighty three thousand, seven hundred twenty-six dollars (\$183,726) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$125,993
(2)	Other Operating Expenses	57,733

Paragraph Twenty-Three - Fire Training (320432)

For the current expenses and capital outlays of FIRE TRAINING, a division of the Department of Public Safety, the sum of one hundred twenty-five thousand, nine hundred thirty-nine dollars (\$125,939) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$83,672
(2)	Other Operating Expenses	37,947
(3)	Capital Outlays	4,320

Paragraph Twenty-Four - E911 System (320532)

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For the current expenses of the E911 SYSTEM, a division of the Department of Public Safety, the sum of eight hundred twenty-five thousand, six hundred ninety dollars (\$825,690) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$398,684
(2)	Other Operating Expenses	427,006

Paragraph Twenty-Five - City and County Jail (330231)

For the current expenses of the CITY AND COUNTY JAIL, a division of the Department of Public Safety, the sum of eighty-six thousand dollars (\$86,000) is appropriated from the General Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$86,000
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Paragraph Twenty-Six - Building Inspection (340121)

For the current expenses and capital outlays of BUILDING INSPECTION, a division of the Department of Public Safety, the sum of four hundred eighty-two thousand, six hundred ninety-eight dollars (\$482,698) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$324,353
(2)	Other Operating Expenses	132,145
(3)	Capital Outlays	26,200

Paragraph Twenty-Seven - Animal Control (350131)

For the current expenses of ANIMAL CONTROL, a division of the Department of Public Safety, the sum of one hundred one thousand, four hundred eighteen dollars (\$101,418) is appropriated from General Fund to be

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apportioned as follows:

(1)	Personal Services	\$27,309
(2)	Other Operating Expenses	74,109

Paragraph Twenty-Eight - Coroner (350331)

For the current expenses of the CORONER, a division of the Department of Public Safety, the sum of nine hundred dollars (\$900) is appropriated from the General Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$900
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Paragraph Twenty-Nine - Emergency Services (350532)

For the current expenses of EMERGENCY SERVICES, a division of the Department of Public Safety, the sum of sixty-six thousand, one hundred twenty-four dollars (\$66,124) is appropriated from the General Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$66,124
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Paragraph Thirty - General Engineering/Administration (410121)

For the current expenses and capital outlays of GENERAL ENGINEERING/ ADMINISTRATION, a division of the Department of Public Works, the sum of six hundred ninety-five thousand, eight hundred seventeen dollars (\$695,817) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$466,782
(2)	Other Operating Expenses	207,335

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(3) Capital Outlays 21,700

Paragraph Thirty-One - Highway and Street Maintenance (410241)

For the current expenses and capital outlays of HIGHWAY AND STREET MAINTENANCE, a division of the Department of Public Works, the sum of three million, four hundred eighty-five thousand, two hundred twenty-three dollars (\$3,485,223) is appropriated from the General Fund to be appointed as follows:

(1) Personal Services \$1,139,596
(2) Other Operating Expenses 1,989,203
(3) Capital Outlays 356,424

Paragraph Thirty-Two - Street Lights (410441)

For the current expenses of STREET LIGHTS, a division of the Department of Public Works, the sum of four hundred twenty-five thousand dollars (\$425,000) is appropriated from the General Fund to be apportioned as follows:

(1) Other Operating Expenses \$ 425,000

Paragraph Thirty - Three - Snow and Ice Removal (410541)

For the current expenses and capital outlays of SNOW AND ICE REMOVAL, a division of the Department of Public Works, the sum of one hundred seventy-five thousand, four hundred forty-six dollars (\$175,446) is appropriated from the General Fund to be apportioned as follows:

(1) Personal Services \$48,719
(2) Other Operating Expenses 121,727
(3) Capital Outlays 5,000

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Paragraph Thirty-Four - Traffic Engineering (410741)

For the current expenses and capital outlays of TRAFFIC ENGINEERING, a division of the Department of Public Works, the sum of nine hundred six-four thousand, fifty-two dollars (\$964,052) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$304,759
(2)	Other Operating Expenses	429,293
(3)	Capital Outlays	230,000

Paragraph Thirty-Five - Highway/Street Beautification (410841)

For the current expenses and capital outlays of HIGHWAY/STREET BEAUTIFICATION, a division of the Department of Public Works, the sum of two hundred seventy nine thousand, eight hundred eighty-two dollars (\$279,882) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$129,961
(2)	Other Operating Expenses	114,921
(3)	Capital Outlays	35,000

Paragraph Thirty-Six - Street and Road Cleaning (420241)

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For the current expenses and capital outlays of STREET AND ROAD CLEANING, a division of Public Works, the sum of two hundred thirty-eight thousand, seven hundred seventeen dollars (\$238,717) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$127,610
(2)	Other Operating Expenses	111,107

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Paragraph Thirty-Seven - Insect and Rodent Control (420641)

For the current expenses of INSECT AND RODENT CONTROL, a division of the Department of the Public Works, the sum of forty-one thousand, two hundred fifty dollars (\$41,250) is appropriated from the General Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$41,250
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Paragraph Thirty-Eight Harrison Plaza (430121)

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For the current expenses and capital outlays of HARRISON PLAZA, a division of the Department of the Public Works, the sum of one-hundred seventy-nine thousand, five hundred eighty-nine dollars (\$179,589) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$ 41,040
(2)	Other Operating Expenses	136,549
(3)	Capital Outlays	2,000

Paragraph Thirty-Nine - General Properties (430221)

For the current expenses and capital outlays of GENERAL PROPERTIES, a division of the Department of Public Works, the sum of one hundred sixty-four thousand, two hundred thirty-one dollars (\$164,231) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$23,107
(2)	Other Operating Expenses	126,624
(3)	Capital Outlays	14,500

MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

Paragraph Forty - Local Health Department (510111)

For the current expenses of the LOCAL HEALTH DEPARTMENT, a division of the Health and Welfare Department, the sum of two hundred ninety-eight thousand, seven hundred forty-five dollars (\$298,745) is appropriated from the General Fund to be apportioned as follows:

(1) Other Operating Expenses \$298,745

Paragraph Forty-One - Community Services Board (520511)

For the current expenses of the COMMUNITY SERVICES BOARD, a division of the Health and Welfare Department, the sum of one hundred seventy-four thousand, eight hundred forty dollars (\$174,840) is appropriated from the General Fund to be apportioned as follows:

(1) Other Operating Expenses \$174,840

Paragraph Forty-Two - Tax Relief for Elderly (530611)

For the current expenses TAX RELIEF FOR ELDERLY, a division of the Health and Welfare Department, the sum of twenty-one thousand dollars (\$21,000) is appropriated from the General Fund to be apportioned as follows:

(1) Other Operating Expenses \$21,000

Paragraph Forty-Three - Parks and Recreation Administration (710171)

For the current expenses and capital outlays of PARKS AND RECREATION ADMINISTRATION, a division of Parks, Recreation and Cultural, the sum of eight hundred nineteen thousand, six hundred fifty-six dollars (\$819,656) is appropriated from the General Fund to be apportioned as follows:

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(1)	Personal Services	\$297,773
(2)	Other Operating Expenses	442,883
(3)	Capital Outlays	79,000

Paragraph Forty-Four - Parks (710271)

For the current expenses and capital outlays of PARKS, a division of Parks, Recreation and Cultural, the sum of seven hundred thirty-seven thousand, three hundred twenty-nine dollars (\$737,329) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$384,419
(2)	Other Operating Expenses	194,910
(3)	Capital Outlays	158,000

Paragraph Forty-Five - Recreation Centers and Playgrounds (710471)

For the current expenses and capital outlays of RECREATION CENTERS AND PLAYGROUNDS, a division of Parks, Recreation and Cultural, the sum of four hundred seventy-three thousand, seven hundred eighty-six dollars (\$473,786) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$275,974
(2)	Other Operating Expenses	145,812
(3)	Capital Outlays	52,000

Paragraph Forty-Six - National Guard Armory (710571)

For the current expenses of the NATIONAL GUARD ARMORY, a division of Parks, Recreation and Cultural, the sum of eighty thousand, four hundred forty-three dollars (\$80,443) is appropriated from the General Fund to be apportioned as follows:

MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

(1)	Personal Services	\$38,248
(2)	Other Operating Expenses	42,195

Paragraph Forty-Seven - Simms Recreation Center (710671)

For the current expenses of the SIMMS RECREATION CENTER, a division of Parks, Recreation and Cultural, the sum of thirty-eight thousand, one hundred twenty-three dollars (\$38,123) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$5,193
(2)	Other Operating Expenses	32,930

Paragraph Forty-Eight - Westover Pool (710771)

For the current expenses and capital outlays of the WESTOVER POOL, a division of Parks, Recreation and Cultural, the sum of four hundred six thousand, three hundred seventy-two dollars (\$406,372) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$173,475
(2)	Other Operating Expenses	108,897
(3)	Capital Outlays	124,000

Paragraph Forty-Nine - Athletics (710871)

-

For the current expenses and capital outlays of the ATHLETICS, a division of Parks, Recreation and Cultural, the sum of three hundred ninety-six thousand, seven hundred two dollars (\$396,702) is appropriated from the General Fund to be apportioned as follows:

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(1)	Personal Services	\$175,128
(2)	Other Operating Expenses	156,574
(3)	Capital Outlays	65,000

Paragraph Fifty - Planning (810121)

For the current expenses and capital outlays of the PLANNING. A division of the Department of Community Development, the sum of one hundred eighty-eight thousand, three hundred twenty-two dollars (\$188,322) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$85,424
(2)	Other Operating Expenses	100,198
(3)	Capital Outlays	2,700

Paragraph Fifty-One - Zoning Administrator (810221)

For the current expenses of ZONING ADMINISTRATOR, a division of the Department of Community Development, the sum of one hundred thirty-seven thousand, two hundred three dollars (\$137,203) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$100,854
(2)	Other Operating Expenses	35,992
(3)	Capital Outlay	357

Paragraph Fifty-Two - Board of Zoning Appeals (810421)

For the current expenses of the BOARD OF ZONING APPEALS, a division of the Department of Community Development, the sum of four thousand, seven hundred sixty-five dollars (\$4,765) is appropriated

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from the General Fund to be apportioned as follows:

(1)	Personal Services	\$927
(2)	Other Operating Expenses	3,838

Paragraph Fifty-Three - Economic Development (810521)

For the current expenses and capital outlays of ECONOMIC DEVELOPMENT, the sum of eight hundred twenty-six thousand, seven hundred thirty-eight dollars (\$826,738) is appropriated from the General Fund to be apportioned as follows:

(1)	Personal Services	\$ 78,900
(2)	Other Operating Expenses	145,838
(3)	Capital Outlays	602,000

Paragraph Fifty-Four - Non-Departmental - Contributions (910411)

For aiding the activities of independent, civic, charitable, and other organizations, the sum of one million, thirty-four thousand, three hundred seventy-four dollars (\$1,034,374) is appropriated from the General Fund to be apportioned as follows:

43850	Central Shenandoah Planning District	\$9,489
45642	Local Chamber of Commerce	3,000
45644	Salvation Army	10,000
45645	Rescue Squad-Gas and Oil	20,000
45647	Shen Val. Soil & Water Conservation Dist.	3,850
45648	Blue Ridge Community College	5,000
45650	Valley Program for Aging Services	25,000
45652	First Step, Inc.	21,000

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45653 Non-Departmental CATV	5,000
45654 Convention & Visitors Bureau	123,750
45656 BRCC Site Improvement	24,000
45659 Blue Ridge Legal Services	5,277
45660 Other Non-departmental	21,000
45662 Free Clinic Inc.	8,500
45663 Community Mediation Center	2,000
45664 Woodbine Cemetery	1,500
45669 Boys and Girls Club	45,000
44883 First Night	5,000
45885 Arts Council of Valley	40,000
45888 Downtown Renaissance	80,000
45889 Little League Association	6,000
47010 Massanutten Regional Public Library-Operating	323,645
47020 Upper Valley Regional Park Authority	15,000
47030 Juvenile Detention Home	231,363

Paragraph Fifty-Five - Non-Departmental - Joint Operations (910511)

For the payment of joint expenses, the sum of three million, two hundred eighty thousand, six hundred seventy-seven dollars (\$3,280,677) is appropriated from the General Fund to be apportioned as follows:

47070 Expense of Sheriff, Courts, etc.	\$1,600,000
47071 Expense of Social Service District	1,650,677
47072 Expense of Weed & Seed Program	30,000

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Paragraph Fifty-Six - Non-Departmental Subscriptions/Contribution (910611)

For the payment of Airport Expenses, the sum of forty-five thousand dollars (\$45,000) is appropriated from the General Fund to be apportioned as follows:

47040 Airport - Operating	\$35,000
47045 Airport - Capital Improvements	10,000

Paragraph Fifty-Seven - Non-Departmental Dues to Municipal Organization (910711)

For the payment of dues to Municipal Organizations. The sum of eighteen thousand dollars (\$18,000) is appropriated from the General fund to be apportioned as follows:

45810 Dues and Memberships	\$18,000
----------------------------	----------

Paragraph Fifty-Eight - Reserve for Contingencies (940111)

For Reserve for Contingencies of the General Fund the sum of two hundred thousand dollars (\$200,000) is appropriated from the General Fund to be apportioned as follows:

(1) Reserve for Contingencies	\$200,000
-------------------------------	-----------

Paragraph Fifty-Nine Debt Service (980142)

For the payment of interest and principal on bonds and lease purchases and bank six million, four hundred eighty-eight thousand, five hundred forty dollars (\$6,488,540) is appropriated from the General Fund to be apportioned as follows:

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(1)	Principal and Interest	\$6,484,940
(2)	Bank Handling Charges	3,600

Paragraph Sixty - Transfers to Other Funds (990111)

For supplementing the revenue of other funds the sum of twenty-two million, three hundred eighty-nine thousand, two hundred three dollars (\$22,389,203) is appropriated from the General Fund to be apportioned as follows:

(1)	General Capital Projects Fund	\$1,822,800
(2)	School Fund	18,667,629
(3)	Central Garage Fund	82,872
(4)	Central Stores Fund	3,528
(5)	Public Transportation Fund	665,364
(6)	Sanitation Fund	1,144,586
(7)	Parking Authority Fund	2,424

SUMMARY

Expenditures and Revenues

Total General Fund Appropriation for the
Fiscal Year Ending June 30, 2004 \$58,296,111

To be provided for from the following Estimated Revenues which are as follows:

Amount from Fund Balance \$ 698,105

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General Property Taxes	17,921,390
Other Local Taxes	27,083,872
Permits, Privilege Fees and Regulatory Licenses	207,000
Fines and Forfeitures	367,000
Revenue from use of Money & Property	543,500
Charges for Services	271,550
Miscellaneous Revenue	4,341,552
Recovered Costs	105,000
State Non-Categorical Aid	2,373,395
State Shared Expenses (Categorical-Aid)	274,550
State Other (Categorical-Aid)	2,912,977
Federal Categorical Aid	331,800
Loan Proceeds	0
Transfers from other Funds	<u>865,020</u>
Total General Fund Revenue for the Fiscal Year Ending June 30, 2004	<u>\$58,296,111</u>

SECTION II - SCHOOL FUND (1111)

-

That the following sums of money be and the same hereby are appropriated for school purposes specified for the fiscal year ending June 30, 2004:

Paragraph One - Instruction (40610)

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For the current expenses of INSTRUCTION, of the department of education, the sum of twenty-eight million, twenty-seven thousand, six hundred fifty-six dollars (\$28,027,656) is appropriated from the City School Fund to be apportioned as follows:

- | | | |
|-----|-------------|--------------|
| (1) | Instruction | \$28,027,656 |
|-----|-------------|--------------|

Paragraph Two - Administration/Attendance & Health Service (40620)

For the current expenses of ADMINISTRATION/ATTENDANCE & HEALTH SERVICE, of the department of education, the sum of one million, eight hundred ninety-four thousand, six hundred forty-seven dollars (\$1,894,647) is appropriated from the City School Fund to be apportioned as follows:

- | | | |
|-----|--|-------------|
| (1) | Administration/Attendance & Health Service | \$1,894,647 |
|-----|--|-------------|

Paragraph Three - Pupil Transportation Services (40630)

For the current expenses of PUPIL TRANSPORTATION SERVICES, of the department of education, the sum of one million, one hundred fifty-one thousand, two hundred eighty-nine dollars (\$1,151,289) is appropriated from the City School Fund to be apportioned as follows:

- | | | |
|-----|------------------------------|-------------|
| (1) | Pupil Transportation Service | \$1,151,289 |
|-----|------------------------------|-------------|

Paragraph Four - Operations & Maintenance (40640)

For the current expenses of OPERATIONS AND MAINTENANCE, of the department of education, the sum of three million, one hundred fifty-three thousand, five hundred ninety-three dollars (\$3,153,593) is appropriated from the City School Fund to be apportioned as follows:

- | | | |
|-----|----------------------------|-------------|
| (1) | Operations and Maintenance | \$3,153,593 |
|-----|----------------------------|-------------|

Paragraph Five - School Food Services and Other Non-Instructional Operations (40650)

MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

For the current expenses of SCHOOL FOOD SERVICES AND OTHER NON INSTRUCTIONAL OPERATIONS, of the department of education, the sum of two million, fifty-six thousand, ninety-one dollars (\$2,056,091) is appropriated from the City School Fund to be apportioned as follows:

- (1) School Food Services & Other
- Non Instructional Operations \$2,056,091

Paragraph Six - Facilities (40660)

For the current expenses of FACILITIES, of the department of education, the sum of two thousand dollars (\$2,000) is appropriated from the City School Fund to be apportioned as follows:

- (1) Facilities \$2,000

Paragraph Seven - Technology (40680)

For the current expenses of TECHNOLOGY of the Department of Education, the sum of two million, four hundred thirty-four thousand, seven hundred fifty-six dollars (\$2,434,756) is appropriated from the City School Fund to be apportioned as follows:

- (1) Technology \$2,434,756

SUMMARY

Expenditures and Revenues

Total School Fund Appropriations for

Fiscal Year Ending June 30, 2004 \$38,720,032

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To be provided for from the following Estimated Revenues, which are as follows:

Fund Balance	\$1,215,203
Revenue from Other Funds	1,837,102
Revenue from State School Funds	13,067,320
Revenue from Federal Funds	3,932,778
Transfers Receipts from City's General Fund	
<u>18,667,629</u>	
Total School Fund Revenue	
for the Fiscal Year Ending June 30, 2004	<u>\$38,720,032</u>

SECTION III - GENERAL CAPITAL PROJECTS FUND (1310)

That the following sum of money be and the same hereby are appropriated for General Capital Projects purposes herein specified for the fiscal year ended June 30, 2004:

Paragraph One - Capital Projects (910141)

For the payment of capital expenditures of the General Capital Projects Fund, the sum of five million, eight hundred twenty-two thousand, eight hundred dollars (\$5,822,800) appropriated as follows:

48610 2-way Communication System	50,000
48616 Citywide Drainage Program	50,000
48617 Port Republic Road Street Improvement	50,000
48636 Stone Spring Road Improvement	2,000,000

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48637 Erickson Avenue Extension	2,000,000
48638 Cantrell Avenue Road Improvement	400,000
48691 Simms Bldg. Renovation	200,000
48692 Hardesty Higgins House	672,800
48695 Garbers Church Road Imp/HS	400,000

SUMMARY

Expenditures and Revenues

Total General Capital Projects Fund Appropriation
for the Fiscal Year Ended June 30, 2004 \$5,822,800

To be provided from the following estimated revenues which are as follows:

34110 Bond Proceeds	\$ 4,000,000
34210 Transfer from General Fund	<u>1,822,800</u>

Total General Capital Projects Fund Revenue
For the fiscal Year Ending June 30, 2004 \$5,822,800

SECTION IV - Water Capital Projects Fund (1321)

That the following sum of money be and the same hereby are appropriated for Water Capital Projects purposes herein specified for the fiscal year ended June 30, 2004:

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Paragraph One - Capital Projects (910161)

For the payment of capital expenditures of the Water Capital Projects Fund, the sum of five hundred thousand dollars (\$500,000) is appropriated as follows:

48621 Western Raw Water Line	\$340,000
48627 Water Tank Repairs	40,000
48633 Smithland Road	40,000
48634 Water Main Oversize/Extend	40,000
48635 Water Main Upgrades	40,000

S U M M A R Y

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Expenditures and Revenues

Total Water Capital Projects Fund Appropriations

for the Fiscal Year Ended June 30, 2004 \$ 500,000

To be provided for from the following estimated revenue which is as follows:

34220 Transfer from Water Fund \$ 500,000

Total Water Capital Projects Fund Revenue

for the Fiscal Year Ended June 30, 2004 \$ 500,000

SECTION V - Sewer Capital Projects Fund (1322)

-

That the following sum of money be and the same hereby are appropriated for Sewer Capital Projects purposes herein specified for the fiscal year ended June 30, 2004:

Paragraph One - Capital Projects (911161)

For the payment of capital expenditures of the Sewer Capital Projects Fund, the sum of six hundred thirty-one thousand, one hundred twenty-nine dollars (\$631,129) is appropriated as follows:

48630 Central Stores Building Project	\$ 31,129
48641 Blacks Run Interceptor	200,000
48645 PHR&A I&I	100,000
48649 Smithland Road	50,000
48650 Sewer Main Oversize/Extension	50,000
48651 Sewer Main Upgrades	200,000

S U M M A R Y

Expenditures and Revenues

Total Sewer Capital Projects Fund Appropriation

for the Fiscal Year Ended June 30, 2004

\$631,129

To be provided from the following estimated revenue which is as follows:

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34230 Transfer from Sewer Fund \$631,129

Total Sewer Capital Projects Fund Revenue

for the Fiscal Year Ended June 30, 2004 \$631,129

SECTION VI - Sanitation Capital Projects Fund (1324)

That the following sum of money be and the same hereby are appropriated for Sanitation Capital Projects purposes herein specified for the fiscal year ended June 30, 2004:

Paragraph One - Capital Projects (910142)

For the payment of capital expenditures of the Sanitation Capital Projects Fund, the sum of eight hundred thirty-eight thousand, nine hundred twenty-seven dollars (\$838,927) is appropriated as follows:

48681 City Landfill closure and monitoring	\$270,000
48683 Steam Plant for CISAT	150,000
48684 County Landfill Development & Closure	313,927
48685 Recycling Development	105,000

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SUMMARY

Expenditure and Revenue

Total Sanitation Capital Projects Fund Appropriation

for the Fiscal Year Ended June 30, 2004 \$838,927

MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

To be provided from the following estimated revenue which is as follows:

34270	Transfer from Sanitation Fund	<u>838,927</u>
-		
	Total Sanitation Capital Projects Fund Revenue	
	for the Fiscal Year Ended June 30, 2004	<u>\$ 838,927</u>

SECTION VII Parking Authority Capital Projects Fund (1325)

That the following sum of money be and the same hereby are appropriated for the Parking Authority Capital Projects purposes herein specified for the fiscal year ended June 30, 2004:

Paragraph One - Capital Projects (910641)

For the payment of capital expenditures of the Parking Authority Capital Projects Fund, the sum of one hundred sixty-six thousand dollars (\$166,000) is appropriated as follows:

48653	Rehab. Parking Deck	\$166,000
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SUMMARY

Expenditure and Revenue

Total Parking Authority Projects Fund appropriation	
for the Fiscal Year Ended June 30, 2004	<u>\$166,000</u>

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To be provided from the following estimated revenue which is as follows:

34275 Transfer from Parking Authority Fund	<u>\$166,000</u>
Total Parking Authority Capital Projects Fund Revenue	
for the Fiscal Year Ended June 30, 2004	<u>\$166,000</u>

SECTION VIII- WATER FUND (2011)

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That the following sums of money be and the same hereby are appropriated for water purposes herein specified for the fiscal year ending June 30, 2004:

Paragraph One - Administration (312061)

For the current expenses of ADMINISTRATION OF THE WATER DEPARTMENT, a division of the Water Fund, the sum of two hundred fifty-nine thousand, nine hundred fifty dollars (\$259,950) is appropriated from the Water Fund to be apportioned as follows:

(1) Personal Services	\$138,284
(2) Other Operating Expenses	121,666

Paragraph Two - Pumping, Storage and Monitoring (322061)

For the current expenses of PUMPING, STORAGE AND MONITORING OF THE WATER DEPARTMENT, a division of the Water Fund, the sum of four hundred five thousand, five hundred seventeen dollars (\$405,517) is appropriated from the Water Fund to be apportioned as follows:

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(1)	Personal Services	\$33,039
(2)	Other Operating Expenses	372,478

Paragraph Three - Transmission and Distribution (332061)

For the current expenses of TRANSMISSION AND DISTRIBUTION OF THE WATER DEPARTMENT, a division of the Water Fund, the sum of six hundred six thousand, eight hundred sixty-eight dollars (\$606,868) is appropriated from the Water Fund to be apportioned as follows:

(1)	Personal Services	\$329,232
(2)	Other Operating Expenses	277,636

Paragraph Four - Utility Billing (342061)

For the current expenses of UTILITY BILLING OF THE WATER DEPARTMENT, a division of the Water Fund, the sum of one hundred eighty-seven thousand, four hundred twenty-seven dollars (\$187,427) is appropriated from the Water Fund to be apportioned as follows:

(1)	Personal Services	\$76,094
(2)	Other Operating Expenses	111,333

Paragraph Five - Miscellaneous (352061)

For the current expenses, depreciation and payment of taxes, the sum of one million, three hundred eighty-three thousand, one hundred eighty-eight dollars (\$1,383,188) is appropriated from the Water Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$14,500
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(2)	Depreciation	1,159,744
(3)	Taxes, etc.	208,944

Paragraph Six - Water Purification (362061)

For the current expenses of WATER PURIFICATION OF THE WATER DEPARTMENT, a division of the Water Fund, the sum of seven hundred eighty-nine thousand, two hundred ninety-five dollars (\$789,295) is appropriated from the Water Fund to be apportioned as follows:

(1)	Personal Services	\$456,542
(2)	Other Operating Expenses	332,753

Paragraph Seven - Capital Outlay (372061)

For the capital outlays of the WATER DEPARTMENT, a division of the Water Fund, the sum of one hundred seventy-four thousand dollars (\$174,000) is appropriated from the Water Fund to be apportioned as follows:

(1)	Capital Outlays	\$174,000
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Paragraph Eight - Debt Service (382061)

For the payment of interest and principal, etc., on bonds of the Water Department, the sum of two hundred fifty-four thousand, six hundred eighty-nine dollars (\$254,689) is appropriated from the Water Fund to be apportioned as follows:

(1)	Principal and Interest	\$254,689
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Paragraph Nine - Transfers (392061)

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For sharing the costs of operation in other funds for the benefit of the Water Fund, the sum of nine hundred seventy thousand, twenty-eight dollars (\$970,028) is appropriated from the Water Fund to be apportioned as follows:

(1)	General Fund-Share of Accounting, Collecting & Data Processing	\$419,496
(2)	Water Capital Projects Fund	500,000
(3)	Central Stores Fund	50,532

SUMMARY

Expenditures and Revenues

Total Water Fund Appropriations for the Fiscal Year Ending June 30, 2004	<u>\$5,030,962</u>
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To be provided for from the following Estimated Revenues, which are as follows:

Fund Balance	\$ 22,932
Permits, Privilege Fees and Regulatory Licenses	135,000
Revenue from use of Money & Property	145,600
Charges for Services	4,572,650
Recovered Costs	130,000
Transfers for depreciation	<u>24,780</u>

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Total Water Fund Revenues

for the Fiscal Year Ending June 30, 2004

\$5,030,962

SECTION IX - SEWER FUND (2012)

That the following sums of money be and the same hereby are appropriated for sewerage purposes herein specified for the fiscal year ending June 30, 2004.

Paragraph One - Administration (412061)

For the current expenses of ADMINISTRATION OF THE SEWER DEPARTMENT, a division of the Sewer Fund, the sum of four hundred thirty-six thousand, nine hundred forty-six dollars (\$436,946) is appropriated from the Sewer Fund to be apportioned as follows:

(1)	Personal Services	\$272,961
(2)	Other Operating Expenses	163,985

Paragraph Two - Treatment and Disposal (422061)

For the current expenses of TREATMENT AND DISPOSAL OF THE SEWER DEPARTMENT, a division of the Sewer Fund, the sum of one million, two hundred forty-five thousand, one hundred five dollars (\$1,245,105) is appropriated from the Sewer Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$ 1,245,105
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Paragraph Three - Collection and Transmission (432061)

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For the current expenses of the COLLECTION AND TRANSMISSION OF THE SEWER DEPARTMENT, a division of the Sewer Fund, the sum of seven hundred seventy-one thousand, two hundred forty-six dollars (\$771,246) is appropriated from the Sewer Fund to be apportioned as follows:

(1)	Personal Services	\$460,828
(2)	Other Operating Expenses	310,418

Paragraph Four - Miscellaneous (442061)

For the current expenses, depreciation and the payment of taxes, the sum of one million, seventy-nine thousand, two hundred forty-eight dollars (\$1,079,248) is appropriated from the Sewer Fund to be apportioned as follows:

(1)	Other Operating Expenses	\$ 7,000
(2)	Depreciation	887,472
(3)	Taxes, etc.	184,776

Paragraph Five - Utility Billing (452061)

For the current expenses of UTILITY BILLING OF THE SEWER DEPARTMENT, a division of the Sewer Fund, the sum of one hundred ninety-four thousand, six hundred five dollars (\$194,605) is appropriated from the Sewer Fund to be apportioned as follows:

(1)	Personal Services	\$116,439
(2)	Other Operating Expenses	78,166

Paragraph Six - Pumping & Monitoring (462061)

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For the current expenses of PUMPING AND MONITORING OF THE SEWER DEPARTMENT, a division of the Sewer Fund, the sum of sixty-one thousand, three hundred thirty-eight dollars (\$61,338) is appropriated from the Sewer Fund to be apportioned as follows:

- | | | |
|-----|-------------------|----------|
| (1) | Personal Services | \$33,039 |
| (2) | Other Operating | 28,299 |

Paragraph Seven - Capital Outlay (472061)

For the capital outlays of the SEWER DEPARTMENT, a division of the Sewer Fund, the sum of two hundred seventy-five thousand dollars (\$275,000) is appropriated from the Sewer Fund to be apportioned as follows:

- | | | |
|-----|-----------------|-----------|
| (1) | Capital Outlays | \$275,000 |
|-----|-----------------|-----------|

Paragraph Eight - Debt Service (482061)

For the payment of the City's share of interest and principal on HRSA debt, the sum of one million, twenty thousand, eight hundred sixty dollars (\$1,020,860) is appropriated from the Sewer Fund to be apportioned as follows:

- | | | |
|-----|------------------------------|-------------|
| (1) | Serial Bonds, Interest, etc. | \$1,020,860 |
|-----|------------------------------|-------------|

Paragraph Nine - Transfers to Other Funds (492061)

For sharing the cost of operation of other funds for the benefit of the Sewer Fund, the sum of one million, forty-one thousand, three hundred forty-nine dollars (\$1,041,349) is appropriated from the Sewer Fund to be apportioned as follows:

- | | | |
|-----|-------------------------|--|
| (1) | General Fund - Share of | |
|-----|-------------------------|--|

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Accounting, Collecting, &

Data Processing Costs	\$405,516	
(2) Sewer Capital Projects Fund	631,129	
(3) Central Stores Fund		4,704

SUMMARY

Expenditures and Revenues

Total Sewer Fund Appropriations for
the Fiscal Year Ending June 30, 2004 \$6,125,697

To be provided for from the following Estimated Revenues, which are as follows:

Fund Balance	63,419
Permits, Privilege Fees and Regulatory Licenses	60,000
Revenue from use of Money & Property	104,000
Charges for Services	4,979,806
Recovered Costs	31,000
Transfers for depreciation	<u>887,472</u>
Total Sewer Fund Revenues for the Fiscal Year Ending June 30, 2004	<u>\$6,125,697</u>

SECTION X - PUBLIC TRANSPORTATION FUND (2013)

That the following sum of money be and the same hereby are appropriated for Public Transportation purposes herein specified for the fiscal year ending June 30, 2004:

Paragraph One - Transit Buses (812081)

For the current expenses and depreciation of the TRANSIT BUSES, a division of the Public Transportation Fund, the sum of two million, one hundred sixty-three thousand, fifty-five dollars (\$2,163,055) is appropriated from the Public Transportation Fund to be apportioned as follows:

(1)	Personal Services	\$1,074,792
(2)	Other Operating Expenses	1,013,263
(3)	Depreciation	75,000

Paragraph Two - School Buses (822081)

For the current expenses and depreciation of the SCHOOL BUSES, a division of the Public Transportation Fund, the sum of one million, three hundred sixty-seven thousand, six hundred twenty-four dollars (\$1,367,624) is appropriated from the Public Transportation Fund to be apportioned as follows:

(1)	Personal Services	\$715,396	
(2)	Other Operating Expenses	592,228	(3)
	Depreciation	60,000	

Paragraph Three - Field Trips & Charters (832081)

For the current expenses of FIELD TRIPS AND CHARTERS, a division of the Public Transportation Fund, the sum of one hundred fifty-three thousand, two hundred sixty-six dollars (\$153,266) is appropriated from the Public Transportation Fund to be apportioned as follows:

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(1)	Personal Services	\$105,364
(2)	Other Operating Expenses	47,902

Paragraph Four - Miscellaneous (842081)

For the current expenses and depreciation of MISCELLANEOUS, a division of the Public Transportation Fund, the sum of sixty-three thousand, nine hundred thirty-three dollars (\$63,933) is appropriated from the Public Transportation Fund to be apportioned as follows:

(1)	Personal Services	\$3,312
(2)	Other Operating Expenses	10,617
(3)	Depreciation	50,004

Paragraph Five - Capital Outlay (872081)

For the capital outlays of the PUBLIC TRANSPORTATION DEPARTMENT, a division of the Public Transportation Fund, the sum of one million, seven hundred eighty-nine thousand, one hundred eighty dollars, (\$1,789,180) is appropriated from the Public Transportation Fund to be apportioned as follows:

(1)	Capital Outlays	\$1,789,180
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SUMMARY

Expenditures and Revenues

Total Public Transportation Fund Appropriations

for the Fiscal Year Ending June 30, 2004 \$5,537,058

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Paragraph Two - CISAT Facility (912242)

For the current expenses of the CISAT FACILITY, a division of the Sanitation Fund, the sum of two million, six hundred nine thousand, six hundred ninety-four dollars (\$2,609,694) is appropriated from the Sanitation Fund to be apportioned as follows:

(1)	Personal Services	\$1,006,185
(2)	Other Operating Expenses	1,603,509

Paragraph Three - Refuse Collection (922041)

For the current expenses of the REFUSE COLLECTION, a division of the Sanitation Fund, the sum of five hundred fifty-one thousand, six hundred thirty-nine dollars (\$551,639) is appropriated from the Sanitation Fund to be apportioned as follows:

(1)	Personal Services	\$324,695
(2)	Other Operating Expenses	226,944

Paragraph Four - Landfill (932042)

For the current expenses of the LANDFILL, a division of the Sanitation Fund, the sum of one million, two hundred twenty-two thousand, seven hundred fourteen dollars (\$1,222,714) is appropriated from the Sanitation Fund to be apportioned as follows:

(1)	Personal Services	\$ 30,062
(2)	Other Operating Expenses	1,192,652

Paragraph Five - Miscellaneous (942042)

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For depreciation, bonds issue cost and the payment of taxes of MISCELLANEOUS, a division of the Sanitation Fund, the sum of one million, twelve thousand, seven hundred thirty-eight dollars (\$1,012,738) is appropriated from the Sanitation Fund to be apportioned as follows:

(1)	Depreciation	\$965,400
(2)	Bond Issue cost	20,793
(3)	Land and steam agreement	26,545

Paragraph Six - Recycling (952042)

For the current expenses of the RECYCLING, a division of the Sanitation Fund, the sum of seven hundred forty-four thousand, three hundred twelve dollars (\$744,312) is appropriated from the Sanitation Fund to be apportioned as follows:

(1)	Personal Services	\$347,616
(2)	Other Operating Expenses	396,696

Paragraph Seven - Capital Outlay (972043)

For the capital outlays of the SANITATION DEPARTMENT, a division of the Sanitation Fund, the sum of two hundred sixty thousand dollars (\$260,000) is appropriated from the Sanitation Fund to be apportioned as follows:

(1)	Capital Outlays	\$260,000
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Paragraph Eight - Debt Service (982042)

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For the payment of interest and principal, etc., on bonds of the Sanitation Fund, the sum of eight hundred twenty-two thousand, eight hundred twenty-one dollars (\$822,821) is appropriated from the Sanitation Fund to be apportioned as follows:

(1) Principal and Interest	\$822,821
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Paragraph Nine - Transfers (990242)

For transfers to Capital Projects of the Sanitation Fund. The sum of eight hundred thirty-eight thousand, nine hundred twenty-seven dollars (\$838,927) is appropriated from the Sanitation Fund to be apportioned as follows.

(1) Transfers to Sanitation Capital Projects	
Fund	\$838,927

SUMMARY

Expenditures and Revenues

Total Sanitation Fund appropriations	
for the Fiscal Year Ending June 30, 2004	<u>\$8,287,649</u>

To be provided for from the following Estimated Revenues, which are as follows:

Amount from Fund Balance	\$ 974,194
Revenue from use of Money & Property	140,000
Charges for Services	2,674,615
Miscellaneous Revenues	60,000

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Recovered Costs	2,281,516
Transfers from General Fund, depreciation, etc.	<u>2,157,324</u>

Total Sanitation Fund Revenues
for the Fiscal Year Ending June 30, 2004 \$8,287,649

SECTION XII - PARKING AUTHORITY FUND (2015)

That the following sums of money be and the same hereby are appropriated for Parking Authority purposes herein specified for the fiscal year ending June 30, 2004:

Paragraph One - Parking Authority (410641)

For the current expenses and capital outlays and transfers of the PARKING AUTHORITY, a division of the Parking Authority Fund, the sum of four hundred one thousand, five hundred sixty-eight dollars (\$401,568) is appropriated from the Parking Authority Fund to be apportioned as follows:

(1)	Personal Services	\$102,712
(2)	Other Operating Expenses	92,848
(3)	Transfers	206,008

S U M M A R Y

Expenditures and Revenues

Total Parking Authority Fund Appropriations
for the Fiscal Year Ending June 30, 2004 \$401,568

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To be provided for from the following Estimated Revenues, which are as follows:

Amount from Fund Balance	\$237,044
Fines and Forfeiture	62,000
Revenue from use of money and property	15,000
Charges for Services	85,100
Transfers from General Fund	
<u>2,424</u>	
Total Parking Authority Fund Revenues	
for the Fiscal Year Ending June 30, 2004	<u>\$401,568</u>

SECTION XIII - GOLF COURSE FUND (2016)

**That the following sums of money be and the same hereby are appropriated for
Golf Course purposes herein specified for the fiscal year ending June 30, 2004:**

Paragraph One - Grounds Management Operations (720271)

For the current expenses of the GROUNDS MANAGEMENT OPERATIONS, a division of the Golf Course Fund, sum of five hundred eighty-four thousand, nine hundred forty-three dollars (\$584,943) is appropriated from the Golf Course Fund to be apportioned as follows:

(1) Personal Services	\$289,531
(2) Other Operating Expenses	295,412

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Paragraph Two - Clubhouse Management Operations (720371)

For the current expenses of the CLUBHOUSE MANAGEMENT OPERATIONS, a division of the Golf Course Fund, the sum of two hundred seventy thousand, six hundred seventy-nine dollars (\$270,679) is appropriated from the Golf Course Fund to be apportioned as follows:

(1)	Personal Services	\$148,840
(2)	Other Operating Expenses	121,839

Paragraph Three - Miscellaneous (720571)

For the depreciation, the sum of forty-seven thousand, five hundred eleven dollars (\$47,511) is appropriated from the Golf Course Fund to be apportioned as follows:

(1)	Depreciation	\$ 47,511
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Paragraph Four - Capital Outlay (720771)

For the capital outlays of the Golf Course Fund, the sum of fifty thousand dollars (\$50,000) is appropriated from the Golf Course Fund to be apportioned as follows:

(1)	Capital Outlays	\$ 50,000
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Paragraph Five - Debt Service (720871)

For the payment of interest on a portion of the interest on the Public Recreation Facility General Obligation and Revenue Bonds, the sum of three hundred sixty-one thousand, three hundred forty dollars (\$361,340) is appropriated from the Golf Course Fund to be apportioned as follows:

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(1)	Principal and Interest	\$360,340
(2)	Bank Handling Charges	1,000

SUMMARY

Expenditures and Revenues

Total Golf Course Fund appropriations

for the Fiscal Year Ending June 30, 2004

\$1,314,473

To be provided for from the following Estimated Revenues, which are as follows:

Charges for Services \$1,314,473

Total Golf Course Fund Revenue

for the Fiscal Year Ending June 30, 2004

\$1,314,473

SECTION XIV - CENTRAL GARAGE FUND (2111)

That the following sums of money be and the same hereby are appropriated for Central Stores purposes herein specified for the fiscal year ending June 30, 2004:

Paragraph One - Operating (612141)

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For the current expenses of the CENTRAL GARAGE, a division of the Central Garage Fund, the sum of six hundred twenty-three thousand, four hundred eighty dollars (\$623,480) is appropriated from the Central Stores Fund to be apportioned as follows:

(1)	Personal Services	\$441,969
(2)	Other Operating Expenses	181,511

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Paragraph Two - Capital Outlay (672141)

For the capital outlays of the CENTRAL GARAGE, a division of the Department of Central Garage Fund, the sum of thirty-seven thousand dollars (\$37,000) is appropriated from the Central Garage Fund to be apportioned as follows:

(1)	Capital Outlays	\$37,000
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SUMMARY

Expenditures and Revenues

Total Central Garage Fund Appropriations for the Fiscal Year Ending June 30, 2004	<u>\$660,480</u>
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To be provided for from the following Estimated Revenue, which is as follows:

Use of Money and Property	\$ 5,000
Charges for Services	572,608
Transfer	<u>82,872</u>

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Total Central Garage Fund Revenue

for the Fiscal Year Ending June 30, 2004

\$660,480

SECTION XV - CENTRAL STORES OPERATING FUND (2112)

That the following sums of money be and the same hereby are appropriated for Central Stores purposes herein specified for the fiscal year ending June 30, 2004:

Paragraph One - Operating (712141)

For the current expenses of the CENTRAL STORES, the sum of fifty-eight thousand, seven hundred sixty-four dollars (\$58,764) is appropriated from the Central Stores Fund to be apportioned as follows:

(1)	Personal Services	\$ 30,231
(2)	Other Operating Expenses	28,533

SUMMARY

Expenditures and Revenues

Total Central Stores Fund Appropriations

for the Fiscal Year Ending June 30, 2004

\$58,764

To be provided for from the following Estimated Revenue, which is as follows:

Transfers from other Funds

\$58,764

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Total Central Stores Fund Revenue

for the Fiscal Year Ending June 30, 2004

\$58,764

TOTAL APPROPRIATIONS MENTIONED WITHIN SECTIONS I THROUGH XV

IN THIS ORDINANCE

FOR THE FISCAL YEAR ENDING June 30, 2004

RECAPITULATION

Section I	General Fund	\$58,296,111
Section II	School Fund	38,720,032
Section III	General Capital Projects Fund	5,822,800
Section IV	Water Capital Projects Fund	500,000
Section V	Sewer Capital Projects Fund	631,129
Section VI	Sanitation Capital Projects Fund	838,927
Section VII	Parking Authority Capital Projects Fund	166,000
Section VIII	Water Fund	5,030,962
Section IX	Sewer Fund	6,125,697
Section X	Public Transportation Fund	5,537,058

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		Fund	
		Sanitation	
Section XI		Fund	8,287,649
		Parking	
		Authority	
Section XII		Fund	401,568
		Golf	
		Course	
Section XIII		Fund	1,314,473
		Central	
		Garage	
Section XIV		Fund	660,480
		Central	
		Stores	
Section XV	-	Fund	<u>58,764</u>
TOTAL APPROPRIATIONS			\$132,391,650

SECTION XVI

All of the monies appropriated as shown by the contained items in Sections I through XV are appropriated upon the terms, conditions and provisions herein before set forth in connection with said items and those set forth in this section and in accordance with the provisions of the official code of the City of Harrisonburg, Virginia, Edition 1979, now in effect or hereafter adopted or amended, relating hereto.

That the rate of taxation of Real Estate and Manufactured Homes as defined in Section §36-85.3, Code of Virginia, 1950, as amended, be fixed at Sixty-two cents (\$0.62), and that the rate of taxation on Tangible Personal Property and Machinery and Tools, as defined by Chapter 35 of §58.1 of the Code of Virginia, 1950, as amended, be fixed at Two Dollars and No Cents (\$2.00) on each one hundred dollars (\$100) assessed valuation for the year 2003; real estate taxes to be collectible one half on or before December 5, 2003 and one half on or before June 5, 2004. It is expressly provided that the provisions of this Ordinance shall not apply to household goods and personal effects as enumerated in §58.1-3504 of said Code, if such goods and effects be owned and used by an individual or by a family or household incident to maintaining an abode, which goods and effects are hereby declared wholly exempt from taxation.

That the rate of fee or service charge imposed on Real Estate Property exempt from regular taxation shall be twenty percent (20%) of the real estate tax rate levied by the City Council in the above paragraph, which applies to the real estate for which the City furnished police and fire protection and for the collection and disposal of refuse, and where such real estate are exempt from taxation under Sections 58.1-3606 through 58.1-3608 of the Code of Virginia. Pursuant to Section 58.1-3400 through 58.1-3407 Code of Virginia, as amended, rate of service charge shall be Twelve Cents (\$0.12) per annum per \$100.00 of assessed valuation, payable one half on or before December 5, 2003 and one half on or before June 5, 2004. The above service charge shall apply to all real property except those specifically exempted from the service charge as provided in such section. (Such as property owned by the Commonwealth, hospitals, cemeteries, churches, etc.)

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That the salaries, wages and allowances set out in detail in the budget statement and in the documents entitled "Positions Classification Listing Effective January 1, 2003", and "Salary Schedule as of July 1, 2003", and adopted by the City Council for the fiscal year beginning July 1, 2003, and ending June 30, 2004, both dates inclusive, be, and they are hereby authorized and fixed as the maximum compensation to be allowed officers and employees for the services rendered, unless otherwise directed by the City Manager and that the City Manager is authorized to make such re-arrangements of salaries in the several departments within and between funds herein named as may best meet the needs and interest of the City and to transfer parts of salaries from one department to another when extra work is transferred from one department to another. The City Manager is also authorized to transfer funds from reserve for contingencies to other expenditure line items, as he may deem necessary. Furthermore, any positions not specifically listed in the Budget document may not be filled without prior written approval of the City Manager.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

This ordinance shall become effective July 1, 2003.

Given under my hand this _____ day of _____, 2003.

CITY CLERK

MAYOR

Vice-Mayor Rogers offered a motion to adopt the FY 2003-2004 budget. 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

Dr. Doug Larsen of the Central Shenandoah Health District made a presentation to Council on four items, fluoridation, West Nile Virus, bioterrorism and teen pregnancy. Virginia has now been fluoridating water for fifty years and the District wanted to express its appreciation for Harrisonburg's participation in that program. Several City waterworks employees were recognized for their efforts in this area including Marvin Armstrong, Charles Dove, Larry Wiseman, Clark Wiseman, Roland Moyers, Gregory Campbell, Ed Loker, Michael Kilty, Dennis McGuffin, Anthony Armstrong and Nicholas Hottinger. Another matter for council's attention is West Nile Virus. It is here to stay in the Valley. An overview of the history of West Nile Virus (WNV) in the U. S. since 1999 was given by Dr. Larsen and he noted that all 48 contiguous states have reported infections. His staff is doing all it can to reduce human exposure in the valley through information and education efforts. People can also protect themselves when they are outside by observing the practice of Long, Loose and Light. Long clothing covers the skin, loose clothing is difficult for mosquitoes to bite through and light clothing does not attract them. There is also a Health Department website with lots of information relative to WNV. The Department fully expects to see their first human cases of WNV in the area this year. The third item Dr. Larsen reported on was local bioterrorism response. Lots of background things are going on. Fire Chief Larry Shifflett has been chairing a City/County/Rockingham Memorial Hospital/JMU task force that is developing plans for responding to a bioterrorism event. The Health Department has hired two new people to assist in the surveillance of bioterrorism activity. These two positions have been funded by federal grants; no local dollars are involved. The final item was a brief report on teen pregnancy in the Harrisonburg area. Local statistics are misleading due to being mixed with JMU. A handout was distributed with the Harrisonburg statistical information on it.

Council member Peterson questioned Dr. Larsen on local efforts relative to SARS planning, prevention and response. What sort of response would be appropriate for the City, County, schools and JMU? Should a meeting of appropriate parties be planned? Dr. Larsen reported that the state is tracking the issue, but has not planned any informational meetings.

Assistant City Manager Hodgen noted that the City's website has a direct link to the Health Department's West Nile Virus site. He also introduced Brittany Schall, a JMU graduate who will be doing an internship with the City this summer. She is a double major in Political Science and Communications.

Ted Cole of Davenport and Company, the City's financial advisor, presented a resolution for council approval of refinancing an existing City general obligation bond. The lower interest rate offered by the refinancing will save the City approximately \$25,000 per year through July of 2016.

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF

GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BONDS, SERIES 2003 OF THE CITY OF HARRISONBURG, VIRGINIA, AND PROVIDING

FOR THE FORM, DETAILS AND PAYMENT THEREOF

The City of Harrisonburg, Virginia (the City) has previously issued its \$7,330,000 General Obligation Public Improvement Bonds, Series 1996 (the Prior Bonds). The proceeds of the Prior Bonds were used to finance public improvements, including the construction and development of roadway, bridge and utility improvements and the acquisition of right-of-way easements. The City has determined that it could lower its debt service costs through the issuance of refunding bonds bearing interest at lower rates than currently borne by the Prior Bonds that mature on July 15 in the years 2007 through 2016 (the Refunded Prior Bonds) and the redemption of the Refunded Prior Bonds before their maturity.

The City is a political subdivision of the Commonwealth of Virginia, and pursuant to the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the Act), the Council is authorized to contract debts on behalf of the City and to issue, as evidence thereof, bonds, notes or other obligations payable from pledges of the full faith and credit of the City.

At a meeting duly called and held on April 22, 2003, the City Council of the City of Harrisonburg, Virginia (the Council) adopted a resolution (the Preliminary Resolution) accepting the proposal of Shenandoah National Bank (the Bank) to purchase the City s general obligation public improvement refunding bonds (the Bonds) to refund the Refunded Prior Bonds and to pay the costs of issuing the Bonds, all pursuant to the Act.

The Council now wishes to authorize the issuance of the Bonds.

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

1. **Authorization of the Bonds.** The Council hereby determines that it is advisable to contract a debt and issue and sell its Bonds for the purpose of refunding the Refunded Prior Bonds, including the payment of redemption premium thereon, and financing the costs of issuing the Bonds. The Council hereby authorizes the issuance and sale of the Bonds in the form and upon the terms set forth herein. The Council elects to issue the Bonds under the provisions of the Act and without regard to the City Charter.

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2. **Details of Bonds.** The Bonds shall be dated the date of their issuance, shall be in the form of a single fully registered bond without coupons registered as to both principal and interest in the name of the Bank, shall be in an amount not to exceed \$5,750,000, and shall be numbered R-1. Interest shall accrue on the Bonds at an interest rate per year equal to 3.17%. Interest on the Bonds shall be payable semi-annually on each January 15 and July 15 commencing July 15, 2003. Principal shall be payable annually on each July 15 commencing July 15, 2003, as will be more particularly set forth in the Bonds. If not sooner paid, all principal of and interest on the Bonds shall be due and payable on July 15, 2016.

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Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

The Mayor and Vice Mayor, either of whom may act, are each hereby authorized to approve the final principal amount of, and the amortization schedule for, the Bonds, so long as the final principal amount is less than or equal to \$5,750,000 and the average weighted maturity of the Bonds is less than twelve (12) years, such approval to be evidenced conclusively by the execution of the Bonds.

3. **Pledge of Full Faith and Credit.** The Bonds will be secured by the full faith and credit of the City. For the prompt payment of the principal of, premium, if any, and interest on the Bonds as the same shall become due, the full faith and credit of the City are hereby irrevocably pledged. Pursuant to Virginia Code Section 15.2-2624 and as provided hereafter, there shall be levied and collected an annual tax upon all taxable property in the City subject to local taxation sufficient to provide for the payment of the principal of, premium, if any, and interest on the Bonds as the same shall become due, which tax shall be without limitation as to rate or amount and shall be in addition to all other taxes authorized to be levied in the City to the extent other funds of the City are not lawfully available and appropriated for such purpose.

4. **Execution and Delivery of Bonds.** The Mayor and the Vice Mayor, either of whom may act, are each authorized and directed to execute the Bonds. The City Clerk and any Deputy Clerk, either of whom may act, are authorized and directed to execute the Bonds, to affix the seal of the City to the Bonds, to attest the seal and then to deliver the Bonds to the Bank upon payment of the purchase price of 100% of the principal amount thereof.

5. **Designation for Purchase by Financial Institutions.** The City hereby designates the Bonds as qualified tax-exempt obligations eligible for the exception from the disallowance of the deduction of interest by financial institutions allocable to the cost of carrying tax-exempt obligations in accordance with the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the Code). The City does not reasonably anticipate that it and any subordinate entities will issue more than \$10,000,000 in qualified tax-exempt obligations during calendar year 2003 and the City will not designate more than \$10,000,000 of qualified tax-exempt obligations in calendar year 2003.

6. **Prepayment Provisions.** The Bonds are subject to redemption at any time without premium at a redemption price of the par amount of the Bonds being redeemed plus accrued interest to the redemption date. The City shall cause notice of the call for redemption identifying the amount of Bonds to be redeemed to be sent by facsimile transmission, registered or certified mail, or overnight express delivery, not less than ten (10) days prior to the redemption date, to the registered owners of the Bonds to be redeemed.

7. **Further Actions.** The Mayor, the Vice Mayor, the City Manager, the Director of Finance and such officers, employees and agents of the City as may be designated by any of them are authorized and directed to take such further actions as they deem necessary regarding the issuance and sale of the Bonds including, without limitation, the execution and delivery of closing documents and certificates including Form 8038 G and a Non Arbitrage and Tax Certificate (the Tax Certificate). All such actions previously taken by the Mayor, Vice Mayor, the City Manager, the Director of Finance or such officers, employees and agents are hereby approved, ratified and confirmed.

The Council covenants on behalf of the City that (i) the proceeds from the issuance of the Bonds will be invested and expended as set forth in the Tax Certificate, (ii) the City shall comply with the other covenants and representations contained in the Tax Certificate and (iii) the City shall comply with the provisions of the Code, so that interest on the Bonds will remain excludable from gross income for federal income tax purposes.

8. **Selection of Bond Counsel.** The Council hereby consents to Troutman Sanders LLP serving as Bond Counsel to the City in connection with the issuance of the Bonds.

9. **Refunding of the Refunded Prior Bonds.** The Council hereby calls for the optional redemption of the Refunded Prior Bonds on July 15, 2006 (the Redemption Date) at a redemption price equal to 100% of the outstanding principal amount thereof plus accrued interest to the Redemption Date plus a redemption premium calculated in accordance with the Refunded Prior Bonds.

The principal amount of the Bonds does not exceed the amount necessary to retire the Refunded Prior Bonds, including costs of issuance of the Bonds. There are currently no sinking, escrow or other funds which are available for the payment of principal of, premium, if any, and interest on the Refunded Prior Bonds.

10. **Escrow Agreement.** The execution and delivery of an Escrow Agreement between the City and SunTrust Bank, as escrow agent (the Escrow Agent) is hereby approved. The Mayor and the Vice Mayor, either of whom may act, are each hereby authorized and directed to execute and deliver the Escrow Agreement. There is hereby created by the City a trust fund to be designated the City of Harrisonburg Escrow Fund (the Escrow Fund) and held by the Escrow Agent pursuant to the Escrow Agreement. The City shall irrevocably deposit in the Escrow Fund an amount of proceeds received by the City from the sale of the Bonds which will be sufficient to provide (taking into account investment earnings or not taking them into account in the discretion of the City) for the payment of the principal of, redemption premium and interest on the Refunded Prior Bonds upon the Redemption Date and for the interest coming due thereon prior to the Redemption Date. Amounts deposited in the Escrow Fund will not be invested or will be invested only in non-callable, direct obligations of the United States of America.

11. **Discharge upon Payment of Bonds.** If the Bonds shall have become due and payable in accordance with their terms, shall have been fully refunded from the proceeds of refunding bonds issued by the City and the full amount of the principal and interest so due and payable upon all Bonds then outstanding

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shall have been paid, or sufficient cash or direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America shall be held by the City Treasurer or by an escrow agent selected by the City for such purpose, at the time and in the manner provided in this Resolution, then all covenants, agreements and other obligations of the City to the holders of the Bonds under this Resolution shall cease, terminate and be void and the City shall be discharged from its obligations hereunder. Upon the deposit of such cash or obligations with the City Treasurer or escrow agent, the City Treasurer or escrow agent may request a report from certified public accountants, actuaries or other similar professionals, addressed to the City Treasurer or escrow agent, to the effect that the cash and the proceeds to be received from such obligations will be sufficient, without reinvestment, to provide for the payment of the principal of and interest on the Bonds when due.

In the event that all of such cash and obligations are not required for the payment of the principal of and interest on the Bonds, such excess may be used by the City for any lawful purpose.

Notwithstanding anything to the contrary contained herein, any defeasance and discharge hereunder shall not be deemed to release the City from its obligations to pay the principal of and interest on the Bonds as contemplated herein until the date all of the Bonds are paid. In addition, such defeasance and discharge shall not terminate the obligations of the City to comply with the tax laws pertaining to the Bonds until the date all of the Bonds are paid.

12. Arbitrage Covenants.

(a) **No Composite Issue.** The City represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bonds within the meaning of the Code.

(b) **No Arbitrage Bonds.** The City covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be an arbitrage bond within the meaning of Section 148 of the Code, or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the City shall comply with any provision of law which 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 Bonds, unless the City receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. The City shall pay any such required rebate from its legally available funds.

13. Limitation on Private Use; No Federal Guaranty. The City covenants that it shall not permit the proceeds of the Bonds to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; *provided*, that if the

City receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the City need not comply with such covenants.

The City represents and agrees that the Bonds are not and will not be federally guaranteed, as such term is used in Section 149(b) of the Code. No portion of the payment of principal of or interest on the Bonds is or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

14. Limitation of Liability of Officials of the City. No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of any officer, employee or agent of the City in his or her individual capacity, and no officer of the City executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. No officer, employee or agent of the City shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.

15. Contract with Bank. The provisions of this Resolution shall constitute a contract between the City and the Bank for so long as the Bonds are outstanding. This Resolution may not be amended by the City in any manner without the consent of the Bank, except to cure any defect, error, omission or ambiguity herein.

The City understands that the Bank will not impose or charge any fees in connection with the Bank's purchase of the Bonds.

16. Financial Statements. The City agrees to provide its audited financial statements to the Bank each year.

17. Filing of Resolution. The City Clerk is hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the County of Rockingham, Virginia.

18. Effective Date. This Resolution shall take effect immediately.

Adopted: May 13, 2003

CERTIFICATE

MINUTES - REGULAR MEETING OF CITY COUNCIL - MAY 13, 2003

The undersigned City Clerk of the City of Harrisonburg, Virginia, hereby certifies that the foregoing constitutes a true, correct and complete copy of a Resolution adopted by the City Council of the City of Harrisonburg, Virginia held on May 13, 2003. I hereby further certify that in accordance with Section 15.2-2607 the Resolution was adopted at the meeting at which it was introduced, said meeting constituted a regularly scheduled meeting and during the consideration of the foregoing Resolution a quorum was present. The vote of the members of the Council upon the foregoing Resolution was as follows:

<u>Member</u>	<u>Present/Absent</u>	<u>Vote</u>
Joseph Gus Fitzgerald, Mayor	Present	Aye
Larry M. Rogers	Present	Aye
Carolyn W. Frank	Present	Aye
Hugh J. Lantz	Present	Aye
Dorn W. Peterson	Present	Aye

WITNESS MY HAND and the seal of the City of Harrisonburg, Virginia, this 13th day of May, 2003.

City Clerk of the City of Harrisonburg, Virginia

SEAL

Council Member Frank offered a motion to approve the resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

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Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

Parks and Recreation Director Lee Foerster than introduced Bill Mechnick of Land Planning and Design Associates our Recreation Master Plan consultants to give Council an update on their progress to date. Council has been given a final draft, but not the final document. Council is being asked for feedback on what has been done to date. Eventually, final adoption of the Recreation Master Plan will be requested and the document will be incorporated into the City's updated Comprehensive Plan. Mr. Mechnick reported that a survey was done of city residents to determine usage of existing parks and recreation facilities, perceived deficiencies, and demand for future programs and facilities. From there, an action plan was drafted for inclusion in the draft plan. Generally speaking, their study has indicated that the department is doing a good job of meeting the recreational needs of Harrisonburg citizens. Eighty-five percent of respondents listed the City's recreational services as good to excellent. One of the challenges the department faces is the approach of overall build out in the City. In addition, some facilities are aging and in need of upgrade or replacement and there was an expressed need for additional athletic fields, swimming pools and hiking/biking trails. Distribution of parks and recreation facilities among the voting precincts was noted as being uneven, but partly the result of available land and existing land uses. The plan also specifically looks at the Bridgewater College and Smithland Road properties and their future development. A copy of the draft plan, including recommendations, is available for public inspection at the Community Activities Center.

Council Member Lantz questioned how the report addressed utilization of existing facilities. Mr. Mechnick responded that detailed information is available in the draft plan, but noted that based on their survey, eighty-five percent of city residents utilize the existing parks and recreation facilities.

Vice-Mayor Rogers asked about recommendations on the location of walking trails. The trail issue had come to Council last year and a number of residents were unhappy with proposed trail locations in their neighborhoods. Mr. Mechnick noted the efforts of the Friends of Blacks Run Greenway and the support this group has received to date. Vice-Mayor Rogers also asked about the Recreation Advisory Committee's review of the draft plan and was advised that the Committee has been involved, although no formal endorsement has been received yet.

Council then considered a request by TV-3 to close a portion of Main Street in front of their building for a street party and dance as part of their 50th anniversary. There were some concerns expressed by City staff about closing the street since traffic would have to be re-routed completely around Court Square. In the past for special events, this has not been done. Council Member Peterson commented that since that this is a one-time, non-recurring event, he would be inclined to support the request for closure. Council Member

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Lantz agreed and felt that given the community support that TV-3 has provided over the years he felt the City should support this request. Mayor Fitzgerald suggested giving City staff the leeway to work out the details of the request and ensure adequate planning in case emergency vehicles need to get through the area. Council Member Peterson offered a motion to approve the request. The recorded voice vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

Council then considered making two more appointments to the Metropolitan Planning Organization. Mayor Fitzgerald suggested naming the City Manager and the Director of Transportation as the two new city representatives. In addition, the MPO's Memorandum of Understanding needs to be approved by Council tonight. Council member Peterson offered a motion to appoint City Manager Baker and Director of Transportation Reggie Smith to the MPO. The recorded voice 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 Peterson then offered a motion to approve the Memorandum of Understanding for the MPO. The recorded voice vote was taken as follows:

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Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

The next item of business was consideration of paving the cart paths at Heritage Oaks golf course. Charles Chenault of the Golf Course Advisory Committee presented the Committee's unanimous recommendation that the cart paths be paved and requested that Council appropriate \$155,000 to complete the work. This is the Committee's number one priority project for the course and would actually complete the work. A portion of the cart paths has already been paved. Council Member Frank referred to the Recreation Master Plan and noted that it recommended continued marketing of the course and expansion of concessions and asked what the status was on that. Mr. Chenault noted that marketing was an ongoing effort and that improved food service was on the list of priorities. Given space constraints, there had been some improvements made. Ultimately an expanded facility would be needed. The Advisory Committee is looking at all possibilities in terms of enhancing course revenues and sees paving the cart paths as part of that goal. It will enhance play, which means enhanced revenues. Council members questioned how the paving would affect overall operation and maintenance costs at the course as well as staffing, and what other capital projects are planned, both short-term and long-term. Vice-Mayor Rogers noted that we are the only course that doesn't have all paved cart paths and that puts us at a competitive disadvantage with other courses. Council Member Frank asked how much money remained in the Golf Course Capital Projects Account and was advised that this money would be used to balance this year's budget. Council Member Lantz noted that the cart paths were the number one priority of the Advisory Commission and that the cost proposal was very reasonable. This would be a one-time expenditure that would last around twenty years. He believes it is a very good use of funds. Vice-Mayor Rogers noted that the golf course had been a political football over several years but this Council had said they wanted to make sure the course was successful. This project would make the course more successful and the City can afford it. As such, Vice-Mayor Rogers offered a motion to approve the request. Mayor Fitzgerald then referred Council members to a handout he had prepared relative to the issue. His concern is that the course is already facing a shortfall in operational revenue this year, plus a bond payment is due before the end of the fiscal year. While he believes the cart paths need to be paved, he does not believe we can afford to pave them this year. Counting the projected shortfall and the bond payment due, if we proceed with this project now, we will need nearly a half million dollars just for the golf course before the end of the fiscal year. For the future, he suggested the possibility of establishing some kind of cut-off point at which time the city would consider allocating money from its reserves for golf course operations if necessary. Additional discussion occurred relative to expenses and revenue projections, Golf Pro David Johns and Mike Layman updated council on current levels of play, the First Tee program, scheduled tournaments, and leagues that have begun to play the course. Mayor Fitzgerald noted that this wasn't a matter of whether or not we should make the investment in the golf course, it was a matter of whether we can at this time. After further discussion, Vice-Mayor Rogers withdrew his motion, but expressed his opinion that the issue should be revisited in the future.

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The next item of business was consideration of amendments to the City's water and sewer ordinances. These changes are to Chapter 7 of the Code and affect availability fees and other charges that the City assesses for water and sewer services. The amendments must be made by ordinance and tonight's consideration of them serves as the first reading. A copy of these amendments is available in the City Clerk's office. City Manager Baker advised that comments had been received from the Homebuilder's Association relative to the changes. Their primary concern was when the changes would be effective and whether or not plans currently under review would be under the old rates. Additional discussion relative to the City's mandatory connection policies took place. The ordinance revisions provide for the city manager or his designee to enforce the connection policies. Council Member Peterson offered a motion to approve the amendments.

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

The next item of business was consideration of rescinding the water moratorium for Rockingham County. The Planning Commission has reviewed the ordinance changes associated with this and approved lifting the moratorium. However, they did request that any development of ten or more residential units come before the Commission first with a subsequent recommendation being made to Council as to approve or not approve. A second recommended change was requiring all manufacturing and commercial developments to first obtain Commission review. The City Attorney will incorporate these changes into a revised ordinance and bring it back to Council for approval.

The next item of business was consideration of amendments to Section 12-1-7 and 12-1-9 of the City Code. These changes simply update our ordinance and bring it into compliance with the Code of Virginia. Commissioner of Revenue Hosaflook and City Attorney Miller reviewed the changes with Council. A motion was offered by Council Member Peterson for approval of the first reading of the amendments.

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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

The next item of discussion was consideration of amendments to Section 16-6-58 of the City Code. City Attorney Miller presented the amendments, which addressed solicitors at traffic intersections in the City. Police Chief Harper has researched ordinances of other localities on this issue and what is recommended tonight incorporates practices that are in place in other areas and have been upheld in terms of their legality. The changes will prohibit solicitations on sidewalks, shoulders, median strips. There are exceptions such as for those soliciting transportation due to emergency, or waiting for public transportation or transportation for hire. Violations would be considered a class IV misdemeanor for the first offense and a class III misdemeanor for the second offense. This is the first reading for this ordinance. A motion was offered by Council member Peterson to approve the first 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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The next item of business was consideration of a resolution to grant time extensions for filing business property tax returns. Commissioner of Revenue Hosaflook brought this request to Council. Many businesses rely on their tax return to file their business property tax return and the Commissioner's office has been granting extensions anyway. There is no inconvenience to the Commissioner's staff in granting the extension. The state Code allows up to a 90-day extension, but requires the locality to adopt a resolution allowing them. A motion was offered by Council member Frank to adopt the resolution.

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

Fire Chief Shifflett presented a request to transfer funds from Reserve for Contingencies to the Fire Department. He explained that these funds will be used to purchase a four-wheel drive vehicle for the Director of Emergency Communication Center. A portion of the cost for the vehicle will be reimbursed by Rockingham County. Council Member Peterson offered a motion to approve this transfer request, and that:

\$11,490.00 chge. to: 940111049310 Reserve for Contingencies

\$11,490.00 approp. to: 1000-310432-48151 Motor Vehicles & Equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

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Council Member Peterson

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 the State Police for drug enforcement training for a Police Investigator. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$1,306.50 chge. to: 1000-31901 Recoveries and Rebates

\$1,306.50 approp. to: 1000-310331-45530 Training/Travel

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 presented a request for a supplemental appropriation for the Public Works Department. He explained that these funds are reimbursement from Emmanuel Episcopal Church for a sidewalk reconstruction project and James Madison University for a portion of a traffic signal at Port Republic Road and Forest Hill Drive. Council Member Frank offered a motion to approve this request for a first reading, and that:

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\$3,170.00 chge. to: 1000-31914 Recovered Costs

\$3,170.00 approp. to: 1000-410241-48106 Sidewalks

\$33,067.00 chge. to: 1000-31914 Recovered Costs

\$33,067.00 approp. to: 1000-410741-48111 Machinery & Equipment

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

Stan Macklen, a resident of 165 Wakefield Place, complained about an article appearing in the Daily News-Record. He said leaders of the community should be sensitive to the opinion makers in the community and traditional mind-sets should not be allowed to rob people of the wonders of diversity.

Council Member Peterson said a City recycling truck backed into a citizens car on March 4th causing more than \$2,000 damage to the vehicle. The City's insurance carrier has denied a claim based on sovereign immunity. He requested that this item be placed on the March 27th Council agenda.

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Council Member Peterson offered a motion that Council Member Carolyn Frank, 374 South Carlton Street, be appointed to a term on Central Shenandoah Planning District Commission to expire on June 30, 2006. The motion was approved with a unanimous vote of Council.

At 10:15 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of the discussion or consideration of the acquisition of real property for a public purpose, or the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City Council. The motion was approved with a unanimous vote of Council.

At 10:35 p.m., the closed session ended and the regular session reconvened. The following statement 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 and 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 10:36 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

REGULAR MEETING

MAY 27, 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; Dorn W. Peterson; Council Member Hugh J. Lantz; City Clerk Yvonne Bonnie Ryan, CMC/MMCA, and Chief of Police Donald Harper. Absent: Council Member Carolyn W. Frank.

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 as amended, including approval of the minutes and the second reading approval of a Supplemental Appropriation for the Police Department, and the Public Works Department. The motion also included amending and re-enacting Sections 7-4-22, 7-2-1, 7-2-10, 7-3-3, 7-3-64, 7-3-48, 12-1-7, 12-1-9, and 16-6-58 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent Council Member Frank

Transportation Planner Drew Williams presented the following resolution for Council's consideration.

RESOLUTION ENDORSING ESTABLISHMENT OF

**A TRANSPORTATION ENHANCEMENT PROJECT FOR THE
PORT REPUBLIC ROAD BIKEWAY AND PEDESTRIAN FACILITY PHASE II**

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency in order that the Virginia Department of Transportation program a transportation enhancement project in the City of Harrisonburg.

NOW, THEREFORE, BE IT RESOLVED, that the City of Harrisonburg, requests the Commonwealth Transportation Board to establish a project for the Port Republic Road Bikeway and Pedestrian Facilities Phase II to construct bicycle and pedestrian facilities on Port Republic Road from Devon Lane South to the City limits.

BE IT FURTHER RESOLVED, that the City of Harrisonburg hereby agrees to pay a minimum of 20 percent of the total cost for planning and design, right-of-way, and construction of this project, and that, if the City of Harrisonburg subsequently elects to cancel this project the City of Harrisonburg hereby agrees to reimburse the Virginia Department of Transportation for the total amount of costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 27th day of May, 2003 in Harrisonburg, Virginia.

Mayor

Attest:

City Clerk

Transportation Planner Drew Williams explained that the application and resolution is for the second phase of the Port Republic Road Bikeway and Pedestrian Facility Project. Harrisonburg submitted an application for this project last year, but it was not funded. He noted that the application is only an endorsement of the project and no final decisions have been made on the details. This project includes installation of sidewalks and bike lanes on each side of Port Republic Road from the south side of Devon Lane to the City limits.

Should the grant be approved, City staff would work very closely with all the departments to facilitate the needs of the City.

Following further discussion and comments, Council Member Peterson offered a motion to approve the resolution as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent Council Member Frank

Transportation Planner Drew Williams presented the following resolution for Council's consideration.

**RESOLUTION SUPPORTING JAMES MADISON UNIVERSITY'S
APPLICATION FOR TRANSPORTATION ENHANCEMENT FUNDING FOR THE
MAIN STREET PEDESTRIAN SAFETY IMPROVEMENTS PROJECT**

WHEREAS, James Madison University intends to make application for Transportation Enhancement funding for pedestrian safety improvements on portions of Main Street and other City streets that adjoin University property; and

WHEREAS, the City of Harrisonburg supports the ongoing efforts by James Madison University to provide a safer environment for pedestrian and vehicular traffic both on and off campus;

NOW, THEREFORE, BE IT RESOLVED, that the City of Harrisonburg, hereby supports and endorses James Madison University's application to the Commonwealth Transportation Board for Transportation Enhancement Funding for the Main Street Pedestrian Safety Improvements project.

Adopted this 27th day of May, 2003 in Harrisonburg, Virginia.

Mayor

Attest:

City Clerk

Transportation Planner Drew Williams presented an application for Transportation Enhancement funding for pedestrian safety improvements on portions of Main Street and other City streets that adjoin the University property. He explained that Council is also being asked to endorse James Madison University's application to the Commonwealth Transportation Board for Transportation Enhancement funding for the Main Street Pedestrian Safety Improvements project. The JMU project involves pedestrian safety improvements along Main Street and several of the side streets. Fire Chief Shifflett came to the podium and said that he still had a concern about this project. He said that he was concerned about the raised median proposed in the project between Patterson Street and Grace Street. This raised median will seriously impede the ability of emergency vehicles to go north on Main Street and increase the response time of those vehicles for anything North of Grace Street. The area is routinely congested during the day, which makes emergency vehicles have to use the center turn lane to get around stationary vehicles. He asked that he be included in discussions concerning this project. Following further discussion and comments, Council Member Peterson offered a motion to approve the resolution as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent Council Member Frank

Transportation Planner Drew Williams presented a brief overview of traffic calming measures in the Purcell Park Neighborhood. He said that a Neighborhood Traffic Calming Program meeting was held May 6th with residents of the Purcell Park area. Issues discussed at the neighborhood meeting related to traffic included cut-thru traffic and speeding traffic. He said that City staff is aware of the unique situation, as the immediate neighbor is a public City Park, which is an asset to the community. It was explained to the residents that the City cannot preclude anyone from driving through the neighborhood; however, we can control the speeds and manner in which they drive. The City would like to enhance the park ambience on Monument Avenue by installing speed tables/humps at intersections to hopefully lower speeds and limit cut-thru traffic. Also, orange placards will be placed over the speed limit signs. Mr. Williams said it was made clear any changes would affect residents as well as everybody else. Vice-Mayor Rogers offered a motion to support the traffic-calming program for the Purcell Park Neighborhood. The motion was approved with a unanimous vote of Council Members present.

The next item of business was discussion concerning an accident involving a City recycling truck. Council Member Peterson said that a City recycling truck backed into a citizen vehicle before he could blow the horn or get out of the way. The City's insurance company said that the recycling truck is part of the City's trash pick-up department and comes under Harrisonburg's sovereign immunity. Dr. Peterson said, I have a real problem with the City making the same claim with respect to a truck driver being negligent and there is no consequence for a mistake on the City's part. I hope the citizen is not forced to sue the City to get reasonable compensation. He said that the Harrisonburg Police Department ticketed the City employee for illegal backing resulting in a conviction by the court.

City Attorney Miller said it is not that the insurance company is not required to pay the claim; the City has no liability and will not pay the claim for the accident. He said that paying this claim could set a precedent opening the door for other claims. It is a policy issue. Mr. Miller said, I don't have a full answer in my mind on whether we can waive sovereign immunity on the situation.

The following discussion by Council Members relative to the accident included: Questioned if sovereign immunity could be waived; legally reimburse the citizen; setting a precedent; whether paying the \$2,000 claim would give up the protection of sovereign immunity; and enacting an ordinance. Following further discussion and comments, Council agreed to table the discussion and requested that City Attorney Miller get more information on sovereign immunity and present a report at the June 24th Council meeting.

Planning and Community Development Director Turner introduced a request to subdivide 73 townhome lots from a 6.97-acre tract, with variances to the Subdivision Ordinance. The property is zoned R-3 Multiple Dwelling Residential District and is located at 2300 Reservoir Street. The Comprehensive Plan designates this area as medium density residential. She reviewed the surrounding uses in the area. Phase I of Avalon Woods was platted in 1999. Since that time, a majority of the 64 townhomes of the first phase have been platted and constructed. Phase II of Avalon Woods would create 73 new townhomes in the area immediately to the south of the current development. The developer is asking for variances to the requirement that all lots front on a public street. The second variance requested to the Subdivision regulation is a requirement for the utilities easements for the side and rear lot lines. Design plans call for a gazebo structure to be located on the

property line facing Reservoir Street. This structure would serve as a bus shelter and mailbox center for the townhomes. To allow for this encroachment into the thirty-foot setback a variance will need to be obtained from the Board of Zoning Appeals. She said that Planning Commission recommended approval of the request. Following further discussion and comments, Council Member Peterson 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

Mayor Fitzgerald

Absent Council Member Frank

Planning and Community Development Director Turner introduced a request to subdivide a 15,525 square foot parcel from a 2.715-acre tract at 101 Burgess Road. She explained that this is a preliminary subdivision plat involving a request for variances. She explained that the property was rezoned from M-1, General Industrial District to B-2C General Business District (conditional) on November 27, 2001. The request will subdivide out lot 1D-1B (15,525 sq. ft.) within tax map parcel 14-P-3 (134,910 sq. ft.). The division would occur along the setback requirements for structures constructed in the B-2, General Business District (30 ft. front, 10 ft. sides and rear). The plat would create a lot, which would not have road frontage, which is required under Section 10-2-42(d), all lots shall front on a public street . However, the overall concept and intent for the shopping center is to have common management for shared parking and services in the development, while allowing individual businesses to maintain ownership of their lot. She said that Planning Commission recommended approval of the request. Council Member Peterson 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

Mayor Fitzgerald

Absent Council Member Frank

City Manager Baker presented for Council's consideration a request for tax-exemption from Our Community Place. He explained that in past years, it required action on the part of the General Assembly to grant tax exempt status to certain organizations. A request on behalf of Our Community Place had been forwarded by the City to the General Assembly, but had been returned due to pending changes to statutory law that would place granting such exemptions in the hands of the local governing body. It is recommended that a public hearing be scheduled for the June 10th Council meeting to consider adoption of an ordinance granting tax-exempt status to Our Community Place. The taxes paid by Our Community Place for 2002 were \$505.92. Council Members present agreed to schedule a public hearing for June 10th.

The next item of business was a recommendation on City/County Radio System Upgrade. City Manager Baker said that a report included in Council's packet reviewed various options and alternatives. This report and its recommendations contained a lot of detail as the results of many years of discussion, research, and planning. Management pointed out that a joint power ordinance needed to be adopted by both governing to determine how projects costs would be shared.

The following discussion by Council Members relative to Radio System Upgrade included: Consultant estimates and recommendations, time-frame for bids; questioned keeping two other channel systems in addition to the trunk system; cost sharing of the towers; splitting the cost of nine radio towers; cost for the radio infrastructure; public safety concern; large amount of money; full Council not present; City/County has applied for grants; budget containing approximately \$2 million for the project; county receiving more benefits than City in the 50/50 split; and having a good long-term relationship with the county on many projects. Following further discussion and comments, Council Member Lantz offered a motion to proceed with preparing the design specifications of the project; however, but not approving the ordinance until further clarification can be provided concerning the 50/50 split. The motion was approved with a unanimous vote of Council. Council also directed City Manager Baker to arrange a joint work session between the City and Council.

Council Member Peterson presented a request to amend Section 15-3-2 of the Harrisonburg City Code. He said that an ad-hoc committee has been reviewing and revising the proposed ordinance, which was originally submitted last fall. Revisions to the original ordinance include a criterion of two convictions, rather than three summons, clarification of the City's responsibilities to notify landlords and clarifications of landlord responsibilities.

George Rontopoulos, a resident of 65 East Market Street, said that this ordinance would make an adversarial atmosphere between the tenants and landlords. Perhaps it will make absentee landlords more responsible.

Kevin Williams, General Manager of Forges Development, said that the ordinance should not apply only to landlords. It is for all property owners in the City. He suggested property owners should be included in the title of the ordinance.

Glenn Loucks, a resident of 915 North Main Street, applauded everyone for all the work involved in making changes to the ordinance.

Stephanne Byrd, a resident of 238 Campbell Street, expressed her appreciation for all the work on the ordinance. She questioned if this ordinance would make a difference based on historical convictions.

Colonel Harper, Harrisonburg Police Chief, said not a large number of people are convicted, but the conviction rate is about 85%.

Pauline Hensley, a resident of 134 North High Street, requested clarification between unit and an individual receiving a conviction.

Marshall Ross, a resident of 267 Franklin Street, thanked Dorn Peterson and Tom Miller for an excellent job of working on this ordinance.

Ralph Geddes, a resident of 395 Franklins Street, said it was a good ordinance.

Council Member Peterson offered a motion to approve Section 15-3-2 of the Harrisonburg City Code for a first reading. In addition, the motion included changing the words in the title to read, Property Owners Permitting Nuisances, effective for leases commencing July 1, 2004. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent Council Member Frank

The next item of business was a request for a street closing for Valley 4th. Robin Iten, representing the Arts Council of the Valley, said an event is planned for the fourth of July in downtown Harrisonburg. She requested that streets be closed for a parade and evening musical performances. Closing will take place no later than 4:00 p.m., to accommodate the 5:00 p.m. parade. The parade route will be from Campbell Street to the County Administration Building. West Market Street will also be closed from Liberty to Federal while Water Street will remain open to allow access to the parking garage. As part of the request, permission is also requested to hang a banner prior to the event across Main Street from the light post to the A & N Building. Permission has been received from A & N to install a bracket on their building. She also said that Harrisonburg Electric Commission has granted permission to hang the banner on its pole. The Council is also requesting permission on behalf of First Night (New Year's Eve) and the Harrisonburg Museum & Galley Walk (October 11th), to hang banners promoting their upcoming events. Council Member Peterson offered a motion to approve this request. The motion was approved with a unanimous vote of Council Members present.

The next item of business was adding a new ordinance to the City Code levying a cigarette tax. City Attorney Miller distributed and reviewed copies of the new cigarette tax ordinance. He indicated that it might be impossible to implement the ordinance until August 1 or later because of existing cigarette packs do not contain stamps and merchants have to acquire stamps. Following further discussion and comments, Council Member Lantz offered a motion to approve this ordinance for a first reading, but requested that the second reading not be placed on the consent agenda. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent Council Member Frank

The next item of business was consideration of amendments to Sections 4-2-77 and 4-2-87 of the Harrisonburg City Code. Mayor Fitzgerald said that the transient occupancy tax and meals tax will be raised from five (5) percent to six (6) percent. Amending these sections to the City Code had been discussed during the budget process. Council Member Lantz offered a motion to approve these ordinances as amended for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent Council Member Frank

The next item of business was consideration of rescinding the water moratorium for Rockingham County. The Planning Commission has reviewed the ordinance changes associated with this and approved lifting the moratorium. Public Utilities Director Collins requested that rather than setting a flat rate fee to cover time and expenses of processing applications changing the words in paragraph (f) to read (the Director may charge a reasonable fee to cover time and expenses of processing the application). Council Member Peterson offered a motion to approve Section 7-2-4 of the Harrisonburg City Code for a first reading with the changes. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent Council Member Frank

The next item of business was consideration of ordinance changes affecting the schedule of rates and charges for water and sewer service. The water and sewer fees will be raised by 3%. These changes were discussed and approved during the budget process. Council Member Peterson offered a motion to approve amending and re-enacting Section 7-4-1 of the Harrisonburg City Code for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent Council Member Frank

School Superintendent Ford presented a request for a supplemental appropriation for the School Board. These funds are composed of School Construction Funds and one half of School Lottery Funds. No new City dollars are required from City Council for the school division to receive these transfers. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$370,621.50 chge. to: 1000-34281 Transfer from School Fund

370,621.50 chge. to: 1000-34210 Transfer from General Fund

\$370,621.50 approp. to: 1111-111114-40673 Transfer to General Fund

370,621.50 approp. to: 1000-990111-49220 Transfer to School Fund

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent Council Member Frank

Fire Chief Shifflett presented a request for a supplemental appropriation for the Fire Department. These funds were received from recovered money received from donations and costs recovered for providing various services throughout the year. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$6,952.79 chge. to: 1000-31809 Donations

8,895.94 chge. to: 1000-31914 Cost Recovery

2,959.15 chge. to: 1000-32537 Comm. Disaster Plan Operation

4,000.00 chge. to: 1000-33537 Federal Disaster Plan Operation

\$ 4,000.00 approp. to: 1000-350532-46140 Haz Mat Supplies

18,807.88 approp. to: 1000-320132-41010 Salaries

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

Absent Council Member Frank

Mayor Fitzgerald announced that City Council would continue receiving and reviewing applications for a vacancy on the Planning Commission until June 10th. Interviews will be scheduled for June 24.

Council Member Peterson offered a motion that Brian Shull be appointed to a term on the Shenandoah Valley Partnership Board of Directors to expire on June 30, 2005. The motion was approved with a unanimous vote of Council Members present.

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

CITY CLERK

MAYOR

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

REGULAR MEETING

JUNE 10, 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 Hugh J. Lantz; City Clerk Yvonne Bonnie Ryan, CMC/MMCA, and Chief of Police Donald Harper. Absent: Council Member Dorn W. Peterson.

Council Member Frank gave the invocation and Mayor Fitzgerald led everyone in the Pledge of Allegiance.

Council Member Frank offered a motion to approve the consent agenda, including approval of the minutes and the second reading approval of a Supplemental Appropriation for the School Fund, Fire Department and referring closing a portion of a street to the Planning Commission. The motion also included amending and re-enacting Sections 7-4-1, 15-3-2, 4-2-77, 4-2-87 of the Harrisonburg City Code; however, Section 7-2-4 was removed from the consent agenda and will be considered at the next meeting. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

Planning and Community Development Director Turner introduced a request by June Garber to rezone approximately 3,729 square feet located at 1592 South Main Street from M-1, General Industrial District to B-2, General Business District. The Comprehensive Plan's Land Use Guide designates this property as commercial. She explained that the parcel is a small lot located in the middle of a larger lot containing a portion of the building. In July of last year, the larger building which, housed the old Mick or Mack grocery

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

store, was rezoned to B-2 Conditional. She reviewed the surrounding uses in the area and 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 Tuesday, May 27, and Monday, June 2, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, June 10, 2003, at 7:30 p.m., in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following.

REZONING GARBER PROPERTY

Public Hearing to consider a request by June Garber to rezone tax map parcel 10-C-9 (3,729 square feet) from M-1, General Industrial District to B-2, General Business District. The property is located at 1592 South Main Street.

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. 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 B-2 or M-1 Districts.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

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 the rezoning request. There being no one desiring to be heard, the public hearing was declared closed at 7:36 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this rezoning request for a first reading, and that: The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented for Council's consideration the sale of City property on Garbers Church Road. He explained that the City had purchased a tract of land, which was divided into three parcels. One lot was used to move a house and the other two lots adjacent to the golf course property are not needed by the City. He said proposals were received from real estate companies and an offer has been received which was between the high and low proposals.

At 7:37 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 2, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, June 10, 2003, at 7:30 p.m. in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:

SALE OF PROPERTY LOCATED ON GARBERS CHURCH ROAD

Public Hearing to consider the sale of city-owned property located on Garbers Church Road and identified as Walsh Subdivision Lots 4 and 5, Tax Map # 117 F 1b and 117 F 1a, respectively.

All persons interested will have an opportunity to express their views at this public hearing. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

City of Harrisonburg

Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against selling City property on Garbers Church Road. There being no one desiring to be heard, the public hearing was declared closed at 7:38 p.m., and the regular session reconvened. Council Member Lantz offered a motion to accept the proposal and sale the City property. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented for Council's consideration purchasing property located at 698 North Liberty Street. He explained that this property is located at the intersection of North Liberty Street and Washington Street. The City will pay \$43,650 for the property and the building would be torn down to improve the safety of the intersection.

At 7:39 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 Tuesday, June 3, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, June 10, 2003, at 7:30 p.m. in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:

PURCHASE OF PROPERTY LOCATED

ON 698 NORTH LIBERTY STREET

Public Hearing to consider the purchase of property located at 698 North Liberty Street and identified as Tax Map #40 W 13.

All persons interested will have an opportunity to express their views at this public hearing. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

City of Harrisonburg

Roger D. Baker

City Manager

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

Mayor Fitzgerald called on anyone desiring to speak for or against purchasing this property. There being no one desiring to be heard, the public hearing was declared closed at 7:40 p.m., and the regular session reconvened. Council Member Lantz offered a motion to purchase the property. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

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

AN ORDINANCE EXEMPTING OUR COMMUNITY PLACE

FROM REAL AND PERSONAL PROPERTY TAXES

WHEREAS, Our Community Place, a Virginia non-profit corporation (hereinafter referred to as Corporation) has requested the City Council of the City of Harrisonburg to designate the property of the Corporation located at 17 East Johnson Street exempt from real and personal property taxes; and

WHEREAS, the property in question is used for charitable and benevolent purposes; and

WHEREAS, pursuant to Section 58.1-3651 of the Code of Virginia, the City Council of the City of Harrisonburg has considered all questions as set forth in said section and held a public hearing concerning the request;

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

1. That the Corporation be exempted from real and personal property taxes for the property located at 17 East Johnson Street (Tax Map 34-F-2).
2. That the continuation of the exemption is contingent upon the continued use of the property in accordance with the purpose for which the Corporation has stated it is being used.

Approved this 24th day of June, 2003.

Mayor

Attest:

Clerk of the Council

At 7:45 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 2, 2003.

CITY OF HARRISONBURG

NOTICE OF PUBLIC HEARING

Please take notice that on **June 10, 2003 at 7:30 p.m. in the City Council Chamber, 345 South Main Street, Harrisonburg, Virginia, the Harrisonburg City Council will conduct a public hearing, pursuant to Section 58.1-3651 of the Code of Virginia, 1950, as amended, concerning a request by Our Community Place, a non-profit corporation, for exemption from local taxation. The assessed value of all property owned by Our Community Place in the City of Harrisonburg for the year 2003 was \$81,600 and the taxes paid the City for the year 2002 was \$505.92. Public comments on the proposed exemption are invited and all citizens shall have an opportunity to be heard. Further information is available from the City Manager's Office at 345 South Main Street, Harrisonburg, Virginia between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.**

Roger Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against Our Community Place tax-exemption request.

Jonathen Stragg, a resident of 295 A Hill Street, representing Our Community Place requested that the corporation be exempt from local taxation. He said that Our Community Place paid \$505.92 in real and personal property taxes for 2002. Our Community Place has provided a soup kitchen every Monday for approximately ten years, conducted free holiday craft classes, and holds community potluck meals every month. The building was purchased through donations. Volunteer labors installed a new roof and replaced windows in the building. There being no others desiring to be heard, the public hearing was declared closed at 7:46 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this request for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request from Kenneth Kyger to close a portion of an alley on Patterson Street. He said that a public hearing was held October 8, 2002 and the request was approved for a first reading. Mr. Kyger has paid for the property. Council Member Frank offered a motion to approve this request for a second reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

Absent Council Member Peterson

The next item of business was a recommendation for District Courthouse Renovations. City Manager Baker said that for the several years the District Court Judges and Juvenile and Domestic Relations Judges have been requesting more courtroom space. He said that plans have now been finalized on finishing the second floor of the District Courthouse to meet the space needs of the judges. The City's share of the renovations is 50%. The architects have estimated that the project will cost between \$1.6 and \$1.9 million or \$800,000 to \$950,000. Mr. Baker said that funds are available in the Public Safety Building Capital Projects Funds to cover the City's share. Council Member Lantz offered a motion to approve the recommendations for the District courthouse Renovations. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request to temporarily close the 400 block of East Rock Street for a neighborhood block party on Saturday, June 21st from 4:00 p.m. until 9:00 p.m. City staff has reviewed the request and noted the usual concerns including not interfering with movement of emergency vehicles.

Jeff Heie, a resident of 416 East Rock Street explained that the residents would like to close the 400 block of East Rock Street for a neighborhood block party. He said that residents had inquired about obtaining liability insurance, but it would be too expensive for a three-hour party. Mr. Heie said that the residents were withdrawing the request. Vice-Mayor Rogers suggested that if the group obtained the necessary liability insurance, they could present their request again at a future Council meeting.

City Manager Baker presented the following resolutions for Council's consideration of approval:

PROJECT PROGRAMMING RESOLUTION

RAIL/HIGHWAY GRADE CROSSING PROJECTS

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

WHEREAS, in accordance with Virginia Department of Transportation construction allocation procedures, it is necessary that a request by Council resolution be made in order that the Department program an urban highway project in the City of Harrisonburg; now

THEREFORE BE IT RESOLVED, that the City of Harrisonburg, Virginia requests the Virginia Department of Transportation to establish the following rail/highway crossing improvement projects:

Project Name Number	Location Project Description	DOT ID	DOT ID
South Avenue Main Street	199 FT. west of crossing	859979T	install rubberized

BE IT FURTHER RESOLVED, that the City of Harrisonburg hereby agrees to pay its share, 10.0% of the total costs for preliminary engineering, right-of-way and construction of this project, and that if the City subsequently elects to cancel this project, the City hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 10th day of June, 2003.

Joseph Gus Fitzgerald, Mayor

Attest:

Clerk of the Council

PROJECT PROGRAMMING RESOLUTION

RAIL/HIGHWAY GRADE CROSSING PROJECTS

WHEREAS, in accordance with Virginia Department of Transportation construction allocation procedures, it is necessary that a request by Council resolution be made in order that the Department program an urban highway project in the City of Harrisonburg; now

THEREFORE BE IT RESOLVED, that the City of Harrisonburg, Virginia requests the Virginia Department of Transportation to establish the following rail/highway crossing improvement projects:

Project Name Number	Location Project Description	DOT ID	DOT ID
Kratzer Road	.06 Mile east of	859968F	install flashing lights
	Liberty Street		and arm gates

BE IT FURTHER RESOLVED, that the City of Harrisonburg hereby agrees to pay its share, 10.0% of the total costs for preliminary engineering, right-of-way and construction of this project, and that if the City subsequently elects to cancel this project, the City hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 10th day of June, 2003.

Joseph Gus Fitzgerald, Mayor

Attest:

Clerk of the Council

Mr. Baker explained that the City is applying for the installation of a rubberized railroad crossing on South Avenue and installing flashing lights and gate arms at the railroad crossing on Kratzer Road. The City cost-share is 10%. Council Member Frank offered a motion to approve these resolutions. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

The next item of business was a recommendation on City/County Radio System Upgrade. Mayor Fitzgerald questioned if the discussion should take place without Council Member Peterson since he had expressed some of the strongest concerns about the recommendation.

Council Member Frank questioned if delaying action on the recommendation would change applying for the grant. City Manager Baker said no.

Assistant City Manager Hodgen pointed out that in the past the City has submitted the grant application jointly with the County. The chances of being funded are much greater if they are submitted on a regional basis.

Following further discussion and comments, Council agreed to delay this discussion until June 24th.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

City Treasurer Neal presented a request to charge off 1997 personal property taxes and 1982 real estate taxes. She said that her office has tried to collect these severely delinquent taxes. The 1982 real estate tax being written off is \$154.08. The 1997 personal property taxes amount \$91,076.60. Council Member Frank offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Treasurer Neal presented a request to authorize the advertising of delinquent real estate taxes for 1999/2000 and 2000/2001. Council Member Lantz offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Treasurer Neal presented a request to amend Section 13-1-65 of the Harrisonburg City Code. She explained that this section needed to be revised to coincide with the operating procedure currently observed concerning the issuance of residential parking permits. Many years ago it became apparent that students/renters for property within the restricted parking areas of the City frequently did not appear on the actual lease. Residents were providing mail to obtain a residential parking permit. Office policy was modified so that anyone requesting a residential parking permit and/or guest card had to show a valid lease on which his or her name appeared as a renter and was signed by the landlord/property owner/management company. Council Member Lantz offered a motion to amend this section of the City Code for a first reading. The recorded roll call vote was taken as follows:

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request to transfer funds into capital projects to assist with repairing a damaged beam in a City parking deck. Council Member Lantz offered a motion to approve this request.

\$20,000 chge. to: 1000-410241-43372 Maintenance & Repairs Bridges

20,000 chge. to: 1325-34210 Transfer from General Fund

\$20,000 approp. to: 1000-990111-49290 Transfer to Parking Authority Fund

20,000 approp. to: 1325-910641048653 Rehab Parking Deck

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

City School Business and Finance Director Triplett presented a request for a supplemental appropriation for the School Board. He explained that at the conclusion of some school years, it is necessary to make funds available where they are needed. These funds will be used in transportation and food services. No additional local dollars are required from the City. Vice-Mayor Rogers offered a motion to transfer these funds.

\$50,000.00 chge. to: 1111-111114-40610 Instruction

50,000.00 chge. to: 1111-111114-40620 Administration, Attendance, & Health

\$50,000.00 approp. to: 1111-111114-40630 Transportation

80,000.00 approp. to: 1111-111114-40650 Food Service

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request to transfer funds within the existing budget for court appointed attorneys. He explained that this money will be used to fund a projected year-end deficit in payments to court appointed attorneys. Council Member Lantz offered a motion to

transfer these funds.

\$23,000.00 chge. to: 1000-980142-49118 Fire truck/lease purchase

\$23,000.00 approp. to: 1000-330231-43151 Court appointed attorney

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request to transfer funds from the General Fund to the Golf Course Fund. He explained that these funds will be used to eliminate a projected year-end operating deficit. Sufficient funds have not been received from the golf course to cover expenses and the City had an \$180,000 debt payment June 1, 2003. He requested that the Finance Department be allowed to adjust this transfer to the amount actually needed at June 30, 2003.

The following discussion by Council Members relative to the transfer request included: Requested clarification of Reserve for Contingencies funds; what happened to the extra money that was borrowed; debt service; going into rainy day fund for something besides capital improvements; no longer talking about what will happen, but what has happened; bond payment must be paid; and concern whether the golf course is actually making operational costs. Council requested that this project be reviewed again in the fall. Council Member Lantz offered a motion to transfer these funds. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

City Manager Baker presented a request for a supplemental appropriation for the Engineering Department. He explained that these funds were received from a FEMA Flood Plain Grant to re-map the City's flood plain. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$30,000.00 chge. to: 1000-33529 FEMA Flood Plain Grant

\$30,000.00 approp. to: 1000-410121-48191 Engineering/Mapping

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request for a supplemental appropriation for the Fire Department. He explained that these funds have been collected through the monthly E-911 fee and will be used to pay expenses in the E-911 budget. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$31,000 chge. to: 1000-31010 Amount from Fund Balance

\$31,000 approp. to: 1000-320532-41010 Salaries

6,000 approp. to: 1000-320532-45814 Language Line

The recorded roll call vote was taken as follows:

Project Name	Location	DOT IDNumber	Project Description	17
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MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

The next item of business was discussion on the cigarette tax. Discussion included whether to offer a discount for attaching stamps, percentage to include in ordinance, who will attach stamps wholesalers or retailers; whether to give the same consideration to wholesalers outside the City or retailers inside the City; and some jurisdictions give 5% of the cigarette tax to the wholesaler and some do not give any discount. Council Member Frank offered a motion directing staff to prepare the appropriate ordinance to include one penny of the 30-cent tax, as the discount. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

The next item of business was discussion on adopting two resolutions requested by the Harrisonburg City School Board. The first resolution supports alternate testing for limited English proficiency that are linguistically appropriate. It essentially continues the English as a second language program while allowing students to take alternative testing in their native language. The second resolution supports two candidates for two open positions on the State Board of Education.

Council Members agreed not to take any action on these resolutions because they did not have enough time to review the proposed resolutions.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

Vice-Mayor Rogers said that Peach Grove Avenue residents are concerned about increased truck traffic on the road. Council agreed to ask the Public Works and Police Departments to review this matter.

At 9:05 p.m., Council Member Frank offered a motion that Council enter a closed session for the purpose of discussion or consideration of prospective candidates for appointment to the Social Services Advisory Board 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). The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

At 9:20 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 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 in the closed session by the City Council.

Vice-Mayor Rogers offered a motion that Matthew Conner, 34 W. Grace Street, Apt. E, be appointed to a term on the Social Services Advisory Board to expire on July 1, 2007. The motion was approved with a unanimous vote of Council Members present.

At 9:22 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

Project Name

Location

DOT IDNumber

Project Description

19

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

REGULAR MEETING

JUNE 24, 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 Chief of Police Donald Harper.

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

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading approval of a Supplemental Appropriation for the Golf Course Fund, Engineering Department, E-911 System, rezoning request by June Garber, and tax-exemption for Our Community Place . The motion also included amending and re-enacting Sections 7-2-4, and 13-1-65 of the Harrisonburg City Code; however Section 4-2-108 was removed from the consent agenda. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

Commissioner of the Revenue June Hosaflook briefly reviewed a new ordinance implementing a cigarette tax, which will become effective July 15, 2003. She also reviewed the procedure for taxing cigarettes that are currently in store inventories and for wholesalers ordering stamps. The ordinance states

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

that the tax is 30 cents per pack with a one-cent per stamp discount to the wholesalers.

Planning and Community Development Turner introduced a request from Beacon Hill of Harrisonburg, LLC, to close a portion of City right-of-way along Emerson Lane. She explained that in earlier plans for Beacon Hill, the area under consideration was to be a public street; however, in the most recent set of plans approved by Planning Commission and City Council, it was determined that a private street would be used to access the town home units. Preliminary plats gave variances to not front on public streets and allowed the development of Phase 3 to progress. Since the public street concept was dropped the subbed out street right-of-way is not needed. During the building permit plan process, it was noticed that the area did not meet the 30-foot setback from a public right-of-way. There is a provision in the City Code that allows the original developers of this subdivision to request the street right-of-way be vacated without payment for the right-of-way. She also said that Virginia State Code § 15.2-2272(1) permits this request to occur without holding a public hearing because the owners have obtained a document containing all the signatures of adjacent affected property owners consenting to the vacation of the right-of-way. She said that Planning Commission recommended approval of the request. Council Member Peterson offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

City Attorney Miller requested that the report on sovereign immunity be given in closed session because of the possible probable pending litigation.

The next item of business was discussion of City/County Radio System Upgrade. City Council authorized moving forward on the development of plans and specifications for the system at the May 27, 2003, Council meeting. No decision was made on a cost-sharing 50/50 arrangement for the system. The Rockingham County Board of Supervisors adopted the joint powers ordinance and authorized moving forward with the bid document at its June 11th meeting.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

Council Member Peterson said that he had conducted a cost analysis and questioned whether the City can make a rational decision about the appropriate cost sharing. He said the cost analysis proposal, which was provided by a consultant and presented by Captain Jim Junkins, was complicated and unclear. He said, I disagree with Junkins' analysis in part because it will cost the City more in the cost-sharing 50/50 arrangement rather than the City having its own system. I strongly suspect that the City would only need two towers, maybe three, but not nine towers. A joint system should benefit both localities rather than costing one locality more for the system. If there is a problem with communications at distance locations, he suggested using landline phones. He also said that a 50/50 split for the EOC was a rational decision, but the infrastructure for the radio system is dramatically different for the City and County.

Assistant City Manager Kurt Hodgen said that the \$8 million figure didn't have the benefit of being generated by the extensive needs assessment. He also said that Dr. Peterson's analysis might be true for a system within the City limits, but there are situations involving our police and fire departments responding to assist county localities. This system will work anywhere in the City or County. He said information has not been received to speculate on the number of towers required by the City.

Council Member Peterson suggested that a clause should be included in a contract with the County providing how the split should be re-analyzed and re-visited in future years depending on population growth. City Council asked City Manager Baker to arrange for another discussion at its July 8th or July 22nd meeting. It was pointed out that if the City and County received the grants the split becomes much less relative.

The next item of business was a presentation by CHANGE concerning potential elementary school locations.

Ben Fordney, a resident of 1126 Chestnut Drive, read the following letter: The CHANGE organization appreciates this opportunity to speak on the issues facing both the School Board and City Council regarding funding and planning issues relative to the City's school system. We all owe a debt of gratitude to Dr. Ford, the school administration, our teachers, and the School Board for maintaining a first class education system in the City of Harrisonburg. We are also well aware of the fact that Harrisonburg schools rank first in the state in the percentage of students who take English as a second language, a 30 percent of our student population. This presents enormous challenges to our schools and we applaud our teachers' commitment to education these children. No child should be denied an education.

CHANGE has long been concerned with the educational issues facing our community. Our purpose tonight is to present our position on the educational requirements of the Northeast section of our City. The School Board has informed the City Council that a new elementary school at a cost of about \$15 million will eventually be required to meet an expanding student population. We urge both council and school board to consider the Northeast section of the City when the new school's location is discussed.

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We realize that site location of a school is ultimately a school board decision, but a school is more than just a building to educate students and its location is a concern to all of us. We ask that the School Board and City Council request input from the planning commission on this issue and that the School Board schedule a public hearing where citizens can express their opinions.

A school in the Northeast section of the City would enhance a neighborhood that is expanding rapidly with a diverse population. Latinos account for 28% of the under age 18 population, African Americans account for about 12%, Caucasians constitute 52% with Asians and other accounting for the balance. There does not seem to be any logical reason to deprive this section of the City of a school to serve the needs of its student population.

Public comment on the Comprehensive Plan stressed the need for walkable neighborhoods. We hope that the School Board and City Council will resist the option of buying land on the outskirts of the City or in the county for a new school, accessible only by bus or car, contributing nothing to the quality of life and viability of an existing neighborhood.

Cost of a new school is a major concern to all of us. We urge council and the school board to pursue the least expensive option while maintaining the building requirements.

We do think that, wherever the new school is located, the School Board should examine innovative solutions to meet the ever-expanding educational requirements of our City. An elementary school in the Northeast could provide a public choice school. Dr. Scott Milliman pointed out in a forum article in 1999 that the parents of 7 million American students chose the public school their children attend. I think this empowerment of parents would be popular in our community. It could be an accelerated learning curriculum that stresses science and art. Another choice would be a Montessori school that uses guided self-paced hands on method. It could be conventional school as well. Could a new school serve as a model for bilingual Spanish/English immersion classes for elementary school children?

There has also been a social justice element in our approach to proposing a school in the Northeast section of the City. This should also be a matter of concern to the Council. It is not a section that has been endowed with many City projects. Many residents will recall the urban renewal projects of the 1950s that eliminated African American homes and businesses and severely damaged the cohesiveness of that community.

No academic program or location of a new school satisfies everyone. School issues can be contentious and emotional. We believe that our officials have not used some of the resources available to reach decisions that are not easy to make. EMU's Conflict Transformation Program, for instance, might be helpful.

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For our part, we reserve the right to speak out on these vital educational issues. We have experienced educators in our membership. But, we will maintain a positive approach with respect to City Council, the School Board, and the school administration. It is in that spirit that we express our views tonight.

The following discussion by Council Members relative to the suggestion from the CHANGE group for the location of a new school included: Suggested placing a new elementary school in the Northeastern section of the City; acknowledged placement of new school will be School Board decision; suggested including more minority teachers and administrators in school system; and suggested placement of school in established neighborhood could encourage students to walk to the school.

The next item of business was a discussion of School Board Building Program. Mayor Fitzgerald said that it might be premature to discuss this agenda item since he and City Manager Baker had discussed holding a meeting in July to address some of Council's concerns regarding future needs of the schools.

City Manager Baker presented a request to transfer funds into capital projects for a North Main Street project. These funds will assist in completing a curb and sidewalk project and making improvements at the intersection of North Liberty Street and Washington Street. Council Member Lantz offered a motion to transfer these funds.

\$158,994.00 chge. to: 1000-410241-43374 Maint. & Repairs Allowable

158,994.00 chge. to: 1310-34210 Transfer from General Fund

\$158,994.00 approp. to: 1000-990111-49216 Transfer to Capital Projects

158,994.00 approp. to: 1310-910141-48615 North Main Street Bridge-Blacks Run

The recorded roll call vote was taken as follows:

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

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Mayor Fitzgerald

Absent None

City Manager Baker presented a request to transfer funds into capital projects for Stone Spring Road/Erickson Avenue project. These funds will be used for the Stone Spring/Erickson Avenue project. Council Member Lantz offered a motion to transfer these funds.

\$231,068 chge. to: 1000-410241-48293 Work in Progress

231,068 chge. to: 1310-34210 Transfer from General Fund

\$231,068 approp. to: 1000-990111-49216 Transfer to Capital Projects

231,068 approp. to: 1310-910141-48636 Stone Spring Road Improvements

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

City Manager Baker presented a request to transfer funds into capital projects for improvements at East Market/Linda Lane/Burgess Road. These funds will be used for improvements at this intersection. Council Member Lantz offered a motion to transfer these funds.

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\$75,000 chge. to: 1000-410241-43374 Maint. & Repairs Allowable

17,472 chge. to: 1000-410241-43375 Maint. & Repairs Non-Allowable

60,755 chge. to: 1000-410241-48106 Sidewalks

65,418 chge. to: 1000-410741-48111 Machinery & Equipment

\$218,645 approp. to: 1000-990111-49216 Transfer to Capital Projects

218,645 approp. to: 1310-91041-48620 Burgess Road Extension

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

Bob Steere, a resident of 1652 Central Avenue, thanked Mayor Fitzgerald for issuing a proclamation recognizing Amateur Radio Operators in the community. He invited City Council to attend the annual American Radio Relay League's Field Day on June 28th or 29th. He reviewed the many activities and classes being held during the weekend.

Ralph Geddes, a resident of 395 Franklin Street, complained about people being drunk in public in City parks.

Council Member Peterson offered a motion that Joseph M. Snell, II, J.M., 580 Alleghany Avenue, be appointed to a first term on the Harrisonburg Planning Commission to expire on December 31, 2006. The motion was approved with a unanimous vote of Council.

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Council Member Peterson offered a motion that Council Member Carolyn Frank and Assistant City Manager Kurt Hodgen be appointed as alternates for the Metropolitan Planning Organization Board. The motion was approved with a unanimous vote of Council.

City Manager Baker presented a request to establish a separate account for the Downtown Renaissance and to transfer funds into the account. These funds will be used for operating expenses of the department. Council Member Lantz offered a motion to transfer these funds.

\$55,000.00 chge. to: 1000-910411-45888 Downtown Renaissance

\$43,076.80 approp. to: 1000-810621-41010 Salaries and wages

3,172.42 approp. to: 1000-810621-42010 FICA

3,750.48 approp. to: 1000-810621-42050 Hospital Insurance

54.00 approp. to: 1000-810621-42110 Worker s Comp

1,500.00 approp. to: 1000-810521-45230 Telecommunication

1,000.00 approp. to: 1000-810621-46010 Office Supplies

2,446.30 approp. to: 1000-810621-46140 Other Operating Supplies

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

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At 8:45 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of consultation with legal counsel pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating 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). In addition, the purpose of the closed session will be the discussion of appointment of personnel to boards and commissions. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.1 of the Code of Virginia. Further, the purpose of the closed session will be for the discussion of possible acquisition of real estate, where discussion in an open meeting would adversely affect the negotiating strategy of the City. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.5 of the Code Virginia (1950), as amended (the code.) The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

At 9:35 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 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 in the closed session by the City Council.

Council Member Peterson offered a motion that Bill Blessing, Jim Baker, Dan Rublee, Drew Williams, and Vicki Conley be appointed to the MPO-Technical Advisory Committee. The motion was approved with a unanimous vote of Council.

At 9:36 p.m., there being no further business and on motion adopted the meeting was adjourned.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

CITY CLERK

MAYOR

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

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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

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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:

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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

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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

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.

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

[SEAL]

Dated: July 8, 2003

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

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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 26th 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

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\$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 1st the bus fares were increased. He purchased \$40.00 in coupons prior to July 1st 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 1st. 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 1st. The motion was approved with a unanimous vote of Council.

Council Member Peterson said that on July 4th 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

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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 27th, 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

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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.

CITY CLERK

MAYOR

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 22, 2003

REGULAR MEETING

JULY 22, 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 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 approving a rezoning request by Joe and Becky Puffenbarger, and rezoning request by M. Belmont Verstandig, Inc., for a portion of a parcel on Garbers Church Road and a special use permit to allow communications towers under Section 10-3-97(6)) of the City's Zoning Ordinance. The motion also included vacating a 22,856 square foot portion of Rockingham Drive and 3rd Street for a second reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

City Manager Baker presented for Council's consideration amending the Fiscal Year 2002-2003 budget. He explained that a public hearing is required when the budget is increased by more than \$500,000. Mr. Baker briefly reviewed the amended items including money for the

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SPCA, EOC 911 hardware equipment, paving projects, and new transit buses.

At 7:37 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, July 14, 2003.

Notice Of Public Hearing

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 22, 2003

A Public Hearing will be held by the Harrisonburg City Council on Tuesday, July 22, 2003 at 7:30 p.m., in the Harrisonburg Municipal Building, 345 South Main Street, Harrisonburg, Virginia. The purpose of this public hearing will be to get citizen input concerning a proposed increase in the City's 2003-2004 budget in the amount of \$2,383,463.34. This amount represents outstanding encumbrance at June 30, 2003. The budget increases will be as noted below:

NOTICE OF PUBLIC HEARING

A public hearing will be held by the Harrisonburg City Council on Tuesday, July 22, 2003 at 7:30 p.m., in the Harrisonburg Municipal Building, 345 South Main Street, Harrisonburg, Virginia. The purpose of this public hearing will be to get input concerning a proposed increase in the City's 2003-2004 budget in the amount of \$2,383,463.34. This amount represents outstanding encumbrances at June 30, 2003. The budget will be as noted below:

Revenues:

General Fund

Amount from fund balance **\$1,846,144.34**

Public Transportation Fund:

Amount from fund balance **537,319.00**

-

Total revenues \$2,383,463.34

Expenditures:

General Fund \$1,846,144.34

Public Transportation Fund 537,319.00

Total expenditures \$2,383,463.34

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.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 22, 2003

CITY OF HARRISONBURG

Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against amending Fiscal Year 2002-2003 budget. There being no one desiring to be heard, the public hearing was declared closed at 7:38 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve amending the budget for a first reading, and that:

\$1,846,144.34 chge. to: 1000-31010 Amount from fund balance

537,319.00 chge. to: 2013-31010 Amount from fund balance

\$2,383,463.34 Total

\$ 271.38 approp. to: 1000-120511-46140 Other office supplies
855.00 approp. to: 1000-120511-48111 Machinery and equipment
1,871.88 approp. to: 1000-120511-48121 Furniture and fixtures
3,712.81 approp. to: 1000-120911-48111 Machinery and equipment
855.00 approp. to: 1000-121511-48171 EDP equipment
4,886.33 approp. to: 1000-122011-48173 Software
855.00 approp. to: 1000-122011-48271 EDP equipment
6,513.00 approp. to: 1000-122011-48272 Hardware
6,513.00 approp. to: 1000-310131-48172 Hardware
500,000.00 approp. to: 1000-350131045657 SPCA
475,000.00 approp. to: 1000-310432-48272 Hardware
8,000.00 approp. to: 1000-320232-48111 Machinery and equipment
65,321.34 approp. to: 1000-320232-48151 Motor vehicles & equipment

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68,921.66 approp. to: 1000-320232-48203 Fire Programs Fund

3,385.88 approp. to: 1000-340121-48273 Software

1,736.00 approp. to: 1000-430221-43360 Maint. & Repair Bldg. & gnds

22,000.00 approp. to: 1000-410121-48191 Telecommunications

3,472.09 approp. to: 1000-410121-48274 Geographic Info System

51,220.00 approp. to: 1000-410121-48291 Engineering/Mapping

1,729.19 approp. to: 1000-810121-43100 Professional services

374,022.93 approp. to: 1000-410241-43374 Main & repair-Allowable

80,438.64 approp. to: 1000-410241-48294 WIP Annex area

28,694.89 approp. to: 1000-410241-48297 WIP West Market Street

884.40 approp. to: 1000-710171-43330 Main & repair-Match & equip

6,425.00 approp. to: 1000-710171-43360 Maint & Repair Bldg & gnds

5,650.00 approp. to: 1000-710171-46130 Recreational supplies

1,250.00 approp. to: 1000-710171-48132 Ed/Rec Supp-Athletics

44,100.00 approp. to: 1000-710171-48211 Machinery and equipment

7,944.97 approp. to: 1000-710171-48284 Improvements

663.95 approp. to: 1000-710571-43360 Main & Repair Bldg & gnds

43,695.00 approp. to: 1000-710771-48184 Improvements

11,895.00 approp. to: 1000-710871-48184 Improvements

4,950.00 approp. to: 1000-710871-43310 Repairs and maintenance

8,300.00 approp. to: 1000-710871-43360 Main & Repair Bldg & gnds

1,846,144.34 Total General Fund

2,955.00 approp. to: 2013-812081-45530 Training and travel

534,364.00 approp. to: 2013-872081-48253 Transit buses

537,319.00 Total Public Transportation Fund

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2,383,463.34 Grand Total

The recorded roll call vote was taken as follows:

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

Absent None

Planning and Community Development Director Turner introduced a request by Vern Michael to subdivide one 10.45-acre parcel. The applicant has requested to subdivide a track of land that is part of the Pleasant Valley Road Industrial Park. This request involves a variance to the City's subdivision regulations stating that all lots must front on a City street. The majority of this parcel is in Rockingham County. The 1.271 acres of land located in the County is zoned M-2, Light Industrial District. The parcel would be subdivided along Blacks Run with a portion north of Blacks Run being purchased by Mr. Michael. The reason for the subdivision is because Harman Realty does not have access to the portion that is on the opposite side of Blacks Run. She reviewed the reasons the owner wants this property to be a stand-alone parcel and noted that before the final plat is approved, Mr. Michael would be required to bond a water line on the property. She said that Planning Commission recommended approval of the request. Council Member Peterson offered a motion to approve the request. The recorded roll call vote was taken as follows:

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

Absent None

General Fund

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The next item of business was awarding a contract for rebuilding the Chesapeake Avenue Bridge over Blacks Run. City Manager Baker said bids had been received and Hammond-Mitchell, Inc. of Covington, Virginia was the low bidder at \$342,597. Planned construction is scheduled to begin August 3, 2003 with a completion date of October 31, 2003. Council Member Peterson offered a motion to accept the low bid and award the contract to Hammond-Mitchell, Inc. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

Ted Cole of Davenport and Company, the City's financial advisor, presented an update of the City's Capital Funding Analysis. Mr. Cole reviewed the existing debt service and debt prospects if the City should proceed with new projects. The City will have approximately \$6.5 million in debt service for FY 2004, but the debt service will increase in FY 2005 by approximately \$1.1 million primarily because of the debt service associated with the new high school project. The report contained information regarding revenue the City could receive if a penny was added to the real estate tax rate and monies received from an agreement with JMU for purchasing steam. Mayor Fitzgerald summarized the revenue needed for the four proposed projects, which include \$8 million for the Stone Spring/Erickson Avenue (Phase 1) project, \$10 million for a joint radio system, \$3.5 million to renovate the existing high school, and \$11.5 million to build a new elementary school. If these projects are totally funded from real estate taxes an increase of 15 cents to the 62-cent real estate tax will be necessary.

The next item of business was discussion of a joint City/County Radio System Upgrade. City Manager Baker announced that the City will receive approximately \$130,000 in grant funding from Home Land Security. These funds will be applied to the cost of the emergency communication center.

Council Member Peterson said that the City needs to compare the costs of a City only system and a joint City/County system in order to make a reasoned choice between the two alternatives. The City only system would probably need only two or three towers and could well be significantly cheaper for the City than 50% of a joint system. Council Member Peterson also pointed out that the projected heights for the towers at 250 feet are significantly higher than the cell phone towers the County has been approving. He inquired about

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the re-farming proposal by the FCC and said his research revealed there are interference problems existing between public safety radios and cell phone systems. The research also revealed a proposal being considered that some of public safety radios will have to move from another part of the 800 MHz system. He said that it would be very expensive if the City had to move from one design to another in the future.

Bob Forrest, President of CTA Communications, said re-farming is a different thing from the Nextel situation. There are a number of proposals and opinions, but Nextel currently is proposing to move public safety to a separate part of the band to avoid interference. There would be some modifications to the City's infrastructure, but in general the radio system should be able to function in both the 700 MHz and 800 MHz bands. Mr. Forrest said lower antenna heights cost less, but Rockingham County has a lot of cell phone towers at 80 feet, which doesn't provide coverage for the entire Western mountain area of the county. Land mobile radio systems typical height is 80 feet towers. He reviewed an access area map showing six radio sites in Harrisonburg, which included Dictum Ridge, Hidden Hollow Lane, Ness Farm, Massanutten, Kyger Farm, and Stone Spring School. The service provided outside the City limits is to and from portable radios carried outside buildings. The service provided inside the City limits is to and from portable radios inside buildings. The system was designed to take atmospheric conditions into consideration. He continued to discuss the pros and cons of different radio systems.

Council Member Peterson said that he understood including coverage for certain areas, but questioned the need to cover areas North of Broadway.

Jim Junkins, ECC Director, explained that the coverage area was developed through user surveys. The City based its coverage areas on requests from City and County employees. He said City employees travel outside City limits and coverage in the northern area is needed. City employees currently use cell phones, but coverage is not available in all areas.

Council Member Peterson said that it is difficult to determine the needs of the City until a cost-benefit analysis is conducted to determine the frequent use of radios beyond City limits.

A lengthy discussion by Council Members relative to the Radio System continued and included: Radio system on school buses traveling outside the area on class trips; cell phones currently used on buses; public safety concerns; issue of immediacy; needs versus wants; towers high cost; mutual aid agreement with County should benefit both localities; the City/County has applied for grants jointly, which should provide greater opportunity to receive funding; questioned cost of sharing joint system; design adequate systems for both localities; determine ratio of costs; three antennas in northern area of county not essential for City; present system consolidated; keeping ECC consolidated; staff recommendation of 50/50 split; strong arguments on both sides; having a system designed to adequately cover both police and fire departments and suggested wording adding a five year termination clause to the agreement. Following further discussion and comments, Vice-Mayor Rogers offered a motion directing City staff to move forward on the radio system project and negotiate with Rockingham County about adding a five year clause to the ordinance stating that either party can withdraw from the contract. The motion also included voting on the final agreement at the August 26,

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2003 meeting. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

No - Council Member Peterson

Absent None

The next item of business was a presentation of the Parks and Recreation Comprehensive Master Plan. Parks and Recreation Director Lee Foerster said that a survey was conducted, a request for proposal was developed and qualifying firms were interviewed to perform this task. The contract was awarded to Land Planning and Development of Charlottesville and the project began in July 2002. The process has included an extensive telephone survey of City residents, three public input meetings, a working session with the Parks and Recreation Commission, various interviews and meetings with direct and indirect stake holders, surveys, consultations with Parks and Recreation and Community Development staff, and various other avenues of collecting information. The Parks and Recreation Commission at its last meeting voted unanimously to accept this document as the City guide to the future. He requested that City Council consider the document as an important tool and guide for the Parks and Recreation Department. This plan can and will serve as a 5, 10, and 15 year guide and planning tool for the continued improvement and development of recreation leisure facilities and programs for Harrisonburg citizens. Vice-Mayor Rogers offered a motion to adopt the Parks and Recreation Comprehensive Master Plan. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

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Harrisonburg Redevelopment and Housing Authority Director Michael Wong briefly reviewed the progress of the Lucy F. Simms project. In March 2003, City Council authorized and approved a plan to renovate and build onto the Lucy Simms School. The project is projected to cost \$5.5 million, which includes a \$2 million contribution from the City. Mr. Wong reviewed sources for the Simms Project funding. Part one and two of the Historical Tax Credit application has been successfully approved by the Department of Interior. The Harrisonburg /Rockingham Boys and Girls Club has hired consultants and completed a market study which supported contributions from the Boys and Girls Club. The HRHA has been working with an architectural firm and is in the final phase of preparing bids and advertisement. HRHA was unsuccessful in obtaining a Community Block Grant of \$700,000, but continues to seek grant funding from other sources. He said that the City has allocated a commitment of \$200,000 annually toward the Simms project. HRHA is proposing addressing the \$700,000 deficit by asking the City to extend its \$200,000 commitment. Following further discussion and comments, Council Member Lantz offered a motion to move forward and grant the Harrisonburg Redevelopment and Housing Authority a \$2.7 million bond rather than \$2 million. The motion also included granting a construction loan and if HRHA receives additional grant funding, HRHA will reimburse the City up to \$700,000. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

City Manager Baker presented for Council's consideration a request from Mr. Crowther. He said that he had been directed by Council to present documentation for the expenses Mr. Crowther sustained as a result of an accident with a City recycling truck. City Attorney Miller said that he is talking with Crowther's attorney to structure a way to make the payment legal in this particular case. Council Member Frank offered a motion to allow the City Manager and City Attorney to conclude the matter on behalf of City Council. The motion was approved with a unanimous vote of Council.

The next item of business was a discussion of the Mayor's performance. Council Member Frank said she was concerned that a matter discussed in closed session at one meeting had been brought back and introduced in open session at another meeting by Mayor Fitzgerald.

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Council Member Lantz said he thought the other members of Council were blindsided with an item that wasn't on the agenda. He suggested that Council should develop some rules and policies regarding items being added to the agenda. He said, "People are tired of the City Council washing its dirty laundry in public. This matter should have been handled privately. He also said that if the issue was important enough to be brought up at a Council meeting, then during the meeting between the Mayor and the City Manager it should be placed on the agenda. He questioned who makes up the agenda? Who approves it? Who has the right to put something on the agenda? Does a citizen? What if it doesn't pertain to the Council, should it be on the agenda? How do other localities handle making up the agenda? Situations happen at Council meetings because we don't have rules and regulations like other localities have established. If it is not included on the agenda, it should not be brought up at the meeting. He said that Staunton has stated very clearly in its procedures who approves every agenda item. Council Members can request it, but if the City Manager doesn't think that it should be included, it is not placed on the agenda. Citizens can also make requests, but if the City Manager doesn't approve the request, it is not placed on the agenda. He questioned who decides what items should be discussed in closed session? Other localities have adopted rules and procedures to follow. The City Charter says that each Council should develop its own rules and procedures and because we don't have that we cause a lot of our own embarrassment.

Vice-Mayor Rogers agreed that the matter should have been handled privately. He reminded everyone that citizens elect Council Members, but Council appoints the Mayor.

Mayor Fitzgerald said, "I don't know of anything in the Virginia Freedom of Information Act that says Council Members can discuss one another in closed session. We are not personnel, we are elected officials. We can discuss the people who work for us certainly, but if a clever lawyer could find some way that Council Members could discuss one another in a closed session, it might meet the letter of the law, but would not meet the spirit of the law. Council Members disagreeing with the action of another one would be a policy issue, not a personnel issue. I think that we have put the Crowther issue back into the hands of the staff tonight with some expectation that it will have an outcome that we all think will be a little more fair and just. As far as what happened at the last meeting, at the previous meeting, we had made a non-decision in a closed session to not take an action. At the last meeting in open session, we decided to reverse that decision. In closed session we were ready to take one action and in open session we were ready to take a different action. The only difference is that people were watching the second time. If we are doing one thing in the dark and one thing with people watching, there is a problem. As far as the issue of blindsiding, I made a suggestion, it wasn't a motion. No vote was called for unless somebody chose to make a motion. You had the option to table it or you had the option to put it on the next agenda. The charge of blindsiding is at best secondary and at worst irrelevant. This issue could cost the City \$2,500. It is not a small amount of money particularly to people paying it in taxes, but it was costing us a lot more than that in creditability. We blindside each other all the time. There are certain procedures that we agreed to at the retreat in 2000, which were included in the agenda packet. He also pointed out that Council adopted four guiding principles on managing the closed session at the April 24, 2001 Council meeting.

City Attorney Miller presented a brief overview on proposed taxicab ordinance changes. Council had expressed concern because of the increasing number of requests to issue Certificate of Public Convenience and Necessity. It was suggested that the City's regulations should be examined. He said staff members reached a consensus the existing taxicab ordinance are good, but perhaps needed better enforcement. The City should have a taxicab service operating seven days a week, 24 hours a day, and 365 days a year. It is

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 22, 2003

difficult for one company to fit that requirement and other companies to only operate several days a week. He reviewed some of the provisions of the ordinance including that the applicant is required to have an established place of business. Council makes a determination about the adequacy, efficiency and safety of existing taxicab service, probable permanence and quality of service, financial ability, and the number and character of vehicles or depots proposed to be used. Currently the Police Department conducts an investigation and makes a report to City Council. Mr. Miller suggested asking the Police Department to make a recommendation rather than a report to City Council concerning whether the application for a Certificate of Public Convenience and Necessity should be approved and issued. Council Member Peterson suggested changing the current code to require a taxicab service to provide a minimal number of hours (120) per week. Council Member Peterson offered a motion that staff come back with wording to add 120 hours per week minimal service to the existing ordinance. The motion also included that City Manager Baker present a recommendation on selecting members serving on an Ad-Hoc Committee when certificates are presented for renewal. The motion was approved with a unanimous vote of Council.

City Attorney Miller presented for Council's consideration of a first reading an ordinance amending and re-enacting Section 13-1-3 of the Harrisonburg City Code. He explained that each year Council is asked to amend this ordinance to adopt the state motor vehicle laws. Council Member Lantz offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

City Attorney Miller presented for Council's consideration of a first reading an ordinance enacting Section 6-1-26 of the Harrisonburg City Code. He explained that when there are any cost or fees associated with the Public Works Department requesting property owners to clear their sidewalks of snow or ice and it is not done after a 30-day notice, this ordinance would allow the fees or costs of the City doing the work to be added to the next real estate tax bill. Council Member Lantz offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 22, 2003

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

-

City Attorney Miller presented for Council's consideration of a first reading an ordinance enacting Section 6-2-10 of the Harrisonburg City Code. He explained that when any costs or fees associated with the Public Works Department having to remove abandoned personal property from a lot after sending proper notification to the property owner, this ordinance would allow the unpaid fee or cost to be added to the next real estate tax bill. Council Member Lantz offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

City Attorney Miller presented for Council's consideration an ordinance amending and re-enacting enacting Sections 15-2-1 through 15-2-23 of the Harrisonburg City Code. He explained that the objective was to eliminate unnecessary duplication of state laws and strengthen and update those, which most affect the community. The current code is repetitive and outdated. He said that proposed code changes include dealing with hybrid canines and updating the definition of dangerous and vicious animals. These ordinances will be posted on the City's web site for review by citizens.

Bucky Berry, a resident of 877 North Main Street, complained about high water from recent rain storms in some areas of the City and not receiving response from City departments.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 22, 2003

Police Chief Harper invited Council Members to attend National Night Out 2003 on August 5, 2003.

At 11:20 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of discussion of personnel matters, specifically, the discussion of certain public officers. 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 prospective business or industry where no previous announcement has been made of the business or industry's 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 actual or probable 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 11:45 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 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 in the closed session by the City Council.

At 11:46 p.m., there being no further business and on motion adopted the meeting was recessed until August 12, 2003 at 7:00 p.m., in the Mayor's office at which time Council plans to convene in closed session for discussion of prospective business or industry where no previous announcement has been made of the business or industry's interest in locating in Harrisonburg.

The meeting will reconvene on August 12, 2003 at 7:00 p.m.

CITY CLERK

MAYOR

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 12, 2003

REGULAR MEETING

AUGUST 12, 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., Council Member Carolyn W. Frank, Dorn W. Peterson, Hugh J. Lantz; City Clerk Yvonne Bonnie Ryan, CMC/MMCA, and Chief of Police Donald Harper. Absent: Vice-Mayor Larry M. Rogers.

Council Member Frank gave the invocation and Mayor Fitzgerald led everyone in the Pledge of Allegiance.

Council Member Peterson wanted a change in the draft minutes to read (Council Member Peterson said that the City needs to compare the costs of a City only system and a joint City/County system in order to make a reasoned choice between the two alternatives. The City only system would probably need only two or three towers and could well be significantly cheaper for the City than 50% of a joint system. Council Member Peterson also pointed out that the projected heights for the towers at 250 feet are significantly higher than the cell phone towers the Council has been approving).

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes as amended and the second reading repealing and re-enacting Chapter 15-2, enacting Section 6-2-10, 6-1-26, amending and re-enacting Section 13-1-3 of the Harrisonburg City Code. The motion also included the second reading to close a portion of City right-of-way along Emerson Lane and several encumbrances outstanding at June 30, 2003. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent Vice-Mayor Rogers

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 12, 2003

Mayor Fitzgerald announced that a scheduled public hearing to consider rezoning three lots located on Country Club Road will be re-scheduled to September 9, 2003.

Planning and Community Development Director Turner introduced a text revision to calculate the average setback line in Article T. Section 10-3-112(3). She explained that this case was presented to the Board of Zoning Appeals (BZA) in April 2003 and involved a house that had been damaged by fire more than 50 percent of the value. The house at the time was nonconforming to the required thirty-foot front yard setback. The City's Zoning Ordinance does have some modifications to account for blocks where the majority of houses currently do not meet the required front yard setback. The ordinance allows for an averaging of the houses on the block. The average setback is then used as the required front yard setback. She said language in the ordinance has been restructured to make it clearer. The following language was added: (3) Where the frontage on one side of a street between two (2) intersecting streets is improved with principal structures having setbacks less than the required setback permitted, the required setback may be reduced to the average setback so established, or the average setback of the two nearest principal structures on the same side of the street. The language change should allow older neighborhoods to retain the characteristics already in place. She said that Planning Commission recommended approval of the text revision.

At 7:40 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 Tuesday, July 29, and Tuesday, August 5, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, August 12, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.

ORDINANCE AMENDMENT

-

Public hearing to consider a text revision to calculating the average setback line in Article T. Section 10-3-112 (3).

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.

HARRISONBURG **CITY OF**

Roger Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against amending the text revision in Section 10-3-112(3).

Bill Whalen a City resident questioned who established whether the destruction of a structure was greater than 50%. Planning and Community Development Director Turner said that it is the responsibility of the City's Building Inspector to determine the destruction of a structure. There being no others desiring to be heard, the public hearing was declared closed at 7:42 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 Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent Vice-Mayor Rogers

Planning and Community Development Director Turner introduced a revision to the definition and uses for automobiles and their various uses. She said because of a recent inquiry from a concerned business owner, staff reviewed the existing ordinances relating to automobiles and other vehicles. Ambiguity was found in how uses dealing with vehicles were defined and applied within the zoning classification's permitted and special permitted sections of the Zoning Ordinance. To help clarify these uses, staff has reworded, deleted, and added definitions, uses, and special uses to various sections. Mrs. Turner reviewed the changes made to the ordinance and also said that businesses identified as being affected by these changes were notified. She said that Planning Commission recommended approval.

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 12, 2003

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 Tuesday, July 29, and Tuesday, August 5, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, August 12, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.

ORDINANCE AMENDMENT

-

Public hearing to consider an amendment to Article F., Definitions, Section 10-3-24; Article O., B-1A Local Business District, Section 10-3-78; Article P., B-1 Central Business District, Section 10-3-85; Article Q., B-2 General Business District, Section 10-3-90 and 10-3-91; Article R., M-1 General Industrial District, Section 10-3-96, for revisions to the definition and uses for automobiles and their related uses. This will include changes to uses permitted and definitions for the sales, service, repair and storage of automobiles, heavy equipment, over the road tractor-trailers, manufactured homes, industrialized buildings and recreational vehicles, as well as the siting of convenience centers for over the road tractor-trailers.

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 amending revision to the definition and uses for automobiles and their various uses. There being no one desiring to be heard, the public hearing was

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 12, 2003

declared closed at 7:47 p.m., and the regular session reconvened. Council Member Lantz offered a motion to approve this request based upon the ordinance being effective October 1, 2003. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent Vice-Mayor Rogers

The next item of business was a presentation by the Harrisonburg Downtown Renaissance. Steve Knickrehm representing the Board of Downtown Renaissance said a planning retreat was held focusing on objectives for the organization. He also introduced Eddie Bumbaugh as the new executive director.

Chris Clark, owner of Artful Dodger, said he has been in business for 11 years in the City and has seen change, growth, and development in the downtown area.

John Sease said that at one time the downtown area was the center of everything, vibrant, active and had a lot of shoppers and visitors. The trend is to return to downtown. Past efforts have been very good, but with the financial support from Council and a social trend into downtown area, the time is right now for Harrisonburg to really be revitalized.

Eddie Bumbaugh said he also had memories of the downtown area and at one time his family owned a car dealership in downtown. He said during tours of the downtown area he has talked to business owners, property owners, public officials, organizations, and citizens. Many people have contributed ideas, thoughts and concerns, which has generated a lot of hope and optimism. The Harrisonburg Downtown Renaissance group has established an office and executive board. The group also participated in the Valley 4th parade and received a grant erecting four interpretative signs in the downtown area. These accomplishments could not have been achieved without the help of three interns, Sarah Edwards, Lyndsey Walker-Thomas, and Josh Davis. He also said with the establishment of Harrisonburg Downtown Renaissance and a series of changes in ownership and situations in downtown, the time may be right to again consider a downtown historic district. A Historic District Advisory Committee made up of diverse interests is being proposed to study this issue and to make recommendations. The Advisory Committee intends to invite representatives from other communities that have historic districts to share their positive and not so positive experiences. Information will be gathered from credible resources to assist with the assessment process.

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 12, 2003

John Adams, a member of Historic District Advisory Committee, reviewed his concerns about the downtown area becoming a historic district.

Economic Development Director Brian Shull said the future of the downtown area is very bright. He said during the summer he had been very involved with the Children Museum. During the seven weeks the museum was opened over 7,000 children and adults visited the museum. The Economic Development Committee will be looking at several different projects in the near future. He reviewed the short-term goals of the committee and potential projects to enhance downtown business climate.

City Council selected September 9th at 6:00 p.m. to have a joint meeting with the School Board.

City Manager Baker presented a request from Rockingham County Public Schools. He explained that the schools have requested permission to hold a special event Celebrating Character Counts on Court Square on Thursday, September 11th from 5:30 p.m. until 8:00 p.m. Council Member Peterson offered a motion to approve this request. The motion was approved with a unanimous vote of Council Members present.

City Manager Baker presented a request from the Downtown Retail Merchants Association. He explained that the association has requested permission to hold the annual Cruise In and Craft Show on Saturday, August 23rd from 9:00 a.m. until 3:00 p.m. He also said that no objections have been raised to this request, although the Fire Department will require than an 18-foot wide lane be kept open for emergency vehicle access. Council Member Frank offered a motion to approve this request. The motion was approved with a unanimous vote of Council Members present.

The next item of business was approval of design plans for renovations to the Rockingham/Harrisonburg District Courts building. City Manager Baker said that several meetings have been held with City/County staff to review the design plans. Judges, the Commonwealth's Attorney's Office, and others using the building were consulted for the plans. The estimated City share of the project will be between \$700,000 and \$800,000 dollars. Council Member Lantz offered a motion to approve the request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 12, 2003

Absent Vice-Mayor Rogers

The next item of business was a report on traffic management at the intersection of Cantrell Avenue and Reservoir Street. Public Works Director Jim Baker said the department is anxiously trying to get Cantrell Avenue open and finished to four lanes. Transportation Planner Drew Williams presented a brief overview of a traffic report taken during a peak hour on July 29, 2003. He said a dedicated right turn lane movement is necessary and would be helpful for traffic continuing through the light. Hopefully the change will prevent delays and if the traffic signal cycling is also changed it should speed up the entire intersection. Following further discussion and comments, Council Member Peterson offered a motion to endorse the traffic management proposal as presented. The motion was approved with a unanimous vote of Council Members present.

The next item of business was discussion on adopting Council rules and procedures. Council Member Lantz questioned the procedure for placing items on the agenda. Who has the right to put something on the agenda? Who decides what items should be discussed in closed session? Following further discussion and comments, Council Member Lantz, Council Member Peterson and City Attorney Miller volunteered to form a sub-committee to review other localities rules and procedures and present a report at a future meeting.

The agenda item to consider a resolution approving an increased line of credit and debt issuance for the Shenandoah Valley Regional Airport Commission was tabled until August 26, 2003.

City Manager Baker presented a request for a supplemental appropriation for the Parks & Recreation Department. He explained that these funds were received from donations and will be used for the First Tee program. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$25,538.84 chge. to: 2016-31010 Amount from fund balance

\$25,538.84 approp. to: 2016-720371-46133 First Tee

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 12, 2003

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent Vice-Mayor Rogers

Police Chief Harper presented a request for a supplemental appropriation for the Police Department for police equipment. He explained that these funds were received from a Federal grant to purchase police equipment. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$9,915.00 chge. to: 1000-31010 Amount from fund balance

\$9,915.00 approp. to: 1000-310231-48211 Machinery and Equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent Vice-Mayor Rogers

Police Chief Harper presented a request for a supplemental appropriation for the Police Department for bulletproof vests. He explained that these funds were received from a Federal grant to purchase bulletproof vests. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$4,870.40 chge. to: 1000-31010 Amount from fund balance

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 12, 2003

\$4,870.40 approp. to: 1000-310231-48140 bulletproof vests

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent Vice-Mayor Rogers

Police Chief Harper presented a request for a supplemental appropriation for the Police Department for a radar unit. He explained that these funds were received from a DMV grant to purchase a radar unit. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$1,500.00 chge. to: 1000-33527 DMV grant

\$1,500.00 approp. to: 1000-310231-46140 Other operating supplies

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent Vice-Mayor Rogers

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 12, 2003

Police Chief Harper presented a request for a supplemental appropriation for the Police Department for child safety seats. He explained that these funds were received from a DMV grant to purchase child safety seats. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$479.88 chge. to: 1000-33524 DMV grant

\$479.88 approp. to: 1000-310231-46140 Other operating supplies

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent Vice-Mayor Rogers

City Manager Baker announced that the Comprehensive Plan Advisory Committee has scheduled five public input meetings in September, Spotswood Elementary School on September 15th; Stone Spring Elementary School on September 18th; Waterman Elementary School on September 22nd; Keister Elementary School on September 25th; and Spotswood Elementary School on September 29th. All meetings will begin at 7:00 p.m. Draft document copies are available in the Community Development Department and the City's web site.

Council Member Peterson requested that an item be placed on the August 26th agenda concerning the salaries of Council Members and asked the City Clerk to obtain information on salaries paid to legislative bodies in surrounding localities.

City Attorney Miller said that he has drafted language in the current City Code to require a taxicab service to provide a minimal number of hours (120) per week. He also suggested rather than selecting members to serve on an Ad-Hoc Committee that members should serve on an Standing Committee. The members of the committee should be named by position rather than individual and consist of the Assistant City Manager, Police Chief, Director of Public Transportation, and a fourth non-voting member of the taxi industry. A draft copy will be placed on the August 26th agenda.

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 12, 2003

Council Member Peterson offered a motion to nominate Bonnie Keppel and David Holsinger as Harrisonburg representatives to the Workforce Investment Board. The motion was approved with a unanimous vote of Council Members present.

At 9:10 p.m., Council Member Peterson offered a motion that Council enter a closed session for the discussion of personnel matters, specifically, the discussion of certain public officers. 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

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent Vice-Mayor Rogers

At 10:02 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 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 10:03 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 26, 2003

REGULAR MEETING

AUGUST 26, 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.

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

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading approval of a Supplemental Appropriation for the Police Department and Parks and Recreation Department. The motion also included amending and re-enacting Sections 10-3-24, 10-3-78, 10-3-85, 10-3-90, 10-3-91, 10-3-96, and 10-112 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

City Planner Anderson introduced a request by the JMU/Harrisonburg Downtown Committee to allow City buses to provide free transportation for an event on October 10, 2003. The committee is sponsoring the upcoming Harrisonburg Museum & Gallery Walk on October 10, 2003 from 5:00 p.m. to 8:00 p.m. Many downtown businesses have offered evening hours to support this event. Due to the extent of the Arts and Cultural District, the Committee is asking City Council to consider allowing the City buses to provide free transportation to visitors who wear a Gallery Walk sticker. Participants can receive their sticker, free, from

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 26, 2003

any sponsor location. Providing this free service will help promote the effort in highlighting the vibrant downtown. Council Member Frank offered a motion to approve this request as presented. The motion was approved with a unanimous vote of Council.

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

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF HARRISONBURG, VIRGINIA APPROVING THE
INCREASED LINE OF CREDIT AMOUNT AND THE INCURRENCE OF DEBT BY
THE SHENANDOAH VALLEY REGIONAL AIRPORT COMMISSION**

The Shenandoah Valley Regional Airport Commission (the Commission) was duly established pursuant to Chapter 3, Article 1, Title 5.1 of the Code of Virginia of 1950, as amended (the Code), and by agreement of the several political subdivisions of the Commonwealth of Virginia making up the Commission, namely the Counties of Augusta and Rockingham, Virginia, and the Cities of Harrisonburg, Staunton and Waynesboro, Virginia, to have and exercise, on behalf of the several political subdivisions, the power and authority to operate the Shenandoah Valley Regional Airport (the Airport);

The Commission has deemed it necessary to (i) increase of the Commission's credit line with Planter's Bank from \$125,000 to \$325,000 and (ii) expand the physical facilities of the Airport, and to fund such improvements through the incurrence of debt not to exceed \$583,000, such debt to be used for improvements and expansion to the Airport, including, but not limited to, the construction of hangars (collectively, the Project).

Pursuant to the Code and the agreement entered into among the several political subdivisions, (the Agreement) the Commission has requested approval and authorization by the governing boards of the several political subdivisions constituting the Commission of the proposed financing of the Project.

The Commission has held a public hearing on the issuance of the debt on July 23, 2003, and has recommended that the governing bodies of the several political subdivisions approve the incurrence of the debt and increase of credit. A copy of the Commission's resolution, dated July 23, 2003, approving and authorizing the incurrence of the debt and the increase of credit, subject to the terms to be agreed upon, (the Commission Resolution) is attached as Exhibit A to this resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisonburg, Virginia (the Council):

- (1) The Council approves the increase in the amount of the line of credit with Planter s Bank from \$125,000 to \$325,000 as set forth in the Commission Resolution, such approval being required by the Code and the Agreement.**

- (2) The Council further approves the incurrence of the debt by the Commission for the expansion of the Airport as set forth in the Commission Resolution, such approval being required by the Code and the Agreement.**

- (3) It is to be understood that the documents reflecting the debt shall provide that the debt shall not be deemed to constitute a debt or pledge of the faith and credit of the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Commission and the City of Harrisonburg, Virginia, and that neither the Commonwealth, nor any other political subdivision or the Commission will be obligated to pay the principal of, premium, if any, or interest on the debt or other costs incident thereto, except from the revenues generated from the Project, as described in the Commission Resolution, and the monies pledged by the respective subdivisions for the operation of the Airport, and that neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Commission and the City of Harrisonburg, Virginia, shall be pledged for the payment of the principal of, premium, if any, or interest on the debt or the costs incident thereto.**

- (3) This resolution shall take effect immediately upon its adoption.**

ADOPTED: August 26, 2003

**CITY COUNCIL OF THE CITY OF
HARRISONBURG, VIRGINIA**

Mayor

CERTIFICATE

-
The undersigned hereby certifies that the foregoing constitutes a true and correct copy of a Resolution entitled RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA APPROVING THE INCREASED LINE OF CREDIT AMOUNT AND THE INCURRENCE OF DEBT BY THE SHENANDOAH VALLEY REGIONAL AIRPORT COMMISSION adopted by the City Council of the City of Harrisonburg, Virginia, by a roll call vote at a regular meeting of the City, duly held and called on August 26, 2003. The recorded roll call vote of the City Council is as follows:

	AYE	NAY	ABSTAIN	ABSENT
Joseph Fitzgerald	X			
Larry M. Rogers	X			
Carolyn Frank	X			
Dorn Peterson	X			
Hugh J. Lantz	X			

Dated: August 26, 2003

[SEAL]

City Clerk

City of Harrisonburg, Virginia

Greg Campbell, Executive Director of the Shenandoah Valley Regional Airport Commission, said the proposed resolution authorizes the Airport Commission to increase its revolving line of credit to assist with a land acquisition project and construct a new corporate hangar facility at the airport. Although the legislation that created the Airport Commission currently requires consent from each of the five sponsoring jurisdictions of the airport, none of the localities are responsible for the debt. Council Member Lantz offered a motion to adopt this resolution as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 26, 2003

Council Member Peterson

Mayor Fitzgerald

Absent None

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

A Resolution of the City of Harrisonburg

WHEREAS, Pilgrims Pride has expressed its intent and desire to the City of Harrisonburg to locate its commercial, business or industrial operations in the City of Harrisonburg, and

WHEREAS, Pilgrims Pride and its operation will require rail access; and

WHEREAS, the officials of Pilgrims Pride, have reported to the City their intent to apply for industrial access railroad track funds from the Commonwealth of Virginia's Department of Rail and Public Transportation in the amount of \$450,000 and;

WHEREAS, Pilgrims Pride has requested that the City of Harrisonburg provide a Resolution supporting its application for said funds which are administered by the Virginia Department of Rail and Public Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Harrisonburg hereby endorses and supports the application of Pilgrims Pride, for \$450,000 in Industrial Access Railroad Track Funds; and

BE IT FURTHER RESOLVED, that the City of Harrisonburg hereby makes known its desire and intent to assist the Commonwealth Transportation Board in providing the maximum financial assistance to Pilgrims Pride, for the purpose of locating its business, commercial or industrial facility in the City of Harrisonburg.

ADOPTED: August 26, 2003 _____

Joseph Fitzgerald, Mayor

Attest:

Yvonne Ryan, CMC, City Clerk

-

Economic Development Director Brian Shull said Pilgrims Pride is applying for a grant through the Virginia Department of Rail and Public Transportation to expand its rail service at the Feed Mill facility on Mt. Clinton Pike.

Ray Powell representing Pilgrims Pride said adding additional rail tracks to existing rail tracks will allow expanding from a 35 to 85 rail car capacity.

Vice-Mayor Rogers offered a motion to approve this resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 26, 2003

The next item of business was a resolution authorizing the City Manager to apply for grant funding in the amount of \$133,729 for the Emergency Communications/Operations Center. These funds will be utilized toward the cost of equipment for the center Council Member Lantz offered a motion to adopt the resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

The next item of business was adoption of Joint Exercise of Powers Ordinance. This ordinance is associated with the City/County joint radio system and formalizes the process of cost sharing, operation and maintenance of the system, and addresses the modification of the system. Language was added to paragraph four in the ordinance which states: 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. Vice-Mayor Rogers offered a motion to adopt the Joint Exercise of Powers Ordinance for a first reading as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

No - Council Member Peterson

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 26, 2003

Absent None

The next item of business was a discussion of Council Members salaries. Council Member Peterson said the City Charter allows a salary of \$2,400 per year for Council Members and \$3,000 for the Mayor. State law allows a City the size of Harrisonburg to pay a maximum of \$20,000 to the Mayor and Council Members \$18,000. He said higher salaries for the Council could perhaps provide a broad diversity of candidates for the office. He also said although he spends an average of 15 hours per week on Council matters, it might be difficult for many people to spend as much time. He proposed that the salaries of Council Members be increased and suggested that Council Members receive a salary of \$9,600 per year and \$12,000 for the Mayor.

Mayor Fitzgerald said, Citizens should do this job purely for the good it does to ones town. Also, he suggested that any increase should not take effect until after the Council Members have faced an election. I am reluctant to make money an incentive for somebody to run for this office. The amount of \$10,000 or \$15,000 could easily be as much as 25% pay increase for somebody over the course of a year. It is the wrong reason, wrong incentive to do it. If it were a full-time job, I would feel differently. I lean toward leaving the salary the way it is now.

Vice-Mayor Rogers commented that when increasing the salaries for Council Members was first proposed, he strongly objected to the idea, because most people do not seek the office to make money.

Council Member Frank said, It s almost embarrassing how little we re compensated.

Council Member Lantz commented that although his check was not a large amount each month, he enjoyed receiving the check. He said the issue needed further discussion.

Council agreed to place this item on the September 23rd agenda.

The next item of business was amending and re-enacting Section 7-2-4 of the Harrisonburg City Code. City Manager Baker said that Rockingham County has requested that the City amend the water moratorium ordinance so that preliminary approval is changed to acknowledgement. Preliminary approval would give the perception that the applicant has an endorsement of the project even though other action may be needed by the Rockingham County Board of Supervisors. Council Member Peterson offered a motion to amend Section 7-2-4 of the City Code for a first reading. The recorded roll call vote was taken as follows:

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 26, 2003

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

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 for payment of one-fourth of the purchased price of a portable radio system used by RUSH Drug Task Force. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$3,663.50 chge. to: 1000-31010 Amount from fund balance

\$3,663.50 approp. to: 1000-310331-48231 Radio equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

Vice-Mayor Rogers requested that a resolution supporting rail alternatives to complement planned improvements to I-81 be placed on the September 9th Council agenda.

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 26, 2003

Council Member Peterson commented that September 5th is the due date for VDOT to send competing proposals from Flor and Star to localities asking for respond from the local governing agencies. He proposed making the documents available on the City s web site if it was possible.

City Manager Baker announced that on August 25th, the first wireless 911 phase two call was taken at the EOC in Harrisonburg. The first call was a law enforcement domestic matter.

City Manager Baker also announced that the repair work at Wolfe Street Parking Deck has been completed, improvements to the Chesapeake Avenue Bridge is on schedule, and the City Steam Plant project is moving forward and ahead of schedule.

At 8:15 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

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

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

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

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

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

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

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

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

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

-

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.

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

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

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

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.

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

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

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

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.

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

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.

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

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.

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

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

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

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

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

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.

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

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

CITY CLERK

MAYOR

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 23, 2003

REGULAR MEETING

SEPTEMBER 23, 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 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 which included a regular meeting and a special meeting and the second reading approval of a Supplemental Appropriation for the School Board and amending Sub-Section 4-2-92(b) of the Harrisonburg City Code. The motion also included the second reading rezoning three lots at the intersection of Linda Lane and Country Club Road and rezoning approximately 15.84 acres on West Market Street. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

Council Member Peterson requested the unanimous consent of Council to change the agenda by adding a public comment discussion concerning Council Member salaries. This agenda item will be number 8A.

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 23, 2003

The next item of business was to confirm the Declaration of a Local Emergency. City Manager Baker said that Governor Mark Warner had declared a state of emergency in Virginia. The emergency declaration authorized Mayor Fitzgerald, Director of Emergency Services, to issue a declaration of emergency for the City of Harrisonburg. He also said that once the state of emergency has been issued, state law requires that an emergency declaration be presented at the following Council meeting or no later than 14 days to be confirmed by the entire Council.

DECLARATION OF A LOCAL EMERGENCY

WHEREAS, The City Council of the City of Harrisonburg does hereby find that:

1. Due to the heavy rain and windstorm associated with Hurricane Isabel, the City of Harrisonburg is facing life-threatening conditions of its citizens.
2. **Due to the effects of the storm, a condition of extreme peril of life and property necessitates the proclamation of the existence of an emergency;**

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that an emergency now exists throughout said City; and

IT IS FURTHER PROCLAIMED AND ORDERED that

during the existence of said emergency the powers, functions, and duties of the Director of Emergency Services and the governing body of the City of Harrisonburg shall be those prescribed by state law and the ordinances, resolutions, and approved plans of the City of Harrisonburg in order to mitigate the effects of said emergency.

Dated: September 18, 2003

City Council/ City of Harrisonburg

Mayor

Joseph Gus Fitzgerald,

Attest: Yvonne Ryan, CMC

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 23, 2003

Clerk/City Council

City of Harrisonburg

Commonwealth of Virginia

Council Member Peterson offered a motion to confirm the declaration of emergency and rescind the state of emergency according to Section 44-146.21 of the Code of Virginia. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

City Manager Baker announced that a request by Elwood Gilbert to subdivide a five-acre lot at 1264 Smithland Road had been tabled.

The next item of business was presentations by several companies offering solutions to widening I-81.

Chris Lloyd presented an overview of STAR Solutions proposal for traffic improvements on I-81. Because Interstate 81 does not have enough capacity to handle current traffic, mixing cars and trucks into two lanes has become a problem. In a period from March 2001 until August 2002 there were 42 deaths, 1,628 injuries and 2,845 accidents on Interstate 81 in Virginia. It has become the eighth most deadly highway in the country. Separation of cars and trucks is a common sense approach to promote safety. He said that STAR proposal includes separating cars from trucks, providing four lanes in each direction, improving interchanges, building truck-only flyovers, completing all four lanes by 2018, providing truck parking areas in the median, and keeping two lanes in each direction open at all times during construction. The project would cost \$6.3 billion in 2003 dollars inflating to \$7.9 billion by its 2018 completion. The STAR plan would levy tolls on trucks only. Projected payments for the project includes \$98 million from VDOT six-year plan, pursuing \$1.6 billion from the federal government and a 12-cent toll on trucks, increasing incrementally to 36.9 cents/mile by 2020. Mr. Lloyd said rails should be a component to solving I-81 traffic problems; however, it is not the

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 23, 2003

only solution. Rail will not eliminate the need for widening I-81 and a significant shift of cargo to rail could have citizen and environmental implications. Mr. Lloyd said STAR Solutions proposed plan would not be obsolete as soon as it is finished and would provide 50% more road for only 33% more cost. The financing plan involves both federal and private money and would comply with the current Virginia law.

The following discussion by Council Members relative to the STAR presentation included: Whether speed limit would increase or remain the same; noting that Virginia Trucking Association is opposed to a truck toll; rail could be a portion of the solutions; and getting some of the freight off of Interstate 81.

Jim Carroll presented an overview of Fluor proposal for traffic improvements on I-81. He said Fluor proposal includes six lanes adding a car-only lane in each direction to reduce accidents and improve overall safety. The plan also includes adding 10 truck-climbing lanes on steep grades and constructing electronic toll collections for both cars and trucks. Safety benefits include less traffic density, less interaction between trucks and cars, less frustration for drivers, hopefully less accidents, and reduction in severity of accidents. The Fluor plan is projected to cost \$5.9 billion and be completed by 2014. The proposed toll on cars would be five cents a mile and 17 cents a mile for trucks; however, he noted that it would take legislative action to place a toll on cars.

The following discussion by Council Members relative to the Fluor presentation included: Why did original proposal cost less? How many interchanges would be revamped? Concern that the Shenandoah Valley is not receiving its fair share of state funding; and concern that trucks will occupy the two outside lanes forcing all cars into one inside lane.

Frank Nolen, an engineer and former state senator from New Hope, Virginia, said Interstate 81 has become so congested with traffic that even the private sector is proposing solutions. One proposal includes eight lanes and tolls only on trucks while another proposal includes six lanes and tolls on both cars and trucks. It has been suggested using the current rail system; however, the idea could be inefficient because of existing track locations and loading/unloading the containers. Mr. Nolen reviewed his proposal for the I-81 congestion called A RAIL FERRY . The RAIL FERRY would be designed to move freight. A rail track could be placed in the median allowing a drive on and drive off method. This method should enable drivers to get to their destination quicker and cheaper than driving the truck. There has to be a better way to move freight. He said that he would like to present his proposal before Congress and encouraged support from City Council. He also insisted that it is not just a Virginia problem. It is national problem!

Clark Lewis presented an overview of the Virginia Trucking Association. He said that the Virginia Trucking Association has a policy to oppose tolling on existing interstate highways. The trucking industry recommends that a fuel tax be considered to fund any upgrades on I-81. The speed limit will not be increased on a truck toll road nor would anyone advocate putting triples on trucks. Placing a toll only on trucks would require the trucking association to pay for all the lanes of the interstate without receiving a tax credit or rebate. Businesses that rely on I-81 would be at an economic disadvantage when compared to other areas of the state.

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 23, 2003

Truckers will divert to avoid paying a toll on Interstate 81 and these diversions could have huge ramifications for Route 11. He urged the members of City Council to consider all the plans and think about the ramifications of the region, economy and the future.

The following discussion by Council Members relative to Mr. Lewis's comments included: Whether expanding I-81 to three or four lanes would make it safer; Whether the Trucking Association will support a fuel tax; and whether purchasing gas would be random on I-81.

The next item of business was accepting public comment on Council Members salaries. Council Member Lantz questioned whether an amount had been determined for the salary increase. Council Member Peterson suggested \$12,000 per year for Council Members and \$15,000 for the Mayor.

Council agreed to place this item on the October 14th agenda for citizen's input if they wished to address the issue.

City Manager Baker presented the following resolution for Council's consideration of approval:

**RESOLUTION APPROVING THE SIGNING OF THE CONSTRUCTION
CONTRACT FOR THE CONSTRUCTION AND RENOVATION OF THE LUCY F.
SIMMS CONTINUING EDUCATION CENTER AND RESOLUTION APPROVING OF
THE REVISED SIMMS FINANCING PLAN**

WHEREAS, the City of Harrisonburg, Virginia (the City), in partnership with the Harrisonburg Redevelopment and Housing Authority (the Authority) has decided to assist in the construction and renovation of the Lucy F. Simms Continuing Education Center (the Simms Center); and,

WHEREAS, the Simms Center will be renovated and utilized as a community education center in order to promote life long learning and to enhance the health, safety and welfare of the citizens of the Harrisonburg/Rockingham County community; and,

WHEREAS, on March 25, 2003 the City passed a resolution in support of the Simms Center, setting forth a financing plan and authorizing the application for a Community Development Block Grant; and

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 23, 2003

WHEREAS, the application for the Community Development Block Grant was denied. Therefore, on July 22, 2003 the City Council passed a motion agreeing to increase the City's contribution to the Simms Center from \$2,000,000 to \$2,700,000 in order to replace the Block Grant funds; and

WHEREAS, funding for the Simms Project is expected to come from the following sources:

1. The Boys and Girls Club Capital Campaign	\$ 1,500,000
2. The Arc Op Shop of Harrisonburg/Rockingham County	500,000
3. Historical Tax Credits	800,000
4. City Contribution	<u>2,700,000</u>
Total:	\$ 5,500,000

WHEREAS, the funding sources described above will be available after the Simms Center has been substantially completed; and

WHEREAS, after due notice and compliance with the public finance act, bidders have submitted bids to perform the construction and renovation of the Simms Center; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisonburg, Virginia, that:

1. The City approves the foregoing recitals, which are incorporated in, and deemed a part of, this Resolution as if fully set forth herein.

2. The City agrees to contribute Two Million Seven Hundred Dollars (\$2,700,000) in order to provide for the construction and renovation of the Simms Center.

3. The City agrees to fund the entire cost of the Simms Center during construction and renovation. It is anticipated that the Simms Center will cost \$5,500,000, and that construction will take

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 23, 2003

approximately 2 years. After substantial completion of the Simms Center, it is anticipated that the City will be reimbursed from the financing sources listed above.

4. The City Council approves the signing of a construction contract with the properly chosen bidder, and authorizes Roger D. Baker, City Manager and Joseph G. Fitzgerald, Mayor, either of whom may act, to sign the construction contract and take such other actions as are necessary to fulfill the City's commitments set forth in this resolution.

5. **The Resolution passed by the City Council on March 25, 2003 and the motion passed by the City Council on July 22, 2003 shall continue in full force and effect, as modified by this Resolution.**

This resolution shall take effect immediately upon its adoption.

READ AND ADOPTED: September 23, 2003

CERTIFICATE

Record of the roll call vote by the City Council of the City of Harrisonburg, Virginia, upon reading on a resolution titled "RESOLUTION AUTHORIZING THE SIGNING OF RENOVATION OF THE LUCY F. SIMMS CONTINUING EDUCATION CENTER AND RESOLUTION APPROVING OF THE REVISED SIMMS FINANCING PLAN, taken at a regular meeting of the City Council held on September 23, 2003:

	AYE	NAY	ABSTAIN	ABSENT
Joseph G. Fitzgerald, Mayor	X			
Larry M. Rogers, Vice-Mayor	X			
Carolyn W. Frank	X			
Hugh J. Lantz	X			
Dorn W. Peterson	X			

Dated: September 23, 2003

[SEAL)

READ AND ADOPTED: September 23, 2003

Mayor, City of Harrisonburg, Virginia

ATTEST: _____

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

The undersigned Clerk of the City Council of the City of Harrisonburg, Virginia (the City Council) hereby certifies that the foregoing is a true, correct and complete copy of a Resolution adopted by the City Council at its meeting duly called and held on September 23, 2003, in accordance with law, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect as of the date hereof.

WITNESS my hand and the seal of the City of Harrisonburg, Virginia this 23rd day of September, 2003.

Clerk, City Council of the

City of Harrisonburg, Virginia

Mr. Wong said adoption of this resolution approves the contract for the construction and renovations of the Lucy F. Simms Continuing Education Center (Simms Project). He said Lantz Construction Company submitted a low bid of \$4.8 million for the project. Council Member Peterson offered a motion to adopt the resolution and award the construction contract to Lantz Construction Company. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 23, 2003

Absent None

The next item of business was a report on Heritage Oaks Golf Course. City Manager Baker said that Heritage Oaks Golf Course did not make enough revenue to meet all of the expenses. The golf course had a \$319,855 shortfall in its first fiscal year. This amount is higher than what the National Golf Foundation had estimated in its prediction. In almost all areas revenue failed to meet expectations, including fees from the driving range, golf carts, concessions and all categories of golf rounds. However, Mr. Baker said that Heritage Oaks is more profitable than any other City recreation program. The golf course produced 60.5 percent of its operation revenue compared to 9 percent for other recreational facilities and programs. Mr. Baker also announced that the First TEE program has a waiting list and more volunteers are needed to help with the program.

City Manager Baker said that the Commonwealth Transportation Board changed the method of selecting road projects for the FY 2005-2010 Six-Year Improvement Program. The program was created for localities to get projects included in the state-funding plan. Arrangements have been made to hold nine public hearings in different locations of the state. This schedule will allow the public to review maps, displays and other materials in addition to submitting comments about the program. Since Harrisonburg is included in the MPO program, decisions need to be made regarding whether the City will follow specific road requests as it has in the past or be included in the MPO road plan. Council Member Peterson suggested sending representatives to this year's meeting, but suggested perhaps in the future it should be a representative from the MPO Board. Council Member Lantz emphasized the importance of having representation at the meeting. Following further discussion and comments, Council agreed to send one staff member and one member of Council to the October 9th meeting. Mayor Fitzgerald volunteered to speak as Council's representative. City Manager Baker will make a decision regarding a staff representative.

The next item of business was a request to provide funding for the Regional Talking Book Center. City Manager Baker said that he had been informed that for many years the City of Staunton has been funding the center without assistance from other regional jurisdictions. He said that Massanutten Regional Library provides an audio player to qualified individuals who are visually impaired; however, the City has not participated in the funding for the center. He said that Harrisonburg has been asked to provide \$2,742 toward supporting the center. Assistant City Manager Hodgen suggested that the library should perhaps consider including funding for this program in their budget request if they wish to support the program. Council agreed to table this request until the October 14th Council meeting and requested that a representative from the library be available to answer Council's questions and concerns.

Police Chief Harper presented for Council's consideration an application from Nadeem G. Afridi of Beni Limousine Corporation 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. The police review determined that the business address given is not zoned properly for a taxi business. Therefore, it is recommended that the certificate be denied. Council Member Peterson offered a motion to deny the request. The recorded roll call vote was taken as follows:

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 23, 2003

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds were reimbursed from the Commonwealth Attorney's office for travel expenses of a police investigator to interview a suspect in a homicide case. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$1,018.14 chge. to: 1000-31901 Recoveries and rebates

\$1,018.14 approp. to: 1000-310331-45530 Training/Travel

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

MINUTES - REGULAR MEETING OF CITY COUNCIL - SEPTEMBER 23, 2003

The next item of business was information on temporarily moving a voting precinct. City Manager Baker said extensive renovations on the Simms Building has necessitated that the Electoral Board temporarily move the voting precinct to another location for the November 4th election and all elections to be held in 2004. The new polling place will be located at 281 East Market Street in Muhlenberg Lutheran Church's Activities Center. All registered voters in the precinct will be notified.

Cheryl Lyon, a resident of 2328 Silver Lake Road, said that she owns Silver Lake Mill in Dayton. She said that her property adjoins Silver Lake, which is owned by Harrisonburg. Silver Lake's spillway and dam are in a deteriorated condition. She expressed her concerns that the mill could suffer some serious damage if conditions are not improved at the dam. She described the condition of the dam and said that she had alerted the City's Water Department of the situation. She said that it was her understanding the City hired a consulting engineer and questioned when the repairs would be made. City Manager Baker will discuss the issue with Public Utilities Director Mike Collins to address the concerns of Ms. Lyon.

At 10:40 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

SPECIAL MEETING

REGULAR MEETING

OCTOBER 14, 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.

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

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

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

Planning and Community Development Director Turner introduced a request by Gift and Thrift Shop for a special use permit to reduce the number of required parking spaces while providing open space that could be used to place some parking spaces if needed in the future. Gift and Thrift is located at 731 & 821 Mt. Clinton Pike. The property is zoned B-2, General Business District. She reviewed the surrounding uses in the area. Gift and Thrift is a non-profit store that accepts donations of clothing and furniture for resale at reasonable prices, similar to Mercy House and the Salvation Army. The new facility will have 13,000 square feet of retail space, plus an additional 6,000 square feet of warehouse. The parking requirements in the B-2 zoning classification requires one parking space for every 250 gross square feet of floor area. She said that Gift and

SPECIAL MEETING

Thrift feels that this amount of parking space is unnecessary. They are requesting that the required parking spaces be reduced to 40 parking spaces. The B-2, General Business District allows for a special use permit to reduce the number of required parking spaces so long as open green space is provided to allow for additional parking spaces to meet the minimum requirements should the business or circumstances change. She reviewed an aerial view of the site showing the area that will be used for parking and an area that could be used for parking in the future if needed. She said that Planning Commission recommended approval of the request with the provision that the special use permit applied only to Gift and Thrift and would be revoked if another business wanted to operate out of the building.

At 7:37 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, September 29, and Monday, October 6, 2003.

Notice Of Public Hearing

SPECIAL MEETING

The Harrisonburg City Council will hold a public hearing on Tuesday, October 14, 2003, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.

Special use permit Gift and thrift Shop

-

Public hearing to consider a request by Gift and Thrift Shop, for a special use permit {per section 10-3-91 (8) of the Zoning Ordinance} to reduce the number parking spaces required, while providing green space that could be used to place the parking spaces. The area is located at 731 & 821 Mt. Clinton Pike and can be found on tax map parcels 47-M-2 through 4 (approximately 5 acres).

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 Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this special use permit. There being no one desiring to be heard, the public hearing was declared closed at 7:38 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

SPECIAL MEETING

The next item of business was a presentation by Warren Dillenbeck on behalf of RAIL Solution.

Warren Dillenbeck read the following statement: VDOT has presented you with two updated proposals for widening Interstate 81 and asked you to comment on them during a 60-day period, only three weeks of which remain.

One of the proposals, from Fluor Corporation calls for widening to three lanes in each direction, with the third lane reserved for cars. Their proposal is predicted to cost \$7 Billion. The other proposal, by STAR Solutions, would provide four lanes in each direction, two reserved for trucks, and two for cars. Both proposals include a tiny rail component, upgrading some track from Riverton Junction to Manassas. Both of these proposers would pay most of the construction cost by charging tolls.

The STAR proposal could possibly earn \$1.6 Billion in federal funding as a pilot project for a segregated truckway.

VDOT intends to move ahead on this project quickly, awarding a comprehensive agreement to both bidders and an environmental study contract, all before the end of 2003.

If either of these road projects gets built, it will be the largest public works project in western Virginia since construction of the original I-81, roughly 50 years ago. So it's DECISION TIME, folks. We probably won't get to make a choice like this one for the next 50 years. So let's be sure to choose wisely. It's our Valley.

As I see it, trucks are the central issue in the choice we make. I-81 is unique in that it carries a higher proportion of trucks, around 40%, than almost any other Interstate. If the STAR proposal goes forward, it will become a super truckway, attracting even more trucks. I-81 carries an average of 13,000 trucks a day through Harrisonburg. STAR predicts that truck traffic will grow to 20,000 trucks per day on the ten lanes they plan to build through the City by the year 2020.

Are we ready for this? Are we ready for the noise, the air pollution, the acres of land use, the sprawling interchanges? Dr. Stone, President of Bridgewater College, our CTB representative, says, "I want to avoid paving over so much of the Valley."

Fortunately, there is a possible alternative: Divert as much of the long-haul truck traffic (presently 9,100 trucks/day) to rail as you can. And that's doable. The intermodal rail system is a marriage of the flexibility

SPECIAL MEETING

of trucking with the efficiency of long-haul trains. Truckers are already using intermodal rail service to carry their long-haul trailers wherever rail service is offered that is reliable, convenient and as fast as highway trucks.

Unfortunately, there is no railroad paralleling the I-81 corridor that can offer speed that is nearly fast enough. The Shenandoah Line that runs the length of the Valley is a single-track line that was built in the late 1800 s, on which a train can t average more than 35 mph.

But, we believe that it s feasible to build a modern, dual-track line along the old right-of-way, with grade separated highway crossings, circumventing cities and towns, capable of speeds of 80 to 110 mph. We estimate that this modern railroad would cost \$3.6 billion to build in Virginia. Improvements would also be needed in PA, MD, WV and TN.

What advantages would this proposed improved rail infrastructure offer?

1. It could divert at least half of all the long-haul truck traffic off of I-81 and onto rail: 4,550 trucks per day, or nearly 1.7 million trucks per year. This compares with a diversion of half a million trucks per year optimistically predicted from the rail improvement in the Fluor and STAR proposals.
2. According to an AAR study, the fuel efficiency of an intermodal train is over three times that of a highway tractor-trailer, so diversion would result in a savings of an estimated 52 million gallons of diesel fuel a year and proportionate decrease in the air pollution in the Valley.
3. Construction of the railroad improvements could proceed quickly, with no interference with traffic on I-81, since the railroad doesn t run near the highway. By contract, widening the highway will be slow and cause traffic slowdowns for years, due to the need to maintain traffic flow during construction.
4. I-81 truck traffic has been increasing faster than that of cars, and it is expected to continue to do so. So widening of the Interstate to accommodate growth will suffice for only a few years. The high-speed railroad; however, will have a huge capacity to accommodate increased traffic. For example, to handle the truck diversion predicted in paragraph one of this statement would require 45 trains of 50 cars in each direction each day, or two every hour in each direction. These tracks could easily handle a train every five minutes, or *six times* the initial loading.
5. Finally, this high-speed railroad line has the potential to carry passenger trains as well as intermodal freight. So passenger service might be returned to the Valley.

With the truck diversion that rail could achieve, the need for expansion of I-81 would be reduced. Perhaps the Fluor plan or something even less would suffice.

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In September, you passed a resolution recognizing the value of rail to contribute to solving the I-81 congestion problem. Thirty other Valley communities have signed similar resolutions. I urge you to respond to VDOT's inquiry with a strong statement that you don't want any highway expansion to proceed until the full potential of rail is explored. Mr. Dillenbeck said that he had a copy of the inquiry from VDOT and offered his assistance in filling out the form.

The next item of business was receiving public comment on I-81 improvements. Mayor Fitzgerald said that STAR Solutions and Fluor had presented proposals for traffic improvements on widening I-81 at the September 23, 2003 City Council meeting. Dwight Hartman, a resident of 305 Hillcrest Drive and Chairman of the Board of Truck Enterprises, said, "It is my opinion that the Fluor plan is by far the practical solution for I-81 improvements except for the tolls. If one lane is added each way, the highway should be able to handle 50% more traffic and perhaps financing could be arranged by VDOT and the Virginia General Assembly without tolls. If tolls are installed on I-81 it will cause many trucks to avoid I-81 and in some cases avoid the state. This would be extremely detrimental to businesses that depend on trucks especially in the Valley. In today's economy the manufactures and wholesalers want their merchandise or supplies delivered on time. It is one of the reasons trucks are essential because no other form of transportation can compete with this service. I feel that the automobile operators could be made happy if the inside lane in each direction were restricted to cars. Mr. Hartman said that I-270 had a lot of congestion, but when the highway was widened to six lanes, it was reported that the congestion disappeared. I feel that the Fluor plan for six lanes is the only practical approach especially since it has been estimated to cost less than 50% of the STAR plan. Let's protect our economy with a practical solution.

Hoby Bauhan, President of the Virginia Poultry Federation, said there is a need to preserve farmland and open spaces. He said that another way to accomplish this is by helping the poultry industry to remain competitive. The poultry industry supports approximately 8,000 jobs in the Valley and provides farm income helping to keep agriculture land in production. If we expect to continue in the future to have industry invest in the region, maintaining and hopefully expanding its presence, we must be competitive with other states having large poultry industries. It is critical to have a good transportation system to deliver product, but it needs to be balanced with the cost to the local economy. The STAR proposal would add millions of dollars to the cost of doing business for the poultry industry in the Valley. The Fluor proposal takes a more reasonable approach, but alternative financing needs to be considered.

The following discussion by Council Members relative to the topic of I-81 improvements included: Procedure on responding to VDOT; preparing a draft statement for the October 28th Council meeting; problems with both proposals; level of unfairness; toll is a tax; whether placing tolls on I-81 will redistribute fuel tax; Valley has other transportation needs besides I-81; strong support for rail; consensus toward Fluor's plan; state's projection of maintaining I-81 should decrease toll; include a strong plea for a national or regional program of rail development; and whether Council wants to pass a resolution supporting one plan or the other.

City Council requested that staff prepare a resolution for the October 28th Council meeting incorporating answers to VDOT's questions, expressing support for rail alternatives as passed by City Council on September 9, 2003, noting Council's general support for the Fluor plan as opposed to the STAR

SPECIAL MEETING

plan, and including language in the resolution protecting the area's gas tax revenues.

The next item of business was a request to provide funding for the Regional Talking Book Center. City Manager Baker said he was informed that for many years the City of Staunton has been funding the center without assistance from other regional jurisdictions. Massanutten Regional Library provides an audio player to qualified individuals who are visually impaired; however, the City has not participated in the funding for the center.

Phillip Hearne, Massanutten Regional Library Director, said the program has existed since 1931. It is a lending library done by mail. To qualify, a physician, a social worker, or a librarian must certify an individual as visually impaired. Public libraries act as an outlet for information about Talking Book Centers, and distribute registration forms. There are 5,000 auto tapes within the system. City Council requested that in the future the library include funding for this program in their budget request. Following further discussion and comments, Council Member Frank offered a motion to approve this one time funding request in the amount of \$2,742. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Vice-Mayor Rogers

Mayor Fitzgerald

No - Council Member Peterson

Council Member Lantz

Absent None

The next item of business was a discussion to increase City Council salaries. Mayor Fitzgerald said that currently Council Members receive \$2,400 per year and the Mayor receives \$3,000 per year. According to the state code a City with population between 35,000 and 74,999 can compensate the Mayor a maximum of \$20,000 per year and Council a maximum of \$18,000 per year. It has been suggested that compensation be set at \$15,000 for the Mayor and 12,000 for Council.

Council Member Frank said that she had only received one negative comment. She said being a member of Council requires more than two evenings per month. Council Members also serve on other boards and commissions. It is time for an increase.

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Vice-Mayor Rogers reviewed salaries of surrounding localities and said it is time for Harrisonburg City Council Members salaries to be increased.

Mayor Fitzgerald commented that he would be voting no on this issue because the amount is \$63,000, which might be applied to five miles of repairing sidewalks, employing another teacher or a police officer. The amount of money could also become an incentive to run for office rather than running for the office to make the community a better place to live.

Council Member Lantz commented that procedures he and Council Member Peterson are proposing and presenting at the October 28th Council meeting give any of the Council Members the right to refuse their salary.

Council Member Peterson offered a motion to change the salaries of Council paying the Mayor \$15,000 per year and Council Members \$12,000 per year to begin on July 1, 2004. He also included in the motion that Council s representative to the Planning Commission not receive a salary for serving on the commission. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

No - Mayor Fitzgerald

Absent None

The next item of business was a presentation by Dean Welty, Director of the Valley Family Forum. Mr. Welty presented several pages of a large petition signed by several thousand of people. Valley Family Forum is a network of 1,500 Valley families dedicated to strengthening the time-honored values that make the Valley a special place to live. The forum works the public policy process to build faith, family, and freedom in the Valley. He said that he was impressed by the complementary goals of the Comprehensive Plan and he reviewed the vision statement and goals of the plan. Pornography has risen to the top of the list in the issues

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of concern to Family Forum supporters. The presence of such shops violates nearly every goal of the Comprehensive Plan and should never be permitted to operate as they are now within shouting distance of churches, residential areas, public library, and the new Children's Museum. He said that the Family Forum collected thousands of signatures at the Rockingham County Fair. He asked City Council to consider a proposed resolution at its October 28th meeting. The resolution notes the problems associated with pornography in terms of personal damage and the impact of pornography on the community, and asks Council to approve ordinances with zoning regulations preventing the operation of all such businesses. It also urges business owners and managers to remove sexually oriented materials from their shelves. Mr. Welty suggested the following recommendations to help make Harrisonburg a model City for other communities to emulate rather than a magnet for crime and other secondary effects usually associated with pornography. The first recommendation is that the Chief of Police or his designee should process every application for a sexually oriented business. The second recommendation would impose adequate application/permit fee to compensate for increased crime and enforcement cost. A third recommendation is that any sexually oriented business be of adequate distance from schools, libraries, parks, churches, museums, and residential areas. A fourth recommendation is that the City suspend action on any future requests or pending requests from sexually oriented businesses until Council has an opportunity to act on recommendations which will be coming from the Planning Commission. A fifth recommendation would be, what is referred to as amortization, which is that if there are any sexually oriented businesses currently in operation that those businesses be given a set amount of time within which they must comply with the provisions of the ordinance. A sixth recommendation would be to include language in an ordinance that would prohibit the display and sale of obscene material where it is accessible to minor children. He presented a draft resolution supporting all of the concerns mentioned and called on local businesses to stop the display of sexually oriented material.

Council agreed to place this item on the October 28th agenda and to receive citizen's comments or concerns.

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds were reimbursed from a Federal block grant and will be used to purchase new equipment for the department. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$23,647.00 chge. to: 1000-33507 Local Law Enforcement block grant

\$23,647.00 approp. to: 1000-310231-48211 Machinery and equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

SPECIAL MEETING

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

Mayor Fitzgerald presented for Council's consideration an ordinance amending Section 14-1-1 of the Harrisonburg City Code. This ordinance deals with amendments to the definitions of "for-hire cars" and "taxicabs", now making it clear that for-hire cars are what most people think of as limousines. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

Mayor Fitzgerald presented for Council's consideration an ordinance amending Section 14-1-16 of the Harrisonburg City Code. This ordinance is amended to remove the requirement from limousines (for-hire cars) from having labeling on the outside. Now it only applies to taxis. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

SPECIAL MEETING

Absent None

Mayor Fitzgerald presented for Council's consideration an ordinance amending Section 14-1-33 of the Harrisonburg City Code. This ordinance requires that the applicant for a certificate of public convenience declare whether the certificate is for a taxi service or a for-hire (limousine) service. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

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

Absent None

Mayor Fitzgerald presented for Council's consideration an ordinance amending Section 14-1-39 of the Harrisonburg City Code. Amending this ordinance will require the holder of a taxi certificate must offer taxi service to the public for a minimum of 120 hours of operations per week, and that the certificate state whether it is for a taxi service or a for-hire service. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

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

Absent None

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Mayor Fitzgerald presented for Council's consideration an ordinance amending Section 14-1-42 of the Harrisonburg City Code. This section includes selecting members to serve on a standing committee. The members of the committee should be named by position rather than by individual and consist of the Assistant City Manager, Police Chief, Director of Public Transportation, and a non-voting member of the taxi industry. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

Ed Kean, said he has served as a volunteer on the rescue squad and has witnessed many drunken related accidents. He asked Council not to change the hours of operation to a minimum of 120 hours to operate a taxi service.

Martin Soloman, a resident of 33 A Maple Wood Court and owner of College Limousine Service, said that he operates mostly on weekends and opposed changing the hours of operation to a minimum 120 hours.

Angeoica Atienza, a resident of 1063 Lewis Lane, said that she was a JMU student and drunk driving is a problem in Harrisonburg. A safe ride is something that the students need.

Council Member Peterson offered a motion to approve amending these ordinances for a first reading. The motion also included that the non-voting member's term on the standing committee should be four years. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

SPECIAL MEETING

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

Public Utilities Director Collins presented a request to charge off delinquent utility bills incurred through December 2002. He said that none of the accounts listed currently have service with the City of Harrisonburg; however, these accounts are currently being pursued by a professional collection service. Council Member Peterson offered a motion to write off the list of delinquent accounts. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

Public Utilities Director Collins presented a brief overview on water and sewer projects for the Smithland Road area. He said some work would be performed under the Rockingham County Sewer contract. He also reviewed a summary concerning the competing projects for water and sewer lines in the area and noted some projects will be included in the City's CIP plan.

Public Utilities Director Collins presented a request for a supplemental appropriation for the Public Utilities Department. He said that these funds would be used for the water line being constructed under I-81. Council Member Lantz offered a motion to approve this request for a first reading, and that:

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\$300,000 chge. to: 2011-31010 Amount from Fund Balance

\$300,000 approp. to: 2011-392061-49216 Transfer to Capital Projects

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

Public Utilities Director Collins presented a request for a supplemental appropriation for the Public Utilities Department. These funds will be used for a sewer upgrade capital project fund. He said that last year the City had a severely impacted sewer in the area of Warsaw Street. While undertaking this project, James Madison University and the utilities department coordinated procurement and contract arrangements to expand the scope of work beyond that originally targeted. JMU used the City contractor to relocate sewer from beneath the old shoe factory for the purpose of demolishing the building. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$39,633.91 chge. to: 2012-31010 Amount from fund balance

13,269.55 chge. to: 2012-31902 Recoverable changes

\$52,903.46 approp. to: 2012-492061-49216 Transfer to Capital Projects

\$52,903.46 chge. to: 1322-34230 Transfer from Sewer Fund

\$52,903.46 approp. to: 1322-911161-48651 Sewer Upgrades

SPECIAL MEETING

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

Council Member Peterson offered a motion to approve a resolution appointing Assistant City Manager Kurt Hodgen as Harrisonburg's FEMA agent. The motion was approved with a unanimous vote of Council.

Mayor Fitzgerald excused himself from the discussion of the upcoming expiration of Deborah Stevens Fitzgerald's term of office on the planning commission and relinquished the chair to Vice-Mayor Rogers and exited the room.

Council agreed to advertise vacancies on boards and commissions including polling recent applicants. Mayor Fitzgerald returned to Council Chambers and resumed chairing the meeting.

At 9:40 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of discussion with legal counsel pertaining to actual or probable litigation. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.7 of the Code of Virginia (1950), as amended (the Code).

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Council Member Lantz

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Vice-Mayor Rogers

Mayor Fitzgerald

Absent None

At 10:00 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of Council: I certify to the best of my knowledge and belief that (1) only public 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.

At 10:02 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

SPECIAL MEETING

REGULAR MEETING

OCTOBER 28, 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 Public Utilities Department. The motion also included the second reading amending Section 14-1-1, 14-1-16, 14-1-33, and 14-1-42 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

City Manager Baker presented a request by the Convention and Visitors Bureau to be a Bike Virginia Host Community. The event will be held June 18-23, 2004. Cyclists will spend one night in the City. Biking will be in Harrisonburg and Rockingham County. City emergency services will be notified of the upcoming event. Council Member Peterson offered a motion to approve supporting this event. The motion was approved with a unanimous vote of Council.

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The next item of business was a brief overview on the Rockingham/Harrisonburg Alcohol Safety Action Program. Pam Simmons, Director of the Rockingham/Harrisonburg ASAP, said the policy board has five members from the City and five members from the County. She said that ASAP receives referrals from the court system and DMV for alcohol and drug offenders. Probation services are provided to the offenders. An assessment is determined to make sure offenders receive proper treatment. She reviewed the Rockingham/Harrisonburg ASAP report and highlighted a few of 2003 accomplishments. Rockingham/Harrisonburg ASAP is user funded and is operated without the use of tax dollars.

Glenn Weatherholtz, read the following statement: Pornography is not only a public nuisance; it is a threat to public safety. The Commonwealth Attorney's office has stated that out of 5,000 crimes committed in Rockingham County last year, 70 percent had elements of pornography associated with them.

As Sheriff of Rockingham County for 24 years, and as a member of the Militia, Police and Public Safety Committee in the Virginia House of Delegates, I can attest to the truth of these facts:

Pornography exploits and degrades women and children.

It endangers the most vulnerable of our citizens who cannot defend themselves against sexual predators who continually feed themselves on a steady diet of smut.

Merchants of sexually explicit material drive down property values and foster an increase in crime especially domestic crimes.

It's time to shut down the merchants of smut and tell them Not in our town. This is a 1st Amendment issue. No one has a constitutional right to be obscene or promote obscenity. No one has the right to degrade women. No business has the right to profit by feeding the perverted lusts of pedophiles and other criminals.

The United States Supreme Court has determined that the ability to regulate the distribution of pornography, and even the definition of what pornography is, depends on the standards of the community. The Harrisonburg City Council has a role in expressing what the community determines those standards to be. While I cannot myself make any blanket determination as to which publications are themselves pornographic, I would advocate a mechanism to allow input from all the citizens of the community to make those determinations.

Over 3,500 people in our community have signed a petition calling for higher standards of community decency. Consequently, the City Council of Harrisonburg and the Rockingham County Board of Supervisors should hear the desires of their constituents and enact ordinances that prohibit the sale of smut in our community.

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I wholeheartedly endorse and support the efforts of community groups like the Valley Family Forum to promote higher standards of decency and protect our families. I want to join my voice with theirs and encourage you to kick the sale of smut out of our community.

Cynthia Gillette, A JMU English teacher, said that the valley group supporting a resolution to ban pornography was a violation of the First Amendment. She said that The Advocate a national news magazine provides information on films, the arts, law, and it should be available to people in the community.

Eric LaFreniere expressed his concern that perhaps City Council might become a rubber stamp for the Valley Family Forum. He said the Valley Family Forum is an organization claiming to uphold conservative values while at the same time petitioning the government to interfere in the private lives of citizens to limit their personal choices. It hides behind the word family in claiming its efforts are for the children. It pretends to champion the best interest of the whole community.

Ben Fordney said, Valley Family Forum has asked Council to consider a resolution calling for area businesses to refrain from the display of sexually oriented materials particularly within eyesight and reach of minor children. The forum has also asked the Planning Commission to consider zoning restrictions on sexually oriented businesses. He believes it would be in the public's interest to place adult businesses in a section of the City away from schools. It is a legitimate function of City government to follow such zoning. He does not believe that City Council can regulate what the citizens of the community can read or look at. He urged City Council to not get involved in censorship.

Joyce Viscomi, a resident of 1852 Park Road, said October is National Domestic Violence Awareness Month. The first amendment gives everybody freedom of expression to petition the government, but when those rights intrude on citizens' right to live in a safe community, then somebody has to speak out to protect the children.

George Ellis, a resident of Bridgewater, reviewed essays and articles written by several historians.

Jeanette Kidd, a resident of Rockingham County, said comments by elected officials about pornography seemed dismissive, unimportant and of no consequence. Women are not objects and magazines showing women, only a cut above nudity, are denigrating, cheapening, and unbecoming.

Matt Chaucey, a resident of Bridgewater, quoted language from the First Amendment and said law is an imposition of mortality.

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Robert Dismore, a resident of 1136 Sharpes Drive, said, He is for baseball, apple pie, and Chevrolet. He is against pornography, rape, robbery, murder, drug addicts, and thieves. It is real easy to be for something or against something. He also said that he owns Blue Ridge Comic and has spent 13 years trying to build a family business.

Ben Butcher, a resident of Broadway, said that he was attending the Council meeting for a government project. He said whether people thought pornography was wrong or okay was irrelevant. Also, whether a person is gay or straight was also irrelevant. He said trying to force religion and its moral standards upon people are why our ancestors came to America.

Matt Nichols, a resident of 217 Franklin Street, said the real issue was whether Council should take a position on what kind of standards the community should have. He compared it to tobacco and whether children should have access to it. He said it is the same with pornography.

John Alexander Golden, a resident of 1226 Mt. View Drive, said he was offended with some of the magazine displays in the City. Everybody should have the same right. Freedom of speech is one of the things this country was founded upon. Ending pornography will not stop violence in Harrisonburg.

Annlee Ray, a resident of 1323 South Main Street, said people have a right to petition the Council. She said she didn't like Como magazine. However, businesses have a right to sell all magazines. However, she suggested using common sense and not placing certain magazines within eyesight and reach of minor children.

David Briggman, a resident of Keezletown, said tonight's meeting was opened with a prayer for the family that suffered at the hands of an arsonist. He doesn't believe government should intervene in what people believe. He believes more pornography comes into the City via the Internet than from the bookstores. If you don't like certain material in a bookstore than don't patronize that bookstore.

Kim Sandum, a resident of Rockingham County, clarified certain language exchanged at a recent meeting, which had been misquoted in the Daily News-Record.

Brook Hefner, a resident of 811 Port Republic, said she helped to establish an emergency fund for a JMU professor family because of a recent incident. There is tension in the community.

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Dean Welty, a resident of 3456 Issac Walton Drive, said there is a lot of tension in the community. He said that it was not Valley Family Forum role to censor magazines. The group was asked by reporters what magazines were appropriate or inappropriate for children. The group is trying to express its position with regard to what is appropriate and not appropriate for minor children on display racks in any store. The resolution is non-regulatory in nature. Mr. Welty read the following paragraph from the resolution: We hereby call on all businesses located within the City of Harrisonburg to refrain from the display and sale of sexually oriented materials, particularly those within eyesight and reach of minor children. The group is going on public record against pornography accessible to children.

Phil Long, a resident of 1246 of Old Wind Mill Circle, said several Valley Family Forum members have stated they are not trying to censor the local businesses from selling adult oriented materials. However, they are asking City Council to take a position on an issue based on mortality urging businesses to not sell this material. That is censorship.

Steven Kelly, a resident 1270 Devon Lane, quoted passages from the Bible.

Christine Robinson, a resident of Bridgewater, said this resolution is not only interested in defining sexually oriented material, but defining any kind of literature that caters to sexual identity.

Janet Spitzer, a resident of Timberville, said pornography could be very addictive. Everybody should be interested in providing the best area for our children and grandchildren to live.

Council Member Peterson said that he has a strong philosophical opposition to Council recommending a resolution that does not do anything. He doesn't think we should be determining what stores can display on its shelves. It's a self-regulating problem. He believes we should be letting the free market deal with things like this. Planning Commission will look at this issue very carefully.

Council Member Frank said that she supported the resolution provided by Valley Family Forum. She said she based her opinion on evidence that pornography can be related to crime and other problems occurring in the City.

Mayor Fitzgerald reviewed three paragraphs in the resolution. WHEREAS, studies have concluded that pornography contributes to broken homes and many other problems. WHEREAS, members of the Harrisonburg community and the surrounding area have expressed growing concern about the proliferation of sexually oriented businesses and public displays in the City. THEREFORE, we the Members of the City Council of Harrisonburg do hereby call on all businesses located within the City of Harrisonburg to refrain from the display and sale of sexually oriented materials, particularly those within eyesight and reach of minor

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children. Part of the problem is that phrasing and definitions are changed in the resolution. Pornography is mentioned in the beginning of the resolution. In the conclusion of the resolution Council is asked to pass a resolution talking about sexually oriented materials. He is not 100% sure what that refers to or what Council is being asked to believe that it refers to. Harrisonburg can regulate those businesses according to the Supreme Court through zoning regulations. Because the resolution is so vague, interruption could become a problem.

Council Member Lantz said that the resolution is very general. It just says we ask you not to display sexual material, but they can do darn well whatever they want to. He would add some more words to the resolution for clarification. He doesn't have a problem with the resolution. Isn't freedom of speech a wonderful thing?

Vice-Mayor Rogers said City Council is part of the legislative branch of the government making laws and policies. Members of Council have disagreements, but agree on the core value of this country. He has a problem with supporting this resolution.

Following further discussion and comments, Vice-Mayor Rogers offered a motion to table this resolution until City Council can hear about zoning recommendations from the Planning Commission. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

No - Council Member Frank

Absent None

The next item of business was a report on traffic management for the Reservoir Street Corridor. Transportation Planner Drew Williams presented a brief overview on traffic management for the Reservoir Street corridor that would enhance turning movements, lane reconfigurations, signal timings and long-term planning strategies. He said traffic counts have been conducted at three intersections along Reservoir Street regarding traffic flow, recent and future development of the area. The Public Works Department is trying to

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maximize efficiency along the corridor. The department is trying to determine what measures can be taken now and what can be planned for the future. He reviewed an overview of a traffic count taken at Neff Avenue and Reservoir Street; University Boulevard and Reservoir Street; and Evelyn Byrd Avenue and Reservoir Street during peak hours in the morning and afternoon. He said there are 22 vacant properties in the area containing approximately 74 acres. As these properties develop more traffic will be added to the Reservoir Street corridor. He reviewed several concepts that can enhance traffic movements and noted that the department will continue to study other concepts.

Public Works Director Baker reviewed concepts being considered including reviewing traffic signal cycles, moving traffic out of congested area, under ground utilities, purchasing additional land, and coordination as development occurs for traffic improvements.

The next item of business was a resolution stating Council's position on Interstate 81 widening proposals. City Manager Baker said Council had directed staff to prepare a resolution for the October 28th meeting incorporating answers to VDOT's questions, expressing support for rail alternatives, noting Council's general support for the Fluor plan as opposed to the STAR plan, and including language in the resolution protecting the area's gas tax revenues. Following further discussion and comments, Council Member Frank offered a motion to adopt the resolution with the changes suggested by Council. The following resolution has been corrected according to motion adopted by the Harrisonburg City Council. The recorded roll call vote was taken as follows:

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

Absent None

A Resolution Expressing the City of Harrisonburg's Position Relative to
Interstate 81 Improvements

WHEREAS, the City Council of Harrisonburg recognizes the importance of Interstate 81 as a corridor for the entire east coast and is important for the national economy and national defense and believes that a multi-state

SPECIAL MEETING

approach to improvements are necessary; and

WHEREAS, it is acknowledged that any improvement project will ultimately help mitigate the present congestion existing on Interstate 81; and

WHEREAS, it must also be recognized that any method of improvement selected will significantly impact residents, businesses and institutions along the Interstate 81 corridor in addition to the interstate users; and

WHEREAS, the City Council has heard presentations from representatives of Fluor Virginia, Inc., Star Solutions and RAIL Solutions, and has solicited public comment at several City Council meetings; and

WHEREAS, the City Council believes that any portion of the project constructed near or within the City's corporate limits should be reviewed for compatibility with the City's Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. That the City Council of the City of Harrisonburg supports the concept of improvements to Interstate 81.
2. That the Council prefers that the Virginia Department of Transportation explore the feasibility of adding a stronger rail component to the project in order to divert as much truck traffic as possible from the interstate.
3. That any portion of the project constructed near or within the City's corporate limits should be reviewed for compatibility with the City's Comprehensive Plan.
4. That the stated desire for improvements does not constitute approval of or agreement with the proposed method of financing the project through tolls, which could affect the distribution of State Fuel Tax Revenues.

ADOPTED THIS 28th DAY OF October, 2003.

Date

Joseph G. Fitzgerald, Mayor

SPECIAL MEETING

Attest: _____

City Clerk

The next item of business was amending Sections 2-3-3 (City Council; Agenda Development), 2-3-4 (City Council; Council Administrative Procedure), 2-4-1 (City Council; Refusal/Reduction of Council Pay), 3-1-6 (City Administrator; Budget Submission) of the Harrisonburg City Code and considering adopting Memoranda of Council Administrative Procedures. One item adopting amendment to Section 7 (Mayor; Vice-Mayor) of the Harrisonburg City Code will have to be delayed in order to advertise for a public hearing. Council agreed to table these items until the November 11th Council meeting.

Ralph Geddes, a resident of 395 Franklin Street, encouraged everyone to vote and complained about putting tolls on I-81. He also complained about traffic on other streets in the City.

Mayor Fitzgerald requested the unanimous consent of Council to change the agenda by adding approval of a Veterans Day Parade on November 9th at 2:00 p.m. Council Member Peterson offered a motion to approve the request to hold the Veterans Day Parade. The motion was approved with a unanimous vote of Council.

At 10:02 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of discussion of prospective business or industry where no previous announcement has been made of the business or industry's 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 recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

SPECIAL MEETING

At 10:40 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.

At 10:42 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

SPECIAL MEETING

REGULAR MEETING

NOVEMBER 11, 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 Members Carolyn W. Frank, Dorn W. Peterson, and Hugh J. Lantz; and 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 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

At 7:37 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 Saturday, November 1, 2003.

NOTICE OF PUBLIC HEARING

SPECIAL MEETING

The Harrisonburg City Council will hold a public hearing on Tuesday, November 11, 2003, at 7:30 p.m., in the City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia, to consider the following:

CITY CHARTER AMENDMENT

-

IT IS HEREBY REQUESTED by the Council of the City of Harrisonburg, pursuant to Section 15.2-200, *et seq.* of the Code of Virginia (1950), as amended, a public hearing having been held after no less than ten days notice, which notice included the text or an informative summary of this requested amendment, and the Council of the City of Harrisonburg voting in favor of requesting this amendment by a vote of ____ in favor and ____ opposed, that the General Assembly of Virginia amend the Charter of the City of Harrisonburg, in its Section 7, as follows:

Section 7. Mayor; Vice-Mayor

Label the existing paragraph as paragraph (a).

Add new paragraphs (b), (c) and (d) as follows:

- (b) The Mayor may resign the office of mayor without giving up his or her membership on council.
- (c) The Council may, by a unanimous vote of the Council members other than mayor, remove the mayor from the office of mayor.
- (d) In the case of either (b) or (c) a replacement shall immediately be elected by a majority vote of Council and serve for the remainder of the term.

A copy of the existing City Charter, including the existing referenced section is available for review in the City Manager's Office, 345 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.

All persons interested will have an opportunity to express their views at this public hearing. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

SPECIAL MEETING

CITY OF HARRISONBURG

Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against the City Charter Amendment. There being no one desiring to be heard, the public hearing was declared closed at 7:38 p.m., and the regular session reconvened.

Some discussion and comments by Council Members included concern about how many times the removal of the Mayor could be invoked in a two-year period; whether it could cycle throughout the entire Council; if a cause needed to be stated for removing the Mayor; whether decision should be unanimous; existing section in City Code states how all vacancies occurring from any cause are filled; why doesn't this section apply?

Following further discussion and comments, Council Member Frank offered a motion to make a recommendation to the General Assembly to amend Section 7 of the Charter of the City of Harrisonburg. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

No - Mayor Fitzgerald

Absent None

Mayor Fitzgerald announced that presentation of the City's CAFR, Comprehensive Annual Audit Report, for the year ended June 30, 2003 will be postponed until the November 25th Council meeting.

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

SPECIAL MEETING

Resolution of the City Council of the

City of Harrisonburg, Virginia Regarding Financing for the Simms Continuing Education Center and the City's Assumption of the Architect Contract

WHEREAS, the City Council of the City of Harrisonburg, Virginia (the Council), has determined that the City of Harrisonburg, Virginia (the City), has an immediate need for funds with which to finance certain construction, capital improvement and renovation costs to be undertaken for the benefit of the Simms Community Center facility currently owned by the City and located at 620 Simms Avenue, Harrisonburg, Virginia 22802, together with related expenses (the Project); and

WHEREAS, the Council desires to take and authorize certain actions with respect to the proposed financing and with regard to the City's assumption of an Architectural Contract with respect to the Project at this time.

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

1. It is determined to be necessary and expedient for the City to finance the costs of the Project, to borrow money for such purpose and to issue the City's general obligation public improvement bonds and/or notes therefor.

2. Pursuant to the Public Finance Act of 1991 (the Act), there are authorized to be issued one or more series of general obligation public improvement bonds and/or notes of the City in a principal amount not to exceed \$6,500,000 (collectively, the Bonds), to provide funds, together with other available funds, to finance the costs of the Project.

2. Pursuant to the Public Finance Act of 1991 (the Act), there are authorized to be issued one or more se

SPECIAL MEETING

3. The Bonds shall bear such date or dates, mature at such time or times not exceeding 40 years from their date or dates, bear interest at such rate or rates, be in such denominations and form, be executed in such manner and be sold at such time or times and in such manner as the Council of the City may hereafter provide by appropriate resolution or resolutions. The Bonds will be issued only after the Council, with advice and assistance from the City's counsel and bond counsel, has approved the financing documents in substantially final form and has received, among other things, the approving opinion of bond counsel as to the qualification of the Bonds under applicable law.

4. The Bonds shall be general obligations of the City for the payment of principal of and premium, if any, and interest on which its full faith and credit shall be irrevocably pledged.

5. The Council hereby agrees to the appointment of LeClair Ryan, A Professional Corporation, as bond counsel in connection with the issuance of the Bonds and the financing of the Project.

6. To the extent applicable and necessary, in adopting this resolution the Council intends to evidence its official intent to reimburse Project expenditures with proceeds from the issuance of the Bonds within the meaning of Treasury Regulations Section 1.150-2 promulgated by the Internal Revenue Service pursuant to the Internal Revenue Code of 1986, as amended.

7. The City Manager, the Mayor, the Vice Mayor, and such officers, employees and agents of the City as they may designate, are authorized and directed to take such further actions and to execute and deliver any and all instruments, certificates and other documents required to carry out the purposes of this Resolution.

8. All prior acts of the City Manager, the Mayor, the Vice Mayor and other officers, agents or representatives of the City that are in conformity with the purposes and intent of this Resolution and in furtherance of the completion of the Project, the plan of financing for the Project, and the issuance and sale of the Bonds are hereby approved and ratified.

4. The Bonds shall be general obligations of the City for the payment of principal of and premium, if any, and

SPECIAL MEETING

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution in the Circuit Court having jurisdiction over the City in accordance with Sections 15.2-2607 and 15.2-2627 of the Act.

10. The Council previously authorized the signing of a construction contract with a properly chosen contractor. The Council now authorizes Roger D. Baker, City Manager, and Joseph G. Fitzgerald, Mayor, either of whom may act, to sign an agreement on behalf of the City to assume the responsibilities and rights of the Harrisonburg Redevelopment and Housing Authority with respect to an architectural contract concerning architectural services that have been and continue to be provided by The Troyer Group, Inc. with respect to the Project.

11. This Resolution shall take effect immediately.

The undersigned Clerk of the City Council hereby certifies that the foregoing is a true, correct and complete copy of a resolution duly adopted by a majority of the members of the Council present and voting during the meeting duly called and held on November 11, 2003, and that such resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof. A summary of the members present or absent at such meeting, and the recorded vote with respect to the foregoing resolution, is set forth below:

	AYE	NAY	ABSTAIN	ABSENT
Joseph Fitzgerald	X			
Larry M. Rogers	X			
Carolyn Frank	X			
Dorn Peterson	X			
Hugh J. Lantz	X			

WITNESS my hand and the seal of the City this November 11, 2003.

Clerk, City Council of the City of

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution

SPECIAL MEETING

Harrisonburg, Virginia

Harrisonburg Redevelopment and Housing Authority Director Michael Wong said adopting this resolution is necessary in order to proceed with the financing for the Lucy F. Simms Continuing Education Center (Simms Project) and assumption of the architect contract. Council Member Peterson offered a motion to adopt the resolution. 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 the following resolution for Council's consideration of approval:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE VIRGINIA PUBLIC SCHOOL AUTHORITY OF ITS SCHOOL REFUNDING BONDS (1997 RESOLUTION) SERIES 2003 B, A PORTION OF THE PROCEEDS OF WHICH REFUNDED THE CITY OF HARRISONBURG GENERAL OBLIGATION SCHOOL BONDS, SERIES 1994 A; AND AUTHORIZING ANY OTHER ACTIONS NECESSARY TO ACHIEVE THE OBJECTIVES CONTEMPLATED HEREBY

WHEREAS, the Virginia Public School Authority (the "Authority") pursuant to a resolution duly adopted on June 26, 1991, as amended, restated and supplemented (the "1991 Resolution") issued bonds ("1991 Resolution Bonds") for the purpose of purchasing general obligation school bonds of certain cities and counties within the Commonwealth of Virginia;

WHEREAS, the Authority has issued under the 1991 Resolution a certain series of 1991 Resolution Bonds designated as "Virginia Public School Authority School Financing Bonds (1991 Resolution) Series 1994 A" (the "Series 1994 A Bonds");

WHEREAS, the Authority used a portion of the proceeds of the Series 1994 A Bonds to purchase certain duly authorized and issued general obligation school bonds of the City of Harrisonburg, Virginia (the "City")

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution.

SPECIAL MEETING

designated the City of Harrisonburg General Obligation School Bonds, Series 1994 A ("Local School Bonds");

WHEREAS, the Authority refunded its Series 1994 A Bonds (the "Refunded Bonds") from a portion of the proceeds of its Virginia Public School Authority School Financing and Refunding Bonds (1997 Resolution) Series 2003 B (the "Refunding Bonds") issued pursuant to a resolution duly adopted by the Authority on October 23, 1997 (the "1997 Resolution");

WHEREAS, the Authority in refunding the Refunded Bonds has pledged the Local School Bonds for the benefit of the holders of bonds issued under its 1997 Resolution;

WHEREAS; the Authority is required to assist the underwriters (the "Underwriters") of the Refunding Bonds with their duty to comply with Securities and Exchange Commission ("SEC") Rule 15c2-12 (the "Rule");

WHEREAS, the Authority has requested the City to execute a Continuing Disclosure Agreement in order for the Authority to assist the Underwriters in complying with the Rule, and;

WHEREAS, the City Council of the City of Harrisonburg, Virginia considers it to be advisable for the City to fulfill the request of the Authority to execute a Continuing Disclosure Agreement;

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

1. Continuing Disclosure Agreement.

The City Manager of the City Council and such officer or officers as he may designate are hereby authorized to enter into a Continuing Disclosure Agreement in the form attached as Appendix A hereto, containing such covenants as may be necessary in order for compliance with the provisions of the Rule, and any other documents the Authority deems necessary to comply with the SEC rules and any Internal Revenue Service rules and regulations regarding maintaining the tax -exempt status of the bonds.

2. Further Actions.

The members of the City Council and all officers, employees and agents of the City are hereby authorized to take such action as they or anyone of them may consider necessary or desirable in connection with the execution and delivery of the Continuing Disclosure Agreement and maintaining the tax-exempt status of the bonds, and any such action previously taken is hereby ratified and confirmed.

3. Effective Date

This resolution shall take effect immediately.

* * * *

The undersigned City Clerk of the City Council of the City of Harrisonburg, Virginia hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the City Council held on November 11, 2003 and of the whole thereof so far as applicable to the matters referred to in such extract. I

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution.

SPECIAL MEETING

hereby further certify that such meeting was duly held and complied with all requirements of law.

City Clerk of the City Council

City School Business and Finance Director Triplett said adopting this resolution allows the process to proceed with getting these funds into a SNAP account. The funds must be used for school capital projects. Council Member Frank offered a motion to approve this resolution. 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 the following resolution for Council's consideration of approval:

RESOLUTION

WHEREAS, the Federal Transportation Administrator has been delegated authority to award Federal financial assistance for a transportation project;

WHEREAS, the grant or cooperative agreement for Federal financial assistance will impose certain obligations upon the Applicant, and may require the Applicant to provide the local share of the project cost;

WHEREAS, the Applicant has or will provide all annual certifications and assurances to the Federal Transit Administration required for the project;

NOW, THEREFORE, BE IT RESOLVED BY HARRISONBURG CITY COUNCIL

1. That the Director of Public Transportation is authorized to execute and file an application for Federal assistance on behalf of City of Harrisonburg with the Federal Transit Administration for Federal assistance authorized by 49 U.S.C. chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration. The Applicant is the Designated Recipient to apply for Urbanized Area Formula Program assistance.

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution.

SPECIAL MEETING

2. That the Director of Public Transportation is authorized to execute and file with its applications the annual certifications and assurances and other documents the Federal Transportation Administration requires before awarding a Federal assistance grant or cooperative agreement.

3. That the Director of Public Transportation is authorized to execute grant and cooperative agreements with the Federal Transit Administration on behalf of the City of Harrisonburg.

The undersigned Clerk of the City Council hereby certifies that the foregoing is a true, correct and complete copy of a resolution duly adopted by a majority of the members of the Council present and voting during the meeting duly called and held on November 11, 2003, and that such resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof. A summary of the members present or absent at such meeting, and the recorded vote with respect to the foregoing resolution, is set forth below:

	AYE	NAY	ABSTAIN	ABSENT
Joseph Fitzgerald	X			
Larry M. Rogers	X			
Carolyn Frank	X			
Dorn Peterson	X			
Hugh J. Lantz	X			

WITNESS my hand and the seal of the City this November 11, 2003.

Clerk, City Council of the City of Harrisonburg,

Virginia

(SEAL)

City Manager Baker said adoption of this resolution authorizes filing the grant application with the Federal Transit Administration. It also authorizes the Director of Public Transportation to sign all documents and application. Council Member Peterson offered a motion to adopt this resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution.

SPECIAL MEETING

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent - None

The next item of business was a brief overview of the First Tee Program at Heritage Oaks Golf Course. David Johns introduced Allison Graham, the First Tee Coordinator. Ms. Graham said the mission of the First Tee Program is essentially to introduce children to the game of golf without any monetary restrictions. Golf skills taught include basic putting, full swing, ethics of golf, rules of golf, and life skills. Children entered into the program have access to the driving range, 18-hole golf course, three hole short course or practice area. The children also receive a First Tee golf shirt. In 2002, 105 participants were registered in the program. In 2003, 268 participants were registered in the program. She also noted that the program has a waiting list. Hopefully next year the program will have more volunteers and more sessions will be added to accommodate for the growth in the program. Funding is provided through private and corporate donations, a grant from Weed and Seed Program, and a team of fundraisers. A \$30,000 grant was received from the United States Golf Association.

The next item of business was a request from Central Shenandoah Planning District Commission to appoint an individual to a Bicycling Advisory Committee. City Manager Baker said that a group of citizens throughout the region has formed Citizens for Safe Cycling. Funding may also be available through the recently formed Rockingham-Harrisonburg Metropolitan Planning Organization (MPO) for areas included in the MPO boundaries. Council Member Peterson offered a motion to nominate Thomas Jenkins to the Bicycle Advisory Committee. The motion was approved with a unanimous vote of Council.

The next item of business was distribution of Dog and Cat Sterilization Funds received from the Department of Motor Vehicles. Council Member Frank offered a motion to distribute the funds between Valley Cats and Cats Cradle. 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 presented a certified receipt of 2003 government election results provided by the Electoral Board.

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution.

SPECIAL MEETING

Senate of Virginia 26th District

Mark D. Obenshain 2832

Rodney L. Eagle 2471

House of Delegates 26th District

-

Glenn M. Weatherholtz 2732

Lowell L. Fulk 2740

Commonwealth's Attorney

Marsha L. Garst 4623

Sheriff

William W. Buddy Farris, Jr. 1808

Donald W. Farley 3569

Soil and Water Conservation Director

David G. Frackelton 2765

Scott W. Strickler 3252

Council accepted the election results and asked the City Clerk to enter the names into the official minutes.

The next item of business was amending Section 2-3-3 (City Council; Agenda Development) of the Harrisonburg City Code. Council Member Peterson said this ordinance adopts certain procedures for developing the agenda for Council meetings as well as the conduct of meetings.

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution.

SPECIAL MEETING

The following discussion by Council Members relative to the proposed procedures included: City Manager determines what items are placed on the agenda; providing another avenue if a request by a citizen is denied by the City Manager; clarifying language how a citizen can place an item on the agenda; whether it takes two or more Council Members to request that an item be placed on the agenda; or if a single Council Member or the Mayor can invite citizens to speak on an agenda item when no public hearing had been announced; avoid limiting citizens ability to speak to Council; discussing items in regular or closed session; and whether presentation of any single agenda item should be limited to fifteen minutes. Following further discussion and comments, Council Member Peterson offered a motion to delay taking any action on adopting Section 2-3-3 until the next Council meeting. The motion also included changing the wording in Section A1 as suggested by Council Members and requested that City Attorney Miller combine the current City Code Section 2-3-10 under Section 2-3-3 (C) of the City Code. The consensus was unanimous to delay this agenda item until the next Council meeting.

The next item of business was amending Section 2-3-4 (City Council; Council Administrative Procedure) of the Harrisonburg City Code. Council Member Peterson said this proposed memoranda provides guidance and states that at least once every two years during the meeting at which newly elected members are inducted, as prescribed in Section 42 of the Charter of the City of Harrisonburg, and more often as seen fit, the Council shall review previously approved memoranda of Council administrative procedures and shall reapprove such memoranda, with any amendments, deletions or additions agreed to by a majority of the Council. Council Member Peterson offered a motion to amend Section 2-3-4 of the City Code for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

No - Mayor Fitzgerald

Absent None

The next item of business was amending Section 2-4-1 (City Council; Refusal/Reduction of Council Pay) of the Harrisonburg City Code. Council Member Peterson said that changing this ordinance would allow any City Council Member to refuse any pay or pay increase, in whole or in part, for any reason. Council voted to change the salaries of Council Members on October 14, 2003 increasing the Mayor's salary from \$3,000 per year to \$15,000. Council Member salaries will change from \$2,400 per year to \$12,000. This

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution.

SPECIAL MEETING

change will be effective July 1, 2004. Council Member Peterson offered a motion to amend Section 2-4-1 of the City Code for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

No - Mayor Fitzgerald

Absent None

The next item of business was amending Section 3-1-6 (City Administrator; Budget Submission) of the Harrisonburg City Code. Council Member Peterson said this ordinance changes the date for the first presentation of the budget for the upcoming fiscal year to no later than the second regular Council meeting in March. City Manager Baker said staff tries to present the budget to Council as early as possible. However, at times it is difficult because the General Assembly has not provided all of the information needed in preparing the City's budget. Council did not take any action on this agenda item.

The next item of business was whether to consider adopting Memoranda of Council Administrative procedures.

The following discussion by Council Members relative to the proposed procedures included: Section 39 of the City Charter contained information for communications between Council Members and City staff; speakers appearing before Council during public hearings; speakers only need to state name and locality; and travel and expenses incurred by Council Members exceeding \$300.00. City Attorney Miller will revise these procedures for consideration at the next Council meeting.

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these seized asset funds will be used to decal patrol vehicles, motorcycles and a DARE vehicle. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$11,100.00 chge. to: 1000-31010 State asset seizure

\$11,100.00 approp. to: 1000-310431-48151 Motor Vehicles & Equipment

The recorded roll call vote was taken as follows:

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution.

SPECIAL MEETING

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Absent None

David Briggman, a resident of Keezletown, said the Harrisonburg City Council is very open in allowing citizens to speak. He said other localities only allow the public to speak at a public hearing. He suggested adding a public comment period after the consent agenda.

At 9:01 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, where such consultation or briefing in an open meeting would adversely affect the negotiating or litigating 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). Discussion or consideration of the acquisition of real property for a public purpose, or the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.3 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 11:00 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of Council: I certify to the best of my knowledge and belief that (1) only public 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

9. The City's counsel is authorized and directed to see to the prompt filing of a certified copy of this resolution.

SPECIAL MEETING

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.

At 11:02 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

SPECIAL MEETING

REGULAR MEETING

NOVEMBER 25, 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 Chief of Police Donald Harper.

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

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading approval of a Supplemental Appropriation for the Police Department. The motion also included the second reading adopting Section 2-3-4 and 2-4-1 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

John Aldridge, a representative from Brown, Edwards & Company, presented the 2003-2003 Comprehensive Annual Financial Report. He said that his firm and the City have to comply with certain standards and guidelines set by the Governmental Accounting Standards Board (GASB) and the Commonwealth of Virginia Auditor of Public Accounts. Mr. Aldridge expressed his appreciation to the Finance Department for all of their assistance. The City will receive an unqualified opinion, which is the

SPECIAL MEETING

highest level of assurance placed on financial statements. He reviewed some changes in the financial report that occurred because of state law changes.

The next item of business was a brief presentation by Kevin Leigh, President of the Rockingham-Harrisonburg SPCA. He said that for four years with the hard work of the SPCA Board, staff and many volunteers along with the support of the community the dream of a new shelter is a wonderful reality. Lantz Construction has begun working on the new facility. The community's new home for lost or unwanted pets should be completed by August 2004. The new animal care facility will enhance the well being of animals in the community by having better housing conditions and longer holding periods, all in the hope of finding our four legged friends new homes and families. This is the number one mission of the SPCA. He thanked City Council and the City Manager for supporting the SPCA's new community animal shelter.

Council Member Frank offered a motion to award a contract for renovation to the Rockingham-Harrisonburg District Courts Buildings to Nielson Builders Inc. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

The next item of business was a resolution approving the issuance and sale of general obligation bonds for the HRHA. Harrisonburg Redevelopment and Housing Authority Michael Wong said that this resolution authorizes selling the general obligation bonds for the Lucy F. Simms Continuing Education Center. This resolution finalizes the action taken at the November 11, 2003 Council meeting. Council Member Peterson offered a motion to adopt the resolution. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

SPECIAL MEETING

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

The next item of business was a presentation by Harrisonburg Downtown Renaissance. Eddie Bumbaugh, Executive Director of Harrisonburg Downtown Renaissance, presented a brief summary of HDR's progress and accomplishments during the last three months. A lot of ideas and opportunities have been shared with the group. Plans and visions for the future were shared at a recent Organizational Committee meeting, including starting a membership drive. He reviewed activities of the Promotion Committee. The group wants to re-establish Court Days on June 12 and he said a request would be made at a later date to close certain streets for the event. The group is working with Citizens for Downtown for many activities. He also briefly reviewed Jamestown 2007, which is hoping that every community in the state will plan something to capture the heritage of the area. The Design Committee hopes to display banners and provide flowering pots in the downtown area. Council Member Peterson offered a motion to approve a street closing for June 12th subject to normal approval process by the City Manager and other Department Heads involved. The motion was approved with a unanimous vote of Council.

The next item of business was a discussion of adding public comment time after the Consent Agenda.

The following discussion by Council Members included: Questioned speakers appearing before Council not being residents of the City; opening the floor to any suggestion; and providing as much openness as possible. Council requested that City Attorney Miller provide language in a modification of the ordinance to include a comment period for public input. The language should reflect that this period is reserved for public comments of items not on the agenda.

The next item of business was adopting Section 2-3-3 (Certain procedures concerning the development of the agenda for Council meetings and the conduct of the meetings) and repealing Section 2-3-10 of the Harrisonburg City Code. Council Member Peterson reviewed the suggested changes made at the November 11th Council meeting. Council Member Peterson offered a motion to amend Section 2-3-3 of the Harrisonburg City Code for a first reading and repealing Section 2-3-10 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

SPECIAL MEETING

Council Member Frank

Council Member Lantz

No - Mayor Fitzgerald

Absent None

The next item of business was adopting Memoranda of Council Administrative procedures . These memorandums adopt procedures for communications between Council Members and City staff, speakers appearing before Council during public hearings, and travel and expenses incurred by Council Members. Following further discussion and comments, Council Member Lantz offered a motion to adopt these procedures. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

No - Mayor Fitzgerald

Absent None

The next item of business was authorizing the City Manager to send a letter of intent to the Department of Criminal Justice Services. City Manager Baker said that the City and County are eligible to receive grant funds for substance abuse treatment for juveniles in our jurisdiction. The total amount of grant last year was \$12,578 with no local match; however, a local match is required the second year in the amount of \$1,247 or 10% of the grant awarded the City share would be \$573.50. Council Member Frank offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

SPECIAL MEETING

Council Member Peterson

Council Member Frank

Council Member Lantz

No - Mayor Fitzgerald

Absent None

The next item of business was authorization of additional services for the City/County radio system. Assistant City Manager Hodgen said that the radio project has been moving in between phases; however, the consultants were only authorized to go phase by phase. Phase 1 (Needs Assessment) and Phase 2 (Preparation of Specifications) has been completed. It is now necessary to proceed with Phase 3 (Procurement) of the project. The total additional fee to be authorized under this request is \$231,896, of which the City's share will be \$115,948. Council Member Peterson said that the Rockingham Board of Supervisors approved the fees at their November 12, 2003, meeting subject to the City's approval of the same and the following conditions: 1) Fees for review of the additional proposals will only be incurred if additional proposals are received; and 2) No County liability will be incurred by the City or County on phases 4 and 5 until the City and County approve a bid to construct the system. Council Member Peterson offered a motion to approve these additional services with the two conditions requested by Rockingham County. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

Council Member Peterson offered a motion to approve the cancellation of the December 23, 2003 Council meeting. The motion was approved with a unanimous vote of Council.

SPECIAL MEETING

The next item of business was considering a request from the Parks and Recreation Department, Rockingham County Recreation Department and the Downtown Merchants Association to hold the annual Christmas parade. City Manager Baker explained that these groups are sponsoring the annual Christmas parade to be held on Friday, December 5th at 7:00 p.m. The parade will begin at the monument at the intersection of South Main Street and Liberty Street and will end at the corner of Gay Street and North Main Street at the Rockingham County Administrative Complex. Vice-Mayor Rogers offered a motion to approve this request. The motion was approved with a unanimous vote of Council.

Council Member Frank offered a motion that James A. McKee, 270 Campbell Street, be appointed to a second term on the Harrisonburg Electric Commission to expire on December 31, 2006. The motion was approved with a unanimous vote of Council.

Council Member Frank offered a motion to appoint Stacy Turner to the Central Shenandoah Planning District Commission. The motion was approved with a unanimous vote of Council.

Council Member Peterson offered a motion that Betty Ann Fordney, 1126 Chestnut Drive, be appointed to a first term on the Harrisonburg Parks and Recreation Commission to expire on December 31, 2007. The motion was approved with a unanimous vote of Council.

At 8:30 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, where such consultation or briefing in an open meeting would adversely affect the negotiating or litigating 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). Discussion or consideration of the acquisition of real property for a public purpose, or the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City. 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 - Vice-Mayor Rogers

Council Member Peterson

Council Member Frank

Council Member Lantz

Mayor Fitzgerald

Absent None

SPECIAL MEETING

At 9:35 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 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 in the closed session by the City Council.

At 9:36 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

REGULAR MEETING

DECEMBER 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; Carolyn W. Frank; Council Member Dorn W. Peterson; Council Member 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 adopting Section 2-3-3 and repealing Section 2-3-10 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

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

Absent - None

The next item of business was recognizing Harrisonburg's Commissioner of Revenue June W. Hosaflook. Augusta County Commissioner of the Revenue Jean Shrewsbury, speaking on behalf of the Commissioner of Revenue Association of Virginia, presented the designation of Master Commissioner of Revenue to Commissioner Hosaflook. She said that Commissioner Hosaflook has completed all the educational requirements necessary under the professional career development program administered by the Weldon Cooper Center of Public Service through the University of Virginia. The program is designed to advance the professionalism of Commissioners and their staffs. Ms. Shrewsbury said that tax administration requires special study, knowledge and skills. She said that Commissioner Hosaflook is an asset to the residents of Harrisonburg and her commitment to provide the highest level of tax assistance is demonstrated by the professional way she does her job. Ms. Shrewsbury then presented a Master Commissioner of Revenue plaque to Mrs. Hosaflook.

Mrs. Hosaflook said education is really important in the job of tax administration. She thanked management of the City for acknowledging the importance of education and its support through providing educational funding in the budget.

Planning and Community Development Director Turner introduced a request by Rodney Eagle for a special use permit to reduce the number of required parking spaces while providing open space that could be used for future parking. She said that Mr. Eagle has requested a special

use permit to reduce the number of required parking spaces for his carpet and flooring store. The property is located at 1188 Port Republic Road and is zoned B-2 General Business Classification. She reviewed the surrounding uses in the area. Following a fire at the site, Eagle Carpet is in the process of expanding their facility to a total area of 20,500 square feet. According to City parking regulation Section 10-3-25 (20), the use proposed would require one parking space for every 250 square feet of gross floor area. Eagle Carpet would be required to have no less than 82 parking spaces for their workers and customers. The B-2, General Business District, Section 10-3-91 (8) allows for a special use permit to reduce the number of required spaces so long as open space is provided to allow for additional parking spaces to meet the minimum requirements should the business or circumstances change. A letter submitted by the applicant states that he is requesting to reduce the required number of spaces from 82 to 30 parking spaces. Open space will be held in reserve for the additional 52 parking spaces should they be required. As in previous special use requests for reduction in parking, staff suggests a condition that would nullify this permit should Eagle Carpet ever vacate this property. She said that Planning Commission recommended approval of the request with the provision that the special use permit would be reviewed upon receipt of concerns to ensure that parking needs of the establishment continue to be served by the proposed parking, with City Council being able to revoke the permit, if in their determination additional spaces are needed.

At 7:39 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, November 24, and Monday, December 1, 2003.

NOTICE OF PUBLIC HEARING

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

SPECIAL USE PERMIT - EAGLE CARPET

Public hearing to consider a request by Rodney Eagle with representative, Blackwell Engineering, for a special use permit {per section 10-3-91 (8) of the Zoning Ordinance} to reduce the number parking spaces required, while providing open space that could be used for future parking. The property is located at 1188 Port Republic Road and can be found on tax map parcel 88-F-1 (2.396 acres).

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

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

CITY OF HARRISONBURG
Roger Baker
City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this special use permit. Rodney Eagle owner of Eagle Carpet said that he was available to answer any questions. There being no others desiring to be heard, the public hearing was declared closed at 7:40 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 Peterson
 Council Member Frank
 Council Member Lantz
 Vice-Mayor Rogers
 Mayor Fitzgerald

Absent – None

Planning and Community Development Director Turner introduced a request by Alleghany Partners, who is the property owner for Schewel's Furniture, for a special use permit to reduce the number of parking spaces while providing open space that could be used for future parking. The property is located at 2069 Evelyn Byrd Avenue. This proposed new facility will have 30,000 square feet of showroom space, plus an additional 10,000 square feet of warehouse area. She reviewed the surround uses in the area. According to City parking regulation Section 10-3-25 (20), the proposed use would require one parking space for every 250 square feet of gross floor area. The store would be required to provide no less than 159 parking spaces for their workers and customers. Schewel's management feels that this amount of parking is unnecessary due to past parking demand. The property owner for the new site has requested that the total number of required parking spaces be reduced from 159 spaces to 60 parking spaces with enough open space left in reserve to provide the maximum amount of parking required should the need arise. Staff has highlighted one concern that is not specifically related to this special use permit, but deals with the traffic flow on the site as well as the ingress and egress of this property. The applicant has agreed to the suggestion and is currently in the process of making the change to the plans. She said that Planning Commission recommended approval of the request with provision that the special use permit would be reviewed upon receipt of concerns to ensure that parking needs of the establishment continue to be served by the proposed parking, with the permit being null and void should Schewel Furniture Company vacate the property.

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, November 24, and Monday, December 1, 2003.

NOTICE OF PUBLIC HEARING

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

SPECIAL USE PERMIT - ALLEGHANY PARTNERS, LLC

Public hearing to consider a request by Alleghany Partners, LLC, for a special use permit {per section 10-3-91 (8) of the Zoning Ordinance} to reduce the number parking spaces required, while providing open space that could be used for future parking. The property is located at 2069 Evelyn Byrd Avenue and can be found on tax map parcel 77-K-1 (2.679 acres).

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

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

CITY OF HARRISONBURG
Roger Baker
City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this special use permit. Frank Berry, Regional Store Operation Supervisor for Schewel Furniture Company, said plans are to have as much grass and landscaping as possible in the unpaved area. There being no others desiring to be heard, the public hearing was declared closed at 7:46 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 Peterson
 Council Member Frank
 Council Member Lantz
 Vice-Mayor Rogers
 Mayor Fitzgerald

Absent - None

Planning and Community Development Director Turner introduced a request by the Rockingham Fine Arts Association to rezone property located at 486 West Market Street from R-2, Residential District to R-3C, Multiple Dwelling Residential District (conditional). The change in zoning would allow this non-profit organization to use the property for a gallery, art classes, and other related activities. The Comprehensive Plan designates this area as Neighborhood Residential. This designation states that this type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. She reviewed the surrounding uses in the area. The applicant states that the property came into the hands of the Arts Association after the owner of the property left the parcel to the organization in her will. The deed specifically designates this property for the proposed Rockingham Fine Arts Association use. The applicant has proffered that this site will only be used for a non-profit community art center. They will provide a landscape buffer to be planted and maintained along the east and north boundaries of the

property. Any lighting on this site will be projected inward towards the property so as to not illuminate the adjacent residential areas. The main concern of staff is the ability of the organization to provide the required off street parking for this new use. She said that 13 parking spaces are required according to the City's Zoning Ordinance. A submitted sketch displays the required 13 parking spaces. She said that Planning Commission recommended approval of the request with a vote of five to one.

At 7:52 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, November 24, and Monday, December 1, 2003.

NOTICE OF PUBLIC HEARING

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

REZONING – ROCKINGHAM FINE ARTS ASSOCIATION

Public hearing to consider a request by the Rockingham Fine Arts Association to rezone 22,075 Square Feet from R-2, Residential District to R-3C, Multiple Dwelling Residential District (conditional). The change in zoning would allow this non-profit organization to use property for a gallery, art classes, and other related activities. The property is located at 486 West Market Street and can be found on tax map 35-P-22.

The Comprehensive Plan designates this area as Neighborhood Residential. This area includes neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. These are older neighborhoods that can be characterized by large housing units on small lots.

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

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

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

CITY OF HARRISONBURG
Roger Baker
City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this rezoning request. John Bell, a resident of Rockingham County, said that he was the President of Rockingham Fine Arts and was available to answer any questions.

Terry Ward, a resident of Rockingham County, encouraged Council to approve this rezoning request. He said most art exhibits are displayed in bank lobbies. Displaying arts in this fine Victorian house will be a welcome addition to the community. There being no others desiring to be heard, the public hearing was declared closed at 7:57 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 Peterson
 Council Member Frank
 Council Member Lantz
 Vice-Mayor Rogers
 Mayor Fitzgerald

Absent – None

Planning and Community Development Director Turner introduced a request by Virginia Silo Company, to rezone approximately a two-acre tract of land near Erickson Avenue. She said that the applicant is requesting to change the zoning on this two-acre tract of land from R-1, Single-Family Residential District to B-2, General Business District. The Comprehensive Plan designates this area as Low-Density Residential. She reviewed the surrounding uses in the area. City staff has highlighted a few areas that will need attention before any development on this site can take place. The first issue is providing water and sewer to the property, which currently has City water available along Erickson Avenue. An easement will need to be obtained to cross over adjacent property for a water lateral. Sewer can be accessed from the rear of the property on the adjacent land owned by Wal-Mart. Again, an easement would need to be obtained. This sewer line is the property of the Town of Dayton. Because this property has no public road frontage there is no mechanism to provide signage on this property at the present time. Another issue is providing access to this parcel of land. The applicant has proposed that all traffic coming to the site will utilize an existing 50-foot access easement from the Wal-Mart property. This access agreement enters the private access road Wal-Mart constructed from the shopping center parking lot to Erickson Avenue. The majority of the 50-foot access easement deeded to the applicant runs over land located in the County. Rockingham County planning officials have stated that they would most likely require this private drive to be constructed to VDOT commercial standards. She said that Planning Commission recommended approval of the request.

At 8:01 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, November 24, and Monday, December 1, 2003.

NOTICE OF PUBLIC HEARING

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

REZONING – VIRGINIA SILO COMPANY, INC.

Public hearing to consider a request by Virginia Silo Company, Inc., with representative Daniel Brubaker to rezone one lot totaling two acres from R-1, Single-Family Residential District to B-2, General Business District. The property is located near 1720 Erickson Avenue and can be found on tax map 115-D-5.

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 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 the 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. There being no one desiring to be heard, the public hearing was declared closed at 8:02 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 Peterson
 Council Member Frank
 Council Member Lantz
 Vice-Mayor Rogers
 Mayor Fitzgerald

Absent – None

Mayor Fitzgerald announced that a request by Nelson Swartz had been withdrawn.

Planning and Community Development Director Turner introduced a request by Shenandoah Telecommunications Company (Shentel) to amend Section 10-3-85 (2) of the Harrisonburg City Code. She explained that this request would allow telecommunications equipment and facilities to be located on principle structures without having to be concealed in an enclosed structure in the B-1, Central Business District Zoning Classification. Shentel is requesting the wording of Section 10-3-85 (2) be modified to remove the words "and not attached to a principal structure." This change is requested specifically to enable the company to apply for a special use permit to locate three proposed antennas and equipment on a building in the B-1 area since Shentel has limited coverage in the downtown area. The downtown area contains many tall buildings in a compact area. She reviewed the current zoning regulations in the B-1 district. Some concerns expressed by staff included ensuring downtown aesthetically compatibility, and assuring to the extent possible, there is no interference with individual businesses accessory telecommunications uses, and allowing adjacent businesses to review potential impact on their facilities if desired. She said that Planning Commission recommended approval of the ordinance amendment.

At 8:11 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening's fifth public hearing to order. The following notice appeared in the Daily News-Record on Monday, November 24, and Monday, December 1, 2003.

NOTICE OF PUBLIC HEARING

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

ORDINANCE AMENDMENT – SPECIAL USES IN B-1, CENTRAL BUSINESS DISTRICT

Public hearing to consider a request by Shenandoah Telecommunications Company (Shentel), for an amendment to Section 10-3-85 (2) of the Zoning Ordinance, uses permitted only by special use permit, B-1, Central Business District, to allow telecommunications equipment and facilities to be located on principle structures without having to be concealed in an enclosed structure in the B-1, Central 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 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 amending Section 10-3-85 (2) of the Zoning Ordinance.

Marshall Ross, an attorney with the firm of Wharton, Aldhizer and Weaver, reviewed the technical issues concerning the engineering drawings. There being no others desiring to be heard, the public hearing was declared closed at 8:17 p.m., and the regular session reconvened. Council Member Peterson offered a motion to approve amending Section 10-3-85 of the Zoning Ordinance for a first reading. The recorded roll call vote was taken as follows:

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

Absent - None

Planning and Community Development Director Turner introduced a request by Shenandoah Telecommunications Company (Shentel) for a special use permit to allow telecommunications equipment and facilities to be located on a principle structure at 2 South Main Street. Shentel is requesting the ability to place telecommunication equipment and facilities on the roof of the building at 2 South Main Street. This building is owned by Rockingham County and used for County School Board offices, as well as offices, not associated with the county. She reviewed the surrounding uses in the area. Shentel reports they have limited coverage in the downtown area. This causes their customers to experience blocked and dropped calls. They also have limited coverage within buildings in the downtown area. Shentel is requesting permission to install three antennas and telecommunications equipment storage units on the roof of the building. Two of these antennas are proposed to be located on the outside wall of the elevator structure on the roof and the third, as well as the equipment storage, is proposed to be placed on the northeast corner of the roof. Mrs. Turner reviewed the drawings and photos submitted in Council's packet. Shentel has shown a willingness to ensure the visual impact is as minimal as possible. Provided the requested ordinance amendment to Section 10-3-85 (2) is approved to facilitate this use, staff supports a favorable recommendation of the request with the following conditions: 1) If the telecommunications equipment ceases to be used for more than 12 months, all equipment permitted under this special use will be removed from the building. 2) Only the equipment as shown on the submitted drawings shall be approved under the issuance of this special use permit. Any equipment not shown on this drawing will constitute a violation of the special use permit and make the permit null and void, causing all equipment of the company to be removed from the building's rooftop. 3) Placement of advertising of any kind is prohibited on the antennas and equipment. 4) Antenna mounted to the sides of the elevator structure shall be painted to blend in with the structure. The freestanding antenna is to be a neutral color. 5) 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 provider will need to bring the equipment into compliance. If the equipment is not brought into compliance within 10 days, the special use permit will be held null and void and all equipment approved

under issuance of this permit shall be removed from the rooftop. She said Planning Commission recommended approval.

Mayor Fitzgerald announced that it would be necessary to hold a public hearing tonight; however, a vote on the special use permit request would not be taken until the January 13, 2004 Council meeting.

At 8:18 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening's sixth public hearing to order. The following notice appeared in the Daily News-Record on Monday, November 24, and Monday, December 1, 2003.

NOTICE OF PUBLIC HEARING

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

SPECIAL USE PERMIT – SHENTEL

Public hearing to consider a request by Shenandoah Telecommunications Company (Shentel), for a special use permit {per proposed amendment to section 10-3-85 (2) of the Zoning Ordinance, described above, to allow telecommunications equipment and facilities to be located on a principle structure in the B-1, Central Business District. The property is located at 12 South Main Street and can be found on tax map parcel 34-Y-10.

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

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

CITY OF HARRISONBURG

**Roger Baker
City Manager**

Mayor Fitzgerald called on anyone desiring to speak for or against the request by Shentel for a special use permit for the equipment located on the building at 2 South Main Street. There being no one desiring to be heard, the public hearing was declared closed at 8:19 p.m., and the regular session reconvened. Council Member Peterson offered a motion to place Shentel's request for a special use permit on the January 13th consent agenda. The motion was approved with a unanimous vote of Council.

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

RESOLUTION

WHEREAS, the Industrial Development Authority of the City of Harrisonburg, Virginia (the "Authority"), has considered the request of Friendship Industries, Inc. ("Friendship") for the issuance of the Authority's revenue refunding bond in the aggregate amount of \$503,071 (the "Refunding Bond") to assist Friendship to modify and refinance the outstanding amount of the Industrial Development Authority of the Town of Bridgewater, Virginia Revenue Bond (Friendship Industries, Inc. Project), Series 1999C (the "Prior Bond"), issued on August 12, 1999, in the original principal amount of \$1,000,000 (the "Project"). The proceeds of the Prior Bond were used by Friendship to finance a portion of the acquisition, construction, expansion and equipping of new facilities, including approximately 32,500 square feet of manufacturing/warehouse space and approximately 7,650 square feet of office area, in order for Friendship to expand and enhance the training and employment opportunities for persons with disabilities, increase the number and diversity of jobs which Friendship has available for more severely disabled persons, provide additional placements for disabled persons in community employment after adequate training and work experience, and pay a portion of the cost of issuance of the Prior Bond.

WHEREAS, the Authority issues its bonds on behalf of the City of Harrisonburg, Virginia (the "City"), and the City Council of the City (the "City Council") constitutes the highest elected governmental unit of the City;

WHEREAS, the Authority has duly held a public hearing on December 9, 2003, on the issuance of the Refunding Bond upon due notice of publication therefor, and the Authority has recommended to the City Council to approve the Project and the Refunding Bond; and

WHEREAS, a copy of the Fiscal Impact Statement, a copy of the Summary of Statements at the Public Hearing, and a copy of the Authority's authorizing resolution adopted on December 9, 2003 (the "Authority Resolution") approving the issuance of the Refunding Bond, subject to the terms to be agreed upon, have been filed with the City Council as required by law.

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

1. The City Council concurs with the Authority Resolution and approves the Project and the issuance of the Refunding Bond by the Authority for the benefit of Friendship, as more particularly described in the Authority Resolution.
2. The approval of the issuance of the Refunding Bond by the City Council does not constitute an endorsement to a prospective purchaser thereof or an endorsement of the creditworthiness of the Project or Friendship.
3. The Refunding Bond shall provide that they shall not be deemed to constitute a debt or pledge of the faith and credit or taxing power of the Commonwealth of

Virginia, or any political subdivision thereof, including the Authority and the City, and neither the Authority nor any other political subdivision shall be obligated to pay the principal of, premium, if any, or interest on the Refunding Bond or other costs incident thereto, except from the revenues and monies pledged therefor, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, or any political subdivision thereof, including the Authority and the City, shall be pledged for the payment of principal or premium, if any, or interest on the Refunding Bond or other costs incident thereto.

This Resolution will take effect immediately upon its adoption.

Adopted: December 9, 2003

Mayor, City of Harrisonburg, Virginia

CERTIFICATE

The undersigned Clerk of the City Council of the City of Harrisonburg, Virginia (the "City"), hereby certifies that the foregoing Resolution constitutes a true and correct copy thereof adopted by the City Council at a regular meeting duly held and called on December 9, 2003. A record of the roll-call vote by the City Council is as follows:

NAME	AYE	NAY	ABSTAIN	ABSENT
Joseph Gus Fitzgerald, Mayor	X			
Larry M. Rogers, Vice-Mayor	X			
Carolyn W. Frank	X			
Dorn W. Peterson	X			
Hugh J. Lantz	X			

Date: December 9, 2003

[SEAL]

Clerk, City Council of the City of
Harrisonburg, Virginia

Carolyn Perry, attorney appearing as Bond Counsel for Friendship Industries, said that the Industrial Development Authority of Harrisonburg received a request to issue a refunding bond on behalf of Friendship Industries in the amount of \$503,071. The proceeds for the prior bond were used to finance a portion of the acquisition, construction, expansion and equipping of

new facilities for Friendship Industries. Mrs. Perry said that this morning, December 9th, a public hearing was held by the Industrial Development Authority of Harrisonburg who unanimously approved the issuance of a refunding bond. Approval of this resolution does not obligate the City in anyway nor does it count against the City's bond capacity. Council Member Lantz offered motion to approve this resolution as presented. The recorded roll call vote was taken as follows:

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

Absent – None

The next item of business was considering authorizing the City Manager to sign an agreement extending Cable Franchise through December 31, 2004. City Manager Baker said Adelphia Cable needed an extended signed franchise agreement to present to the attorneys handling the bankruptcy proceeding. Council Member Peterson commented that he has received complaints concerning the selection of cable channels available in the City because other similar sized cities provide a better selection with their basic rate. He suggested some comparison should be conducted with equivalent systems in Danville, Salem and Charlottesville.

Joe Price, a resident of Bridgewater, representing Adelphia said the franchise originally granted to Time Warner expired July 2002. The company has continued to operate under the terms and conditions of the franchise. The company needs a valid up-to-date license to use easements and right-of-ways in the City.

City Attorney Miller said that Harrisonburg has hired a law firm experienced in examining franchise agreements. The City receives 5% of gross revenues received by the cable company. Following further discussion and comments, Council Member Lantz offered a motion to approve authorizing the City Manager to sign an agreement extending the cable franchise through December 31, 2004. The motion was approved with a unanimous vote of Council.

Joan Strickler, Executive Director of First Night, presented a brief overview of the First Night activities. She explained that this will be the twelfth year of entertainment and family fun for the citizens of Harrisonburg and the surrounding area. Plans for this year are similar to those of past years requests for street closing and sanitation crews. She said this year is the 100th year anniversary of the Bank of American Building on Court Square. As part of the celebration, First Night will have a birthday party involving a ball drop from the sixth floor of the bank building. Mr. Doyle Hess will handle the fireworks arrangements, which will be on Court Square. Council Member Frank offered a motion to approve First Night's request for its activities and fireworks display and to close certain streets. The motion was approved with a unanimous vote of Council.

The next item of business was a request from the School Board to approve proceeding with architect and engineering services for renovation of the current high school.

Tom Mendez, Chairman of the Harrisonburg City School Board read the following letter: "Thank you for the opportunity to be on the agenda tonight. Based on previous presentations made to Council, as well as discussions that have occurred between Council and the School Board, you are aware that the Board's long-range capital improvement plan includes completion of the new high school, renovation of the existing high school for use as a 7th & 8th grade school and central office, and purchase of additional land followed by construction on that land of a fifth elementary school.

This plan addresses the challenges we face educating our growing student enrollment in facilities that are occupied well beyond their intended capacities. Most importantly, the board unanimously adopted this plan one year ago after several months of analyzing school enrollment data, making enrollment projections, and meeting extensively with staff, parents and community members, both to seek input as well as to make information available.

When the Board came to Council last spring to present this plan, we were asked to examine if any other options were available. The Board looked more carefully at its plan, particularly considering facility use and timing issues. We came back to Council and said that while it was optimal, it appeared reasonable to delay construction and opening of a new K-4 elementary school until 2007. I believe Council received this report from the Board favorable and indicated that it would be appropriate for the Board to pursue finding land. We continue that search and have focused our primarily attention on the Northeast area of the City.

At that meeting, we were asked how much time we had before a decision had to be made on the renovations and we informed you that December was our drop-dead date. We were asked to supply additional financial information along with details of the renovations contemplated at the existing high school. That information was provided as requested and we extended an offer to Council Members to tour the high school to see first hand what renovations were needed to preserve the middle school team teaching environment. We are pleased that most of you accepted this offer and I know that all of you are generally aware of the renovations planned.

I want to be certain to convey that throughout this process, the school board has continuously sought to balance the educational needs of our school system with a fiscally prudent and conservative approach. For example, while it would be logistically and arguably educationally more beneficial to relocate the library to a more central location, the school board voted to save the additional \$1.2 million estimated cost of doing so, as we recognize our needs extend beyond the renovation of the high school. It is also very important for you to know that we have thoroughly explored a variety of options to address our needs, but we do not believe that we currently have other viable alternatives available. Thus, it is important for us to proceed with our adopted plan, which is both fiscally sound and educationally appropriate.

As you may have read in today's newspaper, steady progress is being made on the construction of the new high school. Despite the challenges Mother Nature has dealt to us, we anticipate moving from the current high school building to the new facility on Garber's Church Road in late December or early January of next year.

The anticipated cost of renovating the existing high school building is \$3.4 million and a bond issue will be needed. It is critical that we follow a timeline that allows the actual renovations to begin in early January 2005 so that the building can be ready for occupancy by the 7th and 8th graders in late August 2005.

To accomplish the above, we need to take the first step of having our architects begin renovations drawings in January so that the project can be bid in late summer or the early fall of 2004 and a general contractor can be on board by mid-fall, 2004.

My original intent, as directed by the school board, was to request from Council tonight a supplemental appropriation in the amount of \$175,000 so that we can authorize the architects to begin their work. However, because other large supplemental appropriations were already on the agenda, I realize that it was not possible for that request to be made tonight.

Instead, I am here tonight to outline, as I have above, the timeline that we face, and to request that Council authorize the School Board to proceed with architect and engineering services for renovation of the high school, with the understanding that the actual supplemental appropriation must be acted on later. Dr. Ford and I would be very happy to answer any questions you may have at this time. Thank you."

Council Members agreed to hold a joint meeting with the School Board at 6:00 p.m., on January 13, 2004.

Public Transportation Director Smith presented a request for a supplemental appropriation for the Transportation Department. He explained that this grant money will be used to purchase two (2) additional transit buses for a total of six (6) buses of which four buses were included in the budget. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$ 45,577.00 chge. to: 2013-34210 Transfers from general fund
 364,620.00 chge. to: 2013-33305 Transit Capital Grant Buses Federal
 45,577.00 chge. to: 2013-32518 Transit Capital Grant State

\$455,774.00 approp. to: 2013-872081-48253 Transit Buses

\$ 45,577.00 chge. to: 1000-940111-49310 Reserve for contingencies

\$ 45,577.00 approp. to: 1000-990111-49270 To Transportation Fund

The recorded roll call vote was taken as follows:

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

Absent – None

Mayor Fitzgerald presented for Council's consideration an ordinance repealing and re-enacting Section 4-2-24 of the Harrisonburg City Code. Commissioner of the Revenue Hosaflook explained that this ordinance provides an extension-filing deadline for first-time applicants or for hardship cases. It will also follow the state code. Taxpayers were not noticing until after the May 1st deadline, information printed on tax bills advising taxpayers about the tax relief for the elderly and permanently disabled. She said that the City bills twice a year and by changing this ordinance to allow the extension of the deadline for first-time applicants or for hardship cases from May 1st until June 30th should allow more people to apply for the relief. Council Member Peterson offered a motion to approve repealing and re-enacting Section 4-2-24 of the Harrisonburg City Code for a first reading. The recorded roll call vote was taken as follows:

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

Absent – None

Mayor Fitzgerald presented for Council's consideration an ordinance repealing and re-enacting Section 4-2-26 of the Harrisonburg City Code. Commissioner of the Revenue Hosaflook explained that amending this ordinance would increase the penalty for falsely or fraudulently claiming the tax relief for elderly and permanently disabled. Providing false information to the Commissioner changes the penalty to a Class 1 misdemeanor. She said that since this provision is included in the state code section, she recommended changing the City Code to match the State Code. Council Member Peterson offered a motion to repeal and re-enact Section 4-2-26 of the Harrisonburg City Code for a first reading. The recorded roll call vote was taken as follows:

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

Absent – None

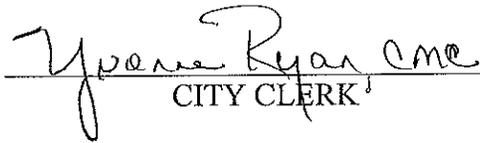
Mayor Fitzgerald presented for Council's consideration an ordinance repealing and re-enacting Section 4-2-27 of the Harrisonburg City Code. Commissioner of the Revenue Hosaflook explained that this section in the City Code refers to a section of the State Code, which no longer exists. She requested that Section 4-2-27 be repealed. Council Member Peterson offered a motion to repeal Section 4-2-27 of the Harrisonburg City Code for a first reading. The recorded roll call vote was taken as follows:

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

Absent - None

Council Member Peterson offered a motion that Donn E. Meyerhoeffer, 486 Andergren Drive, be appointed to a first term on the Harrisonburg Electric Commission to expire on December 31, 2006. The motion was approved with a unanimous vote of Council.

At 9:00 p.m., there being no further business and on motion adopted the meeting was adjourned.


CITY CLERK


MAYOR