

REGULAR MEETING

MARCH 9, 2004

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.

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

Bill Whalen, a resident of Harrisonburg, said that unless taxes and real estate were mixed correctly, it could affect the taxpayers and property owners of the City. City government and special interest groups have been working closely with each other to acquire downtown property either through acquisitions or donations.

Council Member Lantz raised a "Point of Order". He said, "I don't believe this subject has anything to do with our body as far as City government is concerned and I think it's out of order."

Mayor Fitzgerald commented that when recent changes were made to the ordinance Council Members agreed to allow citizens to address issues that were not on the current agenda. He said certain issues taking place in the City downtown area might be of interest to citizens in the City and perhaps they want to encourage Council to take a particular action. "Under the rules Council has set up and rules observed in the past for letting people comment on matters not on the agenda, I can't think of any grounds to ask Mr. Whalen to step down."

Council Member Peterson said, "This is a business meeting of the City Council and the reason for the comment period is for the citizens to be able to bring items to Council for our consideration and for our business. The comment period is not meant as a place where people can make political speeches."

Vice-Mayor Rogers said, "Council Member Peterson has a point because Mr. Whalen is a candidate running for City Council who is raising issues on taxes and other things. Since Mr. Lantz has asked for a 'Point of Order' decision, Council should vote whether Mr. Whalen should be allowed to continue speaking."

Council Member Lantz said, "What is purpose of this body? Are we talking about City matters or are we letting people talk about their children's birthday parties?"

Mayor Fitzgerald reminded Council Members that changes in Title 2 of the City Code were unnecessary, were probably made too quickly, which could lead to unexpected

consequences. “Now we are facing a problem. Do we ask Mr. Whalen to stand down? I will entertain a motion.”

Council Member Lantz said when the new procedures were established it did not include making political speeches. The change was made to avoid having people sitting in the audience until 10:00 p.m., or to get to the end of agenda before they could address City Council about City business. Mr. Whalen’s speech is nothing that this body needs to react too. It is all political in nature because he is running for City Council. The purpose of this body is to conduct business for the citizens of Harrisonburg.

Mayor Fitzgerald reminded Council that what Mr. Whalen has been speaking about is downtown revitalization. He said, “It may not be on tonight’s agenda, but it has been on the agenda frequently and it will be on the agenda in the future.” He said certain matters were discussed four years ago at Council meetings because two members of the Council brought it up. “Are we changing the standards four years later? Are we going to change the standards and tell somebody to sit down because we feel the only reason he is speaking is because he might be trying to unseat several Council Members?”

Mayor Fitzgerald ruled that Bill Whalen was not out of order.

Council Member Peterson appealed the decision and asked for clarification of the aye or no vote.

Mayor Fitzgerald clarified that an aye vote upholds the ruling of the chair. A no vote upholds the appeal.

Council Member Lantz said Council was not discouraging citizens to address issues concerning the City. However, to talk about conspiracies is inappropriate and is not conducive to what this body is trying to accomplish.

The recorded roll call vote was taken as follows:

Vote: Abstained – Council Member Frank

No - Council Member Lantz
Vice-Mayor Rogers
Council Member Peterson

Yes - Mayor Fitzgerald

Absent – None

Mayor Fitzgerald advised Bill Whalen that he could not address City Council this evening and he was asked to leave the podium.

Ruth Dae Scott, a resident of Harrisonburg, said she thought sidewalks should be installed in all the developed areas of the City. It is unsafe to walk in the streets because there aren't any sidewalks. She also said that the Comprehensive Plan presented to City Council at the February 24th meeting mentioned targeted growth, businesses, housing development and tourism, but nothing was mentioned about how to handle the growth of the Police Department, Fire Department, Rescue Squad, and the schools.

Bucky Berry a resident of Harrisonburg complained again about the many trailers at the schools being used as classrooms.

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading approval of a Supplemental Appropriations for the Fire Department and the Simms School Project. The motion also included referring an alley-closing request to the Planning Commission. 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

Dr. James Perkins, President of Blue Ridge Community College, presented an overview of the progress Blue Ridge Community College is making in serving the needs of the City of Harrisonburg. Board members, Kathy Whitten and Jane Prey, were also present. The Robert E. Plecker Workforce Center facility offers a wide variety of training services in area businesses as well as serving as a conference center. Since 1999, the growth at the Harrisonburg Center of BRCC is approximately 18%. Highlights of the college include record enrollment in credit and in non-credit classes. Enrollment from 2000-2001 has increased by 35%. The Carl D. Perkins Act, which is a Federal Act funding programs for technical education at BRCC, ranked first on measures of academic skills and technical skills among all 23 community colleges in Virginia. The Fall-to-Fall Retention ranked first in the system among all 23 community colleges and the graduation rate was third in the system. Continuing education is another category in which Blue Ridge rated highly in the annual comparison. BRCC ranked first in sending students enrolled in transfer degree programs on to further their education after graduation. More than 61% of the students who graduated immediately went on to another college or training school, compared to an average of 52% statewide. Dr. Perkins reviewed the college site master plan. He thanked Council for the City's financial support to the college, which has been an excellent investment in the future of Harrisonburg.

Robin Iten Porter, Executive Director of the Arts Council of the Valley (ACV), presented an overview of ACV's activities for 2003 and plans for 2004. She introduced several of the ACV Board of Directors Members present. Charles Martorana, a member of the Executive Committee, thanked City Council for its support of the arts in the community. Highlights of the accomplishments of the ACV include awarding \$52,000 in grants to support a broad range of arts

activities; supported the Harrisonburg and Rockingham Educational Foundations; served over 12,000 patrons at the Court Square Theater; acknowledged that the Court Square Theater hosted over 40 programs presented by community organizations; created the Latino Film Festival; held special screening for Harrisonburg City elementary and middle school ESL students; drew over 5,000 people last year for an overwhelmingly successful Valley 4th celebration; successfully concluded the “incubator” relationship with Harrisonburg Children’s Museum; and supplied 150 ticket vouchers to the Redevelopment and Housing Authority for its clients. Mr. Martorana said that Robin Iten Porter, Executive Director, was nationally recognized by Americans for the Arts as one of the “Top Five Emerging Leaders” in the field of arts administration and was appointed to its Emerging Leaders Council, as well as receiving a scholarship to attend a national arts conference in Portland, Oregon.

The next item of business was a presentation by the Weed and Seed Program. Ramona Rogers, Program Coordinator for the Harrisonburg Weed and Seed Program reviewed the program mission statement. One element of the “Seed” program refers to efforts to keep behavior problems from occurring and efforts to reduce the negative impact in communities. This component focuses on providing opportunities for healthy development and growth of all residents. Another “Seed” element is neighborhood restoration focusing on long-term physical, economic, and social changes in the targeted neighborhoods so that crime and disorder will not thrive. Weed and Seed is not a grant program. It is a strategy program helping residents of a neighborhood to empower by taking back their community. Residents can accomplish this by building a relationship with each other, law enforcement, local agencies and local government to eliminate violent crimes, drug trafficking, and drug-related crimes. Hopefully this accomplishment will provide a safe environment, crime free neighborhood, and family oriented communities. The goals of Weed and Seed are to strengthen neighborhoods by law enforcement, develop community policing, and using prevention/intervention/treatment for neighborhood restoration. Mrs. Rogers reviewed a neighborhood restoration focus program and accomplishments. She also reviewed supported programs and mini-grant recipients. Weed and Seed summer 2004 projects include restoring and developing two playgrounds within target neighborhoods. One proposed site is on the corner of Broad and Kelly Street, which is owned by the First Baptist Church. The church has agreed to lease the land to the Weed and Seed program for a \$1.00 per year. The other proposed site is located at end of Norwood Street, which is owned by the City. Weed and Seed would only use a portion of the site. The cost of the park projects is \$30,000. Weed and Seed has \$20,000 for the projects and are applying for grants and seeking donations for the remainder of the cost. She requested Council approval to place a playground on the upper part of the Norwood property.

The following discussion by Council Members included: What portion of the lot was City property; less playground equipment at the Norwood Street playground; plans designed to avoid drainage pipe on the site; Parks and Recreation Department provided names of companies having playground equipment; and how will the playground be maintained. Following further discussion and comments, Council Member Peterson offered a motion to refer this project to the Parks and Recreation Commission for their recommendation. The motion was approved with a four to one vote of Council with Vice-Mayor Rogers abstaining.

Allisa McDonald, Executive Director of the United Way, said that “United Way Day of Caring” has been conducted for ten years as part of the annual campaign kick off. Projects developed by agencies have involved over 300 volunteers and hands on activities. In the last two years corporate leaders have proposed ideas to develop “United Way Day of Caring” into a large community project creating lasting results allowing employees to interact with employees of other companies. Also, in the last two years the United Way has changed organizational focus to community partnerships creating an entirely new business model including community wide plan of action. This action plan and model is nationally recognized as community best practices.

The next item of business was a presentation by the Valley Program for Aging Services (VPAS). Paul Lavigne, Executive Director of Valley Program for Aging Services, thanked Council for the opportunity to explain how VPAS makes a difference in the lives of people age 60 and older to maintain their independence in the least restrictive environment for as long as possible. VPAS provides essential services to avoid the premature institutionalization of seniors in nursing homes or assisted living facilities. This approach supports the independence sought by senior citizens while saving taxpayers money. VPAS provides service to senior citizens 60 years of age and older living in the cities of Harrisonburg, Staunton, Waynesboro, Lexington, Buena Vista, and the counties of Rockingham, Augusta, Rockbridge, Bath, and Highland. Core services offered directly by VPAS include, Case Management, Information and Assistance, Home Delivered Meals, Congregate Meals, Socialization and Recreation activities, Ombudsman services, and Transportation. Services provided indirectly include, Adult Day Care, Personal Care, Health Insurance Counseling, and Legal Services. VPAS operates nine senior centers in Planning District 6 with one located in Harrisonburg and two in Rockingham County. Seniors from the County and City utilize all three centers. Home delivered meals are sent out five days per week from the Centers to seniors in the City. 18,498 home delivered meals were provided in Harrisonburg last year. 12,693 congregate meals were provided at the Price Rotary Senior Center. In an ongoing effort to ensure that the highest level of service is provided to seniors in the community, VPAS recently contacted with a new food vendor in Harrisonburg to provide all meals in the Harrisonburg and Rockingham County region. This improvement added an additional cost of \$14,000 per year. VPAS serves approximately 7% of the total population 60 years old and older living in Harrisonburg. This is higher than all but one other City served. The City’s contribution to VPAS per elderly person is the third lowest of any of the ten jurisdictions we serve. The City of Harrisonburg is simply not contributing its fair share. The City’s current contribution, \$25,000, represents about 10% of nearly \$260,000 in services that will be provided to approximately 340 low income persons 60 years and older living in the City of Harrisonburg. The number of people served has remained essentially the same each of the past three years. Based on the anticipated growth in the senior population, the fact that people are living much longer than before, and the desire of seniors to remain in their homes, an increase in demand for services is inevitable. Most seniors requiring assistance with personal care needs will also require home delivered meals and other services. Most seniors served by VPAS are unable to pay for these services. VPAS is in the process of improving all senior centers to encourage isolated or homebound seniors to frequent the centers for socialization and recreation activities while sharing a meal with other seniors. He said VPAS is seeking additional funding to feed seniors and expand upon needed services. VPAS is a community member devoted to providing services to seniors in the Harrisonburg area. Senior citizens are not charged for these services,

because of the Federal and state funding that covers much of the cost of the services. However, each person is given an opportunity to make a voluntary, anonymous contribution.

VPAS has provided comparative data to all jurisdictions and encourages every jurisdiction to increase its support. VPAS has particularly asked those jurisdictions approaching the low end of the range, including the City of Harrisonburg, to do more. Level funding last year suggested that the City chose not to do more for the senior citizens living in Harrisonburg. This year we strongly encourage Harrisonburg to consider increasing its financial support to VPAS. He said that VPAS total budget is \$2.7 million. The Federal share is \$950,000, state share \$600,000, jurisdictions \$240,000, and the balance comes from contributions from participants and traditional non-profit fund raising support.

The next item of business was a report on traffic modifications to Elizabeth Street. Public Works Director Baker said that Council requested at the regular meeting of February 24th that Public Works review impacts to traffic circulation if Elizabeth Street were made one way (westbound) between Federal Street and Main Street in order to accommodate redevelopment needs of 90 North Main Street. Staff members of the Economic Development Department, Fire Department, Police Department, Transit Department, Planning Department, and Public Works Department met to discuss the pros and cons of how the proposal would affect the downtown area. The Public Works Department was sensitive to the needs of emergency response services as City departments relocate to Harrison Plaza. Fire Chief Shifflett shared that if the street were made one-way it would have to be westbound in order to accommodate emergency response traffic needs from the Rock Street Station to Harrison Plaza. Mr. Baker said that the corner of Elizabeth Street and Federal Street already has some difficulty with sight distance. Directing the traffic westbound should help to alleviate the safety issue especially if the sidewalk is widened on Elizabeth Street. Transit service could still be provided if there is one-way traffic on Elizabeth Street and the impact on public safety would not significantly be impacted if there were one-way traffic. Currently the City is installing a drive entrance at the end of Harrison Plaza parking lot on Elizabeth Street. If Elizabeth Street is designated as one way, the City believes a one-block segment of one-way traffic will be confusing and disruptive to the general traveling public. The estimated cost for signage and pavement markings is \$4,500 to \$5,000. This figure does not include widening the sidewalk.

The following discussion by Council Members included: Public Works Department recommends one-way traffic on Elizabeth to accommodate wider sidewalks and improve pedestrian access; eight spaces being lost on the North side of Elizabeth Street are beside a City parking deck; top of parking deck is completely leased; lower deck has available parking spaces; and lot behind Harrison Plaza contains public and reserved parking.

David Lee, a partner of the LENEAA INVESTMENT GROUP, who has proposed major renovations to the facility at 90 North Main Street, said that he was available to answer questions concerning the project.

Vice-Mayor Rogers questioned if the street was not made one-way would the project be stopped. He asked Public Works Director Baker if the City didn't change the street pattern, but eliminated

the nine parking spaces beside the Federal Building and expanded the sidewalk could the project still move forward?

Public Works Director Baker responded that removing the parking spaces along the Federal Building and widening the sidewalk on the southern side would help sight distance issues.

David Lee answered that the group wanted to eliminate a dangerous place at Federal Alley, expand the sidewalk on Elizabeth Street, create an aesthetic and safer walk way from the parking deck to Main Street; have better lighting and a more attractive area for pedestrians using the parking deck. He also said widening the sidewalk and adding attractive planters should encourage more pedestrian traffic from the parking deck.

Council Member Lantz commented that the net effect of eliminating parking spaces might not be as estimated; however, this proposal makes the sidewalk safer and allows flexibility in the future that if it doesn't work, the traffic pattern could be changed to one-way.

Mayor Fitzgerald questioned if LENEEA, owners of the building at 90 North Main Street, would be paying for the lights, planters and wider sidewalks?

David Lee said they would be paying for the improved sidewalks and lighting.

Mayor Fitzgerald reviewed the compromise changes: eliminate the parking spaces on the North side of Elizabeth Street between Federal Street and Main Street, the street traffic would remain two-way, and the developers of the project would still pay for widening the sidewalks and lighting along the street.

Mark Callahan, an attorney and one of the owners of the building at 92 North Liberty Street, said the Clark Bradshaw law firm has been in the building since 1968. He said he has discussed the compromise with the project partners and members of the First Presbyterian Church, and thought the compromise was a wonderful idea, but he suggested improving the sidewalk and lighting all the way to Liberty Street. He also noted that sometimes for security reasons when Federal Court is in session, the parking spaces beside the building are blocked off with orange cones. He said two-way traffic was needed. The First Presbyterian Church hosted 401 meetings of outside organizations in the church last year. In addition, the church had 1,174 meetings and events of its own. It is prudent to keep the traffic pattern two-way.

Dr. John Sloop, pastor of First Presbyterian Church, said he was delighted with the compromise. He said he was grateful for the feasibility studies that were made pertaining to the public safety issue. He also said that he and members of the church were totally unaware of the project. The church has an average of 2,000 people per week going through the building. The church is already bounded on the Court Square side of the building by one-way traffic and if there was one-way on the other side of the building it would really limit access, especially to visitors and newcomers. The church is also grateful to the City for the new access out of the Harrison Plaza parking lot onto Elizabeth Street.

Sandy Lineweaver said that the First Presbyterian Church Board of Deacons met this evening and passed the following resolution: The Board of Deacons of the First Presbyterian Church passed a resolution opposing changing the traffic pattern on Elizabeth Street. It was felt that one-way traffic would have an adverse effect on access to the church, not only by church members, but also by many other organizations using the church. She asked for Council's consideration concerning this issue.

Dick Johnson, First Presbyterian Church Planning Committee Chair, stated that the church has been struggling for several years with the parking problem. Concerns of the growing crunch with parking between Calhoun Restaurant, Court Square Theater, and the church have been discussed with the City Manager. He said the overflow of vehicles has moved to the City parking lot. He reviewed the many problems the church has experienced with its parking lot. He said he hoped by giving up the parking spaces beside the Federal Courthouse, the City could keep the two-way traffic.

Eddie Bumbaugh, Executive Director of Harrisonburg Downtown Renaissance, said he was speaking as an observer. He said, "I don't see any merchants present and I feel responsible to voice what I suspect would be their perspective for your consideration." Clearly between Main Street and Liberty Street there is a desire for the two-way traffic. "For the downtown merchants, every parking space matters and if you can find a way to work with all that has been presented to reach a resolution, my hat is off to you. The question in my mind is if there is any way to preserve those nine parking spaces next to the Federal Court House to give access to people who want to use 90 North Main Street or any other place downtown by making just that section one-way so then people could come two way down Main Street and up Wolfe Street if they are going East. "I am not proposing that. I am not advocating for it. Knowing the strong concerns I have heard from merchants about preserving every parking space possible, that is the only alternative I could think of. I want to be very clear, I am not making a recommendation from Harrisonburg Downtown Renaissance, it is just a thought that occurred to me."

Mark Callahan, an attorney and one of the owners of the building at 92 North Liberty Street, said that Clark and Bradshaw P.C. recorded over \$2 million in annual sales last year. He disagreed with Mr. Bumbaugh's comment that there weren't any merchants in the audience.

Bucky Berry said that the Wolfe Street Parking Deck was unsafe because of the type of people hanging out around the deck.

Council Member Lantz said that Wolfe Street Parking Deck was not unsafe because of the lighting. The brightest place in the entire City is the Wolfe Street Parking Deck. The issue with poor light was corrected by the City.

Council Member Peterson asked Public Works Director Baker to come to the podium and review the arguments against having one block of one-way traffic. "Clarify why staff did not want to have just one block from Federal Street to Main Street one-way traffic," he stated.

Public Works Director Baker said because staff thought if we were looking at the idea of improved pedestrian access that we should also look at the block between Main Street and Liberty Street as well.

Council Member Peterson said with the proposal of losing the eight or nine parking spaces across from the First Presbyterian Church, it becomes more important for downtown merchants to keep those nine spaces next the Federal Court Building. “We would get the improved pedestrian access both ways, one way by losing parking spaces and the other by losing a lane of traffic. Would the suggestion made by Mr. Bumbaugh be a more acceptable solution?”

Council Member Lantz said traffic confusion should be avoided and Mr. Bumbaugh’s suggestion didn’t allow sidewalk improvement. He reiterated that the parking deck was still beside the eight parking spaces. “Are we really creating a major problem by taking eight parking spaces away when we have available parking in the deck?” He said the compromise was good; however, there are people who do not know the direction Council might be moving. These people need to be able to voice any concerns they might have. He said, “I think we should table a resolution for this tonight and let the staff continue to review the discussion and at the next Council meeting see if anyone has any new objections.”

It was clarified by Drew Williams, Transportation Planner, that there are only eight parking spaces beside the Federal Court Building.

David Lee said the request has already been delayed for two weeks since the last Council meeting. His firm’s ability to sign a lease with the potential tenant may be lost if it is delayed yet again.

Vice-Mayor Rogers said the issue is whether to keep the current traffic pattern or make Elizabeth Street a one-way street. He asked Mr. Lee, “How can it affect your project?”

David Lee said that if Council would approve the allocation of the parking spaces as requested and allow the widening of the sidewalk, then his group could move forward. The decision as to how to handle the traffic and parking is not an issue that would stall the project.

Council Member Lantz said that Council can vote on LENNA’s request to lease the parking spaces even though a decision has not been reached regarding the traffic pattern on Elizabeth Street. He said that he would like to see the project happen. For the City to consider giving up nine parking spaces in the downtown area is a significant contribution.

Council Member Peterson said the vote would be that in the future the decision made by Council is either two-way traffic and losing eight parking spaces on Elizabeth Street or one-way traffic and keeping eight parking spaces.

Gary Stiteler, president of the Downtown Harrisonburg Retail Merchants Associations, said the merchants wanted to keep all the parking spaces in the downtown area. He noted that the retail merchants are contributing sales tax dollars to the economy.

David Lee said that the parking was more critical to the tenant than the sidewalk. “I haven’t had a discussion with the tenant about the importance of the sidewalk. If Council could approve the parking for the project and then table the sidewalk decision until the next Council meeting, it would give us some ability to make sure that we could keep everybody at the table.”

Eddie Bumbaugh said that when it was clear that there was diversity of opinion, three meetings were conducted with retail merchants and the partners in an effort to discuss this issue. Not everyone left the meeting with the same point of view, but there was opportunity for discussion. Also, he said that HDR, retail merchants and hopefully Parking Authority can soon begin looking at long-term parking needs downtown.

Vice-Mayor Rogers offered a motion to approve a long-term lease of ten years on six spaces in the eastern end of the Ney parking lot and three spaces in the middle of the lot to accommodate a new entryway. The recorded roll call vote was taken as follows:

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

No - Council Member Lantz

Absent – None

At the March 23rd City Council meeting the sidewalk and traffic flow issue will be discussed. Staff will present recommendations.

Fire Captain Arthur Miller presented for Council’s consideration an amending and re-enacting Section 5-2-1, 5-2-10, 5-2-11, 5-2-12, 5-2-13, 5-2-14, 5-2-15, 5-2-2, 5-2-28, 5-2-35, and 5-2-7 of the Harrisonburg City Code. He said these ordinance changes are being proposed and recommended by the Fire Department. The City Attorney was consulted on drafting these proposed ordinance changes. The requested changes adopts the Statewide Fire Prevention Code, which changed in October 2003, eliminates unused portions of the Code, and updates other portions of the Code to the current system of management and operations. Section 5-2-2 allows the City to set fees for several permits issued by the Fire Department. There are 47 different operational permits that the Fire Department can impose through its operations. The Fire Department is still reviewing the permit fees. He reviewed the duties and titles of the Fire Chief under Section 5-2-35. He also reviewed overcrowding of structures under Section 5-2-7 of the City Code. Section 5-3-2 changes the Director of Emergency Management from the Mayor to the City Manager. This will allow a more effective emergency operation during times of disaster. Council Member Peterson offered a motion to approve amending these ordinances for a first reading with the amendment to Section 5-2-2 (b) changing the language to (Fees for various permits and licenses shall be as propagated from time to time by the Fire Chief). 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 considering authorizing the City Manager to write a letter of support for tax credits for Mosby Heights. Affordable Housing Developers are purchasing Mosby Heights and are applying for tax credits. City Manager Baker said that primarily this means that they will have to rent to low-income tenants who make 60% or less of the areas median income. Council Member Peterson offered a motion to authorize the City Manager to write a letter of support for the tax credits. The motion was approved with a four to one vote with Council Member Lantz voting no.

School Superintendent Donald Ford presented a request for a supplemental appropriation for the School Board. These funds will cover the cost associated with the opening of the ESL Intake Center, and the renovation of the fourth floor of the Public Safety Building at Harrison Plaza to accommodate the school's central office staff who was required to move from the Simms School Building. Vice-Mayor Rogers offered a motion to approve this request for a first reading, and that:

\$127,662.00 chge. to: 1111-111114-31010 Amount from School's Fund Balance

\$ 35,937.00 approp. to: 1111-111114-40610 Instruction

91,725.00 approp. to: 1111-111114-40640 Operation and Maintenance

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

Public Works Director Baker presented a request for a supplemental appropriation for the Public Works Department. He said that the department has exceeded its snow and ice removal budget. Vice-Mayor Rogers offered a motion to approve this request, and that:

\$88,040.88 chge. to:1000-31010 Amount from Fund Balance

\$16,144.64 approp. to: 1000-410541-41020 Salaries & Wages – OT

896.24 approp. to: 1000-410541-42010 FICA

71, 000.00 approp. to: 1000-410541-46070 Repair & Maintenance 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

City Manager Baker announced that the John D. Eiland Company has again requested sponsoring Fundfest Concert Series and using City property behind the Community Development Department. Also, “Walk America” will be using the lot for a staging area. Mr. Baker will send a letter authorizing use of the City property.

City Manager Baker announced that a joint meeting will be held with the School Board on March 30, 2004.

Council Member Frank offered a motion that Nancy Clark Faulkner, 2190 Lake Terrace 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.

Council Member Peterson offered a motion that Michael L. Layman, 268 Newman Avenue, and James Robinson, 760 Elmwood Drive, be appointed to a second term on the Harrisonburg Golf Course Advisory Committee to expire on March 21, 2008. The motion was approved with a unanimous vote of Council.

At 10:40 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). 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 10:46 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of Council: I certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of Title 2.1 of the Code of

Virginia, 1950, as amended, and (2) only such matters as were identified in the motion by which the closed session were convened, were heard, discussed or considered in the closed session by the City Council.

At 10:47 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR