

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

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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**

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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**

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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

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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

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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 28<sup>th</sup> 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 28<sup>th</sup> 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

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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 28<sup>th</sup> 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 28<sup>th</sup> 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 28<sup>th</sup> 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

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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

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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

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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

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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.

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CITY CLERK

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MAYOR