ROANOKE CITY COUNCIL
REGULAR SESSION

OCTOBER 6, 2003
9:00 A.M.

EMERGENCY OPERATIONS CENTER
CONFERENCE ROOM

AGENDA

Call to Order--Roll Call.

A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended. P 12

(To be held following the joint meeting of Council and the Roanoke Redevelopment and Housing Authority.)

A communication from the City Attorney requesting that Council convene in a Closed Meeting for consultation with legal counsel on a specific legal matter requiring the provision of legal advice by counsel, pursuant to Section 2.2-3711 (A)(7), Code of Virginia (1950), as amended. P 13

(To be held at 1:30 p.m.)

1. **Joint meeting of Council and the Roanoke Redevelopment and Housing Authority (RRHA): (90 minutes)**

   - Call to Order and Roll Call by the RRHA.
   - Opening remarks. Mayor Smith/Chairman Fink.
   - Discussion with regard to draft Statement of Purpose and Expectations.
   - Closing Comments.

   (The Council will convene in Closed Session for interviews for appointments to the Architectural Review Board and the Industrial Development Authority.)

2. **Items listed on the 2:00 p.m. Council docket requiring discussion/clarification; and additions/deletions to the 2:00 p.m. docket.**
3. **Topics for discussion by the Mayor and Members of Council.**

THE COUNCIL MEETING WILL BE DECLARED IN RECESS TO BE RECONVENED AT 2:00 P.M., IN THE COUNCIL CHAMBER.

THE LEGISLATIVE COMMITTEE WILL MEET AT 12:00 NOON IN ROOM 159, NOEL C. TAYLOR MUNICIPAL BUILDING.

ROANOKE CITY COUNCIL
REGULAR SESSION

OCTOBER 6, 2003
2:00 P.M.

CITY COUNCIL CHAMBER

AGENDA

1. Call to Order--Roll Call.

The Invocation will be delivered by The Reverend Ken Atkins, Pastor, West End Presbyterian Church.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor Ralph K. Smith.

Welcome. Mayor Smith.

NOTICE:

Meetings of Roanoke City Council are televised live on RVTV Channel 3. Today's meeting will be replayed on Channel 3 on Thursday, October 9, 2003, at 7:00 p.m., and Saturday, October 11, 2003, at 4:00 p.m. Council meetings are now being offered with closed captioning for the hearing impaired.

ANNOUNCEMENTS:

THE PUBLIC IS ADVISED THAT MEMBERS OF COUNCIL RECEIVE THE CITY COUNCIL AGENDA AND RELATED COMMUNICATIONS, REPORTS, ORDINANCES AND RESOLUTIONS, ETC., ON THE THURSDAY PRIOR TO THE COUNCIL MEETING TO PROVIDE SUFFICIENT TIME FOR REVIEW OF INFORMATION. CITIZENS WHO ARE INTERESTED IN OBTAINING A COPY OF ANY ITEM LISTED ON THE AGENDA MAY CONTACT THE CITY CLERK'S OFFICE, ROOM 456, NOEL C. TAYLOR MUNICIPAL BUILDING, 215 CHURCH AVENUE, S. W., OR CALL 853-2541.

THE CITY CLERK'S OFFICE PROVIDES THE MAJORITY OF THE CITY COUNCIL AGENDA ON THE INTERNET FOR VIEWING AND RESEARCH PURPOSES. TO ACCESS AGENDA MATERIAL, GO TO THE CITY'S HOMEPAGE AT WWW.ROANOKEGOV.COM, CLICK ON THE ROANOKE CITY COUNCIL ICON, CLICK ON MEETINGS AND AGENDAS, AND DOWNLOAD THE ADOBE ACROBAT SOFTWARE TO ACCESS THE AGENDA.

ALL PERSONS WISHING TO ADDRESS COUNCIL ARE REQUESTED TO REGISTER WITH THE STAFF ASSISTANT WHO IS LOCATED AT THE ENTRANCE TO THE COUNCIL CHAMBER. ON THE SAME AGENDA ITEM, ONE TO FOUR SPEAKERS WILL BE ALLOTTED FIVE MINUTES EACH, HOWEVER, IF THERE ARE MORE THAN FOUR SPEAKERS, EACH SPEAKER WILL BE ALLOTTED THREE MINUTES.

ANY PERSON WHO IS INTERESTED IN SERVING ON A CITY COUNCIL APPOINTED AUTHORITY, BOARD, COMMISSION OR COMMITTEE IS REQUESTED TO CONTACT THE CITY CLERK'S OFFICE AT 853-2541, OR ACCESS THE CITY'S HOMEPAGE AT WWW.ROANOKEGOV.COM, TO OBTAIN AN APPLICATION.

2. PRESENTATIONS AND ACKNOWLEDGMENTS:

Proclamation declaring the month of October 2003 as National Arts and Humanities Month. P 14

Proclamation declaring the month of October 2003, as Crime Prevention Month. P 15

Proclamation declaring the month of October 2003, as Family History Month, and Saturday, October 18, 2003, as Family History Celebration Day. P 16

Proclamation declaring October 5 - 11, 2003, as Fire Prevention Week. P 17

Proclamation declaring October 5 - 11, 2003, as Mental Illness Awareness Week. P 18

Joint Proclamation declaring October 19 - 25, 2003, as Building Character Week. P 19

3. CONSENT AGENDA

ALL MATTERS LISTED UNDER THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE MEMBERS OF CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF DISCUSSION IS DESIRED, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

C-1 Minutes of the regular meetings of Council held on Monday, August 4, 2003; Monday August 18, 2003, and recessed until Friday, August 22, 2003. P 20; P 70

RECOMMENDED ACTION: Dispense with the reading of the minutes and approve as recorded.

C-2 A communication from the City Manager requesting that Council schedule a public hearing for Thursday, October 23, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, with regard to conveyance of an easement on City-owned property at Jackson Park. P 133

RECOMMENDED ACTION: Concur in the request.

C-3 A communication from the City Manager requesting that Council schedule a public hearing for Thursday, October 23, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, with regard to leasing 7.05 acres of City-owned property located near Back Creek in Roanoke County. P 134

RECOMMENDED ACTION: Concur in the request.

C-4 A communication from the Honorable David C. Anderson, City Treasurer, advising of his retirement, effective December 31, 2003. P 135

RECOMMENDED ACTION: Receive and file.

C-5 A communication from Steven C. Buschor, Director, Parks and Recreation, advising of the resignation of The Reverend David Walton as a member of the Parks and Recreation Advisory Board. P 136

RECOMMENDED ACTION: Receive and file the communication and accept the resignation.

C-6 A communication from Steven C. Buschor, Director, Parks and Recreation, advising of the resignation of Onzlee Ware as a member of the Parks and Recreation Advisory Board. P 137

RECOMMENDED ACTION: Receive and file the communication and accept the resignation.

C-7 Qualification of the following persons:

Edward C. Bradley as a member of the Personnel and Employment Practices Commission, for a term ending June 30, 2006;

Michael F. Urbanski and Joseph B. Wright as members of the Virginia Western Community College, Board of Directors, for terms ending June 30, 2007; and

Cheryl D. Evans as a member of the Youth Services Citizen Board, for a term ending March 31, 2006.

RECOMMENDED ACTION: Receive and file.

REGULAR AGENDA

4. PUBLIC HEARINGS:

a. Approval of the City's issuance of general obligation bond, or bonds, in an amount estimated not to exceed $5,000,000.00, for the purpose of financing replacement of the existing school building at the Roanoke Academy for Mathematics and Science. Richard L. Kelley, Assistant Superintendent of Operations, Spokesperson.

P 138; R 140

b. Adoption of a revised Cable Television Franchise Ordinance and an ordinance approving and authorizing execution of a 15-year renewal of the Cable Television Franchise Agreement held by CoxCom, Inc., d/b/a/ Cox Communications Roanoke. Alfred T. Dowe, Jr., Council Liaison, Roanoke Valley Cable Television Committee; and Darlene L. Burcham, City Manager, Spokesperson.

P 152; O 226; O 274

5. PETITIONS AND COMMUNICATIONS:

a. A communication from the General Registrar requesting that Council approve an emergency change in the polling place from the Jefferson Hall Gym, to the Jefferson Center, 541 Luck Avenue, S. W., indefinitely; and a communication from the City Manager concurring in the request.

P 276; O 278

b. A communication from the Market Building Tenants Association with regard to national chains leasing space in the City Market Building. Eugene Full, Spokesperson. (Sponsored by Mayor Smith and Council Member Cutler)

P 280

6. REPORTS OF OFFICERS:

a. CITY MANAGER:

ITEMS RECOMMENDED FOR ACTION:

1. Execution of the 2003 Regional Wastewater Collection and Treatment Contract with four area jurisdictions. P 282; O 326

2. Execution of a Memorandum of Understanding with the U. S. Marshal's Service Joint Fugitive Task Force of the Western District of Virginia for the Blue Ridge Fugitive Apprehension Strike Team. P 328; R 335

3. Acceptance of Office of Domestic Preparedness State Homeland Security grant funds, in the amount of $246,434.00; and execution of an agreement with the Virginia Department of Emergency Management. P 336; B/O 338; O 339

4. Acceptance of Virginia Department of Emergency Management "pass-through" grant funds, in the amount of $15,000.00; and appropriation of funds in connection therewith. P 341; B/O 343; O 344

5. Approval of acquisition of properties identified as Official Tax Nos. 4470101 and 4480101, contingent upon return of an acceptable title search and environmental assessment, in connection with preservation and protection of the viewshed of the Blue Ridge Parkway. P 345; B/O 348; R 349

6. Approval of continuation of the position of Restricted Eligibility Worker; and appropriation of funds in connection therewith. P 351; B/O 360; R 361

BRIEFINGS:

- Virginia Department of Transportation Long-Range Plan. (30 minutes)

- Police Training Facilities. (30 minutes)

b. Director of Finance:

1. Financial report for the month of August 2003. P 363

7. REPORTS OF COMMITTEES:

a. A report of the Architectural Review Board recommending adoption of a resolution endorsing amendments to Architectural Review Guidelines pertaining to the installation of replacement or substitute siding. R. Brian Townsend, Director, Planning, Building and Development, Spokesperson.

P 373; R 378

8. UNFINISHED BUSINESS: NONE.

9. INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.

10. MOTIONS AND MISCELLANEOUS BUSINESS:

a. Inquiries and/or comments by the Mayor, Vice-Mayor and Members of City Council.

b. Vacancies on certain authorities, boards, commissions and committees appointed by Council.

11. HEARING OF CITIZENS UPON PUBLIC MATTERS:

CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. MATTERS REQUIRING REFERRAL TO THE CITY MANAGER WILL BE REFERRED IMMEDIATELY FOR RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL.

12. CITY MANAGER COMMENTS:

CERTIFICATION OF CLOSED SESSION.

THE COUNCIL MEETING WILL BE DECLARED IN RECESS UNTIL FRIDAY, OCTOBER 17, 2003, AT 9:00 A.M., AT THE ROANOKE COUNTY ADMINISTRATION CENTER, FOURTH FLOOR TRAINING ROOM, 5204 BERNARD DRIVE, S. W., FOR A JOINT MEETING OF CITY COUNCIL AND THE ROANOKE COUNTY BOARD OF SUPERVISORS WITH REGARD TO FORMATION OF A WATER AND WASTE WATER AUTHORITY.

MOTION AND CERTIFICATION WITH RESPECT TO CLOSED MEETING

FORM OF MOTION:

I move, with respect to any Closed Meeting just concluded, that each member of City Council in attendance certify to the best of his or her knowledge that (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by the members of Council in attendance.

PLEASE NOTE:

1. **The forgoing motion shall be made in open session at the conclusion of each Closed Meeting.**

2. **Roll call vote included in Council's minutes is required.**

3. **Any member who believes there was a departure from the requirements of subdivisions (1) and (2) of the motion shall state prior to the vote the substance of the departure that, in his or her judgement, has taken place. The statement shall be recorded in the minutes of City Council.**

CITY OF ROANOKE
OFFICE OF THE MAYOR
215 CHURCH AVENUE, S.W., ROOM 452
ROANOKE, VIRGINIA 24011-1594
TELEPHONE: (540) 853-2444
FAX: (540) 853-1145

RALPH K. SMITH
Mayor

October 6, 2003

The Honorable Vice-Mayor and Members
of the Roanoke City Council
Roanoke, Virginia

Dear Members of Council:

This is to request a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended.

Sincerely,

Ralph K. Smith
Mayor

RKS:snh

CITY OF ROANOKE
OFFICE OF CITY ATTORNEY
464 MUNICIPAL BUILDING
215 CHURCH AVENUE, SW
ROANOKE, VIRGINIA 24011-1595

TELEPHONE: 540-853-2431
FAX: 540-853-1221
EMAIL: cityatty@ci.roanoke.va.us

WILLIAM M. HACKWORTH
CITY ATTORNEY

ELIZABETH K. DILLON
STEVEN J. TALEVI
GARY E. TEGENKAMP
DAVID L. COLLINS
HEATHER P. FERGUSON
ASSISTANT CITY ATTORNEYS

October 6, 2003

The Honorable Mayor and Members
of City Council
Roanoke, Virginia

Re: Request for closed meeting

Dear Mayor Smith and Council Members:

This is to request that City Council convene a closed meeting for consultation with legal counsel on a specific legal matter requiring provision of legal advice by counsel, pursuant to §2.2-3711.A.7, Code of Virginia (1950), as amended.

With kindest personal regards, I am

Sincerely yours,

William M. Hackworth

William M. Hackworth
City Attorney

WMH:f
cc: Darlene L. Burcham, City Manager
Mary F. Parker, City Clerk

Office of the Mayor

CITY OF ROANOKE

Proclamation

WHEREAS, *the month of October has been recognized as National Arts and Humanities Month by thousands of arts and cultural organizations, communities and states across the nation, as well as by the White House and the Congress; and*

WHEREAS, *the arts and humanities embody much of the accumulated wisdom, intellect and imagination of humankind and enhance and enrich the lives of every American; and*

WHEREAS, *education research findings suggest that the arts help to close the achievement gap, especially among disadvantaged youth; the arts improve academic skills essential for reading and language development, build strong mathematical skills, and advance a motivation to learn and to promote positive social development; and the cultural industry of the Roanoke region serves 50 school districts and 300,000 children annually; and*

WHEREAS, *the Roanoke region nonprofit arts and cultural industry strengthens the City's economy by generating $26 million in economic activity annually; and*

WHEREAS, *the month of October, 2003, has been designated as National Arts and Humanities Month.*

NOW, THEREFORE, I, *Ralph K. Smith, Mayor of the City of Roanoke, Virginia, do hereby proclaim the month of October, 2003, throughout this great All-America City, as*

NATIONAL ARTS AND HUMANITIES MONTH.

Given under our hands and the Seal of the City of Roanoke this sixth day of October in the year two thousand and three.

ATTEST:

Mary F. Parker

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor

Office of the Mayor

CITY OF ROANOKE

Proclamation

WHEREAS, *the vitality of the City of Roanoke depends on how safe we keep our homes, neighborhoods, schools, workplaces and communities; and*

WHEREAS, *crime and fear of crime destroy our trust in others and in institutions, threatening the community's health, prosperity and quality of life; and*

WHEREAS, *people of all ages must be made aware of what can be done to prevent themselves, their families, neighbors and co-workers from being harmed by crime, violence and drugs; and*

WHEREAS, *personal injury, financial loss and community deterioration resulting from crime are intolerable; effective prevention requires an investment by the whole community; and*

WHEREAS, *crime prevention initiatives must include self-protection and security, including collaborative efforts to make neighborhoods safer for all ages and to develop positive opportunities for young people; and*

WHEREAS, *adults must invest time, resources and policy support in effective prevention and intervention strategies for youth, and teens must be actively engaged in driving crime from communities; and*

WHEREAS, *effective crime prevention programs excel through partnerships among law enforcement, other government agencies, civic groups, schools, faith communities, businesses and individuals as they help to nurture communal responsibility and instill pride.*

NOW, THEREFORE, I, *Ralph K. Smith, Mayor of the City of Roanoke, Virginia, urge all citizens, government agencies, public and private institutions and businesses to invest in the power of prevention and to work together for the common good, and do hereby proclaim the month of October, 2003, throughout this great All-America City, as*

CRIME PREVENTION MONTH.

Given under our hands and the Seal of the City of Roanoke this sixth day of October in the year two thousand and three.

ATTEST:

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor

Office of the Mayor

CITY OF ROANOKE

Proclamation

WHEREAS, *the month of October has been designated Family History Month by the Congress of the United States; Family History gives individuals a sense of heritage and a sense of responsibility to carry out the legacy of their ancestors; and*

WHEREAS, *within the Nation's libraries and archives lie the treasured records that detail the history of the Nation, states, communities and citizens; it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the heritage that has shaped us as a people; and*

WHEREAS, *the Virginia Room of the Roanoke Public Library is dedicated to the history of the Commonwealth of Virginia and its citizens, and in partnership with the Southwestern Virginia Genealogical Society, Inc., encourages family history research, education and the sharing of knowledge to renew the commitment to the concept of home and family; and*

WHEREAS, *"Family History" is the theme of the Family History Celebration co-sponsored by the Southwestern Virginia Genealogical Society, Inc., the Roanoke Public Library Foundation, the Virginia Room-City of Roanoke Public Libraries, in association with the History Museum and Historical Society of Western Virginia.*

NOW, THEREFORE, I, *Ralph K. Smith, Mayor of the City of Roanoke, Virginia, do hereby proclaim October 2003, throughout this great All-America City, as*

FAMILY HISTORY MONTH;

and do hereby further proclaim, Saturday, October 18, 2003 as

FAMILY HISTORY CELEBRATION DAY.

Given under our hands and the Seal of the City of Roanoke this sixth day of October in the year two thousand and three.

ATTEST:

Mary F. Parker

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor

Office of the Mayor

CITY OF ROANOKE

Proclamation

WHEREAS, *public safety is a top priority in the City of Roanoke; and*

WHEREAS, *safety from fire is important, both to citizens and local firefighters, who put their lives on the line with every response to a fire; and*

WHEREAS, *residents of Roanoke must take action to prevent fires and to protect themselves if fire strikes; and*

WHEREAS, *awareness of simple safety practices can help to lower the City's local fire death and injury rates; working smoke alarms on every level and a home fire escape plan, with regular drills, are essential for every household; and*

WHEREAS, *the City of Roanoke is joining with the National Fire Protection Association (NFPA) in teaching lifesaving messages in conjunction with Fire Prevention Week; and*

WHEREAS, *Fire Prevention Week 2003 theme, "When Fire Strikes: Get out! Stay out!" is an important reminder for all citizens.*

NOW, THEREFORE, I, *Ralph K. Smith, Mayor of the City of Roanoke, Virginia, encourage all citizens to remember Fire Prevention Week 2003, and urge all citizens to install smoke alarms and to plan and to practice fire drills, and do hereby proclaim the week of October 5 - 11, 2003, throughout this great All-America City, as*

FIRE PREVENTION WEEK.

Given under our hands and the Seal of the City of Roanoke this sixth day of October in the year two thousand and three.

ATTEST:

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor

Office of the Mayor

CITY OF ROANOKE

Proclamation

WHEREAS *every individual, family and community should understand that mental health is an essential part of overall health, and suicide prevention can be reduced by removing the stigma of seeking care; and*

WHEREAS, *it is essential to eliminate disparities in mental health by promoting well-being for all citizens, regardless of race, ethnicity, language, place of residence or age, and ensure equity of access, delivery of services, culturally competent care to all and improvement of outcomes, through public and private partnerships; and*

WHEREAS, *consumers and families need the necessary information and the opportunity to exercise choice over care decisions, including individualized plans of care, expanded supported employment, enhanced rights protection, better criminal and juvenile justice diversion, re-entry programs and improved access to housing; and*

WHEREAS, *every individual should have the opportunity for early and appropriate mental health screening, assessment and referral to treatment; and*

WHEREAS, *adults and children with mental illness deserve ready access to evidence-based best treatments, services and supports leading to recovery; and*

WHEREAS, *the mental health system is responsible for providing consumers, providers and the public with quality, accessible and accountable information, supporting improved care and information dissemination.*

NOW, THEREFORE, I, *Ralph K. Smith, Mayor of the City of Roanoke, Virginia, in order to increase public awareness of severe mental illness and to promote greater understanding for those who suffer from the potentially disabling symptoms of these disorders, do hereby proclaim October 5 - 11, 2003, throughout this great All-America City, as*

MENTAL ILLNESS AWARENESS WEEK.

Given under our hands and the Seal of the City of Roanoke this sixth day of October in the year two thousand and three.

ATTEST:

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor

Joint Proclamation

DECLARING OCTOBER 19 THROUGH OCTOBER 25, 2003,
AS BUILDING CHARACTER WEEK
IN THE ROANOKE VALLEY

WHEREAS, the parents, citizens and leaders of the Roanoke Valley realize our next generation can create a community with an ever-improving quality of living and set an example for the region and the world as we head into a crucial time for humankind; and

WHEREAS, the extraordinary nature and demands of these times will challenge members of our community to be extraordinary citizens with strong moral character and a clear understanding of what it means to be an involved and compassionate human being; and

WHEREAS, our schools in the Roanoke Valley are working to instill these six character traits, also cited by Virginia Law, into the young persons of our community: RESPONSIBILITY, RESPECT, CARING, TRUSTWORTHINESS, FAIRNESS, CITIZENSHIP, and CARING; and

WHEREAS, these six traits of character are fundamental to all human beings regardless of cultural, religious, or socio-economic differences; and

WHEREAS, it is the duty of all parents and families and also of all responsible community members to set good examples and to provide young persons with opportunities of service and to develop high moral standards and create value systems that will serve them well in living their lives and reaching their full potential; and

WHEREAS, the Greater Roanoke Valley Character Coalition (Valley Character.org) is working to improve life in our community by supporting the building of character and supporting those working for improvement of our neighborhoods and to ease suffering and injustice for our citizens.

NOW THEREFORE, WE, the undersigned, do hereby proclaim October 19 through October 25, 2003, as **BUILDING CHARACTER WEEK** in the Roanoke Valley, coinciding with National CHARACTER COUNTS! Week; and

FURTHER, We call upon parents, families, leaders, citizens, schools, youth organizations, faith-based groups, businesses, community groups, government agencies and all others to model good practices; engage in discussions about people of extraordinary character; acknowledge local individuals who exemplify such character; encourage young persons to be active in serving their community through volunteerism and provide opportunities for young persons to cultivate their character and their futures through education, public-service, and community involvement

Joseph McNamara, Chair
Roanoke County Board of Supervisors

Ralph K. Smith, Mayor
City of Roanoke

Alexander H. Brown
Vice-Mayor, City of Salem

Donald L. Davis, Mayor
Town of Vinton

W. Wayne Angell, Chair
Franklin County Board of Supervisors

REGULAR WEEKLY SESSION-----ROANOKE CITY COUNCIL

August 4, 2003

9:00 a.m.

The Council of the City of Roanoke met in regular session on Monday, August 4, 2003, at 9:00 a.m., the regular meeting hour, in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding, pursuant to Chapter 2, Administration, Article II, City Council, Section 2-15, Rules of Procedure, Rule 1, Regular Meetings, Code of the City of Roanoke (1979), as amended, and Resolution No. 36193-010603 adopted on January 6, 2003, which changed the time of commencement of the regular meeting of Council to be held on the first Monday in each month from 12:15 p.m. to 9:00 a.m.

PRESENT: Council Members C. Nelson Harris, Linda F. Wyatt, William D. Bestpitch, M. Rupert Cutler, Beverly T. Fitzpatrick, Jr., and Mayor Ralph K. Smith----------6.

ABSENT: Council Member Alfred T. Dowe, Jr.----------1.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

COMMITTEES-CITY COUNCIL: A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended, was before the body.

Mr. Bestpitch moved that Council concur in the request of the Mayor to convene in Closed Meeting as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Fitzpatrick and Mayor Smith----------6.

NAYS: None----------0.

(Council Member Dowe was absent.)

(The Closed Session was later deferred until the regular meeting of Council on Monday, August 18, 2003.)

COMMITTEES-CITY COUNCIL: A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss a special award, being the Shining Star Award, pursuant to Section 2.2-3711(A)(10), Code of Virginia (1950), as amended, was before the body.

Mr. Bestpitch moved that Council concur in the request of the Mayor to convene in Closed Meeting as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Fitzpatrick and Mayor Smith----------6.

NAYS: None----------0.

(Council Member Dowe was absent.)

(The Closed Session was later deferred until the regular meeting of Council on Monday, August 18, 2003.)

PURCHASE/SALE OF PROPERTY-CITY PROPERTY-CITY COUNCIL: A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss disposition of publicly-owned property, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711 (A)(3), Code of Virginia (1950), as amended, was before the body.

Mr. Bestpitch moved that Council concur in the request of the City Manager to convene in Closed Meeting as above described. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Fitzpatrick and Mayor Smith----------6.

NAYS: None----------0.

(Council Member Dowe was absent.)

(The Closed Session was later deferred until the regular meeting of Council on Monday, August 18, 2003)

CITY ATTORNEY-CITY COUNCIL: A communication from the City Attorney requesting that Council convene in a Closed Meeting to consult with legal counsel regarding a specific legal matter requiring the provision of legal advice by counsel, pursuant to Section 2.2-3711 (A)(7), Code of Virginia (1950), as amended, was before the body.

Mr. Bestpitch moved that Council concur in the request of the City Attorney to convene in Closed Meeting as above described. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Fitzpatrick and Mayor Smith----------6.

NAYS: None----------0.

(Council Member Dowe was absent.)

(The Closed Session was later deferred until the regular meeting of Council on Monday, August 18, 2003.)

At 9:05 a.m., the Mayor declared the meeting in recess to be reconvened in the Emergency Operations Center Conference Room, Room 159, for a Joint Meeting of Council and the City Planning Commission, and briefings by the City Manager.

At 9:10 a.m., the Council Meeting reconvened in Room 159 Emergency Operations Center Conference Room for a joint meeting of Council and the City Planning Commission.

CITY PLANNING COMMISSION MEMBERS PRESENT: Gilbert E. Butler, Jr., D. Kent Chrisman, Fredrick Williams, and Richard Rife, Vice-Chair.

ABSENT: Paula L. Prince, Henry Scholz, and Robert B. Manetta, Chairperson.

OTHERS PRESENT: Brian R. Townsend, Director, Planning, Building and Development; Christopher L. Chittum, Senior City Planner; and Martha P. Franklin, Secretary, City Planning Commission.

Council Member Dowe entered the meeting.

COUNCIL- COMMUNITY PLANNING- NEIGHBORHOOD PLANS:

Projected Timetable for Conclusion of All Neighborhood Plans:

Chris Chittum, Senior City Planner, Department of Planning and Building Development, presented an update on neighborhood plans. He advised that neighborhood plans started in 1998 in Raleigh Court with the Greater Raleigh Court Neighborhood Plan and since that time neighborhood planning efforts have been accelerated. He reviewed a map showing the areas that have been completed, those areas that are in progress and future areas to be addressed; and advised that currently 12 neighborhood plans have been adopted by Council, some going back to 1989 and 1990 (South Roanoke and Greater Deyerle), six neighborhood plans are underway, three of which are now in the approval process, and will go to the City Planning Commission later this month, two other neighborhood plans will, and is hoped to increase the number up to approximately 18 neighborhood plans by the end of the year. He added that later in the process will be the Hollins/460 East area, the South Peters Creek area, Garden City and Mill Mountain.

Discussion:

The Carvins Cove Natural Reservoir should be added to the list of neighborhood plans.

All of the Neighborhood Plans are available to be downloaded on the intranet and a hard copy will also be available.

The goal is to have all neighborhood plans completed by the end of the year 2004.

Given that the Deyerle and South Roanoke Neighborhood Plans predate the City's 2020 Comprehensive Plan, following completion of all neighborhood plans, the Deyerle and South Roanoke Neighborhood plans will be updated.

Mr. Chittum reviewed a document entitled: Vision 2001-2020 Implementation Update which includes elements of Neighborhood plan actions, status, ongoing efforts or completed tasks and timeframe for completion.

(For full text, see document on file in the City Clerk's Office.)

Discussion:

What will be done to ensure that the time line is implemented? The City Manager responded that as Neighborhood Plans are adopted, those items will be lifted out that are of concern to specific neighborhoods and placed in the Comprehensive Plan; many of the items contained in both the individual Neighborhood Plans as well as those in the Comprehensive Plan require budgetary consideration it is proposed, on an annual basis, to take those items into account when prioritizing budget recommendations to the Council. She advised that some projects/items may take years to implement, may need to be completed in phases, but it is anticipated that vision implementation update, as well as a summary of requests of issues raised by neighborhoods, will be used as a building block upon which budget recommendations will be made; the responsibility of oversight of implementation rests with the Department of Planning Building and Development and the Department of Management and Budget.

Two steps might need to be taken: (1) A matrix that contains all of the general actions called for in the Vision Plan on one access and each of the neighborhoods on another access to ensure that in each of the Neighborhood Plans all bases have been covered with respect to the vision goals. (2) If actions can be reduced to paper, by making an addition to the adopted Neighborhood Plan, it would give the neighborhood association and the people living in the neighborhoods a kind of action agenda to follow in order to track the progress in the neighborhood toward each of the goals, and would also serve as a reminder to keep the process from falling behind.

It will be necessary to hear from the neighborhoods as to their interests and respond accordingly.

As a part of Leadership Team meetings, department managers are encouraged to embrace that part of the Comprehensive Plan that they are responsible for and the annual report helps to reinforce the relationship and even through we are looking at a 20 year plan, many of the decisions that City operating departments make on a daily, weekly and monthly basis over time tend to add up to accomplishing some of the policy changes and goals; therefore, City departments are constantly reminded to use the Neighborhood Plan in connection with how they take on operational decisions as well as policy planning.

In bringing about the desired results, there must be economic and social diversity in all City neighborhoods and it will be critical to a number of ideas to engage a consultant who is progressive and visionary.

The City Manager advised that support of the neighborhoods is important because some neighborhoods have become so comfortable in being a part of a particular description that a lot of what is addressed becomes a partnership between the neighborhood's willingness to look at something different and a consultant's willingness to expose the City to the opportunity for something different; therefore, there is a need for not only an enlightened consultant, but an enlightened citizenry in order to make the recommendations of the consultant become a reality.

A question was raised regarding the request of a property owner on Frontier Road (Mr. Shumate) who would like to install a handicapped ramp. Staff advised that the Zoning Ordinance Committee has reviewed a series of changes to setback requirements that would allow encroachments into the setback for certain non enclosed buildings, such as a handicapped ramp or unenclosed porches; and more flexibility is proposed in the new zoning ordinance for these types of circumstances to provide ways to allow citizens to do certain things without having to go to the Board of Zoning Appeals.

ZONING SIGNS:

Update on Sign Regulations in the Zoning Ordinance:

Nancy Snodgrass, City Planner, advised that the overall goal of Vision 2001-2020 is to make Roanoke an attractive place for people of all ages, backgrounds, and income levels to live, work, and play, which requires not only sound social and economic policies, ut also a strong commitment to excellence in community design and appearance.

She reviewed recommended actions in Vision 2001-2020, as follows:

(1) Revise the Zoning Ordinance to strengthen site development, landscaping, and signage requirements in village centers.

(2) Review development codes to ensure regulations that encourage quality development and protection of public health, welfare and safety.

City design principals of Vision 2001-2020 include:

Local and regional commercial centers and commercial corridors.

Visual clutter and excessive lighting should be discouraged.

Signs should be consolidated and co-located on single displays or monuments attractively designed.

Signs (public and private) should be limited in number and scaled in size to minimize visual clutter.

The purpose of developing a statement regarding signs is to protect property values, to provide an attractive economic and business climate, physical appearance of the City, to protect the scenic and natural beauty of certain areas, and to prevent distractions, hazards and obstructions; keys to understanding sign regulatory concepts are: what is a sign, what are the different types of signs, and how is sign

area and permitted allotment calculated; the definition of a sign is any object, device, structure, fixture or placard, or portion thereof, using graphics, symbols, and/or written copy designed specifically for the purpose of advertising, identifying, directing or attracting attention to any establishment, product, goods, service or activity; freestanding signs include monument and pole type signs and attached signs include bracket, awning, canopy or marquee, wall, projecting and window.

In reviewing the definition of a sign area - Consideration No.1 - Support Structure: Shall not enclose any portion of the support structure (supports, uprights on which sign is placed or wall to which sign is attached), provided the sign does not include any message, logo, or emblem; and Consideration No. 2 - Individual Letters: Entire area encompassing all elements of the matter displayed and Signs within a Frame: entire area including any frame or border.

Ms. Snodgrass reviewed the basis for sign area calculation and advised that the proposed draft provides for: freestanding and attached signage calculated separately, freestanding sign area allotment tied to lot frontage and attached sign area allotment - tied to linear frontage of building. With regard to double faced signs, the committee consensus is only one side of a double faced sign counts toward the sign area allotment, provided that faces are parallel or not placed at more than a 45 degree angle.

She reviewed samples of signs and issues associated with the signs; and other issues include placement of wall signs, prohibition of certain types of signs and wall signs above a certain height; and reported the following on outdoor advertising:

<u>Billboards - location and size</u>:

Commercial Corridor and Downtown Districts - maximum 300 square feet

Light Industrial and Heavy Industrial Districts - maximum of 672 square feet

Ten per cent embellishment permitted

Billboards - spacing:

350 feet - same side of street

300 feet - residential district

250 feet - school, library, church, museum, or park

250 feet - I-581 and Roy L. Webber Expressway

660 feet - Blue Ridge Parkway

500 feet - boundary/collector - arterial

In closing, she advised that the next steps will include compilation of the draft sign ordinance, review by the Steering Committee, public review and comment phase and Steering Committee assessment.

Discussion:

For every linear foot of low frontage, there would be one foot of free standing sign face allocation, or for every linear foot of building frontage, there would be one square foot of building sign allocation.

The City was disappointed when the General Assembly did not elect to authorize enabling legislation to enact lighting conditions; the City is limited in what it can do regarding sign lighting and outdoor lighting in parking lots, and had the State passed enabling legislation, the City could have required lumens, etc.

The number of hours that committee members have devoted to the zoning ordinance update is incredible, and staff should keep a tally of the number of volunteer hours expended by citizens. Is there a way to provide incentives for property owners to develop better signage? The City Manager responded that opportunities are available and it is possible for the Industrial Development Authority and the City's Economic Development Department to look at incentives, particularly with regard to rehabilitation done by various businesses.

The proposed new ordinance differentiates between changing a sign and changing a sign face which are two different things, one of which basically says if the sign structure is in place the day the new ordinance is adopted, the sign structure itself is grandfathered which allows a change out of the face of the sign and still maintains its non conforming status; therefore, the sign face can be interchanged and the nonconformity issue does not come into play.

There being no further business, at 10:00 a.m., Vice-Chair Rife declared the meeting of the City Planning Commission adjourned.

Following a brief recess, the Council's work session continued.

PARKS AND RECREATION:

Parks and Mill Mountain Zoo Update:

Beth Poff, Executive Director, Mill Mountain Zoo, Inc., presented a video in regard to the future of the Mill Mountain Zoo. She advised that a new office structure is under construction, and a log home structure was donated to the zoo which is currently under construction with volunteer labor and materials. She stated that the Mill Mountain Zoo has been accredited with the American Zoo Association (AZA) since 1995, approximately 2000 facilities throughout the United States are USDA approved, but only 180 are AZA accredited. She called attention to marketing efforts through public service announcements; and advised that 60 per cent of the zoo's budget is derived through persons who visit the zoo and purchase food or gift items; Roanoke City accounts for approximately 48 per cent of visitation, with visitors from the immediate three county area, and the other half consists of tourists who travel 100 miles or more to the area; approximately 2,800 households are members of the zoo and pay admissions taxes, sales taxes, and payroll taxes, therefore, the zoo contributes not only back to the community, but provides employment for up to five individuals from entry level positions starting at the gift shop to the more higher end positions. She expressed appreciation for the City's assistance over the past years with regard to a renewed lease agreement which will expire in 2006, renovation of buildings, construction of a new back road access to the zoo, upgrade to the electrical system, and further growth and improvement of the zoo.

Ms. Poff called attention to three issues on which the zoo is requesting the City's assistance; i.e.: a $175,000.00 capital request for water improvements, the need to look at creative ways to address parking; and support of signage through the Virginia Department of Transportation (VDOT) on Route 220 and I-581.

There was discussion with regard to the signage request; whereupon, Ms. Poff advised that the zoo is willing to pay for signage; however, VDOT is currently reviewing revised guidelines for the revised TAD system and it is a matter of determining whether VDOT will make a decision based on old guidelines or wait until new guidelines are approved which may not occur in the near future.

In a discussion, it was stated that there should be close coordination between the City's Master Planning process, the City's parks, and plans for the Mill Mountain Zoo; many persons want to keep most of Mill Mountain undeveloped, therefore, the question was raised as to whether the Board of Directors of the Zoo has considered the feasibility of a second campus for expansion without having to deal with the constraints and topography of Mill Mountain.

Ms. Poff responded that when a decision was made as to the size of zoo that the it was decided as to what size zoo there Roanoke area would support year in and year out, it was believed that an eight acre facility would be best for a community the size of Roanoke; after the decision was made, the Board of Directors worked with the then Mill Mountain Development Committee, which is now the Mill Mountain Advisory Committee, for approval of a Master Plan for the eight acres, and currently, the zoo operates on approximately five and one-half acres of land, with room to grow.

There was discussion with regard to parking, which is currently in a holding pattern until Mill Mountain Park as a whole proceeds through the Master Plan process; whereupon, Ms. Poff advised that satellite types of parking are under consideration and it is also a good time for the Board of Directors and the Mill Mountain Advisory Committee to develop a plan for approximately 230 parking spaces to support activities on the mountain.

Mr. Fitzpatrick expressed concern with regard to the zoo in its current location because it will never be the kind of zoo that it deserves to be on top of Mill Mountain. He encouraged the Board of Directors to think about 50 years from now instead of ten years from now, because Roanoke deserves a better zoo than eight acres; when Mill Mountain was a children's zoo, it had a much better chance of attracting major crowds because there were no other children's zoos close by; as a region there

needs to be an understanding of what should be done in order to have a great zoo which would encompass more than eight acres of land and provide other amenities, including water, etc.

Ms. Poff advised that she would prefer to use the word "charming" instead of "small" to describe the Mill Mountain Zoo, Mill Mountain is one of the smallest accredited zoos in the country; and a 20, 30 or 50 acre facility would require a $20 - $50 million expenditure per year.

HOUSING/AUTHORITY:

Scattered Site Development:

John R. Baker, Executive Director, Roanoke Redevelopment and Housing Authority, presented slides of certain single family infill development in the City of Roanoke that the Redevelopment and Housing Authority has developed on its own, and some with other developers. With regard to the Lincoln 2000, HOPE VI project, he advised that the inventory of public housing in the City of Roanoke was reduced by demolishing 145 units of public housing, to both reduce the density in Lincoln Terrace and to reduce the overall inventory of public housing in the City of Roanoke; the Board of Commissioners of the Housing Authority has also indicated a strong interest, as new public housing is developed in the future, to address more scattered site bases, to integrate into neighborhoods, and to provide economic diversity in the neighborhoods, rather than building large areas of public housing as was done in the 1950's and 1960's. He stated that as 145 units of public housing were demolished, single family and duplex homes are being rebuilt which will be available for sale in approximately 36 months; he showed slides of a house on Dunbar Street in the Washington Park area, which is one of the houses that the Housing Authority just completed that contains three bedrooms, two baths, handicap accessible and assessed at $86,000.00 which was recently occupied. He also showed slides of other houses and amenities in each, such as a fire place, accessible and easily obtainable pantry and counter space, a deck, 1300 square feet of living space, etc., which will also be available for home ownership.

Mr. Baker advised that the sale price of the houses on Dunbar Street are in the range of $40,000.00 plus, with at least two bathrooms, and most of the houses needed rehabilitation while being sensitive to providing housing that is compatible with the overall character of the neighborhood.

The City Manager advised that quite often when the City acquires properties, provides the necessary rehabilitation to maintain the original structure and certain other amenities to make the structure a home ownership house for the future, more money is invested in the house than the sale value of the house. However, she stated that certain intangibles are involved in the process which begins with improvement of housing stock in the neighborhood by encouraging neighbors in the immediate vicinity to make improvements. She explained that initially, costs could be more than the initial value of the home; however, it is necessary to look at the long term benefit insofar as the overall impact to the neighborhood.

Mr. Baker addressed questions in regard to lease purchase to promote diversity, not of housing choice, but of economic status of individuals in the neighborhoods. He advised that one specific house referred to in his presentation was a lease purchase arrangement that required the Housing Authority to wait for the family to save enough money for a down payment to qualify for a mortgage; other houses under the lease purchase option provide that the Housing Authority will build the house with public housing funds, a low to moderate income person below 80 per cent of the median would reside in the house and the resident would have up to 36 months to purchase the house, with the mortgage amount to be based on the homeowner's ability to pay.

The City Manager advised that many of the properties referred to by Mr. Baker are those properties that the City has made funds available to the Housing Authority to purchase at delinquent tax auctions in order to place houses on infill lots in the City; there has been a concern that someone could purchase the lot and hold it for speculative purposes, which could mean that the land would remain as a vacant piece of property for many years. She stated that for the last 18 months, the City has been an active participant with the Housing Authority to identify either homes or vacant lots that would be good candidates for infill housing.

There was discussion with regard to the size of the yard; whereupon, Mr. Baker advised that the Housing Authority has tried to duplicate lot sizes on the block, and one Member of Council stated that it would be better to err on the side of providing extra yard area than not enough, especially if families with young children reside in the houses.

The City Manager referred to dialogue with Council Members regarding the Patterson Avenue area and the need to revitalize the area, as well as a vehicle to upgrade Mountain View to a historic home and discontinue use of the facility for Parks and Recreation purposes. She referred to an apartment building owned by the Housing Authority in the same area, and inquired if there is an interest by Council in working with the Housing Authority toward certain creative alternative uses and funding sources, in addition to a funding source that has already been identified by the Housing Authority. She stated that it could be used as a pilot for addressing the Patterson Avenue and West End area of the City.

There was discussion that the City of Roanoke does not have a growing population base, more than likely the family that moves into one house is moving out of another house, therefore, the chain continues; whereupon, the City Manager advised that the City has gone to great lengths to develop the Riverside Center and with the plan for new jobs, it is hoped that there will be housing choices in Roanoke City that allow people to make a choice to live in the City of Roanoke, versus neighboring jurisdictions. She stated that the population is growing as a region, but today the City of Roanoke does not have the housing choices that give people the options they need to live in the City. In the case of affordable housing, she advised that someone will vacate a housing unit, move into another unit, but unfortunately the person who moves in is not always a City resident, so there is the challenge of supporting not only Roanoke's own population of low and moderate income residents, but persons from other communities; therefore, on the entire continuum of housing, there is a need to start tearing down or closing down substandard housing units in the City.

There was discussion in regard to the boarding up of houses when they become vacant and the question was raised as to whether the City can prohibit the boarding up of houses; whereupon, the City Manager advised that under current State Code, cities and other communities are limited on how active they can be in a particular property so that a homeowner or landlord does have the choice of boarding up the property and as long as the property owner keeps the grass cut and if the appearance of the exterior is in a reasonable condition, there is not a lot that the City can do to prompt the owner to remove the boards and improve the home. She explained that the house must be in very poor condition, and subject to demolition, or unpaid taxes, before the City has the potential to intervene. She advised that the City has about 200 houses that are past the point of repair that need

to be demolished, it will take approximately two years to demolish all of the properties, which will leave a vacant piece of property to be addressed by either encouraging the property owner to donate or sell the lot for infill housing, or the property could reach the point that there are enough liens for a tax sale.

Mr. Cutler referred to a communication from Chairman Fink dated June 24, 2003, regarding to a draft statement of purpose and expectations for the City of Roanoke and the Roanoke Redevelopment and Housing Authority, which provides for an evaluation of the relationship between the Housing Authority and the City; and the document also states that the Housing Authority is in the process of founding a consortium to coordinate all housing related initiatives in the City of Roanoke in order to minimize duplication and to maximize efficiency. Mr. Baker advised that the document is a work in progress and Dr. Cutler suggested that a copy of the statement be forwarded to the Members of Council and that the draft statement be the topic of discussion at a future work session of the Council and the Housing Authority.

Discussion:

In looking at the different income levels, values in housing, and interactions of the market, there is a need to engage in discussions with regard to all different forms of housing, and it should be taken into consideration that persons who are in the market for condominiums, homes and other housing options are generally looking in the urban center and do not expect to find those forms in the suburbs. This is an avenue that should be explored to look at potential opportunities.

The opportunity for the City to partner with the Housing Authority is greater today than ever before.

STREETS AND ALLEYS:

Pavement Cut Policy:

Phillip Schirmer, City Engineer, presented a briefing on the City's pavement cut policy. He explained that any work within the public street right of way requires a street opening permit; currently City crews, both utility crews as well as public works crews, are exempt from acquiring permits; a permit costs $36.00; authority to regulate work in public streets is contained in the City Code; and approximately 2,000 utility cuts occur within the City each year, which includes either cuts by the City of Roanoke, or by utility companies and telecommunications providers. He presented slides of typical utility pavement cuts throughout the City.

The City Manager advised that the City has stepped up its efforts to ensure that utility companies repair pavement cut areas and meet warranty terms.

The City Engineer advised that the City does not currently have a written policy or standards to detail restoration service; the City has not traditionally accepted repairs to pavement that have been questionable, but the City has accepted less than first quality work, therefore, staff is drafting a new policy for utility cuts in the public rights- of- way, which is a work in progress and is approximately 90 per cent complete. He stated that the City recognizes that there is an obligation to accommodate utilities in public streets rights- of- way, the City wishes to maximize the life of its public infrastructure, including street pavement and sidewalks, while addressing the public safety and minimizing inconvenience to those persons who use public streets and sidewalks.

The City Manager advised that the City has stepped up its efforts to ensure that utility companies are required to repair pavement cut areas and meet warranty terms. She also advised that people in the City of Roanoke tend to park on sidewalks; the matter has been addressed through enforcement efforts which have been met with mixed results; in addition to City Code requirements, the community needs to, in a proactive way, take the position that parking on City sidewalks is an unacceptable practice, because of the damage to sidewalks and expenses associated with repairs.

Dr. Cutler advised that City employees and citizens should be discouraged from parking on grass as well, because the capability of the soil to support vegetation is destroyed.

The City Engineer called attention to the following areas for improvement: to be proactive in inspections, with follow up warranty inspection; improved standards to publish standards for repairs by addressing workmanship, materials and timeliness of repairs; and continue to improve coordination and communication with utility company providers. He advised that the City will require contractors to certify backfill material density to ensure 95 per cent compaction of material, which is essential to demonstrate that the contractor has achieved the best in terms of compacting material; all utility cuts will be included in a database to provide the capability of identifying the utility company, or the contractor responsible for the work by location and date of work; and a limit on the number of open permits (currently there is no upper threshold on the number of permits that are allowed and Roanoke Gas Company can have as many as 100 or more open permits, with an average of 70 - 80 pavement cuts a month).

Mr. Schirmer advised that the goal is to inspect the work upon completion and within 30 days followed by an 11 month inspection to check for defects; and if the contractor or utility company fails to make the proper repairs, the City will make the repairs and bill the contractor/utility company accordingly. He stated that permit accountability is intended to ensure that when a permit is issued, contractors know they are accountable for the utility cut until it is repaired in a satisfactory manner. He advised that under the proposed new policy, contractors will be given three options for use of backfill material; the City's first preference is to use native materials, or the best materials from the dirt that came out of the hole; in the event that materials cannot be re-used, select imported material can be used; and the third option is called controlled density backfill, or flowable fill, which is a concrete product that is costly, but almost foolproof.

He addressed improved communications and advised that monthly liaison meetings will be held with utility contractors and the utility companies to share schedules regarding redevelopment areas; City staff will prepare a two year forecast of paving schedules, which could be placed on the Internet with the City's GIS technology, which will also show the last time a street was paved, the schedule for street paving this year so that contractors can plan their work in advance, and if a street is torn up after it is paved by the City the contractor will be responsible for the necessary repairs. He addressed permit fees which are currently $36.00, but do not cover the City's current cost per permit; approximately two hours of staff time is involved, or $100.00 based upon the current charge out rate, therefore, an adjustment in the permit fee is necessary; many cities have gone to what is called a pavement degradation fee, which is a sliding fee structure based on the diminished life of a pavement after a utility cut which has decreased the life of the pavement; the fee is not in lieu of expenses associated with making the repair, but the fee that would be assessed and rolled back into the paving program to cover the cost of the diminished pavement life. He explained the proposed fee is based upon current repaving costs which are approximately $50.00 per square yard to pave City streets, and the proposal would provide if a one year old pavement is cut, the contractor would be assessed a fee equal to about nine per cent of the cost of repaving the street and from that point, fees would be assessed on a sliding scale basis.

A question was raised in regard to installing utilities underground when repaving occurs; whereupon, Mr. Schirmer advised that underground utilities are outlined in the City's Comprehensive Plan, the expense of under grounding utilities usually falls upon the person desiring that the utilities be placed underground, and the only areas of the City where undergrounding can be required are special redevelopment areas and the C-3 District.

The City Manager clarified that undergrounding of utilities is required for new housing developments in the City.

Mr. Schirmer advised that the next step will be to finalize the written policy to develop a fee structure as a part of the policy and certain City Code amendments will be required.

TOPICS FOR DISCUSSION BY THE MAYOR AND MEMBERS OF COUNCIL:

CELEBRATIONS:

Mr. Cutler inquired about the status of EventZone; whereupon, the City Manager advised that the contract with EventZone has not been executed due to a question regarding insurance coverage; therefore, the first quarterly payment has not been issued to the organization. She stated that the Executive Director is aware of the issue and is attempting to make the necessary adjustments.

ITEMS LISTED ON THE 2:00 P.M. COUNCIL DOCKET REQUIRING DISCUSSION/CLARIFICATION; AND ADDITIONS/DELETIONS TO THE 2:00 P.M. DOCKET:

SCHOOLS-LEGISLATION:

With regard to agenda item 6.a.1.- Endorsement of additional State funding for education, Mayor Smith inquired as to how funds will be made available by the State; whereupon, the City Manager advised that there has been no prejudgement on how funds will be allocated. She called attention to the JLARC study relative to deficiencies in the funding for education; the State Board of Education has recently suggested a significant increase in the amount of State funds for education for the upcoming year, but State Board of Education support does not suggest to the General Assembly how or where to find the money, only that education should be a priority. She advised that the resolution before the Council speaks to the number of positions that are already funded with local monies that would, in effect, be eligible for State funding, which would free up additional local funds for either reuse by the schools, or for reallocation in some other way. She stated that this is a very ambitious request of the State, given the economy and the condition of the State generally.

COUNCIL: Council Member Dowe addressed security issues in the Council Chamber, especially in view of the recent shooting of a Council Member in New York City, and asked that the Councilman be remembered in a moment of silence at the 2:00 p.m. Council session.

It was the consensus of Council that security issues should be discussed with the City Manager in a more private setting.

Council Member Dowe requested that Council join in a moment of silence for Honorable James Davis, and the Mayor asked that Council also remember comedian, Bob Hope, who recently passed away.

Council Member Fitzpatrick advised that during their lifetime, numerous persons have made many notable contributions to the City of Roanoke, were not remembered upon their passing in a moment of silence during a formal Council setting; therefore, he asked that Council exercise caution so as not to set a precedent.

COMPLAINTS - ANIMALS/INSECTS: Council Member Bestpitch requested a status report by the City Attorney on actions taken by the City to date in regard to the excessive number of dogs that were housed in a private residence on Walnut Avenue, S. W. The City Attorney reported that with the assistance by the Angels of Assisi, the dogs were transported to a location in Patrick County.

At 1:00 p.m., the Mayor declared the Council meeting in recess for one Closed Session, to be held in the Council's Conference Room.

At 1:25 p.m., the Council meeting reconvened for a briefing in Valley Metro's Specialized Transit-Arranged Rides (S.T.A.R. Services).

BUSES: David Morgan, General Manager, Valley Metro, presented information on the S.T.A.R. Services - Specialized Transit - Arranged Rides. He advised that:

> Valley Metro contracts with Unified Human Services Transportation, Inc., (also known as RADAR) to provide specialized transportation for residents of the Roanoke Valley who have a physical or mental condition which would prohibit them from using standard public transportation, such as Valley Metro's fixed route bus service.
>
> The entire City of Roanoke, Town of Vinton and City of Salem are service areas and hours of operation are 5:45 a.m. to 8:45 p.m., Monday through Saturday.

Applications for qualification for ridership are submitted to Valley Metro for review and a determination is made on eligibility. All decisions are based on the Americans with Disabilities Act (ADA) guidelines and regulations.

Under the current contract between Valley Metro and RADAR, Valley Metro pays a total of $13.85 per one-way trip, less the rider's collected fare. The collected fare per trip is $2.50 (which is the maximum allowed by the ADA.

Annual Expenses:

Fiscal year 2001	$317,299.92	32,000 trips
Fiscal year 2002	$343,298.55	31,500 trips
Fiscal year 2003	$452,289.43	35,000 trips
Fiscal year 2004	$484,750.00*	

*budgeted

Valley Metro and RADAR work together to provide valuable transportation services to qualified individuals. Valley Metro takes all applications, confirms certification, notifies clients, and handles all daily fare ticket sales, as well as monthly pass sales, for the S.T.A.R. service. RADAR conducts the curb-to-curb service, and their drivers are trained in passenger assistance, defensive driving, CPR and wheelchair securement procedures to make the trip safe and enjoyable for all passengers.

As a part of the contract, Valley Metro monitors the performance of RADAR through spot checks, maintenance reports on equipment and ensures that training of operators is up to speed.

Mr. Morgan advised that several certified passengers have requested to be transported from Roanoke City to Roanoke County for various purposes, which requests have been denied because Roanoke County is out of the service area; two issues should be addressed: (1) cost - RADAR is open to amending its contract to provide the service on a surcharge basis in the range of $7.00 - $8.00 per trip each way, with the potential of as many as 20 - 40 trips per day to sites in Roanoke County. He explained that if a passenger lives in Roanoke County and if their destination is in the county, the rider must use CORTRAN and pay the $3.50 fare and if their destination is in Roanoke City, or in the City's service area, they will use S.T.A.R.; and the Town of Vinton is the only locality in the Roanoke Valley to participate in both RADAR and CORTRAN. (CORTRAN serves Roanoke County and does not

transport riders into Roanoke City, RADAR serves Roanoke City and does not transport riders into Roanoke County, and the Town of Vinton is located within Roanoke County, therefore, the Town uses both transportation systems.)

There was discussion with regard to looking at the broader issue, one in which Valley Metro would serve as the region's transportation agency, with creation of State or Federal inducements; Council can move the issue forward by encouraging discussions at regional forums with other elected officials from surrounding localities.

Further discussion centered around providing service for one subset of the population who have physical and/or mental disabilities that preclude them from using the regular transportation service, as opposed to all other citizens in the City who may wish to reach a specific destination in Roanoke County by bus; therefore, the issue of public transportation policy should be looked at from the broader need of the entire community and not just one segment of the community.

Following further discussion, it was the consensus of Council to refer the matter to the General Manager of Valley Metro and to the City Manager for report back to the Council and to the Board of Directors of the Greater Roanoke Transit Company with regard to available options that could be pursued in addressing the broad picture.

At 1:50 p.m., the Council meeting was declared in recess to be reconvened at 2:00 p.m., in the Council Chamber.

At 2:00 p.m., on Monday, August 4, 2003, the Council meeting reconvened in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Smith presiding.

PRESENT: Council Members C. Nelson Harris, Linda F. Wyatt, William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., and Mayor Ralph K. Smith----------7.

ABSENT: None----------0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The meeting was opened with a prayer by The Reverend Rawleigh W. Quarles, Pastor, Staunton Avenue Church of God.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Smith.

Council Member Dowe requested a moment of silence in memory of the late James E. Davis, a New York City Council Member, who was shot by a political rival in the balcony of the Council Chamber at City Hall on July 24, 2003.

PRESENTATIONS AND ACKNOWLEDGMENT:

ACTS OF ACKNOWLEDGMENTS: Mr. Bestpitch offered the following resolution designating Ms. Pearl Fu as an Honorary Goodwill Ambassador at Large for the City of Roanoke, in recognition of her many contributions to the cultural richness of the community:

(#36442-080403) A RESOLUTION recognizing Pearl Fu as an honorary Goodwill Ambassador at Large for the City of Roanoke.

(For full text of resolution, see Resolution Book No. 68, Page 1.)

Mr. Bestpitch moved the adoption of Resolution No. 36442-080403. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

The Mayor presented Ms. Fu with a ceremonial copy of the above referenced resolution and a Star Basket containing items made in the Commonwealth of Virginia.

ACTS OF ACKNOWLEDGMENT-CITY GOVERNMENT: The Mayor recognized the following participants in the City's 2003 Summer Internship Program:

Ashley Reynolds- a rising Senior at Hollins University, who interned in the Office of the Clerk of the Circuit Court;

Jamie Staples - a rising Senior at Longwood College, who interned at the Roanoke Civic Center;

Marcus Croson - a December 2002 graduate of Norfolk State University, who interned in the Department of Finance;

John Barrett - a rising Junior at Virginia Tech, who interned in the Department of Technology;

Sarah Krieger - a Graduate Student from Radford University, who interned in the General Services Department;

Shayla Evans - a rising Senior at Virginia State, who interned in the Department of Real Estate Valuation;

Joshua Mabrey - a rising Senior at Pensacola Christian College, who interned in the Billings and Collections Department;

Tanicka McKinnon - a 2003 graduate of Virginia Tech, who interned in the Economic Development Department;

Kevin Saunders - a rising Junior at Davidson College, who interned at the Wastewater Treatment facility;

Benjamin Crew - a rising Senior at Virginia tech, who interned in the Department of parks and Recreation; and

Steve Grenoble, Justin Reynolds, Ben Gilmer and Wes Ketron - rising Seniors at Radford University, and Nicole Paynotta, a 2003 Graduate of the University of Virginia, who interned in the Engineering Department and assisted with the Storm Water GIS project.

The Mayor expressed appreciation to each student for their participation in the program and presented them with a City of Roanoke logo lapel pin.

CONSENT AGENDA

The Mayor advised that all matters listed under the Consent Agenda were considered to be routine by the Members of Council and would be enacted by one motion in the form, or forms, listed on the Consent Agenda, and if discussion was desired, that item would be removed from the Consent Agenda and considered separately.

MINUTES: Minutes of the regular meetings of Council held on Monday, December 18, 2000; Monday, June 2, 2003; and Monday, June 16, 2003, were before Council.

Mr. Dowe moved that the reading of the minutes be dispensed with and that the Minutes be approved as recorded. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

OATHS OF OFFICE-COMMITTEES-PERSONNEL DEPARTMENT: A communication from Carol Tuning tendering her resignation as a member of the Personnel and Employment Practices Commission, effective immediately, was before Council.

Mr. Dowe moved that the communication be received and filed and that the resignation be accepted. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

OATHS OF OFFICE-COMMITTEES-HOUSING/AUTHORITY-PERSONNEL DEPARTMENT-FIFTH PLANNING DISTRICT COMMISSION: The following reports of qualification were before Council:

Alphonzo L. Holland, Sr., as a member of the Personnel and Employment Practices Commission, for a term ending June 30, 2006;

Gregory W. Feldmann as a Commissioner of the Roanoke Redevelopment and Housing Authority, for a term ending August 31, 2006; and

Ralph K. Smith and R. Brian Townsend as members of the Roanoke Valley-Alleghany Regional Commission, for terms ending June 30, 2006.

Mr. Dowe moved that the reports of qualification be received and filed. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

REGULAR AGENDA

PUBLIC HEARINGS: NONE.

PETITIONS AND COMMUNICATIONS:

ARMORY/STADIUM-ROANOKE CIVIC CENTER: Mr. Harris moved that Council rescind its previous action to construct an $18 million stadium/amphitheater on Orange Avenue and Williamson Road. The motion was seconded by Mr. Fitzpatrick.

Mr. Harris advised that in order for the project to go forward, it should have broad community support because of the amount of money that is involved and the long term implications that the project will have should it be constructed; his sense of the community is that support does not exist; and there appears to be three primary concerns related to the project; i.e.: the amount of sentiment in the community regarding maintenance and renovation of Victory Stadium, concerns relative to the dual nature of the stadium/amphitheater and the possibility of building two diluted facilities, and the cost of the stadium/amphitheater project, given the current needs of the community. He advised that Council made a unanimous decision in May 2001 to proceed with the project; however, his role and responsibility as an elected Member of City Council is to represent what he considers to be the will of the community; therefore, several weeks ago, he publicly shared his concerns about the stadium/amphitheater project and stated that he could not continue to support the project in honor of his responsibilities as an elected official to represent the interests of all citizens of the City of Roanoke. Therefore, Vice-Mayor Harris stated that it is for those reasons that he offered the motion and co-authored a letter with Council Member Fitzpatrick advising that they would introduce a motion at today's Council meeting to rescind the previous motion adopted by Council. He expressed appreciation to all persons who communicated with him over the past several weeks which helped to shape his position on the stadium/amphitheater issue.

The Mayor advised that 19 persons had signed up to speak; whereupon, he called upon Ms. Brenda Hale, 3595 Packwood Drive, S. W., who advised that the most precious commodity of the Roanoke Valley is its youth who deserve the best opportunities that are available, both now and in the near future. She stated that the Roanoke community deserves the same consideration; a new stadium/amphitheater would provide unlimited opportunities for the City of Roanoke and indecisions must

be laid to rest; when the visionaries conceived the Mill Mountain Star, they pressed on with a dream; and there is an opportunity to have a second icon, which will be unique to the Roanoke Valley – a new stadium/amphitheater that could provide unlimited revenue return for many years to come. She stated that change is difficult to come by in the Roanoke Valley, but cities, like individuals, must go through change which leads to growth and development, in order to be competitive and to place the locality in a win/win situation; and the dream will not only benefit the Roanoke community, but encourage individuals from other cities and states to visit the Star City. She encouraged Council to abide by its previous decision to construct a new stadium/amphitheater at the Orange Avenue/Williamson Road site in an effort to continue to move the City of Roanoke forward.

Mr. Chris Craft, 1501 East Gate Avenue, N. E., expressed opposition to the proposed new stadium/amphitheater, and concern with regard to other facilities in Roanoke City that are not used and have not been properly marketed by the City; therefore, he urged that Victory Stadium be properly renovated and marketed. He called attention to traffic concerns at the Roanoke Civic Center and advised that if a new stadium/amphitheater is constructed at the Orange Avenue/Williamson Road location, traffic congestion will be compounded. He asked that Council allow the citizens of the City of Roanoke to decide on how their tax dollars will be spent.

Mr. Jim Fields, 17 Ridge Crest Road, Hardy, Virginia, advised that Council is not listening to the wishes of the taxpayers who want Victory Stadium to be renovated. He stated that Victory Stadium is a City historic landmark that should be preserved and suggested that the Parks and Recreation Department be moved from its present location on Reserve Avenue to the stadium site, which would enable construction of an amphitheater on Reserve Avenue at the current location of the Parks and Recreation building. He also spoke in support of renovating Victory Stadium in memory of World War II veterans; and out of respect for World War II veterans, he encouraged the City to fly a United States Flag at Victory Stadium.

Mr. John Kelley, 2909 Morrison Street, S. E., expressed concern with regard to traffic congestion if the stadium/amphitheater is constructed on the Orange Avenue site. He also expressed concern with regard to costs and advised that the debt of Roanoke City is at an all time high, having risen from $800.00 per person prior to the arrival of City Manager Burcham to $2,000.00 per person currently, which is the State's mandatory limit. He stated that the overwhelming majority of citizens believe that there is more to the issue than the location of a new stadium; i.e.: could it be that Carilion Health Care Corporation or the new Biotech would like to acquire the land for future expansion, and it could be that some Members of City Council, either knowingly or unknowingly, have been used to change the stadium site so that these two groups can gain access to the property. If the rumor is true, he stated that there

should be an investigation of the allegations. In the interest of the total Roanoke community, he requested that Council place the matter on the November ballot to enable the citizens of the City of Roanoke to vote on the fate of Victory Stadium.

Ms. Liz Rodriguez, 120 23rd Street, S. E., advised that Victory Stadium is an invaluable resource to the Roanoke community, and if the stadium is renovated, attendance at events will increase. In conclusion, she advised that Victory Stadium has the potential to be new again, while preserving the history and memories of Roanoke and its citizens.

Ms. Pat Lawson, 1618 Riverside Terrace, S. E., spoke in support of renovating Victory Stadium for sentimental and historic preservation reasons.

Mr. Dick Kelley, 550 Chaplet Road, S. E., commended the City on the successful renovation of Jefferson High School and The Hotel Roanoke; and advised that Roanokers are proud of Victory Stadium and want the facility to be renovated for use by present and future Roanoke citizens for sporting events that cannot be accommodated in the proposed smaller facility on Orange Avenue and Williamson Road. He stated that costs will not be kept to $18 million when taking into consideration the overpass and tearing down Victory Stadium, relocating the Schools' transportation facility to the City's salt storage facility, and other grading and fill material. He called attention to the availability of parking in the Victory Stadium area, and inquired as to the City's justification if it disregards the signatures of 7,000 persons who signed petitions in support of saving Victory Stadium.

Mr. E. Duane Howard, 508 Walnut Avenue, S. W., advised that the future of sports lies not in football, baseball or soccer, but in BMX biking, skateboarding and what is called the X and gravity games, and the only way that Roanoke can keep its youth is to accommodate the true sports of the future, by renovating Victory Stadium and providing a 20,000 - 25,000 seat venue where gravity games can be held. He suggested that Council ask the youth of Roanoke to state their wishes in regard to the types of sports activities that interest them.

Ms. Helen E. Davis, 35 Patton Avenue, N. E., raised questions in connection with information provided by the City to the consulting firm of C. H. Johnson; i.e.: Why was the consultant told that evening events at Victory Stadium would disturb patients at Carilion Roanoke Memorial Hospital, when recently a spokesperson for Carilion stated that no disturbances as a result of Victory Stadium activities/events have been experienced by the hospital. Why was the consultant told that renovation costs for Victory Stadium and for constructing a new stadium would be the same? Why would City Council ignore the wishes of citizens who want to keep Victory Stadium and make it a show place and an asset for Roanokers? She questioned the

remarks of Ken McDonald, a concert promoter, who stated in 2001 that he was impressed with the creativity of the multi-purpose sports and concert facility, however, he would probably not spend his own personal money to build such a facility, but he now speaks in support of construction of the facility.

Mr. Tom Link, 2201 Carolina Avenue, S. W., advised that the person who has the most to gain from the proposed new amphitheater project is Ken McDonald, concert promoter. He spoke with regard to the involvement of Mr. McDonald in venues such as Clear Channel Communications and the NBA formed, Arena Ventures, owner of the Roanoke Dazzle, which has a five year renewable contract with the City of Roanoke, whereby the City promised to build the Roanoke Dazzle an office and other improvements totaling over $5 million, with the guarantee that Clear Channel Communications would bring 26 - 28 entertainment events to Roanoke each year, and the Roanoke Dazzle can opt out at the end of 2004 if basketball attendance has not met projections. He added that the Roanoke Dazzle has experienced problems in generating an audience, the commitment of Clear Channel Communications for 26 - 28 other events in either 2002 or 2003 has not been honored, and the guarantee by Clear Channel Communications has not been enforced by the City of Roanoke. He also referred to the Nautilus complex in Norfolk, a $52 million science museum complex that opened in 1994, which has never reached its projected revenue dreams, was constructed over the projected construction budget and has reduced its prices on numerous occasions by as much as 44 per cent in one case alone in its attempt to prop up sagging revenues, and the bond rating for the City of Norfolk dropped during this period from A to A-1. In conclusion, he inquired as to why City Council would accept the projections of Clear Channel Communications when there is ample evidence that its projections are not reliable, why would City Council place the City of Roanoke at risk of becoming over extended, making future borrowing more expensive, and why would Council want to make the City of Roanoke the pawn in an experiment that is designed to benefit the stockholders of Clear Channel Communications and not the citizens of Roanoke.

Mr. Roy Kinney, 2975 Rosalind Avenue, S. W., advised that Council was elected to transact the business of the majority of the citizens of the City of Roanoke, therefore, Council is obligated to make its decisions based on the wishes of the majority of the electorate.

Mr. Don Baldwin, 2114 Beckley Avenue, S. W., quoted from the C. H. Johnson consulting report, as follows: "The demand for concerts at such a dual purpose facility will not approach the levels achieved by single purpose amphitheater facilities." and "The estimates are that 3 - 5 second or third tier events might use such a facility in its first few years of operation. Those events would attract anywhere from 500 to 3,000 attendees, an occasional special concert event may

attract more than 3,000 attendees, but such events are rare." He asked if Council was aware that a single use amphitheater was never studied; and did Council know that the City Administration is projecting five events at 7,500 attendees, and not three to five events with 500 to 3,000 attendees as estimated by the consultant. He advised that the City Manager is quoted in the newspaper as guaranteeing that the price of the new stadium will be $18 million; whereupon, he asked if Council Members will stand behind the City Manager's statement.

Ms. Freda Tate, 3323 Circle Brook Drive, S. W., advised that if Victory Stadium is renovated, young people will use the facility. She asked that the fate of Victory Stadium be decided upon by the voters of Roanoke at a referendum.

Ms. Patricia Rodriguez, 120 23rd Street., S. E., advised that the youth of Roanoke should have the opportunity to experience and to appreciate the history of Victory Stadium. She stated that the size of Victory Stadium is one of its many attributes; and surrounding localities would be pleased if the City of Roanoke did not have Victory Stadium because if a smaller facility is constructed, the competition of having a stadium that will provide more seating is eliminated. She added that the majority of Roanoke's citizens favor renovation of Victory Stadium, or the opportunity to express their views at a public referendum.

Ms. Evelyn D. Bethel, 35 Patton Avenue, N. E., spoke in support of allowing the citizens of Roanoke to vote on the matter at a public referendum. She stated that Victory Stadium is a historic landmark and should the City seek historic designation, tax credits could be used to serve as an economic and revitalization tool for rehabilitation of Victory Stadium. She added that the City of Roanoke advocates historic preservation as a part of the City's recently adopted Comprehensive Plan.

Mr. Rick Williams, 3725 Sunrise Avenue, N. W., spoke to the feasibility of engaging the community in fund raising efforts to either renovate Victory Stadium, or to construct a new stadium, similar to fund raising efforts for Jefferson High School and The Hotel Roanoke renovations, with the City of Roanoke providing a certain percentage of funds. He stated that the arrangement would provide a useful way of both constructing a new facility, while offering those persons who care deeply about Victory Stadium to have the opportunity to not only participate in saving the facility, but also to devise a credible strategy for adaptive reuse, whether or not the facility continues to function as a stadium.

Mr. Robert Gravely, 3360 Hershberger Road, N. W., spoke with regard to the marketing of Victory Stadium and ways to attract more people to Roanoke. He advised that the average wages of City employees are such that they cannot afford to purchase a house, or the price of tickets to events at the Roanoke Civic Center, citizens are over taxed, and taxpayers' money should not be spent on the needs of big business.

Mr. Bill Dreiser, 2506 Stanley Avenue, S. E., advised that a vast number of Roanokers want Victory Stadium to be renovated.

Ms. Mary Stewart Link, 2201 Carolina Avenue, S. W., concurred in the remarks of a previous speaker that there are many citizens who would be willing to contribute financially to the cost of renovating Victory Stadium; therefore, she expressed support for the renovation of the facility. She stated that with renovation of Victory Stadium, the historical value could be retained and the City could have a newly renovated facility for less money than the cost of the proposed stadium/amphitheater on Orange Avenue/Williamson Road.

Mr. Wilfred Noel, 2743 North view Drive, S. W., inquired if consideration has been given to the loss of revenue to the City if a new stadium/amphitheater is constructed at Orange Avenue/Williamson Road, thus leading to the potential exit of a prominent business in the Williamson Road area. He stated that other localities are currently building monuments to World War II veterans, but the City of Roanoke is talking about demolishing its historic monument to war veterans. He expressed concern that the Victory Stadium issue is dividing the Roanoke community.

Mr. Read Lunsford, 1525 West Drive,S. W., Chair, Flood Plain Committee, advised that renovations to Victory Stadium must be at a two foot elevation above the one hundred year flood plain; therefore, if the stadium were to be utilized in whatever shape, it must start at 12 feet above the flood plain, which is not a good common sense approach. He stated that Victory Stadium will never be an economic engine for the City of Roanoke, it will not generate the kind of revenues that a new stadium/amphitheater combination will create; therefore, he expressed support for the proposed new stadium/amphitheater at the Orange Avenue/ Williamson Road site.

Ms. Barbara N. Duerk, 2607 Rosalind Avenue, S. W., advised that the Victory Stadium location and design has been an arduous process for over a decade, with multiple public meetings. She stated that Victory Stadium should be renovated for use above and beyond school related sports purposes; Roanokers should have a sense of place and the name of Victory Stadium and McClelland Field should be a part of any new facility. She asked that Council support the construction of a new stadium/amphitheater at the Orange Avenue location.

Mr. Bill Tanger, 257 Dancing Tree Lane, Botetourt County, a member of the City's Flood Plain Committee, advised that flood records date back 100 years and only one 100 year flood has occurred during that time. He presented Council Members with a copy of the C. H. Johnson Consulting report and advised that the report is based on erroneous information provided by the City Administration to the consultant; and even though the consultant recommended construction of a new stadium, the recommendation was based on false information. He stated that the consultant also made numerous negative comments about the hybrid form of stadium, including deficiencies such as the closest seats being 160 feet away, the crowned field will cause bad sight lines for those who are seated past the mid line of the field, the most expensive seats are uncovered, and concert events can damage the field. In summary, he stated that the consultant's report is based upon false information regarding the flood plain, parking issues, and noise issues at Carilion Roanoke Memorial Hospital. He advised that 80 per cent plus of the citizens of Roanoke have expressed a desire to renovate Victory Stadium, or at the least to not construct a new stadium.

The Mayor read the following excerpt from the report of C. H. Johnson, Consultant:

> "As indicated in the Price, Waterhouse, Coopers data presented at the beginning of this section, the profit margins of amphitheaters is shrinking, changing economic influences are forcing shrewd promoters to assume larger shares of event risks to provide performers with guaranteed fees, this increased risk for promoters places a premium on booking shows in larger markets at the most efficient and attractive facilities in order to minimize exposure to potential losses. The Roanoke market area has not yet reached the level of population and income necessary to consistently support larger amphitheater concerts. Some performers that live off of the smaller crowds of around 5,000 or less could turn a profit in the Roanoke market, but this would only account for a few smaller events per year and could not support a large amphitheater. The more traditional layout and inherent functional compromises such as a mixed use facility would present would generally preclude it from attracting more than five or six events per year. The risk involved in playing a facility with a compromised seating

grid and sight lines would preclude the facility from consideration by acts that are big enough draws to pick and choose their play dates and venues. The financial characteristics associated with the entertainment events that would play in such multi purpose facility would generate moderate net revenues from an operational standpoint, but would not generate revenue capable of covering additional capital costs associated with any permanent stage."

The Mayor advised that the City's own consultant identified shortcomings of a mixed use facility, and he also called attention to conflicting views from members of the City's Flood Plain Committee. He referred to telephone calls from persons throughout the community who have expressed an interest in purchasing Victory Stadium in order to save the facility.

Mr. Fitzpatrick advised that the stadium/amphitheater is a regional project, which should involve Roanoke County, the Town of Vinton and the City of Salem, all deciding together what is needed for the Roanoke Valley as a region. He stated that an amphitheater is far better for Roanoke's future than the concept of a multi use facility and if Roanoke builds the right kind of facility, it will generate visitors from as far away as Washington, northern Virginia, and North Carolina. He added that the bottom line is that the proposed project does not have Victory Stadium in it, because it is not known how much it would cost to renovate Victory Stadium and he would be reluctant for the citizens to vote on any project without first understanding the cost; and estimates to renovate Victory Stadium range from $5 million to $67 million, however, it is not known if the stadium is structurally sound because the facility has not been tested. He advised that the bottom line is that there is not sufficient participation to support Victory Stadium, and if citizens do not attend stadium events, the facility becomes a cost to the citizens of Roanoke forever; Roanoke needs a facility that will generate a return on investment and bring money into the community, and if a regional facility is constructed, the cost can be shared among local governments of the Roanoke Valley. He stated that funds are not available to do the kinds of things that have been done in the past, whether it be The Jefferson Center, or The Hotel Roanoke, or even Victory Stadium, unless there is some form of additional income from another source. He added that Roanoke has an aging population that does not want its taxes to increase, young people are leaving the area to go to other localities because the right kind of jobs are not available; therefore, the Members of Council must be incredibly responsible to ensure that available

funds are spent wisely, which also supports regional action. He stated that more research needs to be done on the proposed Orange Avenue/ Williamson Road site to determine if it is a good location, to review all viable opportunities before taking any action on Victory Stadium, or if a facility might be constructed that would be an addition to Victory Stadium. He advised that when spending the taxpayers' money, Council must ensure that it understands what taxpayers are receiving for their money and that funds are spent on projects that benefit Roanoke's current and future generations. He explained that the City of Roanoke has not reached the point where Council can either make a good decision on behalf of the citizens, or bring a project to the citizens that they can vote on; therefore, he would prefer to stop the stadium/amphitheater project, review all options and then vote with citizen involvement on whether to construct a new stadium, whether Victory Stadium should be renovated, or whether an additional facility such as an amphitheater should be constructed.

Mr. Cutler advised that the City of Roanoke should construct the new stadium/amphitheater at Williamson Road and Orange Avenue as a logical expansion of the Roanoke Civic Center complex; Roanoke's school students have played sports in an obsolete facility for far too long; if the project stays on course, an innovative new facility could be open in time for football season in 2006; and if Council adopts the motion to reconsider the Council's vote which was taken in May 2001 to construct a new facility, the vote would stop any progress toward this goal for a long time to come. He stated that time would be needed in order to open debate regarding alternative sites; and if Victory Stadium, or any other site were decided upon, it would require at least three more years of design and construction or reconstruction. He advised that the more he learns about the condition of Victory Stadium's reinforced concrete structure, or the effect of 61 years of water collecting between the concrete and the reinforcing rod, and deterioration of the stadium's framework, the more convinced he is as to how expensive reconstruction of the facility will be. Therefore, he explained that citizens of the City of Roanoke would be looking at $30 million to rebuild Victory Stadium and to construct a separate amphitheater, versus $18 million to move ahead with the plan that is currently underway to combine the stadium and the amphitheater as a part of the Civic Center complex. He stated that he favors progress on a new stadium/amphitheater on Orange Avenue/ Williamson Road and will oppose the motion to reconsider the Council's previous action.

Mr. Dowe advised that he toured Victory Stadium and observed the dilapidation of the facility, and saw first hand the damage to the facility as a result of the 1985 and 2003 floods. He stated that Roanoke's citizenry is not only decreasing, but getting older, therefore, the issue of sustainability must be taken into consideration because there are not a lot of entertainment venues that will draw 20,000 - 25,000 persons from the older audience to the facility; and Roanoke is no longer a 25,000 seat market, therefore, in order to attract 20,000 - 25,000 people to a sporting event, it would be necessary to have a flagship program such as Virginia Tech at Lane Stadium in Blacksburg. He stated that when entertainers commit to perform in a facility, they are looking for a guarantee that the money will be available, regardless of whether ticket sales are up or down, and they want to entertain in a facility where they sound good; Victory Stadium was not built for sound but for football, therefore, the entertainment value of Victory Stadium will not be any different unless there is cart blanche authority to change the overall feel of the facility. He stated that there have been some valid concerns relative to traffic at the proposed site on Orange Avenue which has forced the City to look at creative traffic management and the scheduling of events, and out of 365 days a year, four events could potentially cause a problem. He expressed concern that if a referendum is held, a large number of persons who use Victory Stadium will be eliminated from the vote because they are not old enough to vote. He stated that it has been a difficult decision to make because he has had to balance the vision of what would be best for the young people of Roanoke, with respect and acknowledgment of and for those persons who have helped to create history.

Mr. Bestpitch advised that an important question was raised over the past few weeks of discussion; i.e.: what is the basic job of an elected official; an obvious answer to the question is to represent the will of the majority of the people, but another obvious answer is to listen to all of the people, to study all available information on a difficult question, to learn as much as possible, to analyze information, and to make the best decision that the elected official is capable of making. He stated that another question that has been raised is whether there is a private corporate interest in the Victory Stadium site; the City Manager has informed City Council that officials of Carilion were contacted to inquire in the event that the Victory Stadium property becomes available, if Carilion would have an interest in acquiring the property, and the response by Carilion was no. He pointed out that the City of Roanoke currently has a memorial dedicated to veterans who fought during World War II which is located in Lee Plaza. He called attention to remarks that Roanoke likes to tear down historic structures; whereupon, he referred to The Hotel Roanoke, the City Market Building, GOB North which was turned into the Higher

Education Center, GOB South which was turned into 8 Jefferson Place for market rate apartments, Center in the Square which houses various museums and Mill Mountain Theater, Jefferson High School which was turned into The Jefferson Center, the Grandin Theater, the Dumas Hotel which is now in the process of renovation and expansion for another performing arts venue, the N & W Passenger Station and the Virginian Railway Passenger Station, and the almost 54 year old star on Mill Mountain, all of which does not take into account the private commercial buildings on Salem Avenue, Campbell Avenue, Church Avenue, and Jefferson Street. He advised that the primary spokesman on the Victory Stadium issue has been Mr. Brian Wishneff whose proposal has been to renovate Victory Stadium and to build a separate amphitheater facility; if a separate amphitheater is constructed for only the purpose of using the facility as an amphitheater, it then becomes clear that the stadium is for high school sports only; although high school sports are important and if that is the sole purpose of the stadium, cost comparisons should be made as to what it would cost to renovate the stadium for high school sports; and it has been suggested that Victory Stadium could be renovated for as little as $6 million with historic tax credits, or the number could be as high as $15 million or more. He referred to events held in Elmwood Park, entertainment that started with Festival in the Park, the Taste of the Blue Ridge Blues and Jazz Festival, the Henry Street Festival, the Easter Seal Summer Concert series, the City Market area, the Local Colors Festival, Center in the Square, The Jefferson Center with Shaftman Performance Hall, First Union Plaza, the Art Museum and IMAX Theater, venues and events that are held at The Hotel Roanoke and Conference Center, the Dumas Hotel, the Coliseum and the Auditorium at the Roanoke Civic Center, along with improvements to upgrade the Civic Center complex; and if a stadium/amphitheater is constructed on the Orange Avenue/Williamson Road site, the sense of a contiguous arts and entertainment district for the City of Roanoke will be created that will provide a scenergy for the area.

Ms. Wyatt advised that it is her job to represent all of the citizens of Roanoke and to do what she considers to be the right thing. She stated that she would put Roanoke up against any other city in the nation and in the state when it comes to historic preservation; however, it has been 15 years since the City of Roanoke built something new for the future of its children; i.e.: two new swimming pools, one in Washington Park and one in Fallon Park, which is an indictment about not looking toward Roanoke's future and the future of its children. She advised that she understands the importance of preserving memories, but memories live in the heart and not in bricks and mortar, and there comes a point in time when it is necessary to let go of the past in order to move into the future.

The motion offered by Mr. Harris, seconded by Mr. Fitzpatrick, that Council rescind its previous action to construct a stadium/amphitheater on Orange Avenue/Williamson Road, was lost by the following vote:

AYES: Council Members Harris, Fitzpatrick and Mayor Smith----------3.

NAYS: Council Members Wyatt, Bestpitch, Cutler and Dowe----------4.

REPORTS OF OFFICERS:

CITY MANAGER:

BRIEFINGS: NONE.

ITEMS RECOMMENDED FOR ACTION:

BUDGET-SCHOOLS-LEGISLATION: The City Manager submitted a communication advising that Virginia's Joint Legislative Audit and Review Commission (JLARC) released a report in February 2002 that summarized its findings and recommendations regarding State and local funding of the Standards of Quality (SOQ); and JLARC suggested that the State Board of Education consider funding three "tiers" of support for elementary and secondary education:

- Tier 1 – Meeting estimated costs of the SOQ, based on current standards at current cost levels;
- Tier 2 – Funding costs of practices the majority of school divisions already engage in, but do not consistently receive State funding for, such as lower pupil-teacher ratios than prescribed by the SOQ; and
- Tier 3 – Helping to fund capital costs and enhanced teacher salaries.

It was further advised that subsequently, Council adopted the 2003 Legislative Program which supported "restructuring the State's tax system to raise State tax revenues to generate the additional funding required annually for education;" Council's Legislative Program also incorporated the Roanoke City School Board's Legislative Program that called on the General Assembly "to improve its share of funding public education based on the results of the JLARC study;" and most recently, the Board of Education agreed on May 28 to a set of SOQ modifications that, in large part, addresses the JLARC "Tier 2" recommendations, including the following:

- One full-time principal in each elementary school
- One full-time assistant principal for each 400 students in each school
- Additional elementary resource teachers for art, music and physical education
- Reduction in the secondary school pupil to teacher ratio from 25:1 to 21:1 to support scheduled planning time for secondary teachers
- Reduction in the speech language pathologist caseload from 68 to 60 students
- Two technology positions per 1,000 students in grades K-12 division-wide
- One full-time reading specialist per 1,000 students

These changes would add 158.8 positions in Roanoke and generate $4.4 million in additional State revenue, if fully funded; 116 of these positions are already being locally funded, meaning that only 42.8 positions would actually have to be added at a cost of $2.1 million; and the net effect then would be an increase of $2.3 million in State revenue that could be used to fund other priority school initiatives.

It was explained that at the same time that Virginia localities have been struggling to adequately fund elementary and secondary education, higher education in Virginia has also been besieged by unprecedented State funding cuts that have resulted in teaching and administrative staff reductions, reduced course offerings for students, and increased tuitions and fees for both in-state and out-of-state students.

It was further explained that to serve as an advocate for quality education in Virginia, "The Alliance for Virginia's Students" was formed by four founding organizations that are committed to providing Virginia's students – kindergarten through college – with the best possible education and are working together to achieve that common goal; collectively, they represent thousands of Virginians who have a compelling interest in the education of all Virginians; the organizations include the Virginia Education Coalition, the Virginia Business Higher Education Council, including public college presidents, Virginia First Cities Coalition, and the Virginia Association of Counties; and to help bring this important issue to the attention of the General Assembly in advance of its next session, the Alliance is asking participants to adopt a resolution endorsing additional State funding for education.

The City Manager advised that Roanoke has been an active participant in the efforts of Virginia First Cities Coalition to promote education funding reform in Virginia; therefore, to continue this effort, she recommended that Council adopt a resolution endorsing additional State funding for education, that a copy of the resolution be forwarded to state legislators; and that Council include the issue in the 2004 Legislative Program for the 2004 Session of the Virginia General Assembly.

Mr. Cutler offered the following resolution:

(#36443-080403) A RESOLUTION supporting Virginia's public school students and urging the General Assembly to provide additional State dollars to fully fund the actual costs of the Standards of Quality and the legislative guidelines for higher education funding.

(For full text of Resolution, see Resolution Book No. 68, Page 3.)

Mr. Cutler moved the adoption of Resolution No. 36443-080403. The motion was seconded by Mr. Dowe.

The City Manager corrected a response which was given to the Mayor at the 9:00 a.m. work session that if the Standards of Quality are approved and adopted by the State and funding is made available, approximately 159 positions would be added to the school system, generating $4.4 million additional State revenue if funded; of those positions, 116 are already funded by local funds which means that the City of Roanoke would have to fund an additional 42.8 positions, but the City would still see revenue in excess of its expenditures of $2.3 million in State revenue, which would make other monies available for other school initiatives or items.

Resolution No. 36443-080403 was adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

STREETS AND ALLEYS: The City Manager submitted a communication advising that on September 17, 2001, Council adopted Ordinance No. 35588- 091701 permanently vacating an alley, effective ten days following the date of adoption; as a condition of the ordinance, the petitioner was required to prepare and record a subdivision plat showing the vacated portion of the alley and the combination of the alley with the adjoining parcels; and the ordinance required that the plat be prepared and recorded within a period of 12 months, or the ordinance would be null and void.

It was further advised that a subdivision plat was submitted for review on November 8, 2001; plat review comments and request for revisions were forwarded to the surveyor and the petitioner on November 26, 2001; as a part of the requested revisions, signatures of the seven affected property owners were required; the process of signing the plat continued for more than a year; the last signature

obtained was dated and notarized on November 12, 2002; the plat was resubmitted for review on December 9, 2002, and approved on December 19, 2002; plat recordation occurred on December 20, 2002; copies of the recorded plat were returned to the City on December 31, 2002; and as the chronology indicates, due to problems associated with obtaining signatures from the various property owners, the "null and void" date of September 27, 2002, was exceeded.

It was stated that when the property owners attempted to record revised deeds, it was discovered that the above-referenced ordinance had lapsed; since all conditions of the ordinance were satisfied with the recordation of the plat in Map Book 1, pages 2537 and 2538, the property owners have requested that Ordinance No. 35588-091701 be readopted and amended with the condition that the conditions set out therein will be met within a period of 24 months (September 27, 2003).

The City Manager recommended that Council readopt and amend Ordinance No. 35588-091701, with the condition that the period of time required for satisfaction of the conditions will be revised from 12 months to 24 months.

Mr. Dowe offered the following ordinance:

(#36444-080403) AN ORDINANCE amending and reordaining Ordinance No. 35588-091701; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68, Page 5.)

Mr. Dowe moved the adoption of Ordinance No. 36444-080403. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

POLICE DEPARTMENT-TRAFFIC-BUDGET-GRANTS: The City Manager submitted a communication advising that the Virginia Department of Motor Vehicles (DMV) is the administering agency for pass through funds provided by the United States Department of Transportation for highway safety projects in Virginia; DMV offers these funds to successful applicants for activities which improve highway safety in Virginia; the Virginia Department of Motor Vehicles has awarded the City of Roanoke Police Department $15,000.00 for overtime and related FICA expenditures associated with conducting selective enforcement activities which target Driving

Under the Influence (DUI), speeding, and motor vehicle occupant safety; the grant period is from October 1, 2003 through September 30, 2004; and this is the eighth year that the City of Roanoke has received funds under the program.

It was further advised that there is a statistically proven proportional correlation between levels of motor vehicle law enforcement and traffic accidents in the City of Roanoke; historically, speed and alcohol are factors in 17 per cent of Roanoke's motor vehicle accidents; and the program allows officers to concentrate on alcohol impaired drivers and speeders at times when such violations are most likely to occur.

The City Manager recommended that Council accept the Driver/Occupant Awareness grant and authorize the City Manager to execute the grant agreement and any related documents, subject approval as to form by the City Attorney; appropriate $15,000.00 and increase the corresponding revenue estimate in accounts established by the Director of Finance in the Grant Fund.

Mr. Dowe offered the following budget ordinance:

(#36445-080403) AN ORDINANCE to amend and reordain certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68, Page 6.)

Mr. Dowe moved the adoption of Ordinance No. 36445-080403. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

Mr. Dowe offered the following resolution:

(#36446-080403) A RESOLUTION accepting the Driver/Occupant Awareness grant offer made to the City by the Virginia Department of Motor Vehicles, and authorizing execution of any required documentation on behalf of the City.

(For full text of Resolution, see Resolution Book No. 68, Page 7.)

Mr. Dowe moved the adoption of Resolution No. 36446-080403. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

POLICE DEPARTMENT-BUDGET-GRANTS: The City Manager submitted a communication advising that the Bulletproof Partnership Grant Act of 2001, enacted by the 107th United States Congress, provides funds to eligible law enforcement agencies for the purchase of bulletproof vests; the grant program is managed by the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance; and on June 30, 2003, the City of Roanoke was awarded $9,474.00 for bulletproof vests purchased by the Police Department in fiscal year 2002-03.

The City Manager recommended that Council accept the Bulletproof Vest Partnership reimbursement of $9,474.00 and authorize the City Manager and the Chief of Police to execute any agreements related to said grant.

Mr. Dowe offered the following budget ordinance:

(#36447-080403) AN ORDINANCE to amend and reordain certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68, Page 8.)

Mr. Dowe moved the adoption of Ordinance No. 36447-080403. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

Mr. Dowe offered the following resolution:

(#36448-080403) A RESOLUTION accepting a grant made to the City by the United States Department of Justice for the reimbursement of the cost of bulletproof vests, and authorizing excecution of any required documentation on behalf of the City.

(For full text of Resolution, see Resolution Book No. 68, Page 9.)

Mr. Dowe moved the adoption of Resolution No. 36448-080403. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

POLICE DEPARTMENT-BUDGET-GRANTS: The City Manager submitted a communication advising that the U. S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has awarded the Roanoke Police Department a one-time only grant of $4,840.00 to train 25 police officers and ten law enforcement officers from surrounding jurisdictions on the Gang Resistance Education and Training Program (G.R.E.A.T.); the grant period is from January 16, 2003 to January 15, 2004; the G.R.E.A.T. Program is a school-based, life-skills competency program taught by uniformed police officers; the Program is designed to enable youth to develop positive attitudes toward police officers, avoid conflicts, be responsible, set positive goals, and resist peer pressure; and statistics indicate that students who participated in the program had lower rates of victimization, more negative views about gangs, more favorable attitudes toward the police, more peers involved in pro-social activities, and lower levels of involvement in risk seeking behaviors.

The City Manager recommended that Council accept the Gang Resistance Education and Training Program grant and that she be authorized to execute the grant agreement and any related documents; and appropriate grant funds totaling $4,840.00, with a corresponding revenue estimate in accounts to be established by the Director of Finance in the Grant Fund.

Mr. Dowe offered the following budget ordinance:

(#36449-080403) AN ORDINANCE to amend and reordain certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68, Page 10.)

Mr. Dowe moved the adoption of Ordinance No. 36449-080403. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

Mr. Dowe offered the following resolution:

(#36450-080403) A RESOLUTION accepting the Gang Resistance Education And Training (G. R. E. A. T.) grant offered to the City by the U. S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and authorizing execution of any required documentation on behalf of the City.

(For full text of Resolution, see Resolution Book No. 68, Page 11.)

Mr. Dowe moved the adoption of Resolution No. 36450-080403. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

REPORTS OF COMMITTEES: NONE.

UNFINISHED BUSINESS: NONE.

INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.

MOTIONS AND MISCELLANEOUS BUSINESS:

INQUIRIES AND/OR COMMENTS BY THE MAYOR AND MEMBERS OF COUNCIL:

CITY COUNCIL-SCHOOLS: Council Member Dowe called attention to an annual conference, "Emerging Leaders", which is held in the City of Roanoke composed of leadership from black colleges and universities, and suggested that City staff learn more about the program and extend formal greetings to program participants in the future.

CITY COUNCIL-CITY EMPLOYEES-NEWSPAPERS-WATER RESOURCES: Council Member Cutler acknowledged and commended two new electronic newsletters: E-News, Environmental News from the City of Roanoke, and On Good Authority, a monthly newsletter for City of Roanoke and Roanoke County employees involved in the formation of the Regional Water and Wastewater Authority.

POLICE DEPARTMENT-CITY COUNCIL-SCHOOLS: Council Member Bestpitch addressed the appropriate process for moving forward with the School Resource Officer issues and school safety. He suggested that Council request the formation of an organizing task force which would include City staff and School staff to review issues and concerns regarding school safety in a comprehensive manner; and the organizing group would develop a process that could be used over the next few months by a larger task force. He called attention to a joint Council/School Board Retreat which is scheduled for November 21, at which time the two bodies could discuss the issue, and any necessary refinements could be made prior to the end of the calendar year. He proposed that the organizing group be composed of two representatives of the School Board, the Superintendent of Schools, the Executive for Student Services the City Manager, two Members of City Council, preferably Vice-Mayor Harris since he previously served on the School Board and Council Member Wyatt who is a retired long term teacher in the City's School system. He requested that Council be provided with a report on the status of the organizing task force in approximately two weeks.

Mr. Bestpitch moved that Vice- Mayor Harris and Council Member Wyatt, the City Manager, the Chief of Police, two members of the School Board, the Superintendent of Schools, and the Executive for Student Services, be appointed to serve as an organizing group to develop a process and the composition of a task force to jointly consider the issues of school safety and appropriate roles and responsibilities of School Resource Officers; that recommendations be developed no later than December 31, 2003; and that any changes in assignments and procedures for the School Resource Officer program be suspended until the study process is completed. The motion was seconded by Mr. Cutler.

In clarification of the motion, Mr. Bestpitch advised that the goal of the organizing group would be to organize the process, including composition of a task force, which could include students, parents, teachers, a broad representation of the community; and the organizing group would work over a three month period from August to November.

In a discussion as to whether Council should instruct the City Manager to suspend any changes in the School Resource Officer Program until the process is completed, a Member of Council expressed concern that Council could be accused of telling the City Manager how to manage City manpower; whereupon, Mr. Bestpitch amended his motion to request that the City Manager consider whether changing the School Resource Officer program should be suspended until the study process is complete. Dr. Cutler, who seconded the motion, concurred in the amendment.

The following motion, as amended, was unanimously adopted:

> Council concurred in the appointment of an organizing group composed of Vice-Mayor C. Nelson Harris, Council Member Linda F. Wyatt, the City Manager, the Chief of Police, the Chair of the Roanoke City School Board, a School Trustee to be selected by the School Board, the Superintendent of Schools and the Executive for Student Services, to develop a process and the composition of a joint task force which will be charged with the responsibility of jointly considering the issues of school safety and the appropriate roles and responsibilities of School Resource Officers, with recommendations by the task force to be submitted no later than December 31, 2003. The City Manager was requested to consider whether changes and assignments with regard to School Resource Officers should be suspended until the process is completed.

CITY COUNCIL-SPORTS ACTIVITIES-SCHOOLS-GREENWAY SYSTEMS: With regard to the two new high schools, Council Member Cutler requested the opportunity to review plans for athletic tracks and how exterior grounds will be landscaped and committed to greenways.

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard, and matters requiring referral to the City Manager will be referred immediately for any necessary and appropriate response, recommendation or report to Council.

POLICE DEPARTMENT-SCHOOLS: Mr. Alex Hincker, 4042 South Lake Drive, S. W., read a communication on behalf of his mother, Alice Hincker, who was out of the City. He quoted from a statement made by the City Manager on January 6, 2000, when she was interviewed by WDBJ-TV Channel 7 News on the day she was welcomed to Roanoke as the new City Manager, "The solution to our community's problems don't just rest with the government, they really rest with the total community, and I am going to invite the community to be part of a solution." In her letter, Ms. Hincker advised that the City Manager appears to have rescinded the invitation she sent to the people of Roanoke on that day in January, and she has not lived up to the expectation that she created when she spoke those words to the community. She stated that when it comes to the operation of the Police Department and the School Resource Officer program, the City Manager and the Chief of Police have taken actions that have created additional problems for the community; and they have not involved the community in identifying solutions to the problems; if citizens are to believe all that they have been told by Dr. Harris and by the School Board, they can only conclude that Chief Gaskins and Ms. Burcham took action without input from the Superintendent of Schools, or the School Board, and no input was solicited from parents, students, teachers and School Resource Officers, both past and present. She asked that the Roanoke community be allowed to be a part of the decisions that affect Roanoke's children, that the community be heard regarding programs that directly affect the safety and security of citizens, and that the community be a part of the solution to Roanoke's problems. She stated that the Roanoke community has been speaking out with regard to School Resource Officer Butch Lewis in an attempt to be a part of finding solutions to the City's problems, and asked that Council keep in mind that many members of the community speak not from personal experience, but they have taken the time to familiarize themselves with the work of noted experts in the field of school safety and security; many members of the community have expertise in areas that enable them to suggest the best practices for the schools and/or the Police Department and they have knowledge that enables them to legitimately question and to condemn the actions of the Chief of Police and the City Manager.

Ms. Carol Bragh, 2259 Westover Avenue, S. W., President, Patrick Henry High School PTSA, applauded Council's decision to appoint a task force to study school safety and the School Resource Officer issues. She stated that it is important to all citizens of Roanoke to believe that their children are in a safe school environment, and it is believed that the decision of the City Manager to revamp the School Resource Officer program is inappropriate and harmful to the program. She stated that the process of building relationships takes years to develop, it represents the crux of the program as it relates to students, to the relationships between staff and the School Resource Officers, and the community. She quoted from the National

Association of School Resource Officers on the subject of periodic rotation of SROs: "One of the most important underlying themes in maintaining an SRO program is the establishing of relationships. The success of any SRO program, just as the success of any school administrative team and staff, hinges upon the establishment and maintenance of meaningful, long term relationships. Law enforcement managers must take into account that school districts and students not only enjoy the stability, but count on it to reduce tension in the school climate. The establishment of meaningful relationships is a process, not an event. Relationships are built over a period of time and not over night. Consistency and stability in SRO assignments must exist in order to nurture relationships and to prevent disruptions in meaningful working relationships between the SRO, other agencies, and the school district with whom they work".

Ms. Helen E. Davis, 35 Patton Avenue, N. E., advised that because Officer Butch Lewis had the courage to stand up and to speak out for what he believed to be right, he is being punished by the City Administration. She stated that she has heard parents speak highly of Officer Lewis and what he has done for the Roanoke City Schools and they want him to continue to serve at Patrick Henry High School. She advised that Officer Lewis is being made a scapegoat and it is up to Council to insist that he be reassigned to Patrick Henry High School where he has built a relationship and a trust with both students and staff.

Ms. Evelyn D. Bethel, 35 Patton Avenue, N. E., expressed concern as to whether Council is listening to the comments of Roanoke's citizenry; citizens have voiced their concern regarding the renovation of Victory Stadium for sentimental and historic preservation reasons; with some frequency, Council tends to reverse its decisions, whereupon, she referred to the Comprehensive Plan which cites historic preservation as one of the main objectives, but when Council was faced with the opportunity to select a public building (Victory Stadium) which could be a main attraction in this part of the country, the opportunity was voted down in favor of a new stadium/amphitheater near the Civic Center complex. With reference to School Resource Officer Butch Lewis, she stated that Council hired the City Manager and Council has the right to supervise her activities, therefore, Council should speak up for the citizens of the City of Roanoke.

Mr. Marvin Lloyd, 331 Cedar Avenue, Vinton, Virginia, Pastor to School Resource Officer Butch Lewis, requested that Council rescind the transfer of Officer Lewis to William Fleming High School. He spoke to the importance of continuity in the School Resource Officer program, in order to build good relationships with students and school staff. He advised that the City Manager has made a poor decision in the reassignment of Officer Lewis to William Fleming High School; the

community is in an uproar and the quickest and best way to deal with the issue is to reassign Officer Lewis to Patrick Henry High School where he has established a solid relationship with students and staff.

Mr. E. Duane Howard, 508 Walnut Avenue, S. W., spoke against appointment of the City Manager and the Chief of Police to the school safety task force organizing group.

Ms. Pamela Corcoran, 2250 Sewell Lane, S. W., advised that her children attend Roanoke City Public Schools; she is active in school activities and school related organizations, therefore, she called for accountability with regard to safety and the School Resource Officer program, and requested that Council fulfill its charge to represent the best interests of the citizens of Roanoke. She asked that Council step in and acknowledge that the City has erred in scorning and penalizing its messengers, such as Officer Lewis and others. She advised that the City has in place a system for promoting school safety and for managing violent incidents that is not working; and from the point of view of a school volunteer with thousands of hours of time in various capacities and from having been associated with 14 City schools as a part of her family's learning community, it is obvious that certain things are broken and need to be fixed in Roanoke's school system.

Mr. Robert Gravely, 3360 Hershberger Road, N. W., advised that School Resource Officer Butch Lewis showed courage when he spoke out about the violence issue in Roanoke's schools, with the goal of protecting the lives of young people and protecting school property. He stated that Officer Lewis should not be punished because he failed to follow the chain of command, and the City should be careful about how it treats City employees. He stated that City employees should not only be corrected when they fail to do their jobs properly, but they should be commended when they do their jobs well.

Mr. Matthew Reames, 1930 Sheffield Road, S. W., advised that as an individual who taught for five years at Woodrow Wilson Middle School, he knows first hand the value of the School Resource Officer program and the importance of maintaining consistency in the program; it takes time to build trust between the School Resource Officer and school faculty and staff, to adjust to school routines, to learn the school community and families; and every time a school is assigned a new Resource Officer, it takes time to gain the necessary trust. He stated that the City's plan to offer SRO training to all new police officers and any interested current officers is admirable, but becoming a School Resource Officer requires more than just the required 40 hour basic class; according to the Virginia Model of SRO programming from the Department of Criminal Justice Services, being an SRO requires community

experience, and the interest and ability to work with youth, school personnel and the public to solve problems; it requires SROs to perform multiple roles, including those of law enforcers, instructor of law related education classes, criminal justice liaison, and role model; and in short, it requires a specialist within the Police Department. He explained that the School Resource Officer program of the Roanoke City Police Department has had a long and proud history and is the fourth oldest program in the State as of 2002, the 13 Roanoke City Police School Resource Officers have a combined total of 72 years of experience as SROs, five officers have seven or more years of experience as SROs, and one officer has 18 years of SRO experience, the second longest in the State. He advised that instead of being in concert with the National Best Practices for School Resource Officer Programs, Roanoke City has decided that experience is not important; and National Best Practices states that a rotation based solely upon the time in which an officer has served in a specific assignment should be discouraged and instead, consistency is recommended. Since the National Best Practices are being ignored, he requested that Council challenge the City Manager and the Police Chief to share with the citizenry the model SRO programs or policies upon which they are projecting their success.

Ms. Alice McCaffrey, 7870 Cedar Edge Road, S. W., President, Central Council Parent Teacher Association, commended Council on its action to appoint an organizing task force to address school safety and the SRO issue, and it is hoped that there will be interaction between different sections and functions of the City to provide more hope for regional cooperation as all elements work together in the City of Roanoke. On behalf of the Central Council PTA, she questioned whether rotating School Resource Officers is in the best interests of students, do parents and teachers have a voice in the issue concerning safe school environments, and the action Council took earlier in the meeting will help to address the issue of school safety.

Ms. Pat Lawson, 1618 Riverside Terrace, S. E., expressed concern with regard to the leadership of the City of Roanoke.

CITY MANAGER COMMENTS: NONE.

COUNCIL: With respect to the Closed Meeting which was held earlier in the meeting, Mr. Bestpitch moved that each Member of City Council certify to the best of his or her knowledge that: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by City Council. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Harris, Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick and Mayor Smith----------7.

NAYS: None----------0.

There being no further business, the Mayor declared the meeting adjourned at 6:10 p.m.

APPROVED

ATTEST:

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor

REGULAR WEEKLY SESSION-----ROANOKE CITY COUNCIL

August 18, 2003

2:00 p.m.

The Council of the City of Roanoke met in regular session on Monday, August 18, 2003, at 2:00 p.m., the regular meeting hour, in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding, pursuant to Chapter 2, Administration, Article II, City Council, Section 2-15, Rules of Procedure, Rule 1, Regular Meetings, Code of the City of Roanoke (1979), as amended.

PRESENT: Council Members Linda F. Wyatt, William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., C. Nelson Harris and Mayor Ralph K. Smith----------7.

ABSENT: None----------0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The meeting was opened with a prayer by The Reverend Pamela P. Crump, Pastoral Assistant for Christian Education, High Street Baptist Church.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Smith.

REGULAR SESSION

PRESENTATIONS AND ACKNOWLEDGMENTS:

PROCLAMATIONS-SPORTS ACTIVITIES: The Mayor presented a proclamation declaring Friday, August 29, 2003, as Hokie Pride Day.

CONSENT AGENDA

The Mayor advised that all matters listed under the Consent Agenda were considered to be routine by the Members of Council and would be enacted by one motion in the form, or forms, listed on the Consent Agenda, and if discussion was desired, that item would be removed from the Consent Agenda and considered separately. He called specific attention to five closed sessions.

MINUTES: Minutes of the regular meeting of Council held on Monday, July 7, 2003, and recessed until Friday, July 18, 2003, were before the body.

Mr. Fitzpatrick moved that Council dispense with the reading of the minutes and that the minutes be approved as recorded. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith ----------7.

NAYS:----------0.

COMMITTEES-CITY COUNCIL: A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended, was before the body.

Mr. Fitzpatrick moved that Council concur in the request of the Mayor as convene in a Closed Meeting as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

CITY COUNCIL-ACTS OF ACKNOWLEDGMENT: A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss a special award, being the Shining Star Award, pursuant to Section 2.2-3711 (A)(10), Code of Virginia (1950), as amended, was before the body.

Mr. Fitzpatrick moved that Council concur in the request of the Mayor as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

PURCHASE/SALE OF PROPERTY-CITY COUNCIL: A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss disposition of publicly-owned property, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711 (A)(3), Code of Virginia (1950), as amended, was before the body.

Mr. Fitzpatrick moved that Council concur in the request of the City Manager as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

PURCHASE/SALE OF PROPERTY-CITY COUNCIL: A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss disposition of publicly-owned property, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711 (A)(3), Code of Virginia (1950), as amended, was before the body.

Mr. Fitzpatrick moved that Council concur in the request of the City Manager as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

PURCHASE/SALE OF PROPERTY-CITY COUNCIL: A communication from the City Manager requesting that Council convene in a Closed Meeting to discuss disposition of publicly-owned property, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711 (A)(3), Code of Virginia (1950), as amended, was before the body.

Mr. Fitzpatrick moved that Council concur in the request of the City Manager as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

ZONING-ANNUAL REPORTS: A report of the Board of Zoning Appeals transmitting the annual report of the Board for fiscal years July 1, 2001 through June 30, 2002, and July 1, 2002 through June 30, 2003, was before Council.

It was advised that for fiscal year 2001-2002, the Board of Zoning Appeals held 12 regular public hearings and three specially called hearings, during which there were 14 variance requests, 47 special exception (use) requests, and three appeals to the Zoning Administrator's decisions; for fiscal year 2002-2003, the Board of Zoning Appeals held 11 regular public hearings, during which there were 14 variance requests, 37 special exception (use) requests, and no appeals to the Zoning Administrator's decisions.

It was further advised that in the current year, goals of the Board of Zoning Appeals are to: continue to serve the citizens and developers of the community in furthering the use, development and redevelopment of property through variances and special exceptions; continue to act as a discretionary administrative body and to make decisions in matters where a person or party within the community is aggrieved by a decision made in the enforcement of the Zoning Ordinance; and

recommend to the City Planning Commission and to City Council the necessary revisions and amendments to the Zoning Ordinance, in order for the Board to continue to provide fair and equitable service to the community and to its citizens.

Mr. Fitzpatrick moved that the Annual Report be received and filed. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

ANNUAL REPORTS-INDUSTRIES: A communication from the Industrial Development Authority transmitting the Annual Report for fiscal year 2003, was before Council.

It was advised that activities in fiscal year 2003 include:

Approved and disbursed remaining reimbursement funds, in the amount of $500,000.00, to Advance Auto, pursuant to the Performance Agreement from last year.

Approved the funding of facade grants as follows:

Mexicorp, Incorporated for $11,704.00;
SNC Properties, LLC, for $9,025.50; and
Angell Associates for $18,150.00.

Assisted the Virginia Lutheran Homes in financing a new facility and upgrading its current facility.

Entered into an amendment to the Loan Agreement with Cooper Industries.

Worked with WELBA I, LLC, to assist in its financing needs by inducing a manufacturing project in the amount of $6,000,000.00.

Worked with Carilion Health System to assist in financing needs by approving another bond issue in the amount of $110,000,000.00, of which $50,000,000.00 represents new bond funds and the remaining $60,000,000.00 represents refunding money.

Made an economic development grant to the Carilion Biomedical Institute in the amount of $50,000.00.

Mr. Fitzpatrick moved that the Annual Report be received and filed. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

OATHS OF OFFICE-COMMITTEES-COURT COMMUNITY CORRECTIONS BOARD-LIBRARIES-FIFTH PLANNING DISTRICT COMMISSION-VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY: The following reports of qualification were before Council:

Gail Burruss as a member of the Court Community Corrections Program Regional Community Criminal Justice Board, for a term ending June 30, 2005;

Wilburn C. Dibling, Jr., as a member of the Roanoke Public Library Board, for a term ending June 30, 2006;

William D. Bestpitch as a member of the Roanoke Valley-Alleghany Regional Commission, for a term ending June 30, 2006; and

William D. Bestpitch as a City of Roanoke representative to Virginia's First Regional Industrial Facilities Authority, for a term ending September 24, 2006.

Mr. Fitzpatrick moved that the reports of qualification be received and filed. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

REGULAR AGENDA

PUBLIC HEARINGS: NONE.

PETITIONS AND COMMUNICATIONS:

BUDGET-COMMONWEALTH'S ATTORNEY-VICTIM/WITNESS/JUROR PROGRAM-GRANTS: A communication from the Commonwealth's Attorney advising that the Victim/Witness Assistance Program has been awarded a 12 month, $102,757.00 grant (#04-J8554VW03) for July 2003 through June 2004 from the Department of Criminal Justice Services (DCJS), which will allow the Victim/Witness Assistance Program to continue to provide comprehensive information and direct services to crime victims and witnesses, in accordance with the Virginia Crime Victim and Witness Rights Act; and the Victim/Witness Program continues to operate with a full-time coordinator for the Circuit Court, one full-time assistant for the Juvenile and Domestic Relations Court and one full-time assistant for the General District Court.

It was further advised that the Victim/Witness Program is coordinated by the Office of the Commonwealth's Attorney; the cost to the City for the grant would be $25,671.00 as a local cash match, for a total grant budget of $128,428.00; and the local cash match is equal to that of fiscal year 2002-2003 and is included in the General Fund fiscal year 2003-2004 adopted budget in the Transfer to Grant Fund Account.

The Commonwealth's Attorney recommended that Council accept Victim/Witness Grant #04-J8554VW03, in the amount of $102,757.00, with the City of Roanoke providing $25,671.00 as a local cash match from monies provided in the Transfer to Grant Fund Account in the fiscal year 2003-2004 budget, for a total grant of $128,428.00; authorize the City Manager to execute all appropriate documents to obtain the grant; appropriate funds totalling $128,428.00 and increase corresponding revenue estimates in accounts to be established by the Director of Finance in the Grant Fund; and transfer $25,671.00 from the General Fund Transfer to Grant Fund, Account No. 001-250-9310-2535, to a Grant Fund account to be established.

A communication from the City Manager concurring in the request of the Commonwealth's Attorney was also before Council.

Mr. Dowe offered the following budget ordinance:

(#36451-081803) AN ORDINANCE to amend and reordain certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36451-081803. The motion was seconded by Mr. Bestpitch and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

Mr. Fitzpatrick offered the following resolution:

(#36452-081803) A RESOLUTION authorizing the acceptance of a grant made to the City of Roanoke by the Commonwealth of Virginia Department of Criminal Justice Services for a Victim/Witness Assistance Program and authorizing the execution and filing by the City Manager of the conditions of the grant and other grant documents.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Fitzpatrick moved the adoption of Resolution No. 36452-081803. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

BUDGET-DRUGS/SUBSTANCE ABUSE-COMMONWEALTH'S ATTORNEY: A communication from the Commonwealth's Attorney advising that Federal funding was made available to the Commonwealth of Virginia to be used for development of several Multi-Jurisdictional Special Drug Prosecutors statewide; the positions were developed to coordinate prosecutorial efforts among independent jurisdictions, reduce fractional and duplicate prosecutions, enhance the recovery of criminal assets, utilize Federal, State and local resources to assure maximum prosecutorial effectiveness and to provide specialized prosecutorial resources to the regional drug enforcement effort; the Commonwealth's Attorneys of Craig County, Franklin County, Roanoke County, and the Cities of Roanoke and Salem applied on October 9, 1987, to the Commonwealth's Attorneys' Services Council, the State agency responsible for administration of the grant money to fund a Multi-Jurisdictional Special Drug Prosecutor; Council accepted the Multi-Jurisdictional Special Drug Prosecutor Grant in April 1988, and a full-time Special Drug Prosecutor was hired in July, 1988; and annual re-application for funding is required.

It was further advised that on April 15, 1994, funding for the Drug Prosecutor's Office was transferred from the Commonwealth's Attorneys' Services Council to the Compensation Board; the Compensation Board approved funding for the Drug Prosecutor, in the amount of $84,994.00, on April 28, 2003, which funding will continue through June 30, 2004; local match is $21,861.00, for a total of $106,855.00; and funding for the local share is available in the Transfer to Grant Funds Account.

The Commonwealth's Attorney recommended that Council accept funding from the Compensation Board, in the amount of $84,994.00, with the City of Roanoke providing local match funding of $21,861.00; authorize the City Manager to execute the requisite documents to obtain funding from the Compensation Board; appropriate $84,994.00 in State grant funds and establish a corresponding revenue estimate in accounts to be established by the Director of Finance in the Grant Fund; and transfer $21,861.00 from the General Fund Transfer to Grant Fund Account No. 001-250-9310-9535 to the Grant Fund account above created.

A communication from the City Manager concurring in the request of the Commonwealth's Attorney was also before Council.

Ms. Wyatt offered the following budget ordinance:

(#36453-081803) AN ORDINANCE to amend and reordain certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Ms. Wyatt moved the adoption of Ordinance No. 36453-081803. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

Mr. Dowe offered the following resolution:

(#36454-081803) A RESOLUTION authorizing the acceptance of funding for the regional drug prosecutor's office from the Compensation Board of the Commonwealth of Virginia and authorizing the acceptance, execution and filing of appropriate documents to obtain such funds.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Dowe moved the adoption of Resolution No. 36454-081803. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

BUDGET-POLICE DEPARTMENT-BUDGET-DRUGS/SUBSTANCE ABUSE-COMMONWEALTH'S ATTORNEY: A communication from the Commonwealth's Attorney advising that in an effort to better fund law enforcement efforts to fight crime, particularly drug crime, in 1986, the Federal government adopted a system of asset forfeiture, whereby forfeited assets, under certain conditions, could be returned to local law enforcement agencies, police and prosecutors for use in their fight against crime; in July, 1991, the Virginia asset forfeiture statute, which

generally is patterned after the Federal statute, took effect, providing that forfeited criminal assets may be returned to local police and prosecutors for use in the fight against crime; periodically, assets seized as evidence are ordered forfeited by the local courts to the police or to the Office of the Commonwealth's Attorney to be used for criminal law enforcement efforts; and in August 1991, a grant fund account for cash assets forfeited to the Office of the Commonwealth's Attorney was established with an appropriation of $25,000.00.

It was further advised that since August 1991, the Office of the Commonwealth's Attorney has expended the $25,000.00 originally appropriated, and periodically receives additional funds from the State's asset sharing program; grant requirements provide that the funds be placed in an interest bearing account and that interest earned be used in accordance with program guidelines; revenues collected through June 30, 2003, for the grant total $169,143.00, interest on the account collected through June 30, 2003, is $16,098.00, funding received in excess of revenue estimates total $23,609.00, and needs to be appropriated; and funds must be appropriated before they can be expended for law enforcement.

The Commonwealth's Attorney recommended that the Director of Finance be authorized to increase revenue estimates for Forfeited Criminal Assets Account No. 035-150-5140-7107 and Forfeited Criminal Assets Interest Account No. 035-150- 5140-7275 in the amounts of $20,545.00 and $3,064.00, respectively, and appropriate funds to Forfeited Criminal Assets Accounts No. 035-150-5140-7275 in the Grant Fund.

A communication from the City Manager concurring in the recommendation of the Commonwealth's Attorney was also before Council.

Mr. Fitzpatrick offered the following budget ordinance:

(#36455-081803) AN ORDINANCE to amend and reordain certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36455-081803. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

REPORTS OF OFFICERS:

CITY MANAGER:

BRIEFINGS: NONE.

ITEMS RECOMMENDED FOR ACTION:

BUDGET-HUMAN DEVELOPMENT: The City Manager submitted a communication advising that the Virginia Department of Social Services issued a Request for Proposals to use Federal funds to provide job search, coaching, and job retention services for Temporary Assistance to Needy families Hard to Serve (TANF) recipients; the City of Roanoke's Department of Social Services responded to the RFP with a proposal outlining its intent to work collaboratively with TAP- This Valley Works, to provide work-related services; under the proposal, eligible TANF recipients who must obtain employment, but who have not been in compliance with certain regulatory requirements, are provided customized job search assistance; and case managers work with the individuals to develop and to initiate an individualized plan of action to meet compliance requirements and to assist in securing and maintaining employment.

It was further advised that the City of Roanoke was awarded $207,000.00 in grant funding under the TANF Hard-to-Serve Project for fiscal year 2004;whereupon, the City Manager recommended that Council accept the Temporary Assistance to Needy Families Hard to Serve Project grant of $207,000.00, and authorize the City Manager to execute all appropriate documents to obtain the grant; and that Council appropriate funding of $207,000.00 and establish a corresponding revenue estimate in accounts to be established by the Director of Finance in the Grant Fund.

Mr. Cutler offered the following budget ordinance:

(#36456-081803) AN ORDINANCE to amend and reordain certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Cutler moved the adoption of Ordinance No. 36456-081803. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

Mr. Dowe offered the following resolution:

(#36457-081803) A RESOLUTION authorizing acceptance of a grant award under the Temporary Assistance for Needy Families (TANF) Hard-to-Serve Project from the Virginia Department of Social Services, for the purpose of providing job search, job coaching and job retention services for eligible TANF recipients who must obtain employment, and authorizing execution of any and all necessary documents to comply with the terms and conditions of the grant.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Dowe moved the adoption of Resolution No. 36457-081803. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

CONVENTION AND VISITOR'S BUREAU-REGIONAL IDENTITY: The City Manager called upon Craig Fifer, the City's Web Master, for a briefing on the Discover Roanoke Kiosk, which will be highlighted at the Mill Mountain Discovery Center, and will be officially showcased when Virginia Society of Parks and Recreation employees visit the City Roanoke in early September.

Mr. Fifer advised that as America's top digital City for two years, the City of Roanoke is always looking for ways to use technology to benefit residents, employees and visitors. He explained that the Discover Roanoke Kiosk is a web-based Kiosk, meaning that all locations on the Kiosk will be linked to the Internet, with updates from a central location, which should improve the timeliness of material. He stated that the goal of the kiosk is to present an overview of Roanoke area attractions/activities, shopping venues, restaurants and general demographic statistical information, along with other useful information such as weather reports and directions to various locations or points of interest. He added that initial partners in the project include the City of Roanoke, the Roanoke Valley Convention and Visitors Bureau, and The Hotel Roanoke and Conference Center, which is the team that developed the pilot prototype, and it is hoped to partner with other local jurisdictions and businesses to expand the project over the next several months. He advised that material will come from the City's website, the Roanoke Valley Convention and Visitors Bureau on line data base, all of which will be brought together for presentation in one format; maps can be pulled from on line mapping sites, and weather conditions can be pulled from on line weather sites, etc., so as to provide the most up to date information at all times. He stated that the initial location for the regional kiosk will be The Discovery Center on Mill Mountain, since the Discovery Center serves as a gateway for many visitors, particularly those traveling off the Blue Ridge Parkway. In addition to The Discovery Center, he advised that two kiosks will be placed in the new Visitor's Center which will open in November in the old Passenger Station, several kiosks will be placed at The Hotel Roanoke and Conference Center in the near future and other locations include Center in the Square, the Roanoke Civic Center, the Library Café, the Airport, public facilities in other localities, certain State offices, shopping centers and other locations that generate heavy traffic. He explained that over the next few months, staff will evaluate the success of the pilot locations and determine appropriate locations for future kiosks.

Staff of the Department of Technology presented an on line demonstration of information that can be accessed via the regional kiosk.

There was discussion with regard to: the size of computer monitors; if directions will be provided to various attractions/restaurants in the Roanoke Valley; the feasibility of providing a printer at each kiosk location; the time frame for placing a kiosk at the Roanoke Regional Airport and assistance by the Airport Commission with funding; the cost of kiosk hardware and software, which is in the range of $2200.00; inclusion of area businesses as a part of kiosk information; not every restaurant or attraction will be listed on the kiosk, in which it was pointed out that the attractions, hotels, and restaurants listed on the kiosk will be those that are members of the Roanoke Valley Convention and Visitors Bureau (RVCVB), which means that not only will they derive a benefit from the work that the Visitor's Bureau will put into the database, but members will receive an additional benefit that they had not previously received at no additional cost, which will act as another selling point to recruit businesses and area attractions to join the RVCVB; and the feasibility of a providing a map or a one page handout to shopping centers and other attractions/restaurants that would be separate from the kiosk.

David Kjolhede, Executive Director, Roanoke Valley Convention and Visitors Bureau, spoke in support of the regional kiosk and advised that printers will be made available at the new Passenger Station location. He stated that the regional kiosk program will provide a great potential for the Roanoke Valley region and the RVCVB is excited to be a part of the project.

AUDITS/FINANCIAL REPORTS-DIRECTOR OF FINANCE: The Director of Finance presented the June 2003 Financial Report, which includes General and School Fund amounts that are unaudited and subject to change during the course of the City's external audit. He advised that a comprehensive financial report of all funds of the City will be included with the Comprehensive Annual Financial Report.

Mr. Hall stated that fiscal year 2003 ended on a positive note from a financial standpoint, despite a national and local economy that has been strained by the war with Iraq and which again continued to fall short of desired results; and fiscal year 2003 was also affected by several mid-year adjustments in funding from the Commonwealth. He reported that the General Fund revenue estimate for fiscal year 2003 was $194,201,628.00, while actual collections totalled $194,388,023.00 and total General Fund revenue collected increased .85 per cent from the prior year and exceeded the estimate by .10 per cent; and expenditures came in at about one and one-half per cent under budget, the largest portion of which was unspent personnel salaries and fringe benefits. He advised that revenues grew less than one per cent compared to the prior year which includes salary increases for City employees and

the goal of increasing the City's debt service capacity to $570,000.00 per year, and with those increases built into the budget, it still increased 1.18 per cent compared to fiscal year 2002.

He explained that Council adopted Ordinance No. 26292 on December 6, 1982, which established a reserve of General Fund balance for the Capital Maintenance and Equipment Replacement Program (CMERP), specifically for maintenance and replacement of capital equipment; computed per the requirements of Ordinance No. 26292, CMERP for fiscal year 2003 for Schools is $529,557.00.00 and $2,480,774.00 for the City, for a total of $3,010,331.00, or 1.48 per cent of General Fund appropriations.

Ann Shawver, Deputy Director of Finance, presented highlights of the year end unaudited fund balance report.

There was discussion in regard to the future of the CMERP; whereupon, the Director of Finance advised that the long term financial plan of the City through 2007 includes the goal to add more capital funding in the budget, in order to get away from reliance on the CMERP. The City Manager advised that there would still be a small year end balance, but it would not be specifically generated for the purpose of addressing those kinds of ongoing maintenance and replacement items, some of which are on a three-four and five year cycle in order to build full funding into the budget. She further advised that during the Council's Financial Planning Session in March, Council agreed to a cycle whereby the City would gradually move toward this goal, but the important thing to emphasize is that the CMERP is largely due to funds generated from vacant positions in the City's workforce, which increases the burden on those remaining City employees. She stated that if the City reaches a point where it fills all vacant positions, there would be no year end fund balance which is the reason that it is necessary to stop relying on CMERP as a source of funds for ongoing issues. She advised that this is the first year that significant amounts of money have been set aside in the operating budgets.

There was discussion in regard to the source of unobligated appropriations in the School CMERP; whereupon, Richard L. Kelly, Assistant Superintendent for Operations, advised that personnel lapse in school accounts in terms of salaries and fringe benefits provide a source of funds, and a second source of funds relate to the debt reserve which was created for the Patrick Henry High School project, and until those funds are expended for debt service, they will be used for capital projects.

Mr. Bestpitch advised that vacancies within the City workforce place additional responsibilities on remaining employees, which will ultimately impact the level of service that is provided to Roanoke's citizens, and expressed specific concern with regard to Police and Fire/EMS personnel. He added that there could be a need to look at some of the positions to determine if a smaller number of slots are needed and a higher salary; whereupon, he asked that the issue be referred to 2004 budget study for discussion by Council.

Without objection by Council, the Mayor advised that the Financial Report would be received and filed.

REPORTS OF COMMITTEES:

BUDGET-SCHOOLS: A communication from the Roanoke City School Board requesting that Council appropriate funds to the following school accounts, was before the body.

- $95,000.00 for Fallon Park Elementary School improvements; funds will be used for design fees for the electrical, heating, ventilation and air conditioning upgrade at Fallon Park Elementary School; and funding will be provided from the School Fund Reserve.

- $240,000.00 for Westside Elementary School improvements; funds will be used for preparation of construction and bidding documents and for construction administration of renovations and an addition at Westside; and funding will be provided from the School Fund Reserve.

- $22,000.00 for the 2003 Instructional Support Team Project to assist the division in providing services for children with disabilities at Fallon Park Elementary School; and the new grant program will be funded from Federal Individuals with Disabilities Education Act funds.

- The transfer of $1,332,365.00 in unappropriated balances of Capital Maintenance and Equipment Replacement Funds remaining at June 30, 2003, to a Reserve for Capital

Improvements for Future School Construction Costs will provide cash funding for planned future school renovation and construction costs; and it is anticipated that the future appropriation of the funds will be made to the School Capital Projects Fund.

- The transfer of $872,500.00 in Capital Maintenance and Equipment Replacement Funds appropriated during the 2003 fiscal year from the Construction of Transportation Facility account in the School Fund to the School Transportation Facility account in the School Capital Projects Fund will enable all costs of the new facility to be recorded in the School Capital Projects Fund and will allow for appropriate capitalization of the project upon completion of construction.

A report from the Director of Finance recommending that Council concur in the request of the School Board, was also before the body.

Mr. Dowe offered the following budget ordinance:

(#36458-081803) AN ORDINANCE to amend and reordain certain sections of the 2003-2004 General, School, and School Capital Projects Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36458-081803. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

UNFINISHED BUSINESS:

HOUSING AUTHORITY: The City Manager advised that Council at its meeting on July 21, 2003, raised certain questions with regard to the Derelict Structures Fund Grant; whereupon, she submitted a communication responding to the Council's inquiries.

The City Manager advised that the intent of the Derelict Structures Fund is to fund projects that address "residential, commercial or industrial structures which are in such poor condition as to cause a blight upon the neighborhood;" funds may be utilized for acquisition, demolition, removal, rehabilitation or repair of specific, targeted derelict structures; and a 100 per cent match of local funds is required.

It was advised that funds were awarded and a funding agreement was executed between the City and the Department of Housing and Community Development on May 29, 2001; the Northwest Neighborhood Environmental Organization has expended its $50,000 allocation; and due to unforeseen issues, Two B Investments was unable to utilize its funds as required in a timely manner; therefore, the City has $50,000.00 of unexpended funds available.

It was further advised that at this time Blue Ridge Housing Development Corporation ("Blue Ridge"), a local non-profit housing group, wishes to use the remaining $50,000.00 to renovate property located at 1018 Jamison Avenue, S. E.; the property is located in the Southeast… by Design neighborhood; the house was constructed in 1900, contains 2,793 square feet and is currently vacant; the property is in poor condition and has had some partial renovation on the interior of the structure; proposed redevelopment includes interior and exterior rehabilitation, electrical and plumbing upgrades, HAVC and emergency upgrades, and water and sewer upgrades; and Blue Ridge can immediately begin work on the property and use the property as a showcase to market the Southeast project.

It was explained that the property was last used as a unit residence and renovations would convert the structure back to a duplex, featuring the ability to live in one side and rent out the other side; construction bids from three local contractors came in at an average of $150,000.00; and Blue Ridge is committing $50,000.00 from its line of credit, and has been approved for a $50,000.00 construction loan from First Citizens Bank.

It was stated that the City's primary housing goals are to provide greater housing choices and to raise the assessed values of properties in the City's core neighborhoods; the average house assessment in the Southeast...by Design neighborhood is only $55,000.00 and homeownership rate is 56 per cent; significant renovation of the property would fit in the neighborhood, however, rehabilitation costs incurred are the investment for the area and may be higher than the eventual sales price of the structure; and this approach is the most viable solution to addressing vacant properties within the City until market demand improves.

The City Manager recommended that Council approve allocation of the remaining $50,000.00 Derelict Structures Fund grant to Blue Ridge Housing Development Corporation on a reimbursement basis, and authorize the City Manager to execute an agreement between the City of Roanoke and Blue Ridge Housing Development Corporation, to be approved as to form by the City Attorney.

Mr. Bestpitch offered the following resolution:

(#36459-081803) A RESOLUTION authorizing execution of an Agreement between the City and Blue Ridge Housing Development Corporation in order to provide funds from the Derelict Structures Fund, in the amount of $50,000.00, to Blue Ridge Housing Development Corporation for renovation of property located at 1018 Jamison Avenue, upon certain terms and conditions.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Bestpitch moved the adoption of Resolution No. 36459-081803. The motion was seconded by Mr. Cutler.

Mr. Duane E. Howard, 508 Walnut Avenue, S. W., advised that Council Member Dowe should abstain from voting on the recommendation inasmuch as he is the direct recipient of a house through Blue Ridge Housing Development Corporation, and Mr. Dowe's vote would represent a conflict of interest. He advised that $150,000.00 is proposed to be invested in a derelict structure house in southeast Roanoke, however, he expressed concern that the City of Roanoke allows housing to become derelict and tolerates derelict landlords who allow their properties to fall into various states of disrepair; and the $50,000.00 could be better used to tear down the house and donate the land for more greenspace. He stated that the house was constructed in 1900, which means that it is approximately 42 years older than Victory Stadium, yet the City proposes to invest $150,000.00 in renovation costs ,

while the fate of Victory Stadium has not been decided. He referred to problems in the southeast area of Roanoke because the City will not enforce basic civil codes of conduct, and until the City addresses core issues and neighborhood concerns, placing a large sum of money into renovating one house in southeast Roanoke will not make a great deal of difference to the area.

Alvin Nash, Executive Director, Blue Ridge Housing Development Corporation, advised that the house is part of the Southeast by Design Project; the structure was used for duplex purposes and will be renovated into a first class building, following appropriate architectural and historic guidelines. He stated that First Citizens Bank has committed $120,000.00 to the project, which is the "shot in th arm" that is needed to turn the southeast area around; therefore, it is a perfect investment for the Derelict Structures Fund grant for the future of southeast Roanoke and will be in line with proposed improvements in the southeast neighborhood. Upon development, he advised that the house will be sold and provide a good investment property.

The Mayor advised that he serves on the Advisory Board of First Citizens Bank, but earns less than $10,000.00 per year, whereupon, he inquired if he has a conflict of interest in voting on the matter. The City Attorney responded that since the Mayor earns less than $10,000.00 per annum, he would have no conflict of interest, and may cast his vote on the resolution before Council.

Resolution No. 36459-081803 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS:

CITY COUNCIL: Mr. Fitzpatrick offered the following resolution providing that the 9:00 a.m. work session of the Council on the first Monday in each month will convene in the Emergency Operations Center Conference Room, instead of the City Council Chamber:

(#36460-081803) A RESOLUTION amending Paragraph 6 of Resolution No. 36414-070703, adopted on July 7, 2003, which resolution established a meeting schedule for City Council for the Fiscal Year commencing July 1, 2003, and terminating June 30, 2004, in order to provide that the portion of the regular meetings which begin at 9:00 a.m. for the conduct of informal meetings, work sessions or closed meetings of City Council will be convened in the Emergency Operations Center (EOC) Conference Room instead of Council Chambers.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Fitzpatrick moved the adoption of Resolution No. 36460-081803. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

MOTIONS AND MISCELLANEOUS BUSINESS:

INQUIRIES AND/OR COMMENTS BY THE MAYOR AND MEMBERS OF COUNCIL:

BUDGET-PARKS AND RECREATION: Council Member Fitzpatrick advised that he has requested the City Manager to compile information with regard to creating a trolley system for the City of Roanoke, which would operate between the Virginia Museum of Transportation, the City Market and Crystal Spring, and reinstituting the incline on Mill Mountain.

Vice-Mayor Harris concurred in the remarks of Mr. Fitzpatrick and requested that cost information be provided to Council in early 2004 for consideration during fiscal year 2004 budget discussions.

Mr. Fitzpatrick called attention to the potential of major tourism dollars that would come to the Roanoke Valley if Mill Mountain is better utilized, and advised that he is suggesting a form of information gathering to determine what, if any, grants might be available to the City.

The City Manager advised that the success of both the trolley and the incline, in large measure, will be determined on whether the City can secure Federal and State Federal Highway and Transportation funding.

Inclusion of the matter in the City's 2004 Legislative Program was also mentioned.

EMERGENCY SERVICES: Council Member Cutler referred to the recent blackout in the New York area which had far reaching effects, and inquired if the City of Roanoke is prepared to respond to a potential blackout and/or other emergency situation; whereupon, the City Manager advised that procedures to address a blackout are included in the City's Emergency Response Plan; however, recent events have caused the City to give the issue more attention. She called attention to significant upgrades to electrical systems, particularly underground and in the downtown area of the City, and the City communicates regularly with officials of American Electric Power to ensure that temporary blackouts are minimized.

Mr. Cutler spoke in support of providing Roanoke's citizens with the necessary information to heighten their awareness in the event of a blackout or other emergency.

PARKS AND RECREATION-ACTS OF ACKNOWLEDGMENT-TREES-COMMUNICATIONS DEPARTMENT: Council Member Cutler commended staff of the City's Communications Department and the Parks and Recreation Department with regard to the Quarterly Guide to Parks and Recreation Programs in the City of Roanoke. He advised that the Urban Forestry Plan is available for distribution.

DONATIONS/CONTRIBUTIONS-ACTS OF ACKNOWLEDGMENT-JEFFERSON CENTER: The Mayor expressed appreciation to Woodmen of the World for donating an American flag to be flown near Fitzpatrick Hall at The Jefferson Center, and advised that a dedication ceremony will be held on September 11, 2003.

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard, and matters requiring referral to the City Manager will be referred immediately for any necessary and appropriate response, recommendation or report to Council.

ARMORY/STADIUM: Mr. Jim Fields, 17 Ridge Crest Drive, Hardy, Virginia, spoke in support of renovating Victory Stadium, and inquired as to why an American flag is not flown at Victory Stadium. He stated that the majority of the voters of the City of Roanoke would like to cast their ballot through a public referendum on the question of renovating Victory Stadium, or constructing a new facility on Orange Avenue; therefore, he requested that Council reconsider its previous decision to construct a new stadium/amphitheater at the Orange Avenue/Williamson Road site.

ARMORY/STADIUM: Ms. Pat Lawson, 1618 Riverside Terrace, S. E., spoke in support of saving Victory Stadium. She announced that she will campaign for the Office of Mayor of the City of Roanoke in 2004.

COMPLAINTS-CITY COUNCIL-HOUSING/AUTHORITY-GRANTS: Mr. E. Duane Howard, 508 Walnut Avenue, S. W., referred to his previous remarks questioning whether Council Member Dowe has a conflict of interest in voting on funding for renovation of a house at 1018 Jamison Avenue, S. E., under the Derelict Structures Fund grant administered by Blue Ridge Housing Development Corporation, inasmuch as Council Member Dowe is the recipient of a house that was constructed through Blue Ridge Housing Development Corporation. He also referred to a City employee who is the recipient of a house through the same organization and questioned if there is a conflict of interest in view of the City employee's relationship with and knowledge of the program through Blue Ridge Housing.

Council Member Dowe advised that he looked at the land on which his house is constructed early in the process, he secured a loan through a banking institution at the same market rate that was available to any other person seeking a loan at the same time, a contractor was selected and ready to begin construction on his house; however, it was not until the ribbon cutting ceremony that he became aware of the City of Roanoke's involvement.

COMPLAINTS-STREETS AND ALLEYS: Mr. Chris Craft, 1501 East Gate Avenue, N. E., requested that Council review the new traffic pattern on Williamson Road relative to installation of a median and turning lanes, which have created a traffic hazard for motorists.

ARMORY/STADIUM-HOUSING/AUTHORITY-GRANTS: Ms. Evelyn D. Bethel, 35 Patton Avenue, N. E., spoke in response to a previous remark make by Alvin Nash, Executive Director, Blue Ridge Housing Development Corporation, in regard to the Derelict Structures Fund grant. She advised that two years ago, Blue Ridge Housing Development Corporation purchased a house on Gilmer Avenue which has been vacant and has gradually deteriorated, it has now been decided that the house will be demolished and Blue Ridge Housing Development Corporation has agreed to construct another house of similar character. She stated that she was disturbed by the remark of Mr. Nash with regard to the Gainsboro community when Blue Ridge Housing Development Corporation, itself, is a property owner that has neglected its property on Gilmer Avenue, even though another citizen bid on the property with the intent of renovating the house. She clarified that the Gainsboro community is not a derelict neighborhood, but a neighborhood that is in the process of a rebirth.

Ms. Bethel advised that the Victory Stadium issue is still alive because the Council has not chosen to hold a public referendum on the question to enable the citizens of Roanoke to vote on the fate of the stadium.

CITY MANAGER COMMENTS: NONE.

At 4:05 p.m., the Mayor declared the meeting in recess for five closed sessions.

At 5:45 p.m., the meeting reconvened in the Council Chamber, with Mayor Smith presiding and all Members of the Council in attendance, with the exception of Vice-Mayor Harris and Council Member Dowe.

COUNCIL: With respect to the Closed Meeting just concluded, Mr. Bestpitch moved that each Member of City Council certify to the best of his or her knowledge that: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by City Council. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick, and Mayor Smith----------5.

NAYS: None----------0.

(Vice-Mayor Harris and Council Member Dowe were absent.)

OATHS OF OFFICE-COMMITTEES-TRANSPORTATION SAFETY: The Mayor advised that there is a vacancy on the City of Roanoke Transportation Safety Commission to fill the unexpired term of David Prince, resigned, ending October 31, 2006; whereupon, he opened the floor for nominations.

Mr. Bestpitch placed in nomination the name of Chaun Dooley.

There being no further nominations, Mr. Dooley was appointed as a member of the City of Roanoke Transportation Safety Commission, to fill the unexpired term of David Prince, resigned, ending October 31, 2006, by the following vote:

FOR MR. DOOLEY: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick and Mayor Smith----------5.

(Vice-Mayor Harris and Council Member Dowe were absent.)

OATHS OF OFFICE-COMMITTEES-TOWING CONTRACT: The Mayor advised that there is a vacancy on the Towing Advisory Board to fill the unexpired term of Ronald L. Wade, resigned, ending June 30, 2006; whereupon, he opened the floor for nominations.

Mr. Bestpitch placed in nomination the name of Michael W. Conner.

There being no further nominations, Mr. Conner was appointed as a member of the Towing Advisory Board to fill the unexpired term of Ronald L. Wade, resigned, ending June 30, 2006, by the following vote:

FOR MR. CONNER: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick and Mayor Smith----------5.

(Vice-Mayor Harris and Council Member Dowe were absent.)

Inasmuch as Mr. Conner is not a resident of the City of Roanoke, Council by consensus, waived the City residency requirement.

At 5:50 p.m., the Mayor declared the meeting in recess to be reconvened at 7:00 p.m., in the Council Chamber.

At 7:00 p.m., on Monday, August 18, 2003, the Council meeting reconvened in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, with Mayor Ralph K. Smith presiding.

PRESENT: Council Members Linda F. Wyatt (arrived late), William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., C. Nelson Harris and Mayor Ralph K. Smith----------7.

ABSENT: None----------0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The invocation was delivered by Council Member William D. Bestpitch.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Smith.

PUBLIC HEARINGS:

STREETS AND ALLEYS: Pursuant to Resolution No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Monday, August 18, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, on the request Akzo Nobel Coatings, Inc., that a portion of Roanoke Avenue, S. W., adjacent to Burks Street, be permanently closed by barricade, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, August 1, 2003 and Friday, August 8, 2003.

The City Planning Commission submitted a written report advising that the petitioner proposes to install a locked gate over the right-of-way and a guard house adjacent to the street; the guard house will be on the petitioner's property and will be staffed from 6:00 p.m. to 6:00 a.m., and the gate will be left open at all other times; the proposed barricade will not affect access to utilities, and since no right-of-way is being conveyed, public utility easements are not necessary for the petition.

It was further advised that closing Roanoke Avenue at Burks Street will have no impact on traffic in the area; the barricade will allow the petitioner to effectively incorporate the portion of right-of-way as part of its site, while the City retains ownership; the petitioner will be required to provide a gate with a double lock to allow full-time access by Norfolk Southern; and due to Norfolk Southern's need for access, vacation of the right-of-way is not feasible.

The City Planning Commission recommended that Council approve the request to close Roanoke Avenue, by barricade, to the west of its intersection with Burks Street, S. W., pursuant to the following conditions:

> The petitioner will be responsible for erecting a gate with a double lock system to allow Norfolk Southern employees access via their own lock and keys.
>
> The petitioner shall allow access to the closed portion of Roanoke Avenue to the City of Roanoke, or any party representing or acting on behalf of the City of Roanoke, and to all public utility entities with facilities located within the right-of-way.

Mr. Dowe offered the following ordinance:

(#36461-081803) AN ORDINANCE authorizing the alteration and closing by barricade of certain public right-of-way in the City of Roanoke, Virginia, subject to certain conditions; and dispensing with the second reading of this ordinance by title.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36461-081803. The motion was seconded by Mr. Fitzpatrick.

The Mayor inquired if there were persons present who would like to speak in connection with the request. There being none, he declared the public hearing closed.

There being no questions or comments by Council, Ordinance No. 36461-081803 was adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------6.

NAYS: None----------0.

(Council Member Wyatt was absent.)

Council Member Wyatt entered the meeting.

STREETS AND ALLEYS: Pursuant to Resolution No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Monday, August 18, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, on the request of Roanoke Country Club, Inc., and the Scott Robertson Memorial Fund, a Virginia Non-Stock Corporation, that a 15-foot right-of-way, extending in a northeasterly direction from the northerly boundary of Densmore Road, N. W., be permanently vacated, discontinued and closed, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, August 1, 2003 and Friday, August 8, 2003.

The City Planning Commission submitted a written report advising that the Scott Robertson Memorial Fund petitioned the City in April 2002 for the lease of a portion of East Gate Park to be used for its First Tee Junior Golf Program; a City Planning Commission public hearing was held on April 18, 2002, and Council approved the request in a public hearing on May 20, 2002; and the Council (and City Planning Commission) determined that use of a portion of East Gate Park for a First Tee Golf Program was substantially in accord with Vision 2001-2020, the City's Comprehensive Plan.

It was further advised that the Scott Robertson Memorial Fund has since discontinued its plans for a First Tee Junior Golf Program at East Gate Park, and now plans to establish the project on property adjacent to the Roanoke Country Club at the eastern end of Densmore Road, N. W.; the Scott Robertson Memorial Fund plans to lease property from the Roanoke Country Club and combine the property with its property which is described as Official Tax No. 2670906; and since the subject portion of right-of-way lies between properties owned by the Scott Robertson Memorial Fund and the Roanoke Country Club, they plan to split the vacated property evenly.

The City Planning Commission recommended that Council approve the petitioner's request to vacate, discontinue and close the subject portion of right-of-way, subject to the following conditions, and does not recommend that the petitioner be charged for the property.

- The applicant shall submit a subdivision plat to the Agent for the City Planning Commission, receive all required approvals, therefor, and record the plat in the Office of the Clerk of the Circuit Court for the City of Roanoke; said plat shall combine all properties which would otherwise dispose of the land within the right-of-way to be vacated in a manner consistent with law, and retain appropriate easements for installation and maintenance of any and all existing utilities that may be located within the right-of-way, including the right of ingress and egress.

- Upon meeting all other conditions to the granting of the application, the applicant shall deliver a certified copy of the ordinance approving the request for recordation in the Office of the Clerk of the Circuit Court, indexing the same in the name of the City of Roanoke, as Grantor, and in the name of the petitioner, and the names of any other parties in interest who may so request, as Grantees; and the applicant shall pay such fees and charges as are required by the Clerk of Circuit Court to effect such recordation.

- Upon recording a certified copy of the ordinance approving the request with the Clerk of the Circuit Court of the City of Roanoke, the applicant shall file with the City Engineer, the Clerk's receipt, demonstrating that such recordation has occurred.

- If the above conditions have not been met within a period of one year from the date of adoption of the ordinance authorizing the request, said ordinance shall be null and void with no further action by City Council being necessary.

Mr. Fitzpatrick offered the following ordinance:

(#36462-081803) AN ORDINANCE permanently vacating, discontinuing and closing a certain public right-of-way in the City of Roanoke, Virginia, as more particularly described hereinafter; and dispensing with the second reading of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36462-081803. The motion was seconded by Mr. Harris.

The Mayor inquired if there were persons present who would like to speak in connection with the matter. There being none, he declared the public hearing closed.

There being no questions or comments by Council, Ordinance No. 36462-0801803 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Fitzpatrick, Harris and Mayor Smith----------6.

NAYS: None----------0.

(Council Member Dowe abstained from voting inasmuch as he is a member of Roanoke Country Club, Inc.)

CITY CODE-ZONING-TOWING CONTRACT: Pursuant to Resolution No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Monday, August 18, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, with regard to proposed amendments to the Zoning Ordinance to better define and differentiate between certain interrelated land use activities that involve towing services, wrecker services, new and used motor vehicle sales and service and a new and used commercial motor vehicle sales and service, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, August 1, 2003 and Friday, August 8, 2003.

The City Planning Commission submitted a written report advising that on April 17, 2003, the Planning Commission recommended to Council the approval of a measure amending the Zoning Ordinance as it pertains to various motor vehicle oriented establishments; on May 19, 2003, Council considered the recommended text amendments and, after public hearing and discussion, referred the proposed measure back to the Planning Commission to provide additional information to, and input from, property and business owners and other interested parties.

It was further advised that the Planning Commission held a public hearing on the proposed text amendments on July 17, 2003; and Planning Commission discussion centered around the following:

- The prohibition of the parking of tow trucks in residential districts to protect the quality of residential neighborhoods;

- Prohibiting the parking of panel trucks in residential districts because of their size;

- Problems associated with a "weight-based" definition of commercial motor vehicles as they relate to the ability of inspectors in the field to determine weight in enforcement of the regulation; and

- The concern that a single axle of single rear wheels definition of a commercial motor vehicle would still allow for motor vehicles of a size that would impact the quality of life in residential neighborhoods.

The City Planning Commission recommended that Council approve the proposed text amendments as set forth in a proposed measure; and given the additional input from the industry and further consideration of those issues by staff and the City Planning Commission, the Planning Commission supports the proposed text amendments as set forth in the measure.

Mr. Dowe offered the following ordinance:

(#36463-081803) AN ORDINANCE amending and reordaining §36.1-25, Definitions; subsections (26) and (37) of §36.1-206, Permitted uses; subsection (5) of §36.1-207, Special exception uses; subsection (26) of §36.1-227, Permitted uses; subsection (3) of §36.1-228, Special exception uses; subsection (24) of §36.1-249, Permitted uses; subsection (8) of §36.1-250, Special exception uses; subsection (11) of §36.1-270, Permitted uses; subsection (5) of §36.1-271, Special exception uses; §36.1-206, §36.1-207, and §36.1-250, by deleting certain uses as permitted uses or uses by special exception; and §36.1-435, Parking of commercial vehicles, and adding new subsections (51) and (52) of §36.1-206, Permitted uses; subsections (28) and (29) of §36.1-249, Permitted uses; subsections (10) and (11) of §36.1-250, Special exception uses; subsection (12) of §36.1-270, Permitted uses; and subsection (6) of §36.1-271, Special exception uses, of Chapter 36.1, Zoning, of the Code of the City of Roanoke (1979), as amended; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36463-081803. The motion was seconded by Mr. Cutler.

R. Brian Townsend, Director, Planning and Community Development, advised that on May 19, 2003, Council considered the recommended text amendments and following the pubic hearing and discussion, referred the proposal back to the City Planning Commission to provide additional information and to receive input from property and business owners and other interested parties; and subsequent to Council's action, the Planning Department mailed over 180 information packets to business establishments in automobile sales, service, motor vehicle repair, and towing and wrecker services and held a public forum on June 4, 2003. In addition, he stated that the Department of Housing and Neighborhood Services mailed over 60 information packets to Roanoke Neighborhood Partnership Steering Committee members and neighborhood leaders; in response to over 240 packets that were mailed, the Planning Department received six telephone inquiries, 19 businesses were represented at a June 4 session and one neighborhood leader was in attendance. He stated that as a result of the sessions, staff identified certain specific issues regarding proposed definitions of a commercial motor vehicle and used motor vehicle sales and service establishments, requirements for general service establishments, and prohibition of the parking of tow trucks and roll back tow trucks in residential areas. He further stated that in consideration of the comments received from business representatives, City staff identified and the City Planning Commission acted on three areas of proposed text amendments for

further study and reconsideration over and above what the May 19 public hearing described. He advised that the first is the definition of a commercial motor vehicle; the Planning Commission supports a revised definition that excludes vans, pickup trucks and panel trucks from the definition of commercial motor vehicles; and the Planning Commission reviewed the definition to clarify that those three types of vehicles would not be considered commercial motor vehicles. In regard to general service establishments engaged in the repair of automobiles, motorcycles or trailers, he explained that considerable input was received from the industry regarding restrictions on repairs, either by the type of vehicle, or the nature of which the repair could take place; slides of car sales and/or repair services throughout the City were presented to illustrate the types of issues that exist under the current ordinance as definitions of automobile repair establishments slowly move to what becomes automobile salvaging and towing services in some cases; automobiles are stacked in the rights-of-way on certain sites; and the more problematic areas exist in the older part of the City where the commercial establishment is close to residential boundaries. He called attention to the need to regulate the habitual repair which takes place outside of the building and advised that the City Planning Commission's intent is not to regulate the emergency repair, but to ensure that ongoing repairs take place within a building. He stated that currently, because definitions are intermingled, it is difficult to enforce specifically and one of the goals of the proposed amendments is to more clearly differentiate between these types of uses for the future. He added that the City Planning Commission considered revisions relative to automobile service establishments, and general service establishments would be allowed to repair motor vehicles, except commercial motor vehicles, and operators of these establishments would be allowed to repair and to sell five repairs, or rebuilt cars, in one calendar year without being considered a car sales establishment, which would have no restriction on the limitation of the number of cars that could be sold that are held by mechanics liens; for example: if the business has 15 cars with mechanics liens in the course of the year, all of those vehicles could be sold without restriction and the restriction would apply to the five that are not otherwise sold on the premises; and the City Planning Commission recommends that all repair and maintenance activity shall occur wholly in an enclosed building. In the C-3 District, which is downtown, he advised that no change is recommended in that the same rules would apply to car repair or general service establishments, except that any motor vehicle could be repaired in the LM District; the same provisions would apply with regard to selling five vehicles and having no restriction on the sale of cars through mechanics liens, and all repairs and maintenance activity shall occur in an enclosed building. In the HM District, he stated that the same rules would apply so as to provide for consistency in terms of definitions and regulation across the districts and within each district, by making small differentiations between commercial districts, which tend to be in the major visible corridors and the LM and HM Districts. He stated that the City Planning

Commission also discussed the parking of commercial vehicles in residential districts and the Planning Commission reaffirmed its recommendation to not exempt tow trucks and roll back tow trucks from the definition of commercial motor vehicles for the purpose of parking in a residential district; the Planning Commission continues to have concern regarding the consequences of a blanket exemption of tow trucks and roll back tow trucks from the prohibition of the parking of commercial vehicles in a residential district; concerns include the size and noise of such motor vehicles, as well as the potential for any number of tow trucks to be parked at any given location, and the potential impact on the quality of life and street safety in the neighborhoods; therefore, the City Planning Commission reaffirmed its recommendation not to further exclude any other types of vehicles from the commercial motor vehicles definition.

The Mayor inquired if there were persons who would like to speak in connection with the public hearing; whereupon, Mr. Leo Trenor, 3343 Preston Avenue, N. E., advised that his goal is to stop the illegal sale of automobiles in the Commonwealth of Virginia, and the proposed recommendation of the City Planning Commission will promote the sale of automobiles by unlicenced persons. He advised that State Code provisions provide that if a dealer rebuilds two salvaged vehicles within a year, the dealer must obtain a license as a rebuilder; State law also provides that used parts can be sold only by a salvage dealer; therefore, the illegal activity currently taking place in the City of Roanoke is due to the City's lack of enforcement. He expressed concern as to how the City will enforce the limitation of five repairs, or rebuilt cars, in one calendar year; whereupon, he suggested that the limitation of five vehicles be stricken from the proposed ordinance and that the City allow enforcement through the Virginia Division of Motor Vehicles.

Mr. Robert Young, 5266 Sunset Drive, called attention to numerous meetings that were held to address proposed revisions; however, no changes are proposed by City staff that will provide for improved regulation and enforcement. With regard to parking tow trucks in residential areas of the City, he called attention to the importance of an operator having his vehicle close by in the event of an emergency which could be life threatening to a person involved in an accident.

A representative of G & J Towing and Recovery reiterated the remarks of Mr. Young.

Mr. Ronnie Scaggs, 3517 Melrose Avenue, N. W., questioned why the City of Roanoke is enacting regulations that are not enforceable. He advised that some of the slides shown by Mr. Townsend are of unlicenced businesses which will not be addressed under the proposed ordinance. He stated that the proposed regulations provide that garages must have four walls, and inquired if garage doors must be closed when repairs are underway, because it would be costly to install an air conditioning unit in a large garage with a 15 - 18 foot ceiling.

Mr. Tommy Wood, 1749 Granby Street, N. E., appeared before Council on behalf of towers that are included on the City of Roanoke's tow list who respond daily to emergency calls by the Police Department. He stated that towers are required to be on the scene of an emergency within 20 minutes, which will create a problem for tow truck operators who have to leave their home, travel to their place of business where the wrecker is parked and respond to the incident, all of which cannot be done within the required 20 minute time frame. He advised that there might be as many as two wreckers in a residential neighborhood on any given night; therefore, for those towers on the Roanoke City tow list, he requested that tow truck operators be allowed to take their wreckers home at least two nights a week, if necessary, and suggested the placement of a sticker on the windshield to indicate that the wrecker is on call on the City's rotating tow list.

Mr. Chris Craft, 1508 East Gate Avenue, N. E., concurred in the remarks of Mr. Wood. He called attention to those persons who repair vehicles illegally in their garages, or in the front and side yards of their buildings, and advised that there is a need to decrease or eliminate illegal car sales in the City of Roanoke. He spoke in support of allowing a tow truck operator to park the wrecker in their residential neighborhood when on call.

There being no further speakers, the Mayor declared the public hearing closed.

The City Manager corrected remarks made by previous speakers that the proposed ordinance is not enforceable. She advised that any ordinance adopted by the Council is subject to review by the City Attorney's Office and is therefore enforceable; and if additional zoning and code enforcement staff is needed in order to enforce the ordinance under consideration by the Council, or any other ordinance of the City, it is her obligation to bring the matter to the Council's attention. With regard to the ordinance presently before the Council, she stated that one of the

issues of concern is that currently there is a vagueness in the definitions, it is difficult for staff to enforce and to address some of the issues that were depicted in the slides that were previously shown by Mr. Townsend; therefore, staff is requesting a clarification of definitions. She added that numerous inconsistencies currently exist that the Zoning Ordinance update will address.

There was discussion in regard to the number of tow trucks that could be parked in a residential neighborhood on any given evening; whereupon, Mr. Townsend advised that it is a difficult question to answer because if a tow truck operation is headquartered in an adjacent locality, and if the tow truck operator lives in the City of Roanoke, the operator could bring the vehicle home with him even though the business is not Roanoke City based. Upon further discussion, it was agreed that between 10 and 20 wreckers could be parked throughout the residential streets of the City of Roanoke on any given night.

Some Members of Council, as well as Mr. Townsend, advised that the complaints received by citizens primarily have related to commercial vehicles generally, and not a large number of complaints have been received regarding the tow trucks in the residential neighborhoods of the City.

Mr. Townsend explained that City Planning staff took a very conservative view on the recommendation, while acknowledging the comments of Mr. Wood and Mr. Young, and the public hearings regarding concerns about public safety; the City Planning Commission basically weighed the likelihood of impacts on public safety, versus the likelihood of adverse impacts on Roanoke's residential neighborhoods; and there is no absolute answer in terms of how many tow trucks will be parked in any given neighborhood. He advised that the City Planning Commission also took a very conservative view of not making too many exceptions to the rule regarding vehicles in residential neighborhoods; the Planning Commission made an exception related to pickup trucks, vans and panel trucks because most personal vehicles currently can be as large as pickup trucks and vans, etc., but a tow truck was considered to be of a size and scale that the City Planning Commission was not willing to make an exception.

It was suggested by a Member of Council that any loop hole with regard to the sale of vehicles by unlicenced builders should be referred to the City's Legislative Committee for further consideration.

Following further discussion of the matter with regard to that portion of the recommendation pertaining to the parking of tow trucks and roll back tow trucks in residential neighborhoods when the tow truck operator is on call, several Members of Council expressed concern that when the service is needed, the operator should be allowed to retrieve the wrecker as quickly as possible, and especially in view of the 20 minute response time imposed by the City's Police Department in order to be included in the City's tow list; therefore, a compromise would be in order.

Mr. Fitzpatrick moved that Ordinance No. 36463-081803 be amended to exempt tow trucks and roll back tow trucks. The amendment was seconded by Ms. Wyatt and unanimously adopted.

Ordinance No. 36463-081803, as amended, was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

CITY CODE-ZONING-TOWING CONTRACT: The City Manager submitted a communication advising that enforcement of Section 20-71 of The Code of the City of Roanoke (1979), as amended, pertaining to parking of commercial motor vehicles in residential districts has been hampered by lack of a definition of the term "commercial motor vehicle;" proposed amendments to Section 20-71 provide, among other things, that certain trucks, construction equipment, trailers, semi-trailers, taxis, limousines, tow trucks, and dump trucks, may not be parked or left standing on any street or alley located in a residential district for more than two hours; certain school buses and emergency vehicles, vehicles being loaded or unloaded, vehicles belonging to or used by the occupant of a business when the premises constitute a lawfully existing use, as well as vans, pickup trucks and panel trucks, which would otherwise constitute "commercial motor vehicles," are exempted from the application of the ordinance; no motor vehicle, however, designed to transport dangerous materials may be permitted to park in a residential district; and enforcement of Section 20-71, as amended, is intended to dovetail with the proposed amendments to the Zoning Ordinance which relate to parking commercial vehicles in a residential district.

The City Manager recommended that Council adopt an ordinance amending Section 20-71 of the City Code pertaining to the regulation of on-street or alley parking of commercial motor vehicles in residential districts.

Mr. Dowe offered the following ordinance:

(#36464-081803) AN ORDINANCE amending and reordaining §20-71, Parking of commercial trucks, of Article IV, Stopping, Standing and Parking, of Chapter 20, Motor Vehicles and Traffic, of the Code of the City of Roanoke (1979), as amended, to provide for the definition of commercial motor vehicle and to prohibit the same from parking on the streets and alleys in a residential district under certain circumstances; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36464-081803. The motion was seconded by Mr. Bestpitch.

Mr. Fitzpatrick moved that Ordinance No. 36464-081803 be amended to exempt tow trucks and roll back trucks. The motion was seconded by Ms. Wyatt and unanimously adopted.

Ordinance No. 36464-081803, as amended, was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

CITY CODE-ZONING-SIGNS/BILLBOARDS/AWNINGS: Pursuant to Resolution No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Monday, August 18, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, with regard to a proposed amendment of Chapter 36.1, Zoning, Code of the City of Roanoke (1979), Section 36.1-693, Notice of hearing, as amended, by deleting the requirement of erecting signs when a proposed amendment affects more than 25 parcels of land, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, August 1, 2003 and Friday, August 8, 2003.

The City Planning Commission submitted a written report advising that the purposed text amendment deletes the requirement that when a proposed amendment affects the district classification of more than 25 parcels of land, at least one sign shall be erected on each corner of each block on which any affected properties lie; such sign is required to provide notice of public hearing, indicating the proposed change, identification of affected properties, and the time, date, and place of such hearing; the posting requirement that is the subject of the proposed text amendment is not mandated by the City Charter or by the Code of Virginia; the proposed amendment will reduce the logistical impact on a comprehensive rezoning of the City, such as that which will be undertaken with the preparation of a new Zoning Ordinance and zoning map; and consideration of a new Zoning Ordinance will necessitate the amendment of district classifications throughout the City, in order that all parcels are zoned in a manner that is consistent with the new Zoning Ordinance.

The City Planning Commission recommended that Council adopt the proposed amendment to Section 36.1-693, Code of the City of Roanoke (1979), as amended.

Mr. Dowe offered the following ordinance:

(#36465-081803) AN ORDINANCE amending and reordaining §36.1-693, Notice of hearing, Division 5, Amendments, Article VII, Administration, of Chapter 36.1, Zoning, of the Code of the City of Roanoke (1979), as amended, by repealing the required placement of signage on property when a proposed amendment affects the district classification of more than twenty-five (25) parcels; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36465-081803. The motion was seconded by Mr. Cutler.

The Mayor inquired if there were persons present who would like to speak in connection with the matter. There being none, he declared the public hearing closed.

There being no questions or comments by Council Members, Ordinance No. 36465-081803 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith----------7.

NAYS: None----------0.

OTHER BUSINESS:

ARCHITECTURAL REVIEW BOARD: An appeal of H & W Properties, LLC, filed by Dana A. Walker, to a decision of the Architectural Review Board (ARB), for a Certificate of Appropriateness for the installation of siding, corner boards and window facings at 702 Marshall Avenue, S. W., was before Council.

Mr. Walker advised that in his presentation, he would present facts as to what the decision has not been about, followed by what the decision should be about, in addition to samples of proposed materials for Council's inspection. He stated that he would attempt to demonstrate that the Architectural Review Board's decision was not about needed repairs, moisture problems, encasement allowing further deterioration, installing gutters and down spouts, a front porch that was removed 20 plus year ago, long lasting paints now available, materials using the same design, maintaining the architecturally defining features of the building for character defining changes, absentee landlords, landlords taking money out of the community, landlords that do not maintain their properties and pretend to be uninformed about City ordinances, or those who start a project without the same design materials. He advised that the Architectural Review Board's decision was based on the obvious fact that not only do they not want vinyl in the historic neighborhoods and will not approve vinyl unless it is the only alternative, but the ARB believes that it has the privilege to ignore the City's current ordinance and work on its own agenda. He stated that all of the time that was spent discussing, confirming and securing styles, procedures and samples of proposed materials was a significant waste of time and effort because no products of the same design were going to be approved by the Architectural Review Board when considering the following: with amendments and changes, he fully cooperated by addressing every issue and concern that came out of the two Architectural Review Board hearings; he proposed to remove the 4 x 4 Dutch-lap siding, J- channel and corner boards and replace them with matching 5 x 5 Dutch-lap siding with integral J- channel for doors, windows and corners: he

proposed to cover windows and door facings and asked the Architectural Review Board to choose between the traditional, the fluted, or the three piece corner boards, of which the Board favored the three piece corner boards; and he proposed to secure and replace loose, deteriorated or missing original siding boards prior to installation of the vinyl and installation of gutters and down spouts. He added that the Architectural Review Board was reminded on two occasions by the Assistant City Attorney that the current ordinance allows vinyl in the historic district; and the Agent to the Architectural Review Board and the Chair of the Board were asked on two occasions to identify which repairs they were concerned with, however, to date no response has been received. He stated that the proposed amendments were omitted from staff comments prepared for the second Architectural Review Board hearing and had to be restated at the time of the hearing; he was recently informed by the Agent to the Architectural Review Board that last year the Architectural Review Board and the City Planning Department jointly decided to require a Certificate of Appropriateness on all vinyl siding projects, whether or not the same design materials were being used, but what she failed to state was that the action was taken without the approval of Council, although next month, an ordinance amendment will be formally presented to the Council for action. Until the current ordinance is changed, he requested that Council take the following into consideration: the ordinance allows vinyl in the H-2 District and requires that materials be of the same design, not the same type of material; the architectural compatibility is the desire, not the architectural duplication; the ordinance requires that the architecturally defining features be maintained and not duplicated, and the style of the vinyl and trim defines the character. He presented samples of proposed materials; i.e.: 5 x 5 Dutch-lap siding which is an identical match to the original siding that is currently on the house, an integral J-channel for doors, windows, and corners which will provide the same offset features as the original materials once the vinyl is installed, and a three piece corner which is an identical match to the original corner materials.

Robert B. Manetta, Member, Architectural Review Board, presented a report of the Board, addressing the history of the request:

> On May 8, 2003, the Architectural Review Board considered the request of H & W Properties, LLC, as submitted by Mr. Walker, for a Certificate of Appropriateness approving synthetic siding being installed on a five-unit dwelling at 702 Marshall Avenue, S. W., at which time Mr. Walker stated that he was unable to keep paint on the house and wished to add

the vinyl siding in order to improve the property; some Board members expressed concern that the house was suffering from moisture damage because of a lack of gutters and down spouts which prevented the paint from adhering to the surface of the house.

Staff advised that synthetic siding is permitted in the H-2 District, provided that materials of the same design are used and the architecturally defining features of the building are maintained; the project was not using materials of the same design and therefore, required ARB review.

At the ARB meeting, Mr. Walker proposed different size siding materials and improvements to the front porch and stated that the Board should have a more lenient standard for properties on Day and Marshall Avenues.

A motion to approve the application failed and Board members voting against the application stated that the proposal was inconsistent with the guidelines because the proposed siding did not match the size and shape of the existing siding, window and door details, and material samples were not submitted; the Board also stated that siding is a character defining feature of the house; and the house is suffering from moisture damage that the improper installation of siding could exacerbate.

Mr. Walker filed an appeal of the Architectural Review Board's decision on June 5, 2003, and was heard by Council on June 16, 2003, at which time Council requested that Mr. Walker return to the ARB with major details on his proposal.

On July 10, 2003, the ARB considered Mr. Walker's amended application at which time he proposed to remove the 4 x 4 Dutch-lap vinyl siding that he had previously begun to install and replace it with 5 x 5 Dutch-lap vinyl siding, add an integral J-channel door and window trim, provide three options on corner boards, replace loose or missing original boards, and add gutters and down spouts; staff remained concerned with the proposal because the building lacked regular maintenance and needed to be repaired due to moisture problems as

a result of the lack of gutters and down spouts; and the application for synthetic siding for an improved appearance is not consistent with the H-2 Architectural Guidelines.

Comments from the ARB included that a building should only be covered with synthetic siding under the most compelling of circumstances, because it is not consistent with the architectural character of the historic district; encasing the building would allow further deterioration of the original material; and a motion to approve the application failed.

Mr. Walker filed an appeal of the Architectural Review Board's decision on August 1, 2003.

Mr. Manetta advised that Section 36.1-345(c) of the Zoning Ordinance provides: "The installation or replacement of siding ...shall not require a certificate of appropriateness, provided that such installation or replacement is performed using materials which are of the same design as those on the building, structure or landmark, and provided that such installation or replacement maintains the architectural defining features of the building or landmark."

He advised that the H-2 Architectural Design Guidelines adopted by the Architectural Review Board and endorsed by Council state that historic wood siding is a distinctive feature of many Roanoke residences and that changing or covering siding can often alter or destroy the authentic character of a building; and guidelines further recommend that the following be considered specifically when evaluating the installation of synthetic siding:

Do not replace sound historic siding with new materials to achieve an "improved" appearance. Historic wood siding is a distinctive feature that helps to define the visual characteristics of a building.

Retain existing siding: identify and keep the original exterior siding materials as well as any unique siding.

Mr. Manetta advised that the Architectural Review Board recommends that Council affirm the Board's decisions and deny the issuance of a Certificate of Appropriateness for property located at 702 Marshall Avenue, S. W.

Ms. Sarah Muse, 617 Sixth Street, S. W., representing Block Pride Association of Day and Marshall Avenues, a group of approximately 340 homeowners and renters of Day and Marshall Avenues, advised that with encouragement and support from the City of Roanoke, the Department of Public Works, the Department of Solid Waste Management and the Clean Valley Council, the Association has helped to motivate homeowners, property owners and residents to clean up debris and bulk items from streets, yards and alleys in a ten block area. Because of block pride, she stated that they have helped to promote major revitalization, with 12 homes currently being restored to their original historic character, leading to increases in property values, removal of an average of 12 tons of debris during each cleanup, and improved the quality of life and safety of residents, mainly by getting to know their neighbors and encouraging neighborhood pride. She advised that seven houses have been sold this year on Day and Marshall Avenues to energetic persons who will restore and live in the historic structures, which is encouraging to the growth and vitality of downtown living. She asked that the City help the neighborhood to continue the trend of revitalization and restoration of its historic district, and advise all property owners to abide by the H-2 Guidelines endorsed by City Council and those standards set by historic districts in the Commonwealth of Virginia. She stated that 702 Marshall Avenue, located in the Southwest Historic District, owned by Mr. Dana Walker, has been a rental property for many years, containing a total of five units; the property has been neglected with only minimal repairs in order to pass rental inspection; and the house is missing gutters, a safe front porch, has major moisture issues which could lead to significant health issues in view of mold and mildew. She added that Mr. Walker wishes to cover the original historic fabric of the house with synthetic siding; however, siding has been proven to seal in moisture if a problem already exists, thus increasing the moisture problem, leading to health issues for tenants, destroying the house, and deceasing property values. During the Architectural Review Board meeting, she stated that Mr. Walker advised that the Board should have a more lenient standard for properties on Day and Marshall Avenues; whereupon, she advised that this statement reflects a perception that is out of touch and unwarranted, because there are many hard working people who are making a difference in the historic neighborhood, bringing back the structural integrity and the original architectural features of historic homes in the area, while building a strong community. She added that if anything, there should be more stringent standards set by the H-2 Guidelines; 702 Marshall Avenue is a visible structure and architectural features should be restored; the structure is an eyesore as it currently stands and will become an even greater problem if moisture issues are not addressed and if the historic fabric of the house is changed. She

invited the Members of Council, the City Manager and Mr. Walker to participate in a walking tour of Day and Marshall Avenues, in order to showcase the progress of restoration and the vitality of this historic neighborhood.

Mr. Jim Haynes, 545 Day Avenue, S. W., advised that it is time to change the stigma of most non-residents toward the Marshall Avenue area, or the idea that the area should be allowed to continue the spiral that absentee landlords promote, however, this change cannot effectively happen without the help of City government. He further advised that his personal experience with the City Planning Department and the Architectural Review Board has been helpful; their knowledge base and willingness to work with him has been a necessity in restoring properties in the area and by working together they have achieved the goal of restoring beautiful and affordable homes which should grace the City for another 100 years. He stated that Council has an opportunity to start now with a change for the neighborhood; Mr. Walker and other principles of H & W Properties purchased the house at 702 Marshall Avenue, which was designated as a Historic District prior to the date of purchase, and now they wish to change the rules in order to take a "band-aid" approach to improvements to the house. He asked that Council deny the request and require landlords of Day and Marshall Avenues to step up to the plate and to maintain and to renovate their properties within the guidelines of the City Planning Department and the Architectural Review Board.

Valerie Eagle, 1225 Third Street, S. W., President, Old Southwest, Inc., advised that the neighborhood organization is dedicated to combating community deterioration and, as such, they support the work of the Architectural Review Board. She stated that the Board has been effective in reducing the use of synthetic building materials in the historic district so that the architectural elements which define the buildings can be seen, as well as preserved; and when synthetic siding is used, many underlying problems such as leaks, gutter failures and structural cracks are hidden from view and go undetected for long periods of time, causing irreparable damage. She stated that she is a real estate broker engaged in the practice of selling on a daily basis in old southwest, as well as other parts of the Roanoke Valley; as such, she is interested in preserving the property rights of individuals, but the historic district is similar in nature to deed restrictions in other neighborhoods, and property owners and investors are aware of the historic overlay and its oversight by the ARB; investors in particular should be keenly aware of the benefits of ARB enforcement and should want to make modifications that are in keeping with ARB guidelines because of the positive effect on rising property values

in the Historic District. She advised that it is especially important in the areas of Elm, Day and Marshall Avenues, which have been the slowest streets to increase in value, with some of the finest examples of historic characteristics. She stated that Old Southwest, Inc., will hold a walking tour of the area on Thursday, September 18, 2003, at 7:00 p.m., and invited the Members of Council and the City Manager to participate in the tour in order to see the condition of properties that have been left to the wishes of absentee landlords who do not voluntarily meet the spirit, or the letter of the Historic Guidelines. She advised that denying the appeal of H & W Properties will show support for work of City Planning staff, the Architectural Review Board, and Old Southwest, Inc.

Ms. Jackie Cannaday, 424 Washington Avenue, S. W., a resident of Old Southwest, and a Member of the Board of Directors of Old Southwest, Inc., spoke in support of the work of the Architectural Review Board, and stated that every house in old southwest, regardless of its location and use, should have its architectural integrity maintained. She added that the old southwest neighborhood is one of the jewels of Roanoke and it is the City's duty to maintain the rich history of the area.

Mr. Paul Economy, 536 Day Avenue, S. W., a member of the Board of Directors of Old Southwest, Inc., read a statement of the Board of Directors advising that the Historic District of old southwest is a valuable asset to the City of Roanoke; at one time old southwest was considered to be the premier neighborhood in the City, and residents aspire to attain that reputation once again. He stated that the value of old southwest comes in a multitude of architectural styles, with many architectural details that grace each home, whether it be a large mansion or a small bungalow; few other neighborhoods in the Commonwealth of Virginia contain so many diverse examples of housing between 1890 and 1930; and Council has appointed and charged the Architectural Review Board with the responsibility of ensuring that work on these structures will preserve the architectural features and the historic characteristics of each building and the neighborhood as a whole. He stated that the Board of Directors supports the efforts of Old Southwest, Inc., to retain existing forms, features and materials of historic properties which are the essence of the district; the Board endorses the Secretary of the Interior's standards of rehabilitation which are based on the premise that retention of historic materials and features and their craftsmanship are of primary importance, and the use of vinyl or aluminum siding is not recommended. Therefore, on behalf of the Board of Directors, he expressed opposition to the use of synthetic siding on existing historic properties unless no other option is available, because replacing or recovering wood siding

severely diminishes the unique aspect of historic materials and craftsmanship; in most cases, application of such material entails removing architectural details such as window headers, corner boards and distinctive siding of shingle patterns and also flattens the three dimensional profile with marks of each building's uniqueness; changes to character defining features of buildings also alter the visible relationship between buildings when character defining details are covered or removed from numbers of buildings in the Historic District, and the character of the entire district could be seriously damaged. He advised that synthetic siding has been used with the implication that it is a maintenance free product; however, it is frequently used as a cosmetic fix over peeling paint, stains, or other signs of deterioration which can progress unnoticed to become major structural problems; it is not a substitute for proper repairs of ongoing maintenance; and with the advent of a new long duration paint, the argument of synthetic siding as an economical alternative is not necessarily valid. In summary, he stated that the Board of Directors of Old Southwest, Inc., believes that if old southwest is to retain its historic charm, uniqueness and reputation as one of Virginia's outstanding historic districts, the use of synthetic siding is inappropriate and should not be approved by the Architectural Review Board unless no other option is available. Therefore, he requested that Council uphold the decision of the Architectural Review Board and deny the appeal for Certificate of Appropriateness requested by the petitioner.

Mr. Edwin C. Hall, 218 23rd Street, S. W., advised that the owners of the property located at 702 Marshall Avenue, S. W., are not absentee landlords, but are and have been residents of the City of Roanoke for most of their lives. He explained that his purpose in appearing before Council is not to determine whether vinyl siding is appropriate or inappropriate, but to state that the ordinance allows vinyl siding. He advised that the intent is to maintain and to repair a deteriorating piece of property. He asked that Council consider the legal basis for the appeal of the Architectural Review Board's decision and consult with its legal counsel because it is believed that the request is appropriate under the City's current ordinance.

The Mayor initiated discussion with regard to the cost of vinyl siding, verses wood, and whether or not building code regulations exist that govern the installation of vinyl siding over wood in areas of the City other than the Historic District.

Mr. Bestpitch advised that the primary function of the Architectural Review Board is to determine what is appropriate and what is not appropriate within the context of the Historic District; and how does the request change or modify the district as a whole, and not just the specific property under discussion. He stated that there is only one reason to have a Historic District – to encourage the preservation of historic neighborhoods and to ensure property owners that when they purchase and make major investments in restoring and maintaining homes in their original architectural character, that another property owner will not be allowed to do something to their property that devalues the investments of other property owners. He stated that the City of Roanoke should identify incentives to recognize and to reward those property owners who are trying to do their best for the Historic District.

Based on evidence, testimony and documents presented to the Council, Mr. Bestpitch moved that the decision of the Architectural Review Board on July 10, 2003, be affirmed, and that no Certificate of Appropriateness be issued for the installation of siding, corner boards and window facings at 702 Marshall Avenue, S. W., as set forth in the petition for appeal on the grounds that the proposed installation would not maintain the architectural defining features of the building. The motion was seconded by Mr. Cutler and unanimously adopted.

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard, and matters requiring referral to the City Manager will be referred immediately for any necessary and appropriate response, recommendation or report to Council.

NUISANCES-INDUSTRIES-EQUIPMENT-STREETS AND ALLEYS: Mr. Chris Craft, 1501 East Gate Avenue, N. E., referred to overgrown weeds at the corner of East Gate Avenue and 13th Street, which is creating a traffic hazard; the need for guard rails along the steep portion of Tinker Creek; and the existence of underground gas tanks at the former Getty convenience store near the Roanoke Center for Industry and Technology.

COMPLAINTS-HOUSING/AUTHORITY-CITY EMPLOYEES: Mr. Robert Gravely, 3360 Hershberger Road, N. W., expressed concern with regard to the City's aging infrastructure, the need for creation of more jobs leading to home ownership for citizens, and sufficient wages for City of Roanoke employees.

At 9:25 p.m., the Mayor declared the meeting in recess until Friday, August 22, 2003, at 9:30 a.m., at the Roanoke Valley Resource Authority Community Room, 1020 Hollins Road, N. E., for a joint meeting of Roanoke City Council and the Roanoke County Board of Supervisors, for an update on the proposed Regional Water and Sewer Authority.

The Monday, August 18, 2003, regular meeting of the Council of the City of Roanoke reconvened on Friday, August 22, 2003, at 9:30 a.m., in a joint session with the Roanoke County Board of Supervisors in the Community Room, Roanoke Valley Resource Authority, 1020 Hollins Road, N. E., with Mayor Ralph K. Smith and Chairman Joseph P. McNamara presiding.

ROANOKE CITY COUNCIL MEMBERS PRESENT: William D. Bestpitch, M. Rupert Cutler, Beverly T. Fitzpatick, Jr., Linda F. Wyatt and Mayor Ralph K. Smith----------5.

ABSENT: Vice-Mayor C. Nelson Harris and Council Member Alfred T. Dowe, Jr.----------2.

ROANOKE COUNTY BOARD OF SUPERVISORS PRESENT: Michael W. Altizer, Joseph B. Church, Richard C. Flora, H. Odell "Fuzzy Minnix and Chairman Joseph P. McNamara----------5.

ABSENT: None----------0.

OFFICERS PRESENT: Representing Roanoke City: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; Mary F. Parker, City Clerk; and Michael McEvoy, Director of Utilities.

Representing Roanoke County: Elmer C. Hodge, County Administrator; John M. Chambliss, Jr., Assistant County Administrator; Paul Mahoney, County Attorney; Diane D. Hyatt, Chief Financial Officer; and Gary Robertson, Director of Utilities.

The meeting was opened with a prayer by Mr. Chambliss.

The purpose of the meeting was to provide an update on the proposed Water/Waste Water Authority.

Ms. Burcham advised that at the last meeting of Council and the Board of Supervisors in February, 2003, staffs of Roanoke City and Roanoke County recommended certain principles upon which a Water and Wastewater Authority would be formed with the entities of the City of Roanoke and Roanoke County; the purpose of today's meeting is to demonstrate the continued enthusiasm on the part of both staffs for the formation of an Authority and to share details of their work over the past six months. She stated that County and City staffs have met at least every two weeks and many employees have joined in the process of reviewing various aspects of the formation of the Authority. She advised that the two staffs are looking toward an implementation date of July 1, 2004, which will require numerous activities that the Council, the Board of Supervisors and their respective staffs will be engaged in.

Mr. Hodge advised that a vast amount of work has been done and the two staffs have worked together as a team, addressing virtually all issues. He called attention to numerous meetings yet to be held to obtain the input, leadership and advice of the Board of Supervisors and City Council, and community meetings will be held with the constituencies of both Roanoke City and Roanoke County. He referred to certain key dates to address legal issues that will require approval of the Board of Supervisors, City Council and the State Corporation Commission.

Mr. McEvoy and Mr. Robertson presented an overview of the time line necessary for the Authority to be operational by July 1, 2004:

- Finance Officers from both localities will review information regarding technology and finance issues that will need to be resolved. The City Attorney and the County Attorney will discuss the mechanics of how the Authority will be formed and decisions of the governing board that will oversee the Authority.

- Over 20 employee teams have been appointed, City and County employee teams have met to discuss every issue from financial, operational, human resources, etc., and will most likely continue to meet until the implementation date; a newsletter is prepared to keep employees up to date on progress and decisions.

- **Several joint meetings between the two governing bodies will be held over the next several months to discuss progress and to consider certain actions that the two governing bodies will need to take in order to make the Authority a reality by the July 1 deadline, which will include discussions in connection with Articles of Incorporation and membership on the Authority's Board, as well as financial issues regarding rate and asset studies.**

- **Roanoke County has scheduled community meetings for each of its magisterial districts, which will be held at each of the five County high schools. The first meeting is scheduled for Thursday, September 11, at Hidden Valley High School, followed by September 15 at Cave Spring High School, September 16 at William Byrd High School, September 25 at Glenvar High School, and September 30 at North Side High School, all beginning at 6:00 p.m., and continuing until all questions have been addressed.**

- **An employee team is currently reviewing development issues; Roanoke City and Roanoke County have planning offices that engage in planning review and subdivision development in specific manners, and a study of integration of utility functions of the departments is underway, with a draft report expected by the early winter time frame.**

- **Roanoke County and Roanoke City have jointly engaged the firms of Black an Veatch and Draper Aden Consultants to prepare a rate study and asset evaluation of both County and City facilities and draft studies are due by October 13.**

- **At a joint meeting of City Council and the Board of Supervisors which has been scheduled for November 19, the two bodies will be requested to approve Authority Board membership.**

- **The final rate study and asset report will be due on January 1, 2004, and should incorporate comments as a result of draft review.**

- The Human Resources team will review mechanics associated with insurance and retirement plans/benefit plans; the employees are the City's and the County's greatest resource, they have many concerns and questions, therefore, a draft report will be available by January 1, 2004, which will address issues regarding employee insurance, benefits, etc.

- It is proposed to hold another joint meeting of Council and the Board of Supervisors in mid January 2004 to approve the rate study and to discuss formation of the Authority.

- The Finance team, composed of Jesse Hall, Diane Hyatt and their respective staffs, have addressed debt issues and financial applications, with a financial report projected for early spring of 2004.

- The Articles of Incorporation will be submitted to the State Corporation Commission by February 1, 2004, for approval.

- Informational flyers will be mailed in the Spring of 2004 to City and County customers advising of those actions that have been taken by the two governing bodies, listing changes that customers can expect when the Authority is operational on July 1, 2004, and because many of the utilities in the City of Roanoke are located in the public rights-of-way, it will be necessary to hold public hearings during the March time frame regarding a franchise that will allow the Authority to work within City rights-of-way.

- Staff will finalize the first Authority budget in the Spring of 2004.

- The Technology team will complete draft reports by the Spring of 2004, looking at not only financial applications, but a joint billing system.

- Additional joint City-County community meetings are proposed for the time frame of February - April 2004.

- If the State Corporation Commission approves all submittals, the first Authority Board meeting could be held in the April 2004 time frame, at which time the Authority will adopt operating By-Laws and procedures and engage in a budget workshop.

- It may be necessary to hold another joint meeting of Roanoke City and Roanoke County in May/June 2004 to address remaining issues.

- The second Authority Board meeting could be held in May 2004, which would be targeted toward adopting a budget to allow the Authority to be fiscally solvent, effective with the new fiscal year beginning July 1, 2004.

- The third Authority Board meeting could be held in the mid-June time frame to adopt the Authority's general operating policies and to authorize contracts.

- A joint meeting of City Council, the Board of Supervisors and the new Authority Board will be held at the end of June to celebrate the new Authority, which is proposed to be operational by July 1, 2004.

(See time line on file in the City Clerk's Office.)

Mr. Hall presented a briefing on technology and financial support:

- One of the principles that the team started out with was the idea that most of the financial and technology support services would be provided on a contractual basis by one or the other of the localities which would reduce start up costs, enable an earlier start up and allow the Authority to have the best of both worlds regarding software and technology, while providing use of the newest system of either locality.

- Financial and accounting services will be provided by Roanoke County which will include the general ledger, fixed assets, budgeting and purchasing, the human resources system and payroll services.

- The City of Roanoke will provide utility billing services, since the City has newer software than Roanoke County, with the ability to accommodate County accounts into the system.

- A final recommendation has not been made regarding collections, however, the guiding principle is that the process must ensure convenience to customers in remitting payments.

- Both localities currently use Motorola systems, and the City's Lotus Notes system will be used for e-mail.

- A separate website will be developed for the Authority.

- Imaging for records storage will be performed using the City's system. The remote monitoring system for flows and levels will be a combination of City and County systems, and the Authority will develop its own network which will be integrated with City and County networks, since Authority employees will need access to systems within the network for both localities.

- Actions that need to be taken in the near future are: the City's system for billings is in need of a hardware upgrade in order to have the capacity to add Roanoke County accounts for billing purposes, the system needs an expanded software license for billing, potential staff augmentation will be needed prior to start up to address integration and transition of data, the cost of which will be billed back to the Authority.

(See Technology and Financial Support briefing paper on file in the City Clerk's Office.)

Ms. Hyatt reviewed issues relating to the debt of Roanoke County and Roanoke City and related fixed assets.

- Currently, the City of Roanoke has the following outstanding utility debt and net fixed assets (net fixed assets refer to the cost of the assets, less the accumulated depreciation on the assets.) -- a water debt of $24 million, a sewer debt of $14 million, for a total of $38 million; and net fixed assets in water of $50 million, sewer of $94 million, for a total of $144 million.

- The City records the entire asset for the Wastewater Treatment Plant, although other localities, including Roanoke County, share debt in their portion for the upgrades that were recently completed.

- All City debt is General Obligation Bonds, which are the most flexible kinds of debt, and as General Obligation debt, there are no restrictions on the transfer of assets to the Authority.

- The City can enter into an agreement with the Authority to transfer the assets, and in exchange, the Authority will make payments to the City to equal the debt service coverage.

- The County of Roanoke has outstanding utility debt in the water fund of $56 million, in the sewer debt of $18 million, for a total of $74 million; in net fixed assets, water has $82 million, sewer $25 million, for a total of $107 million. Included in these numbers are $16 million of sewer debt for the County's share of the completed upgrades to the Wastewater Treatment Plant.

- Since Roanoke County currently does not have ownership in the Wastewater Treatment Plant, such is not included in fixed assets. Only a small portion of the County debt is General Obligation debt, which can be handled in the same way as the City's debt as described above.

- The majority of the County's debt is Revenue Bonds which place restrictions on the sale or lease of the County's assets.

- Revenue bonds of the County can be broken down into two categories:

    1. Sewer debt financed through the Virginia Resources Authority, or VRA; the County's sewer revenue debt totals $16 million and is financed through the VRA; the Master Indenture for this debt provides that the system may be transferred and the debt may be assigned to another entity, with the written consent of VRA. In order to give its consent, the Authority must go through the same credit analysis process that the VRA engages in on all loan applicants to ensure that revenues generated from the system are sufficient to meet debt service. VRA requires a 115 per cent coverage of net revenues to debt service.

2. Water revenue debt which is bound by the County's 1991 Master Indenture restrictions when it sold original bonds for the reservoir; County water revenue debt totals $55 million and falls under the 1991 Master Indenture. This document provides that the County cannot lease, sell, encumber or otherwise dispose of the system without the consent of two-thirds of the bondholders.

- The best option at this point appears to be a refinancing of the bonds in order to obtain different restrictions. Through a refinancing, money can be saved; however, market rates have shifted in the last two months, therefore, savings may not be as great as they were at one point; and provisions of the Indenture can be changed. Provisions of the 1991 Indenture included a proposed reservoir and distribution system, therefore, they had to be somewhat stricter, but the system has now been operational for seven years, and there is a certain amount of history to support making the covenants less restrictive.

- Two of the main things that are desired to be accomplished include use of off-site facility fees as part of the revenues when computing the revenue coverage, and allow the transfer of assets and debt to the new Authority. The Virginia Resources Authority advises that it can accomplish both of these goals if refinancing is done through VRA.

- Roanoke County is currently in the process of applying for the Fall 2003 Bond pool to be sold by VRA, which bonds will sell in December 2003; refinancing through the VRA also provides the advantage that all revenue debt on sewer and water will be with one entity and will facilitate the transfer of assets and debt.

- Roanoke County and Roanoke City are currently in the process of finalizing VRA Revenue Bonds for the next phase of the Wastewater Treatment Plant; both localities are following the same procedure to inform VRA as to the locality's intent; i.e.: the City will borrow $23 million and the County will borrow $11 million, with the bonds currently scheduled to close in October 2003.

- As with other VRA debt, it is planned to transfer debts to the Authority with the credit approval process.

(See briefing paper on file in the City Clerk's Office.)

Mr. Hackworth reviewed provisions of the Virginia Water and Waste Authority Act:

- The Act has been effective for many years and has been used by numerous Authorities throughout the Commonwealth of Virginia. The Act was used to create the Roanoke Valley Resource Authority.

- The Authority will have broad powers in the provision of water to provide for impalement, treatment and delivery of water to citizens.

- The Act allows the Authority to engage in all aspects of collection and treatment of wastewater, although wastewater is not proposed at this time.

- Storm water management is a logical extension of the powers of an Authority because storm water is a regional issue and not an issue that any one locality alone must address, therefore, the provision will be kept in mind as work proceeds on the Authority, should the political decision be made at some point in the future to add wastewater to the powers, duties and responsibilities of the Authority.

- Enabling legislation allows an Authority to be created very simply. In this case, it requires a concurrent resolution, or ordinance, or agreement between the two localities, which document must be set out in the proposed Articles of Incorporation that will be filed with the State Corporation Commission.

- Acts of Incorporation require the inclusion of a name for the Authority, names of participating localities, names, addresses and terms of office of initial members of the Board of the Authority, the purposes for which the Authority is created, and the number of Board members from each locality.

- It is proposed that the Authority will engage in the process of identifying future water sources, although such will not be specified in the By-laws so as to allow the Authority to have the broadest powers authorized by enabling legislation and to not limit the Authority to perform any particular project.

- Once City Council and the Board of Supervisors have acted on a concurrent resolution, the document is required to be submitted to the State Corporation Commission for approval.

- Enabling legislation provides for the joinder, or addition, of other localities to an Authority after the Authority is created.

- The Act requires that there not be fewer than five members to the Board of the Authority. The Board of Supervisors and the Council have agreed in principle by the adoption of a resolution that there will be equal representation on the Authority; and it is proposed that there be three members from each jurisdiction as appointed by the governing bodies.

- The dilemma of a tie vote may be created which will be addressed by Mr. Mahoney.

- Enabling legislation allows elected officials from the governing bodies to serve on the Authority Board; initially Board members would be appointed for staggered terms which would be set out in the Articles of Incorporation, members would be appointed for initial terms of four years, and Board members could succeed themselves. Once a Board is created, it would be required to elect a Chair, a Secretary and a Treasurer, which two offices could be combined. The law does not require that the Secretary and Treasurer be members of the Board, therefore, the Board could elect a staff person from one of the jurisdictions.

- Once the Authority is created, it would adopt By-Laws. If a Board member should resign or leave office for a specific reason, a replacement would be selected by the governing body which made the initial appointment of the position. Board members are allowed to receive compensation for their services and compensation would be set by the governing bodies who are members of the Authority, and Board members are allowed to receive compensation or reimbursement for expenses in performing their duties.

- Enabling legislation allows for appointment of alternates, although such is not recommended by the staffs of the City and the County.

- Once the Authority is created, it would have the power to appoint a Chief Administrative Officer.

- Once the Authority is created, it would have the same power as any corporation or governmental corporation, it would have a term of existence of 50 years, authority to adopt its own By-Laws and internal operating regulations, selection of the location of its office, the full power to sue and to be sued as a legal entity, the power to acquire property, both within and without the jurisdictions of Roanoke City and Roanoke County, the right of eminent domain, the power to acquire property with and without those jurisdictions exercising that power; the Authority would not have the authority to condemn property of either the City or the County without the permission of the City or the County; the Authority would be subject to the land use regulations and Comprehensive Plan of whatever jurisdiction wherein a facility is to be located; and a special requirement that if an impoundment system, or reservoir or dam are to be constructed in any locality, such would require the consent of the governing body of that locality.

- Once created, the Authority would have the power to issue revenue bonds which would be payable from revenues of the Authority.

- The Authority would have the power to combine its water and sewer system into a single system for purposes of operation and financing, the power to borrow money just like a locality, and once created, enabling legislation allows any political subdivision to lend, advance or give money or property to such Authority.

- Once created, the Authority is authorized to fix, charge and collect fees for both water and waste water treatment, and the power to set connection fees for water and sewer, with rates and fees that are to be fair and reasonable. In setting such fees, the Authority would be required to provide ample public notice by advertising, holding a public hearing and providing notice to the City and County governing bodies before acting to establish any rate or fee.

- Administrative work for the Authority would be contracted for through the County or the City.

- Once the Authority issues revenue bonds, those bonds are strictly the obligation of the Authority; bonds do not constitute debt of either locality, and there is no pledge of the full faith and credit of either locality for the bonds.

- Once the Authority is created, none of the property, or its assets, would be subject to local taxation.

(See Virginia Water and Waste Water Authority Act in file in the City Clerk's office.)

Mr. Mahoney reviewed the proposed Articles of Incorporation:

- The Authority needs a name that will represent the brand of the Authority.

- Membership is recommended to be six; and the Virginia Water and Waster Water Authority Act requires at least five members. In February 2003, the Board of Supervisors and City Council adopted guiding principles to direct staff and emphasized equal representation for the City and the County, and six members are suggested which is a manageable number. Membership must be identified no later than November 2003 to meet statutory requirements with respect to notice and advertising for adoption of a measure in January 2004 by both localities, to be forwarded to the State Corporation Commission.

- A tie breaker methodology is needed. Alternatives are: (1) a tie breaker does not have to be appointed; (2) the Authority Board could appoint the tie breaker; (3) a Circuit Court Judge could appoint the tie breaker; (4) there would not be equal representation by both localities on the Authority; and (5) appointment of a person to be agreed upon by both the Council and the Board of Supervisors who would act as the tie breaker. Guidance is requested from the Board of Supervisors and City Council.

- No decision by the Council and the Board of Supervisors is requested at this time, however, it is requested that the decision be made by the November 19, 2003 meeting of the two bodies.

(See proposed Articles of Incorporation on file in the City Clerk's Office.)

During a discussion of the matter, a suggestion was offered that each locality would appoint its initial three members to the Authority Board and a majority of the Board would agree on a seventh member, which would allow flexibility for each jurisdiction to determine the number of elected officials, City staff, citizen appointments, etc.

Question was raised in regard to establishing compensation for the Authority Board; whereupon, Mr. Mahoney advised that it is a decision to be made by the Council and the Board of Supervisors.

It was noted by a Member of City Council that there may be potential localities that will be interested in future membership to the Authority that do not view themselves as what is traditionally thought of as the Roanoke Valley; the Roanoke Valley extends all the way from Roanoke City to the Albemarle Sound; whereupon, it was mentioned that the term "Blue Ridge Water and Waste Water Authority" might be viewed as more inclusive.

In response, Mr. Mahoney referred to Pages 1 and 2 of the proposed Articles of Incorporation which require an affirmative vote of a majority of the members from each political subdivision of the Authority in order to include additional members on the Authority, and any additional agreement with other political subdivisions, entities or persons for the bulk sale of surplus water or the acceptance and treatment of waste water.

Since the localities are potentially talking about storm water management, water based recreation, watershed management, etc., a Member of City Council suggested that consideration be given to using the term, "Water Management Authority" instead of "Water and Waste Water Authority".

A question was raised by a Member of Council in regard to holding joint City/County community meetings during the time frame of September/October; whereupon, the City Manager advised that to this point Council has not discussed the matter, therefore, staff requests direction from Council in regard to establishing community meetings in the City.

The City Manager inquired if the Council and the Board of Supervisors would like for their respective staffs to schedule another joint session in the near future. She suggested that as a part of the agenda, staffs would address the naming issue and share information on the various names that were proposed by employees. She called attention to the regional branding activity which is currently in progress and the possibility that the regional branding effort could yield a name, or portion of a name, that might be appropriate for the Authority.

There was discussion in regard to the importance of keeping both Roanoke City and Roanoke County residents informed as the process unfolds and that the governing bodies and their respective staffs should do all they can to promote the highest level of communication with City and County residents.

A suggestion was offered that future meetings will be less formal to enable Council and the Board of Supervisors to communicate around the table, that meetings be held at either a City or a County facility, and allow time for input by citizens of both jurisdictions.

With regard to regional community meetings, the County Administrator proposed that the meetings be held jointly to demonstrate a spirit of togetherness and cooperation to Roanoke Valley citizens, and joint meetings would provide the opportunity for City or County residents to attend a community meeting(s) of their choice, regardless of the location. Upon question, the City Attorney advised that it would be legally permissible for the two localities to hold joint community meetings in both Roanoke City and Roanoke County.

There being no further business, at 11:00 a.m., the Mayor declared the meeting of Roanoke City Council adjourned.

(The next joint meeting of City Council and the Board of Supervisors will be held on Friday, October 17, 2003, at 9:30 a.m., at the Roanoke County Administration Building, Fourth Floor Training Room, 5204 Bernard Drive.)

APPROVED

ATTEST:

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor

- - - - - - - - - - - - - -

CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

October 6, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Conveyance of Easement to Roanoke Gas Company at Jackson Park

Pursuant to the requirements of the Virginia Code, the City of Roanoke is required to hold a public hearing on the proposed conveyance of property rights. This is to request that a public hearing be advertised on the above matter for Council's regular meeting to be held on Monday, October 20, 2003. A full report will be included in the October 20, 2003, agenda material for your consideration.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB/SEF

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Sarah E. Fitton, Engineering Coordinator

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October 6, 2003

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Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Lease of City Property – Back Creek

Pursuant to the requirements of the Virginia Code, the City of Roanoke is required to hold a public hearing on the proposed conveyance or lease of property rights. This is to request that a public hearing be scheduled and advertised for October 23, 2003, to consider leasing 7.05 acres of City owned land in Roanoke County to a County resident for pasturage of horses. A full report will be included in the October 23, 2003, agenda material for your consideration.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB:slm

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Barry L. Key, Director of Management and Budget
Michael T. McEvoy, Director of Utilities
Dana Long, Manager of Billings and Collections
Scott L. Motley, Economic Development Specialist

CM03-00201

CITY OF ROANOKE
TREASURER'S OFFICE

P.O. Box 1451
Roanoke, Virginia 24007-1451
Telephone: (540) 853-2561
FAX: (540) 853-1019

DAVID C. ANDERSON
Treasurer

R. RICHARD HALE, JR.
Chief Deputy

CITY CLERK '03 SEP 30 AM

September 30, 2003

Ms. Mary Parker, City Clerk
City of Roanoke
215 Church Avenue Room 456
Roanoke VA 24011

Dear Mary;

Re: Retirement – David C. Anderson, City Treasurer

Please include on the City Council's October 6, 2003 Council meeting Consent Agenda:

David C. Anderson, City Treasurer, plans to retire, effective December 31, 2003.

Thank you for your assistance.

Sincerely yours,

David C. Anderson
City Treasurer

DCA/lrl

ROANOKE
PARKS & RECREATION

210 Reserve Avenue SW Roanoke, Virginia 24016 540/853-2236 FAX 540/853-1287

CITY CLERK '03 SEP 10 PM04:41

RECYCLED PAPER

September 4, 2003

Rev. David Walton
1101 Jamison Avenue, SE
Roanoke, VA 24013

Dear Rev. Walton:

Over the past year, the Parks and Recreation Advisory Board has made recommendations and set priorities in order for the Department to meet long-term goals and make continued improvements for the benefit of its community.

Without your interest in the community and passion towards improving the quality of life for Roanoke's citizens, we would have been unable to make such progress.

We truly regret that you will no longer serve as a Board member. You will be missed by the entire Board and we wish you much continued success.

Sincerely,

Steven C. Buschor
Director

KJ

c: Mary F. Parker, City Clerk
Carl Kopitzke, Vice-Chair of Parks and Recreation Advisory Board

ROANOKE
PARKS & RECREATION
210 Reserve Avenue SW Roanoke, Virginia 24016 540/853-2236 FAX 540/853-1287

CITY CLERK '03 SEP 10 PM04:41

RECYCLED PAPER

September 4, 2003

Mr. Onzlee Ware
P. O. Box 1745
Roanoke, VA 24008

Dear Onzlee:

Over the past year, the Parks and Recreation Advisory Board has made recommendations and set priorities in order for the Department to meet long-term goals and make continued improvements for the benefit of its community.

Without your leadership, interest in the community and passion towards improving the quality of life for Roanoke's citizens, we would have been unable to make such progress.

We truly regret that you will no longer serve as a Board member. You will be missed by the entire Board and we wish you much continued success.

Sincerely,

Steven C. Buschor
Director

KJ

c: Mary F. Parker, City Clerk
Carl Kopitzke, Vice-Chair of Parks and Recreation Advisory Board

WOODS, ROGERS
& HAZLEGROVE PLC
Attorneys at Law

GEORGE J. A. CLEMO
540 983-7728
INTERNET: clemo@woodsrogers.com

October 2, 2003

VIA HAND DELIVERY

Elizabeth K. Dillon
Assistant City Attorney
464 Municipal Building
215 Church Avenue, SW
Roanoke, VA 24011-1595

In Re: *VPSA Interest Rate Subsidy Bond Financing for:*
Roanoke Academy for Mathematics and Science

Dear Elizabeth:

I have sent you earlier today via e-mail the Bond Resolution and related documentation necessary for approval of issuance of an interest rate subsidy school bond to finance part of the cost of replacement of the existing school building at Roanoke Academy for Mathematics and Science (RAMS). The Bond Resolution should be considered for adoption by City Council at its October 6 meeting following completion of the public hearing on the issuance of the bonds.

This financing for RAMS was previously approved by Council as a Literary Fund loan (approved on July 1, 2001 pursuant to Resolutions No. 35439-070201 and No. 35440-070201). That Literary Fund loan application was approved by the Department of Education and placed on the Literary Fund waiting list. Council subsequently approved the filing of an application to the Virginia Public School Authority (VPSA) for interest rate subsidy bond financing to replace the Literary Fund loan on September 15, 2003, pursuant to Resolution No. 36486-091503. The VPSA interest rate subsidy bond program allows the financing for RAMS to be funded sooner than the Literary Fund loan, but with the same maturity and debt service requirements.

The Bond Resolution provides for final approval by Council of the interest rate subsidy bond and related documents. A public hearing on the bond issuances will be held before Council at the October 6 meeting before consideration of the Bond Resolution.

The documentation necessary for the October 6 Council meeting includes:

1. The Bond Resolution.

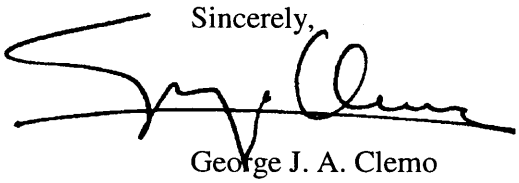
RKE# 0829743.WPD-1, 077826-00045-01

2. The Bond Sale Agreement and Appendices.
3. Draft Proceeds Agreement.

As you know, the Bond Sale Agreement and Appendices constitute the agreement by the VPSA to purchase the City's local bond and include the various terms, conditions and requirements applicable to VPSA's obligation to purchase the bond. The Proceeds Agreement is also required by VPSA and provides for the proceeds of the bond to be held in an account under the State Non-Arbitrage Program (SNAP) until needed to pay costs of the project. This is to insure that the proceeds of the bond are properly invested in compliance with applicable state law on permissible investments and with applicable federal tax law restrictions on earning arbitrage. Avoiding any violation of the federal restrictions on arbitrage is critical to maintaining the tax exemption of the bond.

As always, I appreciate very much all of your assistance. Please do not hesitate to call if there are any questions. Best regards.

Sincerely,



George J. A. Clemo

Encl.
cc: Richard Kelley (via telefax)

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A Resolution authorizing the issuance of not to exceed $5,000,000 General Obligation School Bonds, Series 2003-A, of the City Of Roanoke Virginia, to be sold to the Virginia Public School Authority and providing for the form and details thereof.

WHEREAS, on April 24, 2002, the Commonwealth of Virginia Board of Education (the "Board of Education") placed the application (the "Application") of the School Board of the City of Roanoke, Virginia (the "School Board"), for a loan of $5,000,000 (the "Literary Fund Loan") from the Literary Fund, a permanent trust fund established by the Constitution of Virginia (the "Literary Fund"), for the construction, renovation and/or expansion of school buildings (the "Project") in the City of Roanoke, Virginia (the "City"), on the First Priority Waiting List;

WHEREAS, the Board of Education was to have approved the release of Literary Fund moneys to the School Board and make a commitment to loan such moneys to the School Board (the "Commitment") within one (1) year of placement of the Application on the First Priority Waiting List upon receipt of the Literary Fund of an unencumbered sum available at least equal to the amount of the Application and the approval, by the Board of Education, of the Application as having met all conditions for a loan from the Literary Fund;

WHEREAS, the Board of Education was thereafter to have given advances on the amount of the Commitment for the Literary Fund Loan to the School Board, as construction or renovation of the Project progressed, in exchange for temporary notes from the School Board to the Literary Fund (the "Temporary Notes") for the amounts so advanced;

WHEREAS, after the completion of the Project and the advance of the total amount of the Commitment, the Temporary Notes were to have been consolidated into a permanent loan note of the School Board to the Literary Fund (the "Literary Fund Obligation") which was to evidence the obligation of the School Board to repay the Literary Fund Loan;

WHEREAS, the Literary Fund Obligation was to have borne interest at four percent (4%) per annum and mature in annual installments for a period of twenty (20) years;

WHEREAS, in connection with the 2003 Interest Rate Subsidy Program (the "Program"), the Virginia Public School Authority (the "VPSA") has offered to purchase general obligation school bonds of the City, and the Board of Education has offered to pay, to the City, a lump sum cash payment (the "Lump Sum Cash Payment") equal to the sum of (i) net present value difference, determined on the date on which the VPSA sells its bonds, between the weighted average interest rate that the general obligation school bonds of the City will bear upon sale to the VPSA and the interest rate that the Literary Fund Obligation would have borne plus (ii) an allowance for the costs of issuing such bonds of the City (the "Issuance Expense Allowance");

WHEREAS, the City Council (the "Council") of the City of Roanoke, Virginia (the "City"), has determined that it is necessary and expedient to borrow not to exceed $5,000,000 and to issue its general obligation school bonds for the purpose of financing certain capital projects for school purposes; and

WHEREAS, the City held a public hearing, duly noticed, on October 6, 2003, on the issuance of the Bonds (as defined below) in accordance with the requirements of Section 15.2-2606, Code of Virginia 1950, as amended (the "Virginia Code"); and

WHEREAS, the School Board has, by resolution, requested the City Council to authorize the issuance of the Bonds (as hereinafter defined) and consented to the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROANOKE, VIRGINIA:

1. **Authorization of Bonds and Use of Proceeds**. The Council hereby determines that it is advisable to contract a debt and issue and sell its general obligation school bonds in an aggregate principal amount not to exceed $5,000,000 (the "Bonds") for the purpose of financing certain capital projects for school purposes described in **Exhibit B**. The Council hereby authorizes the issuance and sale of the Bonds in the form and upon the terms established pursuant to this Resolution.

2. **Sale of the Bonds**. It is determined to be in the best interest of the City to accept the offer of the Virginia Public School Authority (the "VPSA") to purchase from the City, and to sell to the VPSA, the Bonds at a price, determined by the VPSA to be fair and accepted by the Mayor and the City Manager. The Mayor, the City Manager, and such officer or officers of the City as either may designate are hereby authorized and directed to enter into a Bond Sale Agreement dated as of October 1, 2003, with the VPSA providing for the sale of the Bonds to the VPSA in substantially the form submitted to the Council at this meeting, which form is hereby approved (the "Bond Sale Agreement").

3. **Details of the Bonds**. The Bonds shall be issuable in fully registered form; shall be dated the date of issuance and delivery of the Bonds; shall be designated "General Obligation School Bonds, Series 2003-A; shall bear interest from the date of delivery thereof payable semi-annually on each January 15 and July 15 beginning July 15, 2004 (each an "Interest Payment Date"), at the rates established in accordance with Section 4 of this Resolution; and shall mature on July 15 in the years (each a "Principal Payment Date") and in the amounts set forth on **Schedule I** to **Exhibit A** attached hereto (the "Principal Installments"), subject to the provisions of Section 4 of this Resolution.

4. **Interest Rates and Principal Installments.** The City Manager is hereby authorized and directed to accept the interest rates on the Bonds established by the VPSA, provided that each

interest rate shall be ten one-hundredths of one percent (0.10%) over the interest rate to be paid by the VPSA for the corresponding principal payment date of the bonds to be issued by the VPSA (the "VPSA Bonds"), a portion of the proceeds of which will be used to purchase the Bonds, and provided further, that the true interest cost of the Bonds does not exceed five and sixty one-hundredths percent (5.60 %) per annum. The Interest Payment Dates and the Principal Installments are subject to change at the request of the VPSA. The City Manager is hereby authorized and directed to accept changes in the Interest Payment Dates and the Principal Installments at the request of the VPSA, provided that the aggregate principal amount of the Bonds shall not exceed the amount authorized by this Resolution. The execution and delivery of the Bonds as described in Section 8 hereof shall conclusively evidence such interest rates established by the VPSA and Interest Payment Dates and the Principal Installments requested by the VPSA as having been so accepted as authorized by this Resolution.

5. **Form of the Bonds**. The Bonds shall be initially in the form of a single, temporary typewritten bond substantially in the form attached hereto as **Exhibit A**.

6. **Payment; Paying Agent and Bond Registrar**. The following provisions shall apply to the Bonds:

(a) For as long as the VPSA is the registered owner of the Bonds, all payments of principal, premium, if any, and interest on the Bonds shall be made in immediately available funds to the VPSA at or before 11:00 a.m. on the applicable Interest Payment Date or Principal Payment Date, or if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. on the business day next preceding such Interest Payment Date or Principal Payment Date.

(b) All overdue payments of principal and, to the extent permitted by law, interest shall bear interest at the applicable interest rate or rates on the Bonds.

(c) SunTrust Bank, Richmond, Virginia, is designated as Bond Registrar and Paying Agent for the Bonds.

7. **No Redemption or Prepayment**. The Principal Installments of the Bonds shall not be subject to redemption or prepayment. Furthermore, the Council covenants, on behalf of the City, not to refund or refinance the Bonds without first obtaining the written consent of the VPSA or the registered owner of the Bonds.

8. **Execution of the Bonds**. The Mayor or Vice Mayor and the City Clerk or any Deputy City Clerk of the City are authorized and directed to execute and deliver the Bonds and to affix the seal of the City thereto.

9. **Pledge of Full Faith and Credit**. For the prompt payment of the principal of and premium, if any, and the interest on the Bonds as the same shall become due, the full faith and

credit of the City are hereby irrevocably pledged, and in each year while any of the Bonds shall be outstanding there shall be levied and collected in accordance with law an annual ad valorem tax upon all taxable property in the City subject to local taxation sufficient in amount to provide for the payment of the principal of and premium, if any, and the interest on the Bonds as such principal, premium, if any, and interest shall become due, which tax shall be without limitation as to rate or amount and 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.

10. **Use of Proceeds Certificate and Certificate as to Arbitrage**. The Mayor, , the City Manager and such officer or officers of the City as either may designate are hereby authorized and directed to execute a Certificate as to Arbitrage and a Use of Proceeds Certificate each setting forth the expected use and investment of the proceeds of the Bonds and containing such covenants as may be necessary in order to show compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations relating to the exclusion from gross income of interest on the Bonds and on the VPSA Bonds except as provided below. The Council covenants on behalf of the City that (i) the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in such Certificate as to Arbitrage and such Use of Proceeds Certificate and that the City shall comply with the other covenants and representations contained therein and (ii) the City shall comply with the provisions of the Code so that interest on the Bonds and on the VPSA Bonds will remain excludable from gross income for Federal income tax purposes.

11. **State Non-Arbitrage Program; Proceeds Agreement**. The Council hereby determines that it is in the best interests of the City to authorize and direct the City Treasurer to participate in the State Non-Arbitrage Program in connection with the Bonds. The Mayor , the City Manager and such officer or officers of the City as either may designate are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Bonds by and among the City, the other participants in the sale of the VPSA Bonds, the VPSA, the investment manager and the depository, substantially in the form submitted to the Council at this meeting, which form is hereby approved.

12. **Continuing Disclosure Agreement**. The Mayor, the City Manager and such officer or officers of the City as either may designate are hereby authorized and directed to execute a Continuing Disclosure Agreement, as set forth in Appendix E to the Bond Sale Agreement, setting forth the reports and notices to be filed by the City and containing such covenants as may be necessary in order to show compliance with the provisions of the Securities and Exchange Commission Rule 15c2-12 and directed to make all filings required by Section 3 of the Bond Sale Agreement should the City be determined by the VPSA to be a MOP (as defined in the Continuing Disclosure Agreement).

13. **Filing of Resolution**. The appropriate officers or agents of the City are hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the City.

14. **Further Actions**. The members of the Council and all officers, employees and agents of the City are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Bonds and any such action previously taken is hereby ratified and confirmed.

15. **Effective Date**. This Resolution shall take effect immediately.

* * *

The undersigned Clerk of the City of Roanoke, Virginia, hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the City Council held on October 6, 2003, and of the whole thereof so far as applicable to the matters referred to in such extract. I hereby further certify (a) that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing resolution, a quorum was present, and (b) that the attendance of the members and voting on the foregoing resolution was as follows:

	Present	Absent	Aye	Nay	Abstain
Ralph K. Smith, Mayor					
C. Nelson Harris, Vice Mayor					
William D. Bestpitch					
M. Rupert Cutler					
Alfred T. Dowe, Jr.					
Beverly T. Fitzpatrick, Jr.					
Linda F. Wyatt					

WITNESS MY HAND and the seal of the City of Roanoke, Virginia, this ___ day of October, 2003

Clerk, City of Roanoke, Virginia

[SEAL]

[Subsidy]

EXHIBIT A

(FORM OF TEMPORARY BOND)

NO. TS-1 $_____

UNITED STATES OF AMERICA

COMMONWEALTH OF VIRGINIA

CITY OF ROANOKE

General Obligation School Bond

Series 2003 [- A]

The **CITY OF** ROANOKE, **VIRGINIA** (the "City"), for value received, hereby acknowledges itself indebted and promises to pay to the **VIRGINIA PUBLIC SCHOOL AUTHORITY** the principal amount of _____ DOLLARS ($_____), in annual installments in the amounts set forth on Schedule I attached hereto payable on July 15, 2004 and annually on July 15 thereafter to and including July 15, 2023 (each a "Principal Payment Date"), together with interest from the date of this Bond on the unpaid installments, payable semi-annually on January 15 and July 15 of each year, commencing on July 15, 2004 (each an "Interest Payment Date"; together with any Principal Payment Date, a "Payment Date"), at the rates per annum set forth on Schedule I attached hereto. Both principal of and interest on this Bond are payable in lawful money of the United States of America.

For as long as the Virginia Public School Authority is the registered owner of this Bond, SunTrust Bank as bond registrar (the "Bond Registrar"), shall make all payments of principal,

premium, if any, and interest on this Bond, without the presentation or surrender hereof, to the Virginia Public School Authority, in immediately available funds at or before 11:00 a.m. on the applicable Payment Date or date fixed for prepayment or redemption. If a Payment Date or date fixed for prepayment or redemption is not a business day for banks in the Commonwealth of Virginia or for the Commonwealth of Virginia, then the payment of principal, premium, if any, or interest on this Bond shall be made in immediately available funds at or before 11:00 a.m. on the business day next preceding the scheduled Payment Date or date fixed for prepayment or redemption. Upon receipt by the registered owner of this Bond of said payments of principal, premium, if any, and interest, written acknowledgment of the receipt thereof shall be given promptly to the Bond Registrar, and the City shall be fully discharged of its obligation on this Bond to the extent of the payment so made. Upon final payment, this Bond shall be surrendered to the Bond Registrar for cancellation.

The full faith and credit of the City are irrevocably pledged for the payment of the principal of and the premium, if any, and interest on this Bond. The resolution adopted by the City Council authorizing the issuance of the Bonds provides, and Section 15.2-2624, Code of Virginia 1950, as amended, requires, that 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, premium, if any, and interest on this Bond 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.

This Bond is duly authorized and issued in compliance with and pursuant to the Constitution and laws of the Commonwealth of Virginia, including the Public Finance Act of 1991,

Chapter 26, Title 15.2, Code of Virginia 1950, as amended, and resolutions duly adopted by the City Council and the School Board of the City to provide funds for capital projects for school purposes.

This Bond may be exchanged without cost, on twenty (20) days written notice from the Virginia Public School Authority, at the office of the Bond Registrar on one or more occasions for two or more temporary bonds or definitive bonds in fully registered form in denominations of $5,000 and whole multiples thereof, and; in any case, having an equal aggregate principal amount having maturities and bearing interest at rates corresponding to the maturities of and the interest rates on the installments of principal of this Bond then unpaid. This Bond is registered in the name of the Virginia Public School Authority on the books of the City kept by the Bond Registrar, and the transfer of this Bond may be effected by the registered owner of this Bond only upon due execution of an assignment by such registered owner. Upon receipt of such assignment and the surrender of this Bond, the Bond Registrar shall exchange this Bond for definitive Bonds as hereinabove provided, such definitive Bonds to be registered on such registration books in the name of the assignee or assignees named in such assignment.

The principal installments of this Bond are not subject to redemption or prepayment.

All acts, conditions and things required by the Constitution and laws of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed in due time, form and manner as so required, and this Bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the City Council of the City of Roanoke, Virginia has caused this Bond to be issued in the name of the City of Roanoke Virginia, to be signed by its Mayor or Vice Mayor, its seal to be affixed hereto and attested by the signature of its Clerk or any of its Deputy Clerks, and this Bond to be dated _____, 2003.

CITY OF ROANOKE,
VIRGINIA

(SEAL)

ATTEST:

_____	_____
City Clerk, City of Roanoke, Virginia	Mayor, City of Roanoke, Virginia

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

_____

_____

_____

_____

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE)

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE: _____

the within Bond and irrevocably constitutes and appoints

_____ attorney to exchange said Bond for definitive bonds in lieu of which this Bond is issued and to register the transfer of such definitive bonds on the books kept for registration thereof, with full power of substitution in the premises.

Date: _____ _____

Registered Owner

Signature Guaranteed:

_____

(NOTICE: Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Bond Registrar which requirements will include Membership or participation in STAMP or such other "signature guarantee program" as may be determined by the Bond Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

(NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the front of this Bond in every particular, without alteration or change.)

SCHEDULE I

	VPSA Loan					
	Principal	Rate	Interest	Total	Fiscal Total	VPSA Savings
7/15/2004	251,697.00	2.100%	136,977.89	$388,674.89	0.00	(341.56)
1/15/2005	-	0.000%	96,377.35	96,377.35	485,052.24	(1,377.34)
7/15/2005	244,816.00	2.100%	96,377.35	341,193.35	0.00	3,806.66
1/15/2006	-	0.000%	93,806.78	93,806.78	435,000.12	(3,806.77)
7/15/2006	241,124.00	3.100%	93,806.78	334,930.78	0.00	5,069.23
1/15/2007	-	0.000%	90,069.36	90,069.36	425,000.13	(5,069.35)
7/15/2007	238,559.00	3.100%	90,069.36	328,628.36	0.00	6,371.65
1/15/2008	-	0.000%	86,371.69	86,371.69	415,000.05	(6,371.69)
7/15/2008	235,913.00	3.100%	86,371.69	322,284.69	0.00	7,715.31
1/15/2009	-	0.000%	82,715.04	82,715.04	404,999.73	(7,715.04)
7/15/2009	234,375.00	4.100%	82,715.04	317,090.04	0.00	7,909.96
1/15/2010	-	0.000%	77,910.35	77,910.35	395,000.39	(7,910.35)
7/15/2010	233,976.00	4.100%	77,910.35	311,886.35	0.00	8,113.65
1/15/2011	-	0.000%	73,113.84	73,113.84	385,000.19	(8,113.84)
7/15/2011	233,560.00	4.100%	73,113.84	306,673.84	0.00	8,326.16
1/15/2012	-	0.000%	68,325.86	68,325.86	374,999.70	(8,325.86)
7/15/2012	233,724.00	4.600%	68,325.86	302,049.86	0.00	7,950.14
1/15/2013	-	0.000%	62,950.21	62,950.21	365,000.07	(7,950.21)
7/15/2013	234,493.00	4.600%	62,950.21	297,443.21	0.00	7,556.79
1/15/2014	-	0.000%	57,556.87	57,556.87	355,000.08	(7,556.87)
7/15/2014	234,997.00	4.350%	57,556.87	292,553.87	0.00	7,446.13
1/15/2015	-	0.000%	52,445.69	52,445.69	344,999.56	(7,445.69)
7/15/2015	235,345.00	4.450%	52,445.69	287,790.69	0.00	7,209.32
1/15/2016	-	0.000%	47,209.26	47,209.26	334,999.95	(7,209.26)
7/15/2016	235,949.00	4.550%	47,209.26	283,158.26	0.00	6,841.74
1/15/2017	-	0.000%	41,841.42	41,841.42	324,999.68	(6,841.42)
7/15/2017	236,823.00	4.650%	41,841.42	278,664.42	0.00	6,335.58
1/15/2018	-	0.000%	36,335.29	36,335.29	314,999.71	(6,335.29)
7/15/2018	237,981.00	4.750%	36,335.29	274,316.29	0.00	5,683.71
1/15/2019	-	0.000%	30,683.24	30,683.24	304,999.52	(5,683.24)
7/15/2019	239,440.00	4.850%	30,683.24	270,123.24	0.00	4,876.77
1/15/2020	-	0.000%	24,876.82	24,876.82	295,000.05	(4,876.82)
7/15/2020	241,247.00	4.975%	24,876.82	266,123.82	0.00	3,876.19
1/15/2021	-	0.000%	18,875.80	18,875.80	284,999.61	(3,875.80)
7/15/2021	243,394.00	5.050%	18,875.80	262,269.80	0.00	2,730.21
1/15/2022	-	0.000%	12,730.10	12,730.10	274,999.89	(2,730.10)
7/15/2022	245,808.00	5.100%	12,730.10	258,538.10	0.00	1,461.91
1/15/2023	-	0.000%	6,461.99	6,461.99	265,000.09	(1,461.99)
7/15/2023	248,538.00	5.200%	6,461.99	254,999.99	0.00	0.01
1/15/2024	-	0.000%	0.00	0.00	254,999.99	0.00
7/15/2024					0.00	
Totals	$ 4,781,759.00		$ 2,258,291.72	$7,040,050.72		($1,717.37)

EXHIBIT B

The proceeds of the Bond will be used to finance the replacement of the existing school building at Roanoke Academy for Mathematics and Science (RAMS). Any Bond proceeds remaining upon completion of the replacement of RAMS will be spent on other capital projects for school purposes.

CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

October 6, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Subject: Adoption of a revised Cable Television Franchise Ordinance and Approval of a Renewal Cable Television Franchise Agreement

Dear Mayor Smith and Members of City Council:

Pursuant to Ordinance No. 30479-42291, the City entered into a Cable Television Franchise Agreement, dated as of May 1, 1991, for a term of 12 years with Cox Cable Roanoke, Inc., predecessor in interest to CoxCom, Inc., d/b/a Cox Communications Roanoke. At about the same time, Roanoke County and the Town of Vinton also entered into very similar Franchise Agreements. Such agreements arose out of the three jurisdictions negotiating jointly with Cox Cable Roanoke, Inc.

CoxCom, Inc., d/b/a Cox Communications Roanoke (Cox), has requested a renewal franchise with the City, Roanoke County, and the Town of Vinton. Representatives of the three jurisdictions have been negotiating with Cox for such a renewal agreement. On April 21, 2003, by Ordinance No. 36290-042103, City Council extended the 1991 Cable Television Franchise Agreement for six months, until October 31, 2003, to allow renewal negotiations to be completed. Such negotiations have been completed, and a Cable Television Franchise Agreement acceptable to the City of Roanoke, Roanoke County, the Town of Vinton and Cox has been reached among the parties, subject to approval by City Council, and the governing bodies of the other two jurisdictions for their respective agreements. In connection with the negotiations, the City retained an outside consultant familiar with cable television franchising matters. During the

negotiation process, it was also recommended that the City's prior Cable Television Franchise Ordinance adopted on April 22, 1991, Ordinance No. 30478-42291, be replaced with a revised Cable Television Franchise Ordinance. Such a revised Cable Television Franchise Ordinance has been drafted by the consultant and reviewed by representatives of the three jurisdictions and by Cox and is attached to this letter as Attachment 1. The representatives of the City and the consultant for the City recommend the adoption of such revised Cable Television Franchise Ordinance, and Cox has no objections to that ordinance. The purpose of such action is to update the prior ordinance and incorporate current legal requirements.

The renewal Cable Television Franchise Agreement arrived at among the parties is attached as Attachment 2 to this letter. Some of the terms of the Agreement include the following:

1. The Agreement will be for a term of 15 years, from November 1, 2003 through October 31, 2018.

2. Cox will provide a capital grant for educational and governmental access capital equipment and facilities in the total amount of $1,150,000.00 to be paid as follows:
    a. $575,000 to be paid on or before May 1, 2004;
    b. $345,000 to be paid on or before November 1, 2006; and
    c. $230,000 to be paid on or before November 1, 2008.

    Payment of the above funds will be made to the fiscal agent for the Roanoke Valley Regional Cable Television Committee, as it has been in the past. This Committee consists of representatives of the three jurisdictions that cooperatively operate Roanoke Valley Television, Channel 3 ("RVTV"), for governmental and educational access channel purposes. The funds will be used to provide capital funding for such governmental and educational access purposes by the Committee, but operational funding will still need to be provided by the three jurisdictions.

3. Cox will continue to carry RVTV on channel 3 on Cox's system, and will also continue to provide a public access channel. Cox also will provide up to five additional governmental or educational access channels based on a showing of need for such channels.

4. Cox will pay to the City a franchise fee in the amount of 5% of gross revenues, in accordance with Section 17 of the revised Cable Television Franchise Ordinance. (The amount of franchisee fee payments that the City received from Cox in FY03 was approximately $984,000. The amount budgeted to be received in FY04 is approximately $1,049,000.)

There are various other items set forth in the Agreement which are set forth in Attachment 2. Furthermore, although the City can regulate rates within limits for the cable operator's basic tier under current federal law, the City cannot regulate any rates for any tiers above the basic tier, nor can the City regulate the programming that Cox carries on its system (other than the access channels). Those are matters left to the discretion of the cable television operator under current federal law.

A public hearing on both the revised Cable Television Franchise Ordinance and the Cable Television Franchise Agreement will be held at Council's meeting today, October 6, 2003. After the public hearing, Council will be asked to take the action noted below.

Recommended Action:

Council adopt the revised Cable Television Franchise Ordinance referred to above and provide for an effective date of such Ordinance to be October 31, 2003.

Approve the terms of the Cable Television Franchise Agreement referred to above and authorize the City Manager to execute such Agreement between the City and CoxCom, Inc., d/b/a Cox Communications Roanoke, in a form substantially similar to the one attached as Attachment 2 to this letter, in a form approved by the City Attorney. The Agreement will provide for the items mentioned above and such other terms and conditions as are deemed to be in the best interest of the City.

Authorize the City Manager to take such further actions and execute such additional documents as may be necessary to implement and administer the Cable Television Franchise Agreement.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB:rm

c: Mary F. Parker, City Clerk
Jesse A. Hall, Director of Finance
William M. Hackworth, City Attorney
Roy Mentkow, Acting Director of Technology

CM03-00202

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE providing for one or more non-exclusive franchises to construct, operate, and maintain one or more cable television systems within the City of Roanoke, Virginia, and dispensing with the second reading by title paragraph of this Ordinance.

WHEREAS, pursuant to applicable law, policies and procedures are established in this Ordinance whereby the City of Roanoke, Virginia ("City"), may grant certain entities, their successors and assigns, a non-exclusive franchise, or may renew or extend an existing franchise, to erect, operate and maintain poles, cables and all other electrical equipment, structures, or fixtures necessary to the construction, operation and maintenance of a Cable Television System under, over, upon and across the streets, alleys, sidewalks, and rights-of-way of the City to provide Cable Service to the residents and citizens of the City, and to the persons, firms, and corporations doing business therein, and to use the property of other entities in furtherance and support of the objectives of this Ordinance and any franchise granted hereunder upon such arrangements and under such conditions as to which the entities may agree. For the purposes of this Ordinance, the term "Franchise" shall apply, unless otherwise distinguished, to an initial franchise, an extended franchise or a renewed franchise; and

WHEREAS, the provisions of this Ordinance shall apply to all cable television Franchises granted, extended or renewed after the effective date of this Ordinance, and shall also apply to all Cable Television Franchisees existing as of the effective date in the event and as of the date of any extension or renewal of an existing Franchise requested by such Franchisee.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

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Appendix A. FCC Customer Service Standards

CABLE TELEVISION FRANCHISE ORDINANCE

Section 1. Short Title.

This Ordinance shall be known and may be cited as the "CABLE TELEVISION FRANCHISE ORDINANCE."

Section 2. Definitions.

For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meanings given herein. Terms of art not otherwise defined herein, whether capitalized or not, shall have the meanings ascribed to them in Title VI (Cable Communications) of the Communications Act of 1934, as amended, 47 U.S.C. §§521, et seq. (hereinafter the "Cable Act"). When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "Board" shall mean the Board of Supervisors of the County of Roanoke, Virginia.

(b) "Cable," whether capitalized or not, shall mean the closed transmission paths by which video programming and other Cable Services are transmitted through and along a Franchisee's Cable System, and shall include coaxial cable, optical fiber and any other closed transmission path utilized therefor.

(c) "Cable Service" shall have the same meaning as ascribed to the term "cable service" in the Cable Act.

(d) "Cable Television System" (or "CATV", or "Cable System", sometimes hereinafter referred to as "System") shall have the same meaning as ascribed to the term "cable system" in the Cable Act.

(e) "Chief Executive" shall mean the administrator of a county, manager of a city, or manager of a town, as the context may require.

(f) "City" shall mean the City of Roanoke, Virginia.

(g) "Council" shall mean the City Council of the City of Roanoke or the Town Council of the Town of Vinton, as the context may require.

(h) "County" shall mean the County of Roanoke, Virginia.

(i) "EG" shall mean the educational and governmental access component of PEG Access as defined in Section 2(w) hereof.

(j) "Elementary and Secondary Schools", whether capitalized or not, shall mean all public institutions operated for the purposes of teaching students enrolled in the elementary (including kindergarten), middle and high school grades.

(k) "FCC" shall mean the Federal Communications Commission or its successor.

(l) "Franchise" shall mean the grant of authority, embodied in a franchise agreement between the City and a particular Franchisee, authorizing that Franchisee to construct, own, operate

and maintain a cable system and provide cable service in the Service Area defined by that agreement.

(m) "Franchise Area," for the purposes of establishing any entitlement to regulate rates charged by a Franchisee pursuant to the Cable Act, or any subsequently adopted counterpart thereof or governing regulatory provision relating thereto, shall mean and be deemed as being co-terminous with a Franchisee's Service Area; provided, however, that until a Franchisee offers Cable Service throughout such Service Area, a Franchisee's Franchise Area shall be such lesser portion of its Service Area to which it offers Cable Service.

(n) "Franchisee" shall mean the grantee of rights under a Franchise granted pursuant to this Ordinance.

(o) "Governing Body" shall mean the Board or a Council, as the context may require.

(p) "Gross Revenues" shall mean all revenues derived from the operation of a Franchisee's System to provide Cable Service within its Service Area. This definition shall be construed as broadly as permitted by the Cable Act or any other applicable law. By way of example and not limitation, and unless otherwise defined in a Franchise, "Gross Revenues" shall include charges for basic service, cable programming services, per-channel or per-event services, other charges for video programming, installation and reconnection fees, leased channel fees, converter rental fees, advertising and home shopping revenues, late fees, and revenues for carriage of programming on the System, to the extent such items are considered "revenue" under generally accepted accounting principles ("GAAP"). "Gross Revenues" shall not include (1) any tax or fee imposed on cable Subscribers (but not on Franchisee) by the City or any governmental authority and collected by the Franchisee on behalf of such governmental entity (provided, however, that the fee imposed by Section 17 of this Ordinance shall not be construed to be such a tax or fee); (2) the revenues of any parent or affiliate of Franchisee to the extent, and only to the extent, the revenues

of such parent or affiliate are costs of the Franchisee and recovered by Franchisee through charges to Subscribers that are included in Gross Revenues on which franchise fees are paid; and (3) actual bad debt, refunds or credits, provided any such bad debt subsequently collected shall be considered "Gross Revenues" in the period collected. In the event any revenues derived by Franchisee or its parent or affiliates relate to the System in conjunction with other cable systems outside the Service Area owned or operated by Franchisee, its parent or its affiliate, then such revenues shall be fairly pro-rated among the various systems, and the portion of such revenues attributable to the Franchisee's System in the City based on such a pro-ration shall be considered "Gross Revenues".

(q) "Higher Education Center" or "Roanoke Higher Education Center" shall mean the Higher Education Center providing extension services and located in the City.

(r) "Home" shall mean any single family dwelling unit, whether a house, apartment, trailer or mobile home, rented room or otherwise.

(s) "Local Government" shall mean, as the context may require, the City, the County, or the Town, or all of them collectively.

(t) "Local Government Occupied Buildings" shall mean those buildings owned in whole or in part by the County, the City, or the Town, as the context may require, or occupied in whole or in part by Local Government officials or other persons in furtherance of Local Government objectives, and shall include, without limiting the generality of the foregoing, all volunteer and paid fire and/or rescue companies located within the County, City or Town.

(u) "Non-Subscriber Services" shall mean services provided to persons other than a Subscriber or User of the services provided by or carried on a Franchisee's Cable System.

(v) "Person" shall mean any individual, firm, partnership, association, corporation, company, trust, or entity of any kind, but shall not include the County, the City, or the Town.

(w) "PEG Access" shall mean public, educational and/or governmental use as provided in the Cable Act (47 U.S.C. §531).

(x) "PEG Access Channels" shall refer to the channel capacity on a System devoted to PEG Access.

(y) "Public Schools", whether capitalized or not, shall mean all buildings operated by the School Board or School Division of the County, City or Town for the purposes of teaching and learning.

(z) "Residential Subscriber" shall mean a purchaser in good standing of any service that the Franchisee delivers to any Home, provided that service is not utilized in connection with a business, trade, or profession.

(aa) "Roanoke Valley Regional Cable Television Committee" (or "CATV Committee" or "Committee") shall mean the committee comprised of individuals from the County, the City and the Town, having responsibilities as set forth in this Ordinance concerning any cable television system which provides service within or to any portion of all of the aforesaid three jurisdictions.

(bb) "Senior Citizen" shall mean any Residential Subscriber who is sixty-five (65) years of age or older.

(cc) "Service Area" shall mean the geographical area in the County, City or Town, as the context may require, in which a Franchisee is authorized by a Franchise to construct its System and to provide Cable Service .

(dd) "Signals" shall mean and refer to all frequencies, and the modulating intelligence (including digital modulation) imposed or carried thereon, provided by or permitted to be inserted by a Franchisee on the Cable System operated by such Franchisee.

(ee) "Streets" shall mean all public streets, roads, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parkways, alleys, and all other public rights-of-way within or belonging to the County, City or Town, as the context may require.

(ff) "Subscriber" or "User" shall mean any person or entity lawfully receiving any service provided by or carried on a Franchisee's Cable System.

(gg) "Town" shall mean the Town of Vinton, Virginia.

(hh) "VDOT" shall mean the Virginia Department of Transportation.

Section 3. Grant of Authority.

(a) The City shall have the authority, subject to compliance with the relevant provisions of §15.2-2108 of the Code of Virginia and the Cable Act, to grant to such applicant, who shall thereafter be a Franchisee hereunder, a nonexclusive initial, extended or renewed Franchise upon such terms as the City and such applicant may agree. The Franchise shall authorize such Franchisee, within its Service Area, to construct, erect, operate and maintain, in, upon, along, across, above, over and under the Streets of the City, poles, wires, cable, underground conduits, manholes, and such other conductors and fixtures for the maintenance and operation of a Cable Television System to provide Cable Service, subject to such applicant's agreement and obligation to provide Cable Service within the Franchisee's Service Area and to otherwise comply with all provisions of this Ordinance and the terms of any agreement relating to the initial grant, extension or renewal of the Franchise. Any Franchise granted hereunder shall authorize the Franchisee to use the Streets to construct, erect, operate, and maintain a Cable System to provide Cable Service and for no other purpose.

(b) No Franchisee shall, as to rates, charges, service, facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in any Franchise granted hereunder

shall be deemed to prohibit the establishment of a graduated scale of charges (i) to "Senior Citizen" Subscribers, (ii) for multiple installations at the same Home or building, or (iii) to prohibit Franchisee's provision of free or discounted service to its own employees or to governmental or school facilities.

(c) Any Franchise granted hereunder as an initial authorization and any renewal or extension thereof shall be governed by the provisions of the Cable Act, any amendments or superseding legislation and other applicable law, and shall be for a term as defined in the franchise agreement between the City and the Franchisee, such term not to exceed fifteen (15) years.

(d) No person shall construct, install, maintain or operate a Cable System within, along, over or under any Street or otherwise use the City's Streets to provide Cable Service unless pursuant to (i) a Franchise existing as of the date of adoption of this Ordinance, or (ii) a Franchise granted by the City pursuant to the provisions of this Ordinance.

Section 4. Applications for Grant, Renewal, Transfer, or Modification of Franchises.

(a) Written Application.

(1) A written application shall be filed with the City for (A) grant of an initial Franchise; (B) renewal of a Franchise; (C) modification of a franchise agreement pursuant to this Ordinance or the Cable Act; and (D) consent to a transfer of a Franchise. An applicant shall demonstrate in its application compliance with all requirements of this Ordinance and all applicable laws.

(2) To be acceptable for filing, a signed original of the application shall be submitted together with five (5) copies. The application must be accompanied by any required application filing fee, conform to any applicable request for proposals or invitation for bid, and contain all required information. All applications shall include the names and addresses of persons authorized to act on behalf of the applicant with respect to the application.

(3) An applicant for an initial or a renewal Franchise or transfer of a Franchise hereunder shall include in its application all information requested by the City or its designated representative, subject to the provisions of governing law or regulations, as the City deems reasonably appropriate to allow it to evaluate such applicant's application.

(4) All applications accepted for filing shall be made available by the City for public inspection.

(b) Application for Grant of a Franchise other than a Cable Act Renewal Franchise.

(1) An application for the grant of a new Franchise may be filed pursuant to a request for proposals ("RFP") or invitation for bid ("IFB") issued by the City or on an unsolicited basis. The City, upon receipt of an unsolicited application, may issue an RFP or IFB. If the City elects to issue an RFP or IFB upon receipt of an unsolicited application, the applicant may submit an amended application in response to the RFP or IFB, or may inform the City that its unsolicited application should be considered in response to the RFP or IFB, or may withdraw its unsolicited application. An application which does not conform to the requirements of an RFP or IFB may be considered non-responsive and denied on that basis. The applicant shall respond within the time directed by the City, providing the information and material set forth in subsection 4(d). The procedures, instructions, and requirements set forth in the RFP or IFB shall be followed by each applicant as if set forth and required herein. The City or its designee may seek additional information from any applicant and establish deadlines for the submission of such information.

(2) In evaluating an application for a Franchise, the City may consider, among other things, the following factors:

(A) The extent to which the applicant has substantially complied with applicable law and the material terms of any existing cable Franchise in the City, County or Town.

(B) Whether the quality of the applicant's service under any existing Franchise in the City, County, or Town including signal quality, responsiveness to customer complaints, billing practices, and the like, has been reasonable in light of the needs and interests of the communities served.

(C) Whether the applicant has the financial, technical, and legal qualifications to build, operate and maintain the System and provide the Cable Service it proposes.

(D) Whether the application satisfies any minimum requirements established by the City and is otherwise reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests.

(E) Whether the applicant proposes to provide adequate PEG Access channel capacity, facilities, or financial support.

(F) Whether issuance of a Franchise is warranted in the public interest considering the immediate and future effect on the Streets and private and public property that would be used by the Cable System, including the extent to which installation or maintenance as planned would require replacement of Streets or property or involve disruption of property, public services, or use of the Streets and the comparative superiority or inferiority of competing applications.

(G) Whether the applicant or an affiliate of the applicant owns or controls any other Cable System in the City, or whether the granting of the application may eliminate or reduce competition in the delivery of Cable Service in the City.

(3) If the City finds that it is in the public interest to issue a Franchise considering the factors set forth above, and subject to the applicant's entry into an appropriate franchise agreement with City, it shall grant a Franchise to the applicant. If the City denies a Franchise, it will issue a written decision explaining why the Franchise was denied. Prior to deciding whether or not

to issue a Franchise, the City may hold one or more public hearings or implement other procedures under which comments from the public on an application may be received. The City also may grant or deny a request for a Franchise based on its review of an application without further proceedings and may reject any application that is incomplete or fails to respond to an RFP or IFB. The City also reserves the right to reject all responses to an RFP or IFB. This Ordinance is not intended and shall not be interpreted to grant any applicant or existing Franchisee standing to challenge the issuance of a franchise to another.

(c) Application for Grant of a Renewal Franchise.

The Cable Act (47 U.S.C. §546) shall apply to applications for renewal of an existing Franchise. If neither a Franchisee nor the City initiates the renewal process of the Cable Act in a timely manner, or is unable to initiate the renewal process set forth in 47 U.S.C. § 546(a)-(g) (including, for example, if the provisions are repealed), and except as to applications submitted pursuant to 47 U.S.C. § 546(h), the provisions of subsection (b) of this Section shall apply, and a renewal request shall be evaluated using the same criteria as any other request for a Franchise.

(d) Contents of Applications.

Unless otherwise specified by the City, an RFP or IFB for the grant of a Franchise, including for a renewal franchise under 47 U.S.C. § 546(c), shall require, and any application submitted (other than an application submitted pursuant to 47 U.S.C. § 546(h)) shall contain, at a minimum, the following information:

(1) Name and address of the applicant and identification of the ownership and control of the applicant, including: the names and addresses of the ten (10) largest holders of an ownership interest in the applicant and affiliates of the applicant, and all persons with five (5) percent or more ownership interest in the applicant and its affiliates; the persons who control the applicant

and its affiliates; all officers and directors of the applicant and its affiliates; and any other business affiliation and cable system ownership interest of each named person.

(2) A demonstration of the applicant's technical ability to construct and/or operate the proposed cable system, including identification of key personnel.

(3) A demonstration of the applicant's legal qualifications to construct and/or operate the proposed cable system, including but not limited to a demonstration that the applicant meets the following criteria:

(A) That the applicant has not submitted an application for an initial or renewal Franchise to the City, which was denied, or as to which any challenges to such franchising decision were finally resolved adversely to the applicant, within three (3) years preceding the submission of the application.

(B) That the applicant has not had any cable television franchise validly revoked by any franchising authority within three (3) years preceding the submission of the application.

(C) That the applicant has the necessary authority under Virginia law to operate a cable system.

(D) That the applicant holds or is qualified to obtain, any necessary federal licenses or waivers required to operate the System proposed in the application, and that the applicant is otherwise qualified to own and operate the System under federal law.

(E) That the applicant, or any of its officers, directors, partners, or shareholders holding greater than a ten (10) percent interest have not, during the ten (10) years preceding the submission of the application, been convicted of any act or omission of such character that the applicant cannot reasonably be relied upon to deal truthfully with the City or Subscribers or to substantially comply with obligations under applicable law, including obligations

under consumer protection laws and laws prohibiting anticompetitive acts, fraud, racketeering, or other similar conduct.

(F) That the applicant certifies that the information contained on its application is truthful and complete.

(G) That no elected official of the City holds a controlling interest in the applicant or in any affiliate of the applicant.

(4) Notwithstanding the foregoing, the City shall provide an opportunity to an applicant to show that it would be inappropriate to deny it a Franchise under subsection (d)(3)(B) or (E) above by virtue of the particular circumstances surrounding the matter in question, and to demonstrate the steps taken by the applicant to cure the harms flowing therefrom and prevent their recurrence, the lack of involvement of the applicant's principals, or the remoteness of the matter from the operation of cable television systems.

(5) A statement prepared by a certified public accountant regarding the applicant's financial ability to complete the construction and operation of the Cable System proposed in the application.

(6) A description of the applicant's prior experience in owning or operating Cable Systems, and the identification of communities in which the applicant or any of its principals have, or have had, a cable franchise or franchise or any material interest therein; provided, however, that an applicant that holds an existing Franchise with the City and is seeking renewal of that Franchise need not provide such information.

(7) Identification of the area of the City to be served by the proposed Cable System, including a description of the proposed Service Area's boundaries.

(8) A description of the physical facilities proposed, including channel capacity, technical design, performance characteristics, headend location, and PEG Access facilities.

(9) Where applicable, a description of the construction of the proposed System, including an estimate of plant mileage and its location; the proposed construction schedule; and general information on the availability of space in existing conduits and poles to accommodate the proposed System.

(10) A demonstration of how the applicant will reasonably meet the future cable-related needs and interests of the community, including descriptions of how the applicant will meet the needs described in any recent community needs assessment conducted by or for the City, and how the applicant will provide adequate PEG Access channel capacity, facilities, or financial support to meet the community's needs and interests, and how such capacity, facilities, and financial support will be funded.

(11) Any other information as may be lawful and reasonably necessary to demonstrate an applicant's ability to comply with the requirements of this Ordinance.

(12) Information that the City may lawfully request of the applicant that is relevant to the City's consideration of the application.

(13) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments to the extent they are incorporated into a Franchise, and certifying that the applicant meets all federal and state law requirements to construct, erect, operate, and maintain a Cable System.

(e) Application for Modification of a Franchise.

An application for modification of a Franchise shall include, at minimum, the following information:

(1) The specific modification of the Franchise requested;

(2) The justification for the requested modification, including the impact, if any, of the requested modification on Subscribers and others, and the financial impact on the applicant if the modification is approved or disapproved, demonstrated through, among other things, submission of financial pro formas;

(3) A statement whether the modification is sought pursuant to the Cable Act~~,~~ (47 U.S.C. § 545), and, if so, a demonstration that the requested modification meets the standards set forth in the Act;

(4) Any other information that the applicant believes is necessary for the City to make an informed determination on the application for modification; and

(5) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application.

(f) Application for Consent to Transfer of a Franchise.

(1) An application for the City's consent to the transfer of a Franchise or the transfer of control of a Franchisee shall include, at a minimum, the following information:

(A) A completed FCC Form 394, or any successor form; and

(B) With respect to the proposed transferee, the information set forth in the following subsections of Section 4(d) of this section, "Contents of Applications": (1), (2), (3), (6), (11), (12), and (13), and where any changes in such information are contemplated, the information set forth in subsections 4(d) (7), (8), (9), and (10).

(2) In determining whether a transfer application should be granted, denied, or granted subject to conditions, the City may consider the legal, financial, and technical qualifications of the transferee to operate the Cable System; any potential impact of the transfer on Subscriber rates or services; whether the incumbent Franchisee is in substantial compliance with its Franchise and, if not, whether the incumbent or the transferee furnishes adequate cure or assurance of cure;

whether the transferee owns or controls any other Cable System in the City; and whether transfer of the System or control of the Franchisee to the transferee or approval of the transfer would otherwise adversely affect Subscribers, the public, or the City's interests under this Ordinance, the Franchise, or other applicable law. No transfer application shall be granted unless the transferee agrees in writing that it will abide by and accept all terms of this Ordinance and the Franchise, and that it will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous Franchisee for all purposes.

Section 5. Roanoke Valley Regional Cable Television Committee.

As of the date of adoption of this Ordinance, the County, the City and the Town have, pursuant to ordinances duly adopted by each of them, jointly established a committee known as the Roanoke Valley Regional Cable Television Committee (the "CATV Committee"). By adoption of this Ordinance, the City does hereby affirm its continued participation in and support of the CATV Committee, which shall comprise eleven (11) members and have the duties and responsibilities as set forth below:

(a) Members. One member shall be provided from each of the Governing Bodies of the County, the City and the Town; three members shall be the Chief Executives (or their designees) from each of the County, the City and the Town; one member shall be appointed by each of the Roanoke County and Roanoke City School Boards; and one member-at-large shall be appointed by each of the Governing Bodies of the County, the City and the Town.

(b) Chairperson. The CATV Committee shall select a chairperson from its membership, who shall serve for a period of one year or such other term as the CATV Committee may deem appropriate.

(c) Terms of Office. The terms of office of the three at-large members shall be for three years each, provided that such terms shall be staggered, with a continuation of the staggered

sequence established by the CATV Committee prior to the adoption of this Ordinance; members from the Governing Bodies of each of the jurisdictions and those appointed by their respective School Boards shall serve for such terms as are determined by their respective appointing authorities.

(d) Meetings. Meetings of the CATV Committee shall be held not less than once per year, and at such more frequent times as the Chairperson or the Committee shall determine; a quorum shall consist of five members. The Committee may adopt such procedures and bylaws as it deems necessary for the proper exercise of its responsibilities.

(e) Scope. The CATV Committee shall fulfill its responsibilities with respect to any Franchisee or applicant for a Franchise as to which the Cable Service provided or proposed shall extend within or to any portion of all of the three jurisdictions addressed herein.

(f) Franchisee Attendance. The General Manager (or his or her designee) of each Franchisee within the scope of the CATV Committee's responsibilities shall be afforded the opportunity to attend each meeting of the CATV Committee, with at least ten (10) days advance notice to be provided whenever reasonably possible, except when the CATV Committee holds a closed meeting.

(g) Powers and Duties. The CATV Committee shall:

(i) Advise the affected Governing Bodies concerning any applications for Franchises.

(ii) Provide for the development, administration, and operation of EG access facilities and programming for the City, County and Town as provided for in this Ordinance and any franchise agreements. The administration of all such EG activities shall be undertaken by the Committee.

(iii) Monitor each Franchisee's compliance with the provisions of this Ordinance and any Franchise granted hereunder, and advise affected Governing Bodies of matters that may constitute grounds for a monetary forfeiture or Franchise revocation.

(iv) Advise the affected Governing Bodies concerning the regulations of Cable rates.

(v) Receive, record and consider Subscriber complaints that have not been resolved by a Franchisee; attempt to resolve and respond to all such complaints, maintaining a record of all resolutions; and report annually to each Governing Body the results of its actions with respect to such complaints.

(vi) Review any proposed transfer of a Franchise and recommend whether such transfer should be approved.

(vii) Coordinate review of each Franchisee's records as may be required by this Ordinance.

(viii) Encourage the use of such EG access channels and facilities as are required under this Ordinance or any Franchise by the widest range of institutions, groups and individuals within the Service Areas of the respective Franchisees, consistent with applicable law.

(ix) Review budgets prepared by departments within affected jurisdictions for EG channel usage, and coordinate the expenditure of any capital grant funds provided by any Franchisee to maximize the potential and provide for the full development of EG channel usage.

(x) Advise the Governing Bodies of the jurisdictions addressed herein as to proposed rules and procedures under which a Franchisee may use unused EG channel capacity for the provision of other services, and under which such Franchisee use shall cease.

(xi) Coordinate programming and activities on EG channels, develop appropriate policies and procedures therefor, and assist in preparation and review of budgets for all cablecasting activities on EG channels.

(xii) Maintain records in accordance with statutory requirements.

Section 6. Rates.

The City specifically retains all rights to regulate rates for Cable Service charged by any Franchisee, subject to the provisions of relevant federal and state laws and the rules and regulations of administrative agencies with authority.

Section 7. PEG Access.

PEG Access channel capacity, facilities and support requirements shall be specified in the Franchise between the City and the Franchisee, and shall be sufficient to satisfy the City's cable-related community needs and interests.

Section 8. System Operation.

(a) Every Franchisee shall operate its Cable System as required by the FCC's rules and regulations, including, without limitation, ensuring compliance with all applicable provisions of 47 C.F.R. §76.601, *et seq.* (FCC Technical Standards), and any amendments thereto, throughout the entire Service Area. Upon request, every Franchisee shall submit to the City copies of all performance test data required pursuant to 47 C.F.R. §76.601 and any other performance tests that may be required by subsequent amendment of the FCC's rules and regulations.

(b) Unless otherwise provided for in a Franchise, within six months after receipt of written request from the City, a Franchisee shall interconnect its System with the Cable System of any overlapping or adjacent cable operator in the City, County or Town. Such interconnection, including bidirectional capability, shall be performed on terms mutually and reasonably acceptable to the Franchisee and the other operator, including arrangements to share equitably the cost of design,

installation, and all necessary equipment, hardware, and accessories to accomplish the interconnection.

Section 9. Indemnification and Insurance.

(a) Every Franchisee, as a condition to its entitlement to hold or continue to hold a Franchise hereunder, shall save the City, the CATV Committee, and their officers, representatives, employees, agents and volunteers harmless from all loss or damages of any kind, including reasonable attorney's fees, sustained by the City, the CATV Committee, and their officers, representatives, employees, agents and volunteers on account of any suit, judgment, execution, claim, or demand whatsoever, resulting from any acts or omissions on the part of the Franchisee, its contractors, subcontractors or agents in the construction, maintenance or operation of its Cable Television System or the provision of Cable Service in the City; provided, however, that the City shall give to an indemnifying Franchisee written notice of any such suit, judgment, execution, claim or demand made to which the immediately foregoing indemnification provisions apply.

(b) Each Franchisee shall take out and maintain throughout the term of its Franchise commercial general liability insurance against personal injury with coverage of not less than $5,000,000 for injury to any person and $5,000,000 for any one accident, and insurance against property damage, including damage to City property, in an amount not less than $5,000,000, and shall maintain comprehensive automobile liability insurance, including non-owned and hired car as well as owned vehicles coverage, with minimum bodily injury coverage for each occurrence of $2,000,000 and property damage coverage of not less than $1,000,000 per occurrence. X, C, and U general liability insurance exclusions must be deleted. The above limits may be satisfied by a combination of primary and umbrella insurance following the form of the primary insurance. The above policies shall be written by a company licensed to do business in the Commonwealth of Virginia, which shall be rated not less than "A" by Best's rating service, and the City, the CATV

Committee, and their officers, representatives, employees, agents and volunteers shall be named as additional insureds thereunder, and an endorsement to that effect from the insurer must be received by the City within thirty (30) days of commencement of a Franchise. A certificate of these policies shall be furnished to the City as a condition to the grant of any Franchise hereunder. The City reserves the right, no more frequently than once every three years, and upon six months advance notice to a Franchisee, to require an increase in the immediately foregoing minimum basic coverages by an amount not to exceed the amount necessary to compensate for the City's increased general liability insurance coverage, or the City's increased self-insured exposure, for the three years immediately preceding the date of such notice from the City.

(c) Every Franchisee shall obtain workers' compensation insurance as required by the laws of the Commonwealth of Virginia, with such insurance to be written by a company licensed to do business in the Commonwealth of Virginia, which company shall be rated not less than "A" by Best's rating service. Such policy shall contain a waiver of subrogation in favor of the City, the CATV Committee, and their officers, representatives, employees, agents and volunteers.

(d) Each Franchisee shall ensure that its contractors, subcontractors and agents maintain commercial general liability insurance coverage sufficient to protect the City, the CATV Committee, and their officers, representatives, employees, agents and volunteers from any loss arising from work performed on such Franchisee's behalf.

(e) No insurance policy shall be cancelable or non-renewable until thirty (30) days after receipt by the City of notice of intention to cancel or non-renew.

Section 10. Maintenance and Service Complaint Procedures.

(a) System Maintenance. Throughout the term of its Franchise, every Franchisee shall maintain all parts of its Cable System in good working condition.

(b) FCC Standards. Each Franchisee shall, at minimum, comply with the customer service standards established by the FCC at 47 C.F.R. §76.309(c), or any subsequently adopted amendments thereto. These rules are hereby adopted as if incorporated herein (see Appendix A). No Franchisee shall adopt standards less stringent than those imposed by the FCC, and nothing herein shall prevent a Franchisee, or the City, from adopting standards that are more stringent than those imposed by the FCC. The City may, at its sole discretion, and upon ninety (90) days written notice to a Franchisee, inform a Franchisee of its intent to enforce, and may enforce against such Franchisee, the additional customer service standards contained in subsections (b)(1) through (9) below, or any other customer service standard deemed reasonably necessary by the City at its sole discretion.

(1) Installation Time. Within all areas served by the System, and meeting the density requirements of Section 12(c), service to all requesting potential Subscribers requiring an aerial installation shall be provided within five (5) business days after receipt of the request for service, and service to requesting potential Subscribers requiring an underground installation shall be provided within ten (10) business days after such request, unless Franchisee is prevented by reasons beyond its control or later installation is requested by the Subscriber.

(2) Repair Procedure. Franchisee shall have a local listed telephone number for receipt of requests for repairs at any time, twenty four (24) hours per day, seven (7) days per week. Franchisee responses to such requests shall occur within twenty four (24) hours after Franchisee's receipt of such a request, oral or written, excluding Sundays and holidays. Verification of the problem and Franchisee's best efforts to resolve the problem shall occur within forty eight (48) hours. In any event, resolution should occur within five (5) business days. Those matters requiring additional maintenance, repair, or technical adjustments that

require more than five (5) business days to complete shall be reported in writing to the Subscriber and, if requested, to the City. The City may require reasonable documentation to be provided by Franchisee to substantiate a request for additional time to resolve any such complaint.

(3) Responsiveness. Franchisee shall respond seven (7) days a week within two hours to any outage affecting five (5) or more subscribers due to the same event or occurrence ("Area Outage") which occurs between the hours of 7:00 a.m. and 9:00 p.m., and by not later than 11:00 am the following day to any Area Outage which occurs between 9:00 p.m., and 7:00 a.m., the following day. Such response shall mean actual commencement of trouble shooting and repairs, plus contact with the complaining Subscriber(s), if reasonably possible under the circumstances.

(4) Mean time between failures. The average time between Area Outages shall not exceed twenty four (24) hours in any twelve (12) month period. It shall be computed by dividing the operating time by the number of Area Outages.

(5) Mean time to repair. The average time to complete repair to System outages shall not exceed two (2) hours in any twelve (12) month period. It shall be computed by dividing the total time for repairs by the number of repair orders.

(6) Subscriber Down Time. Annual subscriber down time shall not exceed an average of four (4) hours per Subscriber.

(7) Mean Time to Install. Mean time to install shall be eight (8) business days for underground installations and four (4) business days for aerial installations.

(8) Service Call (Repairs). Seventy percent (70%) of all repair requests shall be acted upon within twenty four (24) hours; ninety percent (90%) within ninety six (96) hours. All requests shall be resolved within five (5) business days unless good and sufficient cause

exists. Any service call not resolved within five (5) business days shall be reported in writing to the CATV Committee by Franchisee within two (2) business days thereafter.

(9) Telephone Waiting Time. During normal business hours, ninety percent (90%) of all telephone calls shall be picked up on or before the fourth ring and no caller shall be allowed to wait for more than ten (10) rings. Waiting time shall not exceed an average of thirty (30) seconds total for any caller, and no caller shall be transferred except for specialized services.

(c) Complaint Policy and Records.

(1) Complaint Policy. Franchisee shall promulgate written policy statements and procedures for reporting and resolving Subscriber complaints. Franchisee shall furnish a copy of the policy to each new Subscriber upon installation and thereafter to all Subscribers at least annually, and to the City and all Subscribers at such time as there is any change in such policy.

(2) Complaint Records. Franchisee shall maintain records showing the date of receipt of all written complaints received (including those received via electronic mail) and identifying the Subscriber, the nature of the complaint, and the date action was taken by Franchisee in response thereto, together with a description of such action. Such records shall be kept available at Franchisee's local office for at least two (2) years from date of receipt, for inspection by the City as it may at any time and from time to time reasonably request, during business hours and upon reasonable notice. A periodic log of all complaints and resolutions, by category, shall be provided to the City and the CATV Committee or its designee upon request. Complaints that remain unresolved for a period of ten (10) working days or more shall be reduced to writing by the Franchisee and submitted to the City or its designee for appropriate action.

(3) Complaint Notice. Franchisee shall provide written notice detailing all actions taken to resolve complaints submitted to the City within five (5) business days from written or telephone notification by the City of the complaint. Franchisee shall provide service-call and outage reports to the City or the CATV Committee upon request.

(d) Free Basic Service. Franchisee shall provide basic tier service and the most widely subscribed-to tier of cable programming service without charge to each Local Government Occupied Building, fire station, police station, any other City-owned or City-occupied buildings (excluding housing units and buildings owned by the City but not used for governmental or educational purposes), the Roanoke Higher Education Center, all Elementary and Secondary Schools, public library, state-accredited private schools with at least fifty (50) students, and public, private or community college academic buildings within its Service Area, as requested by City. One standard drop into such building and into a room or office designated by the recipient, one converter (if needed) per building, and continued delivery of the required service throughout the term of the Franchise shall constitute compliance. Any attached identified structures shall be treated as separate buildings. This subsection shall apply to any building meeting the classifications listed, regardless whether such building existed as of the effective date of this Ordinance or was constructed or occupied after the effective date hereof. The Service recipient shall be responsible for securing Franchisee's right of access to the building(s) at no cost to the Franchisee.

(e) Emergency Communications. At least one person in responsible charge of Franchisee's operations in the Service Area shall be available by local telephone during such hours as Franchisee's business office is closed, and the telephone number of such person shall be supplied in advance to the City's chief executive official, the presiding officer of Council, the City's Police and Fire Departments, and the Emergency 911 Center.

(f) Subscriber Antennas. Notwithstanding any disconnection of Subscribers' existing antennas and downleads to receivers connected to the Cable System, the Cable System shall be designed so that physical removal of antennas and downleads will not be required to receive Service, and so that the Subscriber may utilize such antennas at any time in place of the Cable System service.

(g) Parental Guidance Control. Consistent with the Cable Act (47 U.S.C. §544(d)(2)(A)), Franchisee shall make available to any Subscriber so requesting, at reasonable cost, a "parental guidance control" or "lockout key" which will permit the Subscriber to eliminate intelligible audio and video reception of any or all of the premium service channels. Franchisee shall notify all Subscribers of the availability of such parental-control devices.

(h) Call Recording Service for Current Known Outages. Franchisee shall provide a telephone number which provides a recorded message or access to an employee or agent of Franchisee, on a twenty four (24) hour basis. The recorded message shall describe current known System deficiencies and outages and thereafter accept recorded messages from Subscribers, who may leave their names; request service; report outages; and request credit for down time.

(i) Preventative Maintenance. Franchisee shall establish and adhere to a preventive maintenance policy directed toward maximizing the reliability and maintainability of the Cable System with respect to its delivery of Cable Service to Subscribers at or above the technical standards established by the FCC. When it is necessary to interrupt Cable Service for the purpose of making repairs, adjustments, installations or other maintenance activities, Franchisee shall do so at such times as will cause the least inconvenience to its Subscribers, generally between the hours of 11:30 p.m. and 6:30 a.m. the next morning.

(j) Repair Capability. Franchisee shall maintain sufficient qualified technicians, service vehicles, and test and repair equipment to provide repair service within the parameters set forth below.

(k) Notice. Except in an emergency, or when System maintenance or repair occurs between the hours of 11:30 p.m. and 6:30 a.m., Franchisee shall give Subscribers at least twenty-four (24) hours' notice of any interruption of Cable Service for purposes of maintenance or repair. In an emergency, Franchisee shall give such notice as is reasonable in the circumstances. Notice given on the Alphanumeric Channels shall be considered sufficient. When Subscriber channels will be interrupted, normal scheduled service and repair shall be performed between the hours of 11:30 p.m. and 6:30 a.m. the next morning.

(l) Refund for Outage. For any continuous service interruption or loss of service in excess of twenty-four (24) hours, Franchisee shall make a pro-rated refund of such Subscriber's regular monthly charge for the service to each Subscriber so affected, upon request of such Subscriber. The twenty-four (24) hour period shall commence when Franchisee learns of such outage whether through Subscriber notification or notification by Franchisee's maintenance personnel. Such refunds shall be prorated by multiplying the applicable monthly service rate by a fraction whose numerator equals the number of days of the outage and whose denominator equals the number of days in the month of the outage. For purposes of this paragraph, an outage shall be defined as a Subscriber's receipt of less than two thirds (2/3) of the authorized basic service and most widely subscribed to tier of cable programming service channels, or loss of any premium channel loss. Franchisee shall not be required to grant a refund in the event that an outage is caused by any Subscriber.

(m) Billing Practices. Franchisee shall maintain written billing practices and policies and shall furnish a copy thereof to the City, the CATV Committee, and all Subscribers, and to each new

Subscriber. The City and all Subscribers shall be notified in writing thirty (30) days in advance of any changes. Franchisee shall comply with all relevant state and federal laws and regulations with respect to its billing practices.

(n) Pro-rated Service. In the event a Subscriber's service is terminated for any reason, monthly charges for service shall be pro-rated on a daily basis. Where advance payment has been made by a Subscriber, the appropriate refund shall be made by Franchisee to the Subscriber within thirty (30) days of such termination, unless the amount is less than $5.00, which amount shall be refunded only upon the Subscriber's request.

(o) Disconnection for Non-Payment. Franchisee shall have the right to disconnect a Subscriber for failure to pay an overdue account provided that:

(1) Franchisee's billing practices and policy statements have set forth in writing the conditions under which an account will be considered overdue; and

(2) Franchisee provides written notice of its intent to disconnect at least fifteen (15) days prior to the proposed disconnection; and

(3) The Subscriber's account is at least thirty (30) days delinquent computed from the first day of service for which payment has not been made.

(p) Installation of Equipment. Unless otherwise provided by law, Franchisee shall not install its System on private property without first securing written permission of the owner or tenant in possession of such property or the written permission of the holder of any easement for utility lines or similar purposes, and in accordance with law. Upon request, Franchisee shall inform owners and tenants of the functions of all equipment installed on private property.

(q) Monitoring and Privacy. Unless otherwise provided by law, neither Franchisee nor any of its officers, employees, agents or contractors shall, without prior written consent of all affected parties, tap, monitor or arrange for the tapping or monitoring of any drop, outlet or receiver for any

purpose whatsoever other than legitimate technical performance testing of the Cable System or the monitoring of subscriber cable service, or where such tapping or monitoring is required by law. Franchisee shall comply with relevant federal and state statutes regarding the monitoring of Service and providing Subscriber information to government entities. Franchisee shall at all times comply with the Cable Act (47 U.S.C. §551) with regard to the protection of Subscriber privacy.

(r) Subscriber Lists or Information. Unless otherwise provided by law, Franchisee shall not sell, disclose, or otherwise make available, or permit the use of, lists of the names or addresses of its Subscribers, or any list or other information which identifies individual Subscriber viewing habits, to any person or entity for any purpose whatsoever without the consent of such Subscriber, all in accordance with and subject to the provisions of the Cable Act and applicable law. This provision shall not prevent Franchisee from performing such acts as may be necessary for the purpose of service related activities, including surveys.

Section 11. Filings with City.

(a) In addition to other filings that may be set forth herein, every Franchisee shall maintain, and file with the City Manager upon request, true and accurate strand maps (in either electronic or, if the Franchisee and City otherwise agree, in hard copy) of all existing and proposed installations in the Streets. The City hereby reserves the right to reject any proposed installation that does not conform to its ordinances, regulations or practices concerning construction in the Streets. The City may order and direct the Franchisee, at Franchisee's sole cost, to move the location or alter the construction of any existing installation to facilitate or accommodate the installation, alteration, repair or changing of the grade or location of a street, or the construction, alteration, repair or installation of any other public works or the construction of public improvements in, on, or under the Streets. Every Franchisee shall also maintain and, upon request, make

available at its local office, for review and copying by the City, true and accurate as built maps of all existing installations.

(b) Every Franchisee shall file annually with the City Manager a statement setting forth the names and addresses of all its directors and officers and the position that each holds, which statement may consist of the Franchisee's annual report.

(c) Upon request, a Franchisee shall file with the City Manager copies of rules, regulations, terms and conditions adopted by the Franchisee for the conduct of its business.

Section 12. Construction and Installation of the System.

(a) The City shall have the right to inspect all construction or installation work performed by a Franchisee within the Service Area, and to make such inspections as the City deems necessary to ensure compliance with the terms of this Ordinance, other pertinent provisions of law and any Franchise granted hereunder. No poles, underground conduits, or other wire or cable-holding structures shall be erected by a Franchisee without prior approval of the City or its duly authorized personnel, or, unless such consent is not required by applicable law, by abutting property owners where the City does not own, or hold some other right of way property interests in, the area in which such structures are to be erected. To the extent possible, a Franchisee shall use existing poles and underground conduits throughout the City. Any poles, underground conduits or other fixtures that a Franchisee is authorized by the City to install must be placed in a manner so that they do not interfere with or obstruct the usual travel on the public Streets or interfere with any existing utility services. At the time any trench is opened for installation or maintenance of conduit or underground cable, a Franchisee shall give the City at least ten (10) days advance written notice of such work and inform the City of the incremental cost of installing one additional conduit for the exclusive use of the City of such dimension as specified by the City, and unless the City otherwise directs Franchisee in writing, Franchisee shall install such conduit at a charge no greater than the actual

incremental cost of labor and materials for such additional conduit. All construction activities of a Franchisee shall be conducted in a workmanlike manner that will cause minimum interference with the rights and reasonable convenience of the public's and other utilities' use of the Streets and of the property owners directly affected thereby. Every Franchisee shall maintain all structures, cable and related Cable System equipment that are located in, over, under, and upon the Streets in a safe, suitable, substantial condition and in good order and repair at all times.

(b) All construction, installation and repair by a Franchisee shall be effectuated in a manner that is consistent with the FCC's rules, relevant local building codes, zoning ordinances and laws, all City and other governmental laws, codes or ordinances relating to public works or the Streets, and other regulatory requirements, the National Electrical Safety Code, and other standards of general applicability to Cable Systems. No Franchisee shall commence any construction without obtaining all local zoning and other approvals, permits and other licenses generally applicable to other entities performing such construction, and paying all costs and fees normally imposed or charged therefor.

(c) A Franchisee shall be required to extend energized trunk cable and make Cable Service available to any and all portions of the City within the limits of its defined Service Area with a density of at least twenty (20) Homes per linear mile for aerial installations and thirty (30) Homes per linear mile for underground installations. For purposes of calculating this density requirement, all Homes within one hundred fifty (150) feet of any Street or other right-of-way suitable for cable trunk installation shall be counted in density determinations, and shall be considered as satisfying the 20 or 30 Homes- per-mile density requirement, as appropriate. In the event that the owner of any Home or other structure within a Franchisee's Service Area not meeting the density requirement is willing to agree in writing to pay the excess cost of extending Cable Service to that location, then a Franchisee so requested by such owner shall provide Cable Service to such Home or other

structure, provided that such owner's payment obligation shall only apply to the actual costs incurred, without markup, in extending cable more than 150 feet from any trunk line.

(d) In case of any disturbance of pavement, sidewalk, driveway or other surface, a Franchisee shall, at its sole cost and expense and in a manner approved by the City or as required by any applicable City policy or standards generally applicable to similar construction in the Streets, replace and restore all paving, sidewalk, driveway or surface disturbed in as good condition as before such work was commenced.

(e) In the event that at any time during the period of a Franchise, the City or VDOT shall elect to alter or change the grade, width, or other characteristic of any Street, alley or other public way, the affected Franchisee, upon reasonable notice by the City or VDOT, at Franchisee's sole cost, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes and other fixtures or equipment as directed by the City or VDOT.

(f) No Franchisee shall place any poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant, main, or sewer, and all such poles or other fixtures placed in any Street shall be placed in accordance with the City's requirements or as established by any applicable City policy or standards.

(g) A Franchisee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires or Cable to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires or cable shall be paid by the person requesting the same, and the Franchisee shall have the authority to require such payment in advance. The Franchisee shall be given not less than seven (7) days advance notice to arrange for such temporary wire or cable changes.

(h) Every Franchisee shall have the authority to trim trees upon and overhanging Streets, alleys, sidewalks and public rights-of-way of the City so as to prevent the branches of such

trees from coming in contact with the wires and cables of the Franchisee, provided that all trimming shall be done in accordance with the ANSI 300, American National Standard for Tree Care Operation (or any such successor standard), and under the supervision and direction of the City or VDOT and at the sole expense of the Franchisee. The City or VDOT specifically reserves the right to prohibit the trimming of any tree where the City or VDOT deems that such trimming would be inappropriate. An explanation for the denial shall be provided in writing.

(i) No Franchisee shall install above-ground facilities in any portion of its Service Area where all public utility lines are underground, or in any area of the City designated as an underground utility area, and every Franchisee shall be obligated to relocate its existing facilities underground in any portion of its Service Area within ninety (90) days after all public utility lines in that portion of its Service Area have been placed underground, provided, however, that Franchisee may request a partial waiver of this requirement with respect to certain ground-mounted appurtenances, such as Subscriber taps, line extenders, System passive devices (splitters, directional couplers, etc.), amplifiers, power supplies, network reliability units, pedestals, or other related equipment.

(j) Vehicles owned or leased by a Franchisee and used in the installation, construction or repair of the Franchisee's System or installation or repair on Subscribers' premises shall be marked with the Franchisee's identity, and all employees, contractors and subcontractors of a Franchisee shall carry identification, to be produced upon request, which shall provide the employee, contractor, or subcontractor's name, local business address and local business telephone number .

Section 13. Emergency Alert System.

Every Franchisee shall comply with the federal Emergency Alert System ("EAS") standards established by Part 11 of the FCC's Rules (47 C.F.R. §11) and any state or local EAS plan approved

thereunder. In addition, and to the extent not preempted by federal law or regulation, each Franchisee shall provide for use by such authorized persons as are designated by the City, an emergency override capability whereby the audio or video portion of programming carried on all channels may be interrupted for the insertion of emergency information. The City may grant relief from the requirements of the foregoing sentence if the City determines in its sole discretion that a Franchisee's compliance with the federal EAS standards and/or any state or local EAS plan approved thereunder will provide the same functional capability to disseminate emergency information to Subscribers.

Section 14. Limits on Rights of Way.

This Ordinance shall not be construed to mean that the City, by granting any Franchise hereunder, provides any Franchisee the right to use any Street, right-of-way or property controlled by VDOT or by any person other than the City. Every Franchisee hereunder shall be required to comply with any and all VDOT regulations and requirements set forth for the use of such Streets or rights-of-way controlled by VDOT and may be required to separately obtain from private parties and others necessary consents, not otherwise preempted by federal or state statute or regulation, to use any other rights-of-way not controlled by or vested in the City prior to the installation of any Cable on, under or over the property so affected.

Section 15. Approval Required for Franchise Transfer.

No Franchisee shall sell, assign, transfer or lease its plant or Cable System to another person, nor transfer any rights under a Franchise to another person, nor may control of a Franchisee be transferred, without the Franchisee having first made written application pursuant to Section 4(f), above, for Council's consent to such transfer and without prior Council approval of such transfer on such reasonable terms and conditions as the Council may impose. No sale, transfer, assignment or lease shall thereafter be effective until the vendee, assignee, transferee or lessee has filed in the

office of the City Manager an instrument, duly executed, reciting the fact of such sale, assignment, transfer or lease, accepting and agreeing to be bound by the provisions of this Ordinance and a Franchise granted pursuant hereto, and agreeing to perform all the conditions that may be imposed by the Council pursuant to its consent. Consent for the transfer, sale, assignment or lease shall not unreasonably be withheld; provided, however, that any costs incurred by the City in evaluating and/or approving such transfer, sale, assignment or lease, not to exceed $5,000.00, shall be paid within 30 days after the submission of an invoice therefor by the City, and no such transfer, sale, assignment or lease shall become effective until such payment is made.

Section 16. City Right in Franchise.

(a) The right is hereby reserved by the City to adopt, in addition to the provisions herein contained and in existing applicable ordinances, such additional regulations as it shall find necessary and that are a lawful exercise of its police power.

(b) The City shall have the right to supervise, inspect and approve or disapprove all construction or installation work performed by a Franchisee in the Streets, subject to the provisions of this Ordinance and other City laws, ordinances, resolutions, rules and regulations, and to make such inspections as it shall find necessary to ensure compliance with applicable City laws, ordinances, resolutions or regulations.

(c) All Streets, rights-of-way, and easements that a Franchisee is permitted to use hereunder shall remain the property of the City or VDOT, as appropriate. Until such time as poles or other equipment are actually installed by a Franchisee, and in the event of future removal of such poles or other equipment, such rights shall remain vested in or immediately revert to the City or VDOT and, in the event of removal, a Franchisee's rights therein shall automatically be canceled.

(d) At the time a Franchise becomes effective, the City may require the Franchisee to furnish to the City a City-approved security, in such form and with such sureties as shall be

acceptable to the City, guaranteeing the payment of all sums which may at any time become due from the Franchisee to the City under the terms of this Ordinance and any Franchise granted, and further guaranteeing the faithful performance of all obligations of the Franchisee under the terms of this Ordinance and the agreement reflecting the grant of the Franchise. The amount of the security shall be $300,000 unless a franchise agreement otherwise provides. In the event of default under this Ordinance or a Franchise granted pursuant to this Ordinance, the City shall not assume any liability, obligation or responsibility, but shall instead be entitled, without prejudice to any other remedy available to the City, to levy on and collect from such security all amounts necessary to render the City whole.

(e) If at any time after the date a Franchisee's Cable System is activated to provide Cable Service, the Franchisee shall fail materially to comply with the terms of this Ordinance or any Franchise granted, and shall continue to fail to comply or fail to commence taking steps reasonably calculated to cause such compliance for a period of thirty (30) days after receiving notice in writing of non-compliance from the City, the Franchisee shall be assessed a monetary forfeiture by the Office of the City Manager of not less than $100.00 nor more than $1,000.00 for each day's failure to comply from the date of the first non-compliance, with each day's failure to comply being a separate and distinct offense. The provisions of this sub-section shall not apply if non-compliance is occasioned by events beyond the control of the Franchisee, provided that such events were not proximately caused by the Franchisee's acts or failure to act. In the event the Franchisee shall in good faith contest its liability or the amount of any forfeiture imposed under this Section, no further forfeiture need be paid until such liability is established by the City Council, and should such liability be established by the City Council, such determination shall be final, and the Franchisee shall have thirty (30) days within which to comply and within which to pay all forfeitures assessed. In the event the Franchisee does not then comply and pay all forfeitures assessed, the City shall have the option

(i) to initiate judicial collection proceedings; (ii) to collect upon any security posted; and/or (iii) implement procedures to revoke the Franchise and declare the security forfeited.

Section 17. Franchise Fee.

(a) Unless a lesser amount is specified in a Franchise, each Franchisee shall pay the City on a quarterly basis a fee (a "Franchise Fee") equal to five percent (5%) of its Gross Revenues derived from the immediately preceding calendar quarter. The Franchise Fee for each calendar quarter shall be paid to the City no later than thirty (30) days after the end of the calendar quarter on which such fee is based. Such payment shall be accompanied by a report, in a form acceptable to the City, itemizing the revenue sources on which the fee payment was calculated and showing how the payment amount was calculated. Any payment made after the date on which it is due shall be subject to a five percent (5%) late payment fee plus interest at the rate that the City is then currently charging for late payments owed to the City. Each Franchise Fee payment shall be accompanied by a summary report showing Gross Revenues received by the franchisee from its operations within the City during the preceding quarter and such other information as the City shall reasonably request with respect to the Franchisee's service within the City.

(b) The City shall have the right to verify by an audit conducted by an independent auditor of its own choosing, that a Franchisee has paid the correct amount of Franchise Fee, and if such audit discloses that a Franchisee's reporting of its Gross Revenues for the audit period has been understated by three percent (3%) or more, said Franchisee shall compensate the City for its reasonable audit expenses. The Franchisee shall grant the City or its auditors access to all relevant documents, records and information relevant to determining whether the Franchisee has paid the correct Franchise Fee. Consistent and material under-reporting of a Franchisee's Gross Revenues over two or more consecutive calendar quarters shall be grounds for revocation of a Franchise.

(c) In addition to the audit process of Section 17(b), each Franchisee shall, not less than annually, submit a report from an independent certified public accounting firm reasonably acceptable to the City, certifying to the accuracy of all Franchise Fee payments made for the immediately foregoing four quarters and the compliance of those payments with the requirements of this Ordinance and any Franchise granted hereunder. This annual report shall be in a form consistent with the form specified to accompany quarterly payments under section 17(a).

(d) In the event that federal, state, or other regulatory agencies permit a greater or lesser Franchise Fee than set forth in this Ordinance, such payment obligation may be increased or decreased to the maximum amount permissible, upon approval of such increase or decrease by the City Council and not less than ninety (90) days advance notice to each affected Franchisee.

(e) Consistent with applicable law, no fee, tax or other payment required to be made by a Cable System operator to the City, including payment of a Business, Professional or Occupational License fee or tax, shall be deemed as part of the Franchise Fee payable to the City hereunder, so long as such fee, tax or other payment obligation is imposed on a non-discriminatory basis on other similarly situated entities doing business within the City.

Section 18. Records and Reports.

The City and its representatives shall have access during normal business hours to a Franchisee's plans, maps, electronic data, documents, contracts, and engineering, accounting, financial, and statistical data, and, subject to the Subscriber privacy provisions of Section 631 of the Cable Act (47 U.S.C. § 551), customer and service records relating to the Cable System and its operation within the City by the Franchisee and to all other records required to be kept hereunder. The City may review, copy, and audit any such records, documents or electronic data.

Section 19. Franchise Revocation.

(a) Whenever any Franchisee shall refuse, neglect or willfully fail to construct, operate or maintain its Cable System or to provide Cable Service to its Subscribers in substantial accordance with the terms of this Ordinance or any applicable rule or regulation, or materially breaches its Franchise Agreement, or materially violates this Ordinance or other law, ordinance, resolution, rule, or regulation, or practices any fraud or deceit upon the City or its Subscribers within the City, or fails to pay Franchise Fees, or if such Franchisee becomes insolvent, as adjudged by a court of competent jurisdiction, or is unwilling or unable to pay its uncontested debts, or is adjudged bankrupt, or seeks relief under the bankruptcy laws of the United States or any state, then the Franchise may be revoked.

(b) In the event the City believes that grounds for revocation exist or have existed, it may notify the affected Franchisee in writing, setting forth the facts on which such belief is grounded. If, within thirty (30) days following such written notification, the Franchisee has not furnished reasonably satisfactory evidence to the City that corrective action has been taken or is being actively and expeditiously pursued to completion, or that the alleged violations did not occur, or that the alleged violations were beyond the Franchisee's control, the City may call and give notice of a hearing, pursuant to the hearing requirements set forth in Section 20 of this Ordinance to consider revocation of the Franchisee's Franchise. If the City, following such hearing, finds that grounds for revocation exist, the Council may by resolution or ordinance duly adopted revoke for cause the Franchise granted to such Franchisee.

(c) In the event that the Franchise has been revoked, the City shall, to the extent then permitted by existing law, have the option to:

(i) acquire, at fair market value excluding any value attributable to the Franchise itself, all the assets of the Franchisee's System located within the City; or

(ii) require the sale, at fair market value excluding any value attributable to the Franchise itself, of all such assets of the Franchisee's System to another person; or

(iii) require the removal of all such assets from the City, at Franchisee's sole expense (or, if Franchisee fails to do so, the City may remove those assets at Franchise's sole expense); or

(iv) if such assets are abandoned or deemed abandoned under applicable law, succeed to ownership or title thereof.

Unless some later date is agreed to by the Franchisee, such option must be exercised by the City within one (1) year from the date of the revocation of the Franchise, or the entry of the final judgment by a court reviewing the question of the revocation, or the entry of a final order upon appeal of same, whichever is later. In any Franchise revocation proceeding, if the City and a Franchisee cannot agree upon the fair market value excluding any value attributable to the Franchise itself of the Franchisee's assets located within the City then the City and the Franchisee shall each at their own cost select a different independent appraiser (each of whom shall be an active member of and be certified by the Appraisal Institute or its successor) who shall each provide an appraisal of the value at issue. If the greater appraised value does not exceed the lesser appraised value by more than ten percent (10%) of such lesser value, then the two appraised values shall be averaged and the resultant value shall be binding upon the City and the Franchisee; if the greater appraised value exceeds the lesser appraised value by more than ten percent (10%), then the two previously chosen appraisers shall together choose a third independent appraiser, who shall have no knowledge of the prior appraised values, and who shall provide an appraisal of the value, which shall be binding upon the City and the Franchisee. Any valuation determined in accordance with the immediately foregoing procedures shall conclusively be deemed as an equitable price, as specified at 47 U.S.C. § 547.

(d) The revocation of a Franchisee's rights as set forth herein shall in no way affect any other rights the City may have under the Franchise with such Franchisee or under this Ordinance or any other provision of law or ordinance. Notwithstanding the pendency or culmination of any proceedings terminating a Franchise, the City may nonetheless by Council action extend for a period of not more than two (2) years beyond the proposed or actual date of termination the entitlement of the affected Franchisee to operate the Cable System, during which period all provisions of this Ordinance and the applicable Franchise Agreement shall govern such operations.

Section 20. Hearing Requirements for Matters Affecting Franchises.

Whenever a requirement is set forth herein for a public hearing or meeting to be called concerning any matter related to the evaluation, modification, renewal, revocation or termination of any Franchise issued pursuant to this Ordinance, such hearing or meeting shall not be held unless, in addition to any applicable notice requirements of Virginia law, the City shall have advised the Franchisee in writing, at least thirty (30) days prior to such hearing or meeting, and provided notice to the public as required by law. In addition, the City may require the affected Franchisee to, and when so required the Franchisee shall, give notice of such hearing, and any continuation thereof, by announcement on its Cable System in such manner, on such channels and at such times as both parties shall find to be reasonable under the circumstances. Any such hearing may be adjourned from time to time as legally permitted without further notice other than the announcement, at the time of adjournment, of the time and place of the continued hearing and such announcement, if any, as the City may require the Franchisee to make on its Cable System.

Section 21. Costs.

The City may require that each applicant for an initial, renewal, modification or transfer of a Franchise compensate the City for its direct, out of pocket costs incurred in the award of a Franchise hereunder, including the City's expenses incurred for special counsel or consultants retained to

assist it in such award. A bill for such costs as are then determinable may be presented to the Franchisee by the City upon the franchisee's filing of its acceptance of a Franchise hereunder, and if so presented shall be paid at that time, and such additional costs as are determined as payable by the City shall thereafter be paid within fourteen (14) days of presentment to the Franchisee.

Section 22. Open Video System Operation.

In the event that any person shall obtain certification from the FCC as an Open Video System ("OVS") operator and thereafter offer or continue to provide service within the City as an OVS operator, then all portions of this Ordinance which are, or may lawfully be, applicable under governing statute or regulation to OVS operators, including payment of required fees, which may otherwise be imposed upon cable television operators (including, without limitation, franchise fees), shall apply without interruption or abatement to such person except to the extent expressly prohibited by law or regulation.

Section 23. Severability.

(a) All terms and conditions of this Ordinance and any Franchise are subject to the rules and regulations of, and to any required approval of, federal and state agencies. If any provision of this Ordinance or any Franchise granted hereunder is held by any court or federal or state agency of competent jurisdiction to be invalid as conflicting with any federal or state law, rule or regulation now or hereafter to become in effect, or is held by such court or agency to be modified in any way in order to conform to the requirement of any such law, rule or regulation, such provision shall be considered a separate, distinct and independent part of this Ordinance or the Franchise, and such holding shall not affect the validity and enforceability of any other provisions of this Ordinance or the Franchise.

(b) Notwithstanding the foregoing, if any part of this Ordinance or any Franchise is found to be invalid by the FCC or any court of competent jurisdiction, then the parties shall renegotiate such part to preserve, to the extent permitted by law, the benefit of the parties' original bargain. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision hereof which had been held invalid or modified is no longer in conflict with the law, rules, and regulations then in effect, said provision shall thereupon return immediately to full force and effect, at the option of the City.

Section 24 Acceptance of Franchise.

No Franchise shall be deemed as granted or renewed pursuant to this Ordinance unless such grant or renewal be approved by the Council and, within fourteen (14) days after its receipt of a Franchise provided by the City, the applicant therefor acknowledges its acceptance of the provisions of this Ordinance and accepts and executes the Franchise, files such acknowledgement, acceptance and agreement with the City, and provides payment of all sums due hereunder and submits all documentation required hereunder.

Section 25. Franchisee to Abide by Applicable Laws.

By accepting a Franchise and executing a Franchise Agreement, a Franchisee agrees that it will abide by all applicable federal, state and local laws, rules and regulations.

Section 26. Repeal of Prior Inconsistent Ordinances and Resolutions.

All prior ordinances or resolutions or parts thereof concerning cable television that are inconsistent with or contravene this Ordinance or any Franchise granted thereunder are hereby repealed as of the effective date of this Ordinance.

Section 27. Second Reading Dispensed With.

Pursuant to Section 12 of the Roanoke City Charter, the second reading of this Ordinance by title paragraph is hereby dispensed with.

Section 28. Effective Date.

The effective date of this Ordinance shall be October 31, 2003.

Appendix A: FCC Customer Service Standards 47 C.F.R. § 76.309.

ATTEST:

CITY CLERK.

APPENDIX A

FCC CUSTOMER SERVICE STANDARDS

47 C.F.R. §76.309

76.309 Customer service obligations

(a) A cable franchise authority may enforce the customer service standards set forth in section (c) of this rule against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in section (c) of this rule;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in section (c) of this rule and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by, the standards set forth in section (c) of this rule.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability.

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards

shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers.

(i) Refunds. Refund checks will be issued promptly, but no later than either-

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(ii) Credits. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions.

(i) Normal Business Hours. The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

(ii) Normal Operating Conditions. The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) Service Interruption. The term "service interruption" means the loss of picture or sound on one or more cable channels.

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CABLE TELEVISION FRANCHISE

AGREEMENT

by and between

THE CITY OF ROANOKE,

VIRGINIA,

and

COXCOM, INC. d/b/a/ COX

COMMUNICATIONS

ROANOKE,

as of

NOVEMBER 1, 2003

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CABLE TELEVISION FRANCHISE AGREEMENT

THIS AGREEMENT made and entered into as of this 1st day of November, 2003, by and between the City of Roanoke, a Virginia municipal corporation ("City" or "Grantor"), and CoxCom, Inc. d/b/a Cox Communications Roanoke, a Delaware corporation ("Grantee"):

WHEREAS the Grantee currently holds a cable television franchise granted by the City pursuant to a Cable TV Franchise Agreement by and between the City and Grantee's predecessor in name and interest, dated May 1, 1991 ("Current Franchise"); and

WHEREAS the Grantee has requested that the City renew or extend the cable television franchise Grantee currently holds; and

WHEREAS, on October __, 2003, the Council adopted Ordinance No._____, effective October 31, 2003, an ordinance repealing and superceding City Ordinance No. 30478-42291, adopted April 2, 1991; and

WHEREAS the City and Grantee have negotiated the terms of a renewal franchise pursuant to 47 U.S.C. §546(h); and

WHEREAS the City Council, after holding a public hearing on the terms of the renewal franchise of which the public was afforded notice and at which the public was afforded opportunity to comment, did vote to grant a renewal of Grantee's television franchise at a duly authorized and regular meeting, pursuant to the provisions of the Cable Act, City Charter, City ordinances, and the Virginia Code.

NOW THEREFORE in consideration of such grant of renewal of the cable franchise to Grantee, the parties agree as follows:

Section 1. DEFINITIONS.

Unless otherwise defined in this Agreement, terms in this Agreement shall have the meaning given to them in the City's Cable Television Ordinance, City Ordinance No. ___, effective October 31, 2003 ("Ordinance"). Terms not defined in this Agreement or the Ordinance shall have their common and ordinary meaning.

Section 2. GRANT

The City hereby grants to Grantee a franchise to operate a cable system to provide cable service within the territorial limits of the City in accordance with the terms and conditions set forth below and in the Ordinance. Grantee's Service Area shall be the incorporated limits of the City. This Franchise is granted pursuant to the Ordinance, which, with any amendments thereto and including applicable definitions, is incorporated by reference herein.

Section 3. TERM.

The term of the Franchise shall be fifteen (15) years, commencing on November 1, 2003, and expiring at midnight on October 31, 2018, unless sooner terminated in accordance with Section 19 of the Ordinance or by other applicable law.

Section 4. INTERCONNECT.

Grantee shall provide for the interconnection of its system for the purposes of sharing PEG access programming with the cable system of any other cooperating, adjacent or overlapping cable operator, in accordance with Section 8(b) of the Ordinance and on terms and conditions mutually and reasonably acceptable to Grantee and such other cable operator.

Section 5. SYSTEM CAPABILITY.

5.1 Channel Capacity. On the effective date of this Franchise and throughout the term of this Franchise, the Grantee's System shall be activated to provide at least eighty (80) channels

of programming to subscribers, shall be capable of carrying at least four (4) channels upstream, and shall have a total bandwidth capacity of at least 750 MHz. The System shall meet or exceed the standards set forth in the Ordinance and/or any superseding and applicable codes and all applicable FCC standards. At least eighty (80) channels shall provide broad categories of video programming during normal viewing hours, including broadcast network programming, an all-news channel, a sports channel, children's programming, a weather channel and movie services.

5.2 State of the Art. Throughout the term of this Franchise, Grantee shall maintain and upgrade the System and the technical performance of the System so as to keep pace with the developments in the State-of-the-Art as defined herein. Grantee may on its own initiative participate in or undertake experiments, tests, and other activities to determine the State-of-the-Art of cable system technology currently in use. The City may require that Grantee undertake such tests, at Grantee's cost, to the extent that the City determines that it is economically viable and feasible to do so and provided that such experiments, tests and other activities are technically sound and undertaken in response to a mutually defined market demand. Grantee shall provide the City with written reports of the results of all significant tests conducted by Grantee at the request of the City as described in this subsection. For purposes of this subsection, "State-of-the-Art" means that level of technical performance or capacity, service or cable system plant, for which there is a reasonable demonstrated market demand and which has been demonstrated by existing cable system operators and reputable equipment suppliers to be workable in the field, but not exceeding that level of technical performance or capacity which has been installed and is operating at the time in at least two (2) other cable systems of comparable or smaller size owned and operated by Grantee or an affiliate of Grantee.

Section 6. PUBLIC SERVICE AND INSTITUTIONAL FACILITIES.

6.1 Institutional Network.

6.1.1 Insertion Points. During the term of this Franchise, Grantee shall provide and maintain active, designated insertion points of the institutional network at each of the locations set forth in Exhibit A, attached hereto and incorporated herein by reference. In addition, upon request and without charge to the City, Grantee shall, during the term of this Franchise (a) move any of the insertion points from any location set forth in Exhibit A to another local government occupied building, elementary or secondary school, or public college or community college academic building designated by the Roanoke Valley Regional Cable Television Committee ("Committee"); and (b) provide up to a maximum of five (5) additional insertion points at locations designated by the Committee if (i) the Committee shows a need for such additional insertion point, (ii) the then-current insertion points are being significantly used, and (iii) the new insertion point(s) are located in an area that Grantee is required to service pursuant to Section 6.6 of this Agreement or Section 12(c) of the Ordinance.

6.1.2 Scramblers/Descramblers. Upon request, Grantee shall provide and maintain scrambling devices and equipment at the head-end and a converter/descrambler at each of the insertion points required by Section 6.1.1 for the purpose of encoding or scrambling material of a sensitive nature which is to be transmitted downstream. At the City's option, downstream transmissions on the Educational and/or Governmental Access ("EG Access") channels required by Section 6.2.1 below may be encoded and/or scrambled.

6.1.3 Dedicated Bi-Directional Links. Grantee shall provide dedicated, bi-directional links and associated equipment between Grantee's head-end and each insertion point location designated in accordance with Section 6.1.1. The dedicated, bi-directional links and associated

equipment shall be capable of delivering audio and video signal input from each of the locations designated in Section 6.1.1 for transmission of programming originating at such locations upstream to Grantee's head-end for processing and switching to any of the EG Access channels required by Section 6.2.1 below. The head-end shall have the ability to convert and switch such upstream transmission to designated downstream EG Access channels on the subscriber distribution network, and shall have the capability to scramble signals on such channels.

6.1.4 Signal Quality. Each insertion point and the dedicated link between that insertion point and Grantee's head-end shall be installed and maintained by Grantee in a manner so that it is capable of delivering programming over that link and downstream to subscribers with an audio and video signal quality at least equal to that of other channels on Grantee's system.

6.2 Access Channels.

6.2.1 EG Access. Grantee shall initially provide one (1) downstream EG Access channel ("Initial EG Access Channel"). Upon request by the Committee, Grantee shall provide a second EG Access channel ("Second EG Access Channel") within one hundred twenty (120) days after the Committee's request. During the term of this Franchise Agreement, the City shall have the right to request additional EG Access channels beyond the Initial EG Access Channel and the Second EG Access Channel ("Additional EG Access Channel(s)"), up to a maximum of four (4) Additional EG Access Channels. If the Committee so requests, and upon a showing by the Committee that the then-existing EG Access channels are being used to air at least forty (40) hours of original, locally-produced programming per week (not including bulletin board-style programming), Grantee shall provide such Additional

EG Access Channel(s) within one hundred twenty (120) days after written request by the Committee.

6.2.1.1 EG Access Channel Location. The Initial EG Access Channel provided by Grantee shall continue to be designated as and assigned to Channel 3 on Grantee's channel line-up, unless the City agrees in writing to permit that EG Access channel's channel location to be changed, or unless Grantee is preempted by federal law from locating the Initial EG Access Channel on Channel 3. (If carriage of the Initial EG Access Channel on Channel 3 is preempted by federal law, Grantee shall locate that channel on the lowest channel number available on its system, which shall be lower than Channel 11.) The Second EG Access Channel shall always be located on Grantee's basic tier, unless the Committee agrees in writing to permit that channel to be located elsewhere in Grantee's channel line-up. Grantee may place any third EG Access channel provided by Grantee pursuant to Section 6.2.1 either on Grantee's basic service tier or on the Grantee's most widely subscribed-to tier of cable programming service. Subject to mutual agreement of the parties, the fourth and any succeeding Additional EG Access Channel(s) provided by Grantee pursuant to Section 6.2.1 may be placed on Grantee's basic service tier or on any of Grantee's cable programming service tiers, provided that, if the parties cannot reach mutual agreement as to such an Additional EG Access Channel's location, Grantee shall place such Additional EG Access Channel on either its basic service tier or Grantee's most widely subscribed-to tier of cable programming service.

6.2.1.2 Use. Use of the EG Access channels shall be for non-commercial, nonprofit purposes only. Grantee shall not charge the City, County, Town or any other authorized user of the EG Access channels for the use of such channels.

6.2.2 Public Access. Grantee shall provide one (1) channel for public access use.

6.2.2.1 Use. Use of the public access channel shall be for non-commercial, nonprofit purposes only. Use of the public access channel for any non-commercial, non-profit access purpose shall be subject to such reasonable and lawful rules as Grantee may establish, consistent with the purpose of public access.

6.2.2.2 Availability. During normal business hours, Grantee shall accept and cablecast on the public access channel the following types of material that are delivered to Grantee's local office at the address set forth in Section 16 hereof (or, provided Grantee gives written notice to subscribers and to the City of such relocation, to such other new location in the City or County where Grantee relocates its office or studio during the term of this Agreement): (a) video programming on videotape or other suitable hard-copy video transmission medium, and (b) textual material for insertion on a community bulletin board that Grantee will cablecast on the public access channel when video programming is not being cablecast on that channel. Grantee shall inform members of the public about what types of format and video transmission media are most suitable for delivery over the public access channel and how far in advance of cablecast material should be submitted to Grantee for cablecast on the public access channel. Grantee shall perform the foregoing public access functions at no charge to public access users.

6.3 Program Content; Control. No control over PEG access program content shall be exercised by Grantee except to enforce the limitations on commercial use described herein or as otherwise permitted by the FCC and other federal, state, and local laws.

6.4 Alternate Use. Grantee may use the PEG Access channels for any lawful purpose during such periods as they are not being used for PEG Access purposes, provided that EG Access use shall have priority at all times.

6.5 Schools.

6.5.1 Service to Schools. Pursuant to Section 10(d) of the Ordinance, Grantee shall provide, without charge, basic tier service, the most widely subscribed-to tier of cable programming service, free installation, and one converter/decoder to each elementary and secondary school academic and administrative building, both public and private, to the Roanoke Higher Education Center, and to each public college and community college academic and main administrative building, passed by the Cable System, within thirty (30) days of a written request from such entity. Grantee shall make additional outlets and converters/decoders available to free service recipients at Grantee's cost. In addition, Grantee shall provide, without charge, one connection for high speed data services ("HSD Services"), one cable modem and one installation to (i) each of the Roanoke Public Libraries, (ii) each public elementary and secondary school passed by the Cable System, and (iii) each private elementary and secondary school passed by the Cable System that has at least 50 students. Grantee shall make additional HSD services and cable modems available at each such location at a discount at least equal to those that Grantee offers comparable customers.

6.6 Plant Extension. As soon as reasonably practicable, Grantee shall extend its cable distribution system to enable it to provide Cable Service to the Higher Education Center, the Riverside Centre for Research and Technology, a/k/a the South Jefferson Redevelopment Area, and the new Vinton Business Center. With the exception of the three locations set forth

above, nothing in this Section 6.6 shall deemed to amend or otherwise expand Grantee's obligations pursuant to Section 12(c) of the Ordinance.

Section 7. LOCAL GOVERNMENT SERVICE.

7.1 Service to Local Government. Pursuant to Section 10(d) of the Ordinance, Grantee shall provide, without charge, basic service and the most widely subscribed-to tier of cable programming service, free installation, and one converter/decoder to all Local Government Occupied Buildings in Grantee's Service Area, including any such building built or occupied during the term of this Agreement.

7.2 Service to Government Housing. Grantee shall make service available, at standard rates, to the housing units of the Roanoke Redevelopment and Housing Authority ("RRHA") as provided in Exhibit B.

Section 8. EG ACCESS CAPITAL GRANT; COSTS.

Section 8.1 EG Access Capital Grant. Grantee shall provide a capital grant for EG Access to the fiscal agent for the Committee for allocation among the City, the Town and the County, for acquisition of EG access equipment and facilities, in the amount of One Million One Hundred Fifty Thousand Dollars ($1,150,000.00). The capital grant is to be used for EG access capital purposes only and shall not be considered to be part of the Franchise Fee consistent with 47 U.S.C. §542(g)(2)(C). Grantee shall provide such funding in the following manner:

8.1.1 First Payment. On or before May 1, 2004: Five Hundred Seventy-Five Thousand Dollars ($575,000.00);

8.1.2 Second Payment. On or before November 1, 2006: an additional Three Hundred Forty-Five Thousand Dollars ($345,000.00); and

8.1.3 Final Payment. On or before November 1, 2008: an additional Two Hundred Thirty Thousand Dollars ($230,000.00).

8.2 Costs Incidental To The Award Of The Franchise. Grantee shall reimburse the City for advertising expenses incurred in the franchising process.

8.3 Additional Assurances. Grantee agrees not to itemize on subscribers' bills amounts intended to represent the costs imposed by Sections 6, 7 or 8 of this Agreement.

Section 9. FRANCHISE FEE PAYMENTS.

9.1 Amounts. Grantee shall pay to the City a Franchise Fee in the amount of five percent (5%) of Gross Revenues, in accordance with Section 17 of the Ordinance.

9.2 Reporting. In accordance with Section 17(a) of the Ordinance, Grantee shall submit, with each of its quarterly franchise fee payments, a quarterly report substantially in the form attached hereto as Exhibit C. In addition, no later than seventy-five (75) days after the end of each Grantee fiscal year, Grantee shall present to the City an annual report of system revenues, substantially in the form attached hereto as Exhibit C or in such other form as the parties may mutually agree. The form shall include allocation of Gross Revenues by category, including, without limitation, basic service, cable programming service, installation, advertising, premium channels, etc. The reports required by this Section shall be sent to the City's Director of Finance, with copies to the City Treasurer.

Section 10. NON-DISCRIMINATION.

10.1 No Discrimination in Employment. During the performance of this Agreement, Grantee agrees as follows:

10.1.1 Grantee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited

by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Grantee. Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

10.1.2 Grantee in all solicitations or advertisements for employees placed by or on behalf of Grantee will state that it is an equal opportunity employer.

10.1.3 Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section.

10.2 Subcontractors. Grantee will include the provisions of the foregoing subsections 10.1.1, 10.1.2, and 10.1.3 in every subcontract or purchase order of over Ten Thousand Dollars ($10,000), so that the provisions will be binding upon each subcontractor or vendor doing work in the City.

Section 11. COUNTERPART COPIES.

This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

Section 12. NONWAIVER.

Grantee agrees that the City's waiver or failure to enforce or require performance of any term or condition of this Agreement or the City's waiver of any particular breach of this Agreement by Grantee extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Agreement except as set forth herein, or a waiver of any other breaches of this Agreement by Grantee, and does not bar the City from requiring Grantee to comply with all the terms and conditions of this Agreement and does not

bar the City from asserting any and all rights and/or remedies the City has or might have against Grantee under this Agreement or by law.

Section 13. FORUM SELECTION AND CHOICE OF LAW.

By virtue of entering into this Agreement, Grantee submits itself to a court of competent jurisdiction in the City of Roanoke, Virginia, and further agrees that this Agreement is controlled by the laws of the Commonwealth of Virginia (and, where applicable, federal law), and that all claims, disputes, and other matters shall only be decided by such court according to the laws of the Commonwealth of Virginia (and, where applicable, federal law).

Section 14. CAPTIONS AND HEADINGS.

The section captions and headings of this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 15. FAITH BASED ORGANIZATION.

Pursuant to Virginia Code Section 2.2-4343.1, be advised that the City does not discriminate against faith based organizations.

Section 16. NOTICE.

All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by a nationally recognized overnight courier, addressed as follows (or any other address or facsimile number that the party to be notified may have designated in writing to the sender by like notice) or if sent by facsimile to the facsimile number set forth below:

If to City, to:

City of Roanoke
City Manager
364 Municipal Building
215 Church Avenue, SW
Roanoke, Virginia 24011
Fax No.: 540-853-1138

With a copy to:	City Attorney City of Roanoke 464 Municipal Building 215 Church Avenue, SW Roanoke, Virginia 24011 Fax No.: 540-853-1221
If to Grantee, to:	CoxCom, Inc., d/b/a/ Cox Communications Roanoke 5400 Fallowater Lane, SW Roanoke, VA 24014 Fax No.: 540-776-3847
With a copy to:	Cox Communications, Inc. 1400 Lake Hearn Drive Atlanta, GA 30319 ATTN: Legal Dept. Fax No.: 404-843-5845

Notice shall be deemed delivered upon the date of personal service, two days after deposit in the United States mail, the day after delivery to a nationally recognized overnight courier, or upon the date of confirmation of a facsimile transmission.

Section 17. ENTIRE AGREEMENT AND AMENDMENTS.

This Agreement, together with the Ordinance, constitutes the entire agreement of the parties hereto and supersedes all prior offers, negotiations, and agreements among the parties. No amendment to this Agreement shall be valid unless made in writing and signed by the parties hereto.

Section 18. EFFECTIVE DATE.

The effective date of this Franchise Agreement shall be November 1, 2003.

EXHIBITS:

EXHIBIT A:	Institutional Network Insertion Points
EXHIBIT B:	Government Housing Drops

EXHIBIT C: Franchise Fee Reporting Form

IN WITNESS WHEREOF, the parties hereto have signed this Agreement by their authorized representatives.

ATTEST

_____
Mary Parker, City Clerk

CITY OF ROANOKE

_____
Darlene L. Burcham, City Manager

ATTEST

_____

Name: _____

Title: _____

COXCOM, INC.
d/b/a Cox Communications Roanoke

By: _____

_____
Printed Name and Title

Approved as to Form:

_____
City Attorney

Approved as to Execution:

_____
City Attorney

Appropriation and Funds Not Required
For this Contract:

_____
Director of Finance

_____
Date

EXHIBIT A

INSTITUTIONAL NETWORK INSERTION POINTS

1. Virginia Western Community College
   3095 Colonial Avenue, SW, Roanoke, VA 24015
   (540)857-8922

2. Cox Roanoke Office
   5400 Fallowater Lane, SW, Roanoke, VA 24014
   (540)776-3845

3. Roanoke County Administration Building
   5204 Bernard Drive, Roanoke, VA 24018
   (540)772-2006

4. Governor's School
   2104 Grandin Road, SW, Roanoke, VA 24015
   (540)853-2116

5. Patrick Henry High School
   2102 Grandin Road, SW, Roanoke, VA 24015
   (540)853-2255

6. Hidden Valley Junior High
   4902 Hidden Valley School Road, SW, Roanoke, VA 24018
   (540)772-7570

7. Cave Spring Fire Department
   4212 Old Cave Spring Road, SW, Roanoke, VA 24018
   (540)561-8100

8. Roanoke County Main Library
   3131 Electric Road, Roanoke, VA 24018
   (540)772-7507

9. Cave Spring Junior High
   4880 Brambleton Avenue, SW, Roanoke, VA 24018
   (540)772-7560

10. Roanoke Municipal Building
    215 Church Avenue, SW, Roanoke, VA 24011
    (540)853-2333

11. Old Jefferson High School Building/RVTV
541 Luck Avenue, SW, Suite 145, Roanoke, VA 24016
(540)857-5021

12. Roanoke City Main Library
706 S. Jefferson Street, SE, Roanoke, VA 24016
(540)853-2473

13. Vinton Police Department
311 South Pollard Street, Vinton, VA 24179
(540)342-8135

14. Vinton War Memorial
814 E. Washington Avenue, Vinton, VA 24179
(540)983-0645

15. William Byrd Middle School
2910 Washington Avenue, Vinton, VA 24179
(540)890-1035

16. Roanoke City School Administration Building
40 Douglass Avenue, NW, Roanoke, VA 24012
(540)853-2381

17. Roanoke Civic Center
710 Williamson Road, NE, Roanoke, VA 24016
(540)853-2241

18. Roanoke Airport
5202 Aviation Drive, Roanoke, VA 24012
(540)362-1999

19. Ruffner Middle School
3601 Ferncliff Avenue, NW, Roanoke, VA 24017
(540)853-2605

20. Roanoke County Public Safety/South View
3568 Peters Creek Road, NW, Roanoke, VA 24019
(540)561-8100

21. Roanoke County Career Center
100 Highland Road, Vinton, VA 24179
(540)857-5004

22. Old Roanoke County Administration Building – Brambleton Center
3738 Brambleton Avenue, SW, Roanoke, VA 24018
(540)772-7529

23. Higher Education Center
108 N. Jefferson Street, NW, Roanoke, VA 24012
(540)767-6000

24. WBRA-TV
1215 McNeil Drive, SW, Roanoke, VA 24015
(540)344-0991

EXHIBIT B

GOVERNMENT HOUSING DROPS

Subject to the consent and approval of the Roanoke Redevelopment and Housing Authority ("RRHA") and to Section 6.6 of this Agreement and Section 12(c) of the Ordinance, Grantee shall provide cable service to RRHA dwelling units if the underground facilities serving the governmental housing units can be accurately located by the owner of such facilities. Cable service shall be installed consistent with the terms and conditions, and on the same time schedule, as Grantee offers to other residential customers, provided that the necessary conditions for installation have been met.

EXHIBIT C

CITY OF ROANOKE, VIRGINIA

CABLE TELEVISION FRANCHISE QUARTERLY GROSS REVENUE AND FRANCHISE FEE REMITTANCE REPORT

Cable Operator Name:_____ For the Quarter Ended: _____

Item:		Revenue:
Cable Subscription (Basic and CPS tiers)		_____
Other Video Subscription Services		_____
Pay-Per-View		_____
Commercial and Bulk Residential		_____
Additional Outlet or "Whole House" Fees		_____
Equipment Rental		
Converters	_____	
Remote Controls	_____	
Other	_____	
Total		_____
Installations		_____
Service Calls and other Fees for Service	_____	
Service Contracts		_____
Cable Modem Installations		_____
Internet Access Subscriptions		_____
Leased Access		_____
Advertising - Cable		_____
Advertising - Leased Access		_____
Advertising - Internet		_____
Commissions - Cable		_____
Commissions - Leased Access		_____
Commissions - Internet		_____
Late Charges		_____
Itemized Franchise Fees		_____
Miscellaneous		_____
Total Gross Revenue:		_____
Adjustments:		
Bad Debt Expense		_____
Bad Debt Recoveries		_____
Refunds		_____
Other (Explain:_____)		_____
Total		_____
Franchise Fee Rate		5%
Franchise Fee Due		_____

I certify that this Quarterly Gross Revenue and Franchise Fee Report is true and correct.

By: _____

Name (printed): _____

Title: _____

WALIB:93508.2\116251-00001
10/01/03 11:29 AM

D.T.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE providing for one or more non-exclusive franchises to construct, operate, and maintain one or more cable television systems within the City of Roanoke, Virginia, and dispensing with the second reading by title paragraph of this Ordinance.

WHEREAS, pursuant to applicable law, policies and procedures are established in this Ordinance whereby the City of Roanoke, Virginia ("City"), may grant certain entities, their successors and assigns, a non-exclusive franchise, or may renew or extend an existing franchise, to erect, operate and maintain poles, cables and all other electrical equipment, structures, or fixtures necessary to the construction, operation and maintenance of a Cable Television System under, over, upon and across the streets, alleys, sidewalks, and rights-of-way of the City to provide Cable Service to the residents and citizens of the City, and to the persons, firms, and corporations doing business therein, and to use the property of other entities in furtherance and support of the objectives of this Ordinance and any franchise granted hereunder upon such arrangements and under such conditions as to which the entities may agree. For the purposes of this Ordinance, the term "Franchise" shall apply, unless otherwise distinguished, to an initial franchise, an extended franchise or a renewed franchise; and

WHEREAS, the provisions of this Ordinance shall apply to all cable television Franchises granted, extended or renewed after the effective date of this Ordinance, and shall also apply to all Cable Television Franchisees existing as of the effective date in the event and as of the date of any extension or renewal of an existing Franchise requested by such Franchisee.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

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CABLE TELEVISION FRANCHISE ORDINANCE

Section 1. Short Title.

This Ordinance shall be known and may be cited as the "CABLE TELEVISION FRANCHISE ORDINANCE."

Section 2. Definitions.

For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meanings given herein. Terms of art not otherwise defined herein, whether capitalized or not, shall have the meanings ascribed to them in Title VI (Cable Communications) of the Communications Act of 1934, as amended, 47 U.S.C. §§521, et seq. (hereinafter the "Cable Act"). When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "Board" shall mean the Board of Supervisors of the County of Roanoke, Virginia.

(b) "Cable," whether capitalized or not, shall mean the closed transmission paths by which video programming and other Cable Services are transmitted through and along a Franchisee's Cable System, and shall include coaxial cable, optical fiber and any other closed transmission path utilized therefor.

(c) "Cable Service" shall have the same meaning as ascribed to the term "cable service" in the Cable Act.

(d) "Cable Television System" (or "CATV", or "Cable System", sometimes hereinafter referred to as "System") shall have the same meaning as ascribed to the term "cable system" in the Cable Act.

(e) "Chief Executive" shall mean the administrator of a county, manager of a city, or manager of a town, as the context may require.

(f) "City" shall mean the City of Roanoke, Virginia.

(g) "Council" shall mean the City Council of the City of Roanoke or the Town Council of the Town of Vinton, as the context may require.

(h) "County" shall mean the County of Roanoke, Virginia.

(i) "EG" shall mean the educational and governmental access component of PEG Access as defined in Section 2(w) hereof.

(j) "Elementary and Secondary Schools", whether capitalized or not, shall mean all public institutions operated for the purposes of teaching students enrolled in the elementary (including kindergarten), middle and high school grades.

(k) "FCC" shall mean the Federal Communications Commission or its successor.

(l) "Franchise" shall mean the grant of authority, embodied in a franchise agreement between the City and a particular Franchisee, authorizing that Franchisee to construct, own, operate

and maintain a cable system and provide cable service in the Service Area defined by that agreement.

(m) "Franchise Area," for the purposes of establishing any entitlement to regulate rates charged by a Franchisee pursuant to the Cable Act, or any subsequently adopted counterpart thereof or governing regulatory provision relating thereto, shall mean and be deemed as being co-terminous with a Franchisee's Service Area; provided, however, that until a Franchisee offers Cable Service throughout such Service Area, a Franchisee's Franchise Area shall be such lesser portion of its Service Area to which it offers Cable Service.

(n) "Franchisee" shall mean the grantee of rights under a Franchise granted pursuant to this Ordinance.

(o) "Governing Body" shall mean the Board or a Council, as the context may require.

(p) "Gross Revenues" shall mean all revenues derived from the operation of a Franchisee's System to provide Cable Service within its Service Area. This definition shall be construed as broadly as permitted by the Cable Act or any other applicable law. By way of example and not limitation, and unless otherwise defined in a Franchise, "Gross Revenues" shall include charges for basic service, cable programming services, per-channel or per-event services, other charges for video programming, installation and reconnection fees, leased channel fees, converter rental fees, advertising and home shopping revenues, late fees, and revenues for carriage of programming on the System, to the extent such items are considered "revenue" under generally accepted accounting principles ("GAAP"). "Gross Revenues" shall not include (1) any tax or fee imposed on cable Subscribers (but not on Franchisee) by the City or any governmental authority and collected by the Franchisee on behalf of such governmental entity (provided, however, that the fee imposed by Section 17 of this Ordinance shall not be construed to be such a tax or fee); (2) the revenues of any parent or affiliate of Franchisee to the extent, and only to the extent, the revenues

of such parent or affiliate are costs of the Franchisee and recovered by Franchisee through charges to Subscribers that are included in Gross Revenues on which franchise fees are paid; and (3) actual bad debt, refunds or credits, provided any such bad debt subsequently collected shall be considered "Gross Revenues" in the period collected. In the event any revenues derived by Franchisee or its parent or affiliates relate to the System in conjunction with other cable systems outside the Service Area owned or operated by Franchisee, its parent or its affiliate, then such revenues shall be fairly pro-rated among the various systems, and the portion of such revenues attributable to the Franchisee's System in the City based on such a pro-ration shall be considered "Gross Revenues".

(q) "Higher Education Center" or "Roanoke Higher Education Center" shall mean the Higher Education Center providing extension services and located in the City.

(r) "Home" shall mean any single family dwelling unit, whether a house, apartment, trailer or mobile home, rented room or otherwise.

(s) "Local Government" shall mean, as the context may require, the City, the County, or the Town, or all of them collectively.

(t) "Local Government Occupied Buildings" shall mean those buildings owned in whole or in part by the County, the City, or the Town, as the context may require, or occupied in whole or in part by Local Government officials or other persons in furtherance of Local Government objectives, and shall include, without limiting the generality of the foregoing, all volunteer and paid fire and/or rescue companies located within the County, City or Town.

(u) "Non-Subscriber Services" shall mean services provided to persons other than a Subscriber or User of the services provided by or carried on a Franchisee's Cable System.

(v) "Person" shall mean any individual, firm, partnership, association, corporation, company, trust, or entity of any kind, but shall not include the County, the City, or the Town.

(w) "PEG Access" shall mean public, educational and/or governmental use as provided in the Cable Act (47 U.S.C. §531).

(x) "PEG Access Channels" shall refer to the channel capacity on a System devoted to PEG Access.

(y) "Public Schools", whether capitalized or not, shall mean all buildings operated by the School Board or School Division of the County, City or Town for the purposes of teaching and learning.

(z) "Residential Subscriber" shall mean a purchaser in good standing of any service that the Franchisee delivers to any Home, provided that service is not utilized in connection with a business, trade, or profession.

(aa) "Roanoke Valley Regional Cable Television Committee" (or "CATV Committee" or "Committee") shall mean the committee comprised of individuals from the County, the City and the Town, having responsibilities as set forth in this Ordinance concerning any cable television system which provides service within or to any portion of all of the aforesaid three jurisdictions.

(bb) "Senior Citizen" shall mean any Residential Subscriber who is sixty-five (65) years of age or older.

(cc) "Service Area" shall mean the geographical area in the County, City or Town, as the context may require, in which a Franchisee is authorized by a Franchise to construct its System and to provide Cable Service .

(dd) "Signals" shall mean and refer to all frequencies, and the modulating intelligence (including digital modulation) imposed or carried thereon, provided by or permitted to be inserted by a Franchisee on the Cable System operated by such Franchisee.

(ee) "Streets" shall mean all public streets, roads, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parkways, alleys, and all other public rights-of-way within or belonging to the County, City or Town, as the context may require.

(ff) "Subscriber" or "User" shall mean any person or entity lawfully receiving any service provided by or carried on a Franchisee's Cable System.

(gg) "Town" shall mean the Town of Vinton, Virginia.

(hh) "VDOT" shall mean the Virginia Department of Transportation.

Section 3. Grant of Authority.

(a) The City shall have the authority, subject to compliance with the relevant provisions of §15.2-2108 of the Code of Virginia and the Cable Act, to grant to such applicant, who shall thereafter be a Franchisee hereunder, a nonexclusive initial, extended or renewed Franchise upon such terms as the City and such applicant may agree. The Franchise shall authorize such Franchisee, within its Service Area, to construct, erect, operate and maintain, in, upon, along, across, above, over and under the Streets of the City, poles, wires, cable, underground conduits, manholes, and such other conductors and fixtures for the maintenance and operation of a Cable Television System to provide Cable Service, subject to such applicant's agreement and obligation to provide Cable Service within the Franchisee's Service Area and to otherwise comply with all provisions of this Ordinance and the terms of any agreement relating to the initial grant, extension or renewal of the Franchise. Any Franchise granted hereunder shall authorize the Franchisee to use the Streets to construct, erect, operate, and maintain a Cable System to provide Cable Service and for no other purpose.

(b) No Franchisee shall, as to rates, charges, service, facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in any Franchise granted hereunder

shall be deemed to prohibit the establishment of a graduated scale of charges (i) to "Senior Citizen" Subscribers, (ii) for multiple installations at the same Home or building, or (iii) to prohibit Franchisee's provision of free or discounted service to its own employees or to governmental or school facilities.

(c) Any Franchise granted hereunder as an initial authorization and any renewal or extension thereof shall be governed by the provisions of the Cable Act, any amendments or superseding legislation and other applicable law, and shall be for a term as defined in the franchise agreement between the City and the Franchisee, such term not to exceed fifteen (15) years.

(d) No person shall construct, install, maintain or operate a Cable System within, along, over or under any Street or otherwise use the City's Streets to provide Cable Service unless pursuant to (i) a Franchise existing as of the date of adoption of this Ordinance, or (ii) a Franchise granted by the City pursuant to the provisions of this Ordinance.

Section 4. Applications for Grant, Renewal, Transfer, or Modification of Franchises.

(a) Written Application.

(1) A written application shall be filed with the City for (A) grant of an initial Franchise; (B) renewal of a Franchise; (C) modification of a franchise agreement pursuant to this Ordinance or the Cable Act; and (D) consent to a transfer of a Franchise. An applicant shall demonstrate in its application compliance with all requirements of this Ordinance and all applicable laws.

(2) To be acceptable for filing, a signed original of the application shall be submitted together with five (5) copies. The application must be accompanied by any required application filing fee, conform to any applicable request for proposals or invitation for bid, and contain all required information. All applications shall include the names and addresses of persons authorized to act on behalf of the applicant with respect to the application.

(3) An applicant for an initial or a renewal Franchise or transfer of a Franchise hereunder shall include in its application all information requested by the City or its designated representative, subject to the provisions of governing law or regulations, as the City deems reasonably appropriate to allow it to evaluate such applicant's application.

(4) All applications accepted for filing shall be made available by the City for public inspection.

(b) Application for Grant of a Franchise other than a Cable Act Renewal Franchise.

(1) An application for the grant of a new Franchise may be filed pursuant to a request for proposals ("RFP") or invitation for bid ("IFB") issued by the City or on an unsolicited basis. The City, upon receipt of an unsolicited application, may issue an RFP or IFB. If the City elects to issue an RFP or IFB upon receipt of an unsolicited application, the applicant may submit an amended application in response to the RFP or IFB, or may inform the City that its unsolicited application should be considered in response to the RFP or IFB, or may withdraw its unsolicited application. An application which does not conform to the requirements of an RFP or IFB may be considered non-responsive and denied on that basis. The applicant shall respond within the time directed by the City, providing the information and material set forth in subsection 4(d). The procedures, instructions, and requirements set forth in the RFP or IFB shall be followed by each applicant as if set forth and required herein. The City or its designee may seek additional information from any applicant and establish deadlines for the submission of such information.

(2) In evaluating an application for a Franchise, the City may consider, among other things, the following factors:

(A) The extent to which the applicant has substantially complied with applicable law and the material terms of any existing cable Franchise in the City, County or Town.

(B) Whether the quality of the applicant's service under any existing Franchise in the City, County, or Town including signal quality, responsiveness to customer complaints, billing practices, and the like, has been reasonable in light of the needs and interests of the communities served.

(C) Whether the applicant has the financial, technical, and legal qualifications to build, operate and maintain the System and provide the Cable Service it proposes.

(D) Whether the application satisfies any minimum requirements established by the City and is otherwise reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests.

(E) Whether the applicant proposes to provide adequate PEG Access channel capacity, facilities, or financial support.

(F) Whether issuance of a Franchise is warranted in the public interest considering the immediate and future effect on the Streets and private and public property that would be used by the Cable System, including the extent to which installation or maintenance as planned would require replacement of Streets or property or involve disruption of property, public services, or use of the Streets and the comparative superiority or inferiority of competing applications.

(G) Whether the applicant or an affiliate of the applicant owns or controls any other Cable System in the City, or whether the granting of the application may eliminate or reduce competition in the delivery of Cable Service in the City.

(3) If the City finds that it is in the public interest to issue a Franchise considering the factors set forth above, and subject to the applicant's entry into an appropriate franchise agreement with City, it shall grant a Franchise to the applicant. If the City denies a Franchise, it will issue a written decision explaining why the Franchise was denied. Prior to deciding whether or not

to issue a Franchise, the City may hold one or more public hearings or implement other procedures under which comments from the public on an application may be received. The City also may grant or deny a request for a Franchise based on its review of an application without further proceedings and may reject any application that is incomplete or fails to respond to an RFP or IFB. The City also reserves the right to reject all responses to an RFP or IFB. This Ordinance is not intended and shall not be interpreted to grant any applicant or existing Franchisee standing to challenge the issuance of a franchise to another.

(c) Application for Grant of a Renewal Franchise.

The Cable Act (47 U.S.C. §546) shall apply to applications for renewal of an existing Franchise. If neither a Franchisee nor the City initiates the renewal process of the Cable Act in a timely manner, or is unable to initiate the renewal process set forth in 47 U.S.C. § 546(a)-(g) (including, for example, if the provisions are repealed), and except as to applications submitted pursuant to 47 U.S.C. § 546(h), the provisions of subsection (b) of this Section shall apply, and a renewal request shall be evaluated using the same criteria as any other request for a Franchise.

(d) Contents of Applications.

Unless otherwise specified by the City, an RFP or IFB for the grant of a Franchise, including for a renewal franchise under 47 U.S.C. § 546(c), shall require, and any application submitted (other than an application submitted pursuant to 47 U.S.C. § 546(h)) shall contain, at a minimum, the following information:

(1) Name and address of the applicant and identification of the ownership and control of the applicant, including: the names and addresses of the ten (10) largest holders of an ownership interest in the applicant and affiliates of the applicant, and all persons with five (5) percent or more ownership interest in the applicant and its affiliates; the persons who control the applicant

and its affiliates; all officers and directors of the applicant and its affiliates; and any other business affiliation and cable system ownership interest of each named person.

(2) A demonstration of the applicant's technical ability to construct and/or operate the proposed cable system, including identification of key personnel.

(3) A demonstration of the applicant's legal qualifications to construct and/or operate the proposed cable system, including but not limited to a demonstration that the applicant meets the following criteria:

(A) That the applicant has not submitted an application for an initial or renewal Franchise to the City, which was denied, or as to which any challenges to such franchising decision were finally resolved adversely to the applicant, within three (3) years preceding the submission of the application.

(B) That the applicant has not had any cable television franchise validly revoked by any franchising authority within three (3) years preceding the submission of the application.

(C) That the applicant has the necessary authority under Virginia law to operate a cable system.

(D) That the applicant holds or is qualified to obtain, any necessary federal licenses or waivers required to operate the System proposed in the application, and that the applicant is otherwise qualified to own and operate the System under federal law.

(E) That the applicant, or any of its officers, directors, partners, or shareholders holding greater than a ten (10) percent interest have not, during the ten (10) years preceding the submission of the application, been convicted of any act or omission of such character that the applicant cannot reasonably be relied upon to deal truthfully with the City or Subscribers or to substantially comply with obligations under applicable law, including obligations

under consumer protection laws and laws prohibiting anticompetitive acts, fraud, racketeering, or other similar conduct.

(F) That the applicant certifies that the information contained on its application is truthful and complete.

(G) That no elected official of the City holds a controlling interest in the applicant or in any affiliate of the applicant.

(4) Notwithstanding the foregoing, the City shall provide an opportunity to an applicant to show that it would be inappropriate to deny it a Franchise under subsection (d)(3)(B) or (E) above by virtue of the particular circumstances surrounding the matter in question, and to demonstrate the steps taken by the applicant to cure the harms flowing therefrom and prevent their recurrence, the lack of involvement of the applicant's principals, or the remoteness of the matter from the operation of cable television systems.

(5) A statement prepared by a certified public accountant regarding the applicant's financial ability to complete the construction and operation of the Cable System proposed in the application.

(6) A description of the applicant's prior experience in owning or operating Cable Systems, and the identification of communities in which the applicant or any of its principals have, or have had, a cable franchise or franchise or any material interest therein; provided, however, that an applicant that holds an existing Franchise with the City and is seeking renewal of that Franchise need not provide such information.

(7) Identification of the area of the City to be served by the proposed Cable System, including a description of the proposed Service Area's boundaries.

(8) A description of the physical facilities proposed, including channel capacity, technical design, performance characteristics, headend location, and PEG Access facilities.

(9) Where applicable, a description of the construction of the proposed System, including an estimate of plant mileage and its location; the proposed construction schedule; and general information on the availability of space in existing conduits and poles to accommodate the proposed System.

(10) A demonstration of how the applicant will reasonably meet the future cable-related needs and interests of the community, including descriptions of how the applicant will meet the needs described in any recent community needs assessment conducted by or for the City, and how the applicant will provide adequate PEG Access channel capacity, facilities, or financial support to meet the community's needs and interests, and how such capacity, facilities, and financial support will be funded.

(11) Any other information as may be lawful and reasonably necessary to demonstrate an applicant's ability to comply with the requirements of this Ordinance.

(12) Information that the City may lawfully request of the applicant that is relevant to the City's consideration of the application.

(13) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments to the extent they are incorporated into a Franchise, and certifying that the applicant meets all federal and state law requirements to construct, erect, operate, and maintain a Cable System.

(e) Application for Modification of a Franchise.

An application for modification of a Franchise shall include, at minimum, the following information:

(1) The specific modification of the Franchise requested;

(2) The justification for the requested modification, including the impact, if any, of the requested modification on Subscribers and others, and the financial impact on the applicant if the modification is approved or disapproved, demonstrated through, among other things, submission of financial pro formas;

(3) A statement whether the modification is sought pursuant to the Cable Act~~,~~ (47 U.S.C. § 545), and, if so, a demonstration that the requested modification meets the standards set forth in the Act;

(4) Any other information that the applicant believes is necessary for the City to make an informed determination on the application for modification; and

(5) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application.

(f) Application for Consent to Transfer of a Franchise.

(1) An application for the City's consent to the transfer of a Franchise or the transfer of control of a Franchisee shall include, at a minimum, the following information:

(A) A completed FCC Form 394, or any successor form; and

(B) With respect to the proposed transferee, the information set forth in the following subsections of Section 4(d) of this section, "Contents of Applications": (1), (2), (3), (6), (11), (12), and (13), and where any changes in such information are contemplated, the information set forth in subsections 4(d) (7), (8), (9), and (10).

(2) In determining whether a transfer application should be granted, denied, or granted subject to conditions, the City may consider the legal, financial, and technical qualifications of the transferee to operate the Cable System; any potential impact of the transfer on Subscriber rates or services; whether the incumbent Franchisee is in substantial compliance with its Franchise and, if not, whether the incumbent or the transferee furnishes adequate cure or assurance of cure;

whether the transferee owns or controls any other Cable System in the City; and whether transfer of the System or control of the Franchisee to the transferee or approval of the transfer would otherwise adversely affect Subscribers, the public, or the City's interests under this Ordinance, the Franchise, or other applicable law. No transfer application shall be granted unless the transferee agrees in writing that it will abide by and accept all terms of this Ordinance and the Franchise, and that it will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous Franchisee for all purposes.

Section 5. Roanoke Valley Regional Cable Television Committee.

As of the date of adoption of this Ordinance, the County, the City and the Town have, pursuant to ordinances duly adopted by each of them, jointly established a committee known as the Roanoke Valley Regional Cable Television Committee (the "CATV Committee"). By adoption of this Ordinance, the City does hereby affirm its continued participation in and support of the CATV Committee, which shall comprise eleven (11) members and have the duties and responsibilities as set forth below:

(a) Members. One member shall be provided from each of the Governing Bodies of the County, the City and the Town; three members shall be the Chief Executives (or their designees) from each of the County, the City and the Town; one member shall be appointed by each of the Roanoke County and Roanoke City School Boards; and one member-at-large shall be appointed by each of the Governing Bodies of the County, the City and the Town.

(b) Chairperson. The CATV Committee shall select a chairperson from its membership, who shall serve for a period of one year or such other term as the CATV Committee may deem appropriate.

(c) Terms of Office. The terms of office of the three at-large members shall be for three years each, provided that such terms shall be staggered, with a continuation of the staggered

sequence established by the CATV Committee prior to the adoption of this Ordinance; members from the Governing Bodies of each of the jurisdictions and those appointed by their respective School Boards shall serve for such terms as are determined by their respective appointing authorities.

(d) Meetings. Meetings of the CATV Committee shall be held not less than once per year, and at such more frequent times as the Chairperson or the Committee shall determine; a quorum shall consist of five members. The Committee may adopt such procedures and bylaws as it deems necessary for the proper exercise of its responsibilities.

(e) Scope. The CATV Committee shall fulfill its responsibilities with respect to any Franchisee or applicant for a Franchise as to which the Cable Service provided or proposed shall extend within or to any portion of all of the three jurisdictions addressed herein.

(f) Franchisee Attendance. The General Manager (or his or her designee) of each Franchisee within the scope of the CATV Committee's responsibilities shall be afforded the opportunity to attend each meeting of the CATV Committee, with at least ten (10) days advance notice to be provided whenever reasonably possible, except when the CATV Committee holds a closed meeting.

(g) Powers and Duties. The CATV Committee shall:

(i) Advise the affected Governing Bodies concerning any applications for Franchises.

(ii) Provide for the development, administration, and operation of EG access facilities and programming for the City, County and Town as provided for in this Ordinance and any franchise agreements. The administration of all such EG activities shall be undertaken by the Committee.

(iii) Monitor each Franchisee's compliance with the provisions of this Ordinance and any Franchise granted hereunder, and advise affected Governing Bodies of matters that may constitute grounds for a monetary forfeiture or Franchise revocation.

(iv) Advise the affected Governing Bodies concerning the regulations of Cable rates.

(v) Receive, record and consider Subscriber complaints that have not been resolved by a Franchisee; attempt to resolve and respond to all such complaints, maintaining a record of all resolutions; and report annually to each Governing Body the results of its actions with respect to such complaints.

(vi) Review any proposed transfer of a Franchise and recommend whether such transfer should be approved.

(vii) Coordinate review of each Franchisee's records as may be required by this Ordinance.

(viii) Encourage the use of such EG access channels and facilities as are required under this Ordinance or any Franchise by the widest range of institutions, groups and individuals within the Service Areas of the respective Franchisees, consistent with applicable law.

(ix) Review budgets prepared by departments within affected jurisdictions for EG channel usage, and coordinate the expenditure of any capital grant funds provided by any Franchisee to maximize the potential and provide for the full development of EG channel usage.

(x) Advise the Governing Bodies of the jurisdictions addressed herein as to proposed rules and procedures under which a Franchisee may use unused EG channel capacity for the provision of other services, and under which such Franchisee use shall cease.

(xi) Coordinate programming and activities on EG channels, develop appropriate policies and procedures therefor, and assist in preparation and review of budgets for all cablecasting activities on EG channels.

(xii) Maintain records in accordance with statutory requirements.

Section 6. Rates.

The City specifically retains all rights to regulate rates for Cable Service charged by any Franchisee, subject to the provisions of relevant federal and state laws and the rules and regulations of administrative agencies with authority.

Section 7. PEG Access.

PEG Access channel capacity, facilities and support requirements shall be specified in the Franchise between the City and the Franchisee, and shall be sufficient to satisfy the City's cable-related community needs and interests.

Section 8. System Operation.

(a) Every Franchisee shall operate its Cable System as required by the FCC's rules and regulations, including, without limitation, ensuring compliance with all applicable provisions of 47 C.F.R. §76.601, *et seq.* (FCC Technical Standards), and any amendments thereto, throughout the entire Service Area. Upon request, every Franchisee shall submit to the City copies of all performance test data required pursuant to 47 C.F.R. §76.601 and any other performance tests that may be required by subsequent amendment of the FCC's rules and regulations.

(b) Unless otherwise provided for in a Franchise, within six months after receipt of written request from the City, a Franchisee shall interconnect its System with the Cable System of any overlapping or adjacent cable operator in the City, County or Town. Such interconnection, including bidirectional capability, shall be performed on terms mutually and reasonably acceptable to the Franchisee and the other operator, including arrangements to share equitably the cost of design,

installation, and all necessary equipment, hardware, and accessories to accomplish the interconnection.

Section 9. Indemnification and Insurance.

(a) Every Franchisee, as a condition to its entitlement to hold or continue to hold a Franchise hereunder, shall save the City, the CATV Committee, and their officers, representatives, employees, agents and volunteers harmless from all loss or damages of any kind, including reasonable attorney's fees, sustained by the City, the CATV Committee, and their officers, representatives, employees, agents and volunteers on account of any suit, judgment, execution, claim, or demand whatsoever, resulting from any acts or omissions on the part of the Franchisee, its contractors, subcontractors or agents in the construction, maintenance or operation of its Cable Television System or the provision of Cable Service in the City; provided, however, that the City shall give to an indemnifying Franchisee written notice of any such suit, judgment, execution, claim or demand made to which the immediately foregoing indemnification provisions apply.

(b) Each Franchisee shall take out and maintain throughout the term of its Franchise commercial general liability insurance against personal injury with coverage of not less than $5,000,000 for injury to any person and $5,000,000 for any one accident, and insurance against property damage, including damage to City property, in an amount not less than $5,000,000, and shall maintain comprehensive automobile liability insurance, including non-owned and hired car as well as owned vehicles coverage, with minimum bodily injury coverage for each occurrence of $2,000,000 and property damage coverage of not less than $1,000,000 per occurrence. X, C, and U general liability insurance exclusions must be deleted. The above limits may be satisfied by a combination of primary and umbrella insurance following the form of the primary insurance. The above policies shall be written by a company licensed to do business in the Commonwealth of Virginia, which shall be rated not less than "A" by Best's rating service, and the City, the CATV

Committee, and their officers, representatives, employees, agents and volunteers shall be named as additional insureds thereunder, and an endorsement to that effect from the insurer must be received by the City within thirty (30) days of commencement of a Franchise. A certificate of these policies shall be furnished to the City as a condition to the grant of any Franchise hereunder. The City reserves the right, no more frequently than once every three years, and upon six months advance notice to a Franchisee, to require an increase in the immediately foregoing minimum basic coverages by an amount not to exceed the amount necessary to compensate for the City's increased general liability insurance coverage, or the City's increased self-insured exposure, for the three years immediately preceding the date of such notice from the City.

(c) Every Franchisee shall obtain workers' compensation insurance as required by the laws of the Commonwealth of Virginia, with such insurance to be written by a company licensed to do business in the Commonwealth of Virginia, which company shall be rated not less than "A" by Best's rating service. Such policy shall contain a waiver of subrogation in favor of the City, the CATV Committee, and their officers, representatives, employees, agents and volunteers.

(d) Each Franchisee shall ensure that its contractors, subcontractors and agents maintain commercial general liability insurance coverage sufficient to protect the City, the CATV Committee, and their officers, representatives, employees, agents and volunteers from any loss arising from work performed on such Franchisee's behalf.

(e) No insurance policy shall be cancelable or non-renewable until thirty (30) days after receipt by the City of notice of intention to cancel or non-renew.

Section 10. Maintenance and Service Complaint Procedures.

(a) System Maintenance. Throughout the term of its Franchise, every Franchisee shall maintain all parts of its Cable System in good working condition.

(b) FCC Standards. Each Franchisee shall, at minimum, comply with the customer service standards established by the FCC at 47 C.F.R. §76.309(c), or any subsequently adopted amendments thereto. These rules are hereby adopted as if incorporated herein (see Appendix A). No Franchisee shall adopt standards less stringent than those imposed by the FCC, and nothing herein shall prevent a Franchisee, or the City, from adopting standards that are more stringent than those imposed by the FCC. The City may, at its sole discretion, and upon ninety (90) days written notice to a Franchisee, inform a Franchisee of its intent to enforce, and may enforce against such Franchisee, the additional customer service standards contained in subsections (b)(1) through (9) below, or any other customer service standard deemed reasonably necessary by the City at its sole discretion.

(1) Installation Time. Within all areas served by the System, and meeting the density requirements of Section 12(c), service to all requesting potential Subscribers requiring an aerial installation shall be provided within five (5) business days after receipt of the request for service, and service to requesting potential Subscribers requiring an underground installation shall be provided within ten (10) business days after such request, unless Franchisee is prevented by reasons beyond its control or later installation is requested by the Subscriber.

(2) Repair Procedure. Franchisee shall have a local listed telephone number for receipt of requests for repairs at any time, twenty four (24) hours per day, seven (7) days per week. Franchisee responses to such requests shall occur within twenty four (24) hours after Franchisee's receipt of such a request, oral or written, excluding Sundays and holidays. Verification of the problem and Franchisee's best efforts to resolve the problem shall occur within forty eight (48) hours. In any event, resolution should occur within five (5) business days. Those matters requiring additional maintenance, repair, or technical adjustments that

require more than five (5) business days to complete shall be reported in writing to the Subscriber and, if requested, to the City. The City may require reasonable documentation to be provided by Franchisee to substantiate a request for additional time to resolve any such complaint.

(3) Responsiveness. Franchisee shall respond seven (7) days a week within two hours to any outage affecting five (5) or more subscribers due to the same event or occurrence ("Area Outage") which occurs between the hours of 7:00 a.m. and 9:00 p.m., and by not later than 11:00 am the following day to any Area Outage which occurs between 9:00 p.m., and 7:00 a.m., the following day. Such response shall mean actual commencement of trouble shooting and repairs, plus contact with the complaining Subscriber(s), if reasonably possible under the circumstances.

(4) Mean time between failures. The average time between Area Outages shall not exceed twenty four (24) hours in any twelve (12) month period. It shall be computed by dividing the operating time by the number of Area Outages.

(5) Mean time to repair. The average time to complete repair to System outages shall not exceed two (2) hours in any twelve (12) month period. It shall be computed by dividing the total time for repairs by the number of repair orders.

(6) Subscriber Down Time. Annual subscriber down time shall not exceed an average of four (4) hours per Subscriber.

(7) Mean Time to Install. Mean time to install shall be eight (8) business days for underground installations and four (4) business days for aerial installations.

(8) Service Call (Repairs). Seventy percent (70%) of all repair requests shall be acted upon within twenty four (24) hours; ninety percent (90%) within ninety six (96) hours. All requests shall be resolved within five (5) business days unless good and sufficient cause

exists. Any service call not resolved within five (5) business days shall be reported in writing to the CATV Committee by Franchisee within two (2) business days thereafter.

(9) Telephone Waiting Time. During normal business hours, ninety percent (90%) of all telephone calls shall be picked up on or before the fourth ring and no caller shall be allowed to wait for more than ten (10) rings. Waiting time shall not exceed an average of thirty (30) seconds total for any caller, and no caller shall be transferred except for specialized services.

(c) Complaint Policy and Records.

(1) Complaint Policy. Franchisee shall promulgate written policy statements and procedures for reporting and resolving Subscriber complaints. Franchisee shall furnish a copy of the policy to each new Subscriber upon installation and thereafter to all Subscribers at least annually, and to the City and all Subscribers at such time as there is any change in such policy.

(2) Complaint Records. Franchisee shall maintain records showing the date of receipt of all written complaints received (including those received via electronic mail) and identifying the Subscriber, the nature of the complaint, and the date action was taken by Franchisee in response thereto, together with a description of such action. Such records shall be kept available at Franchisee's local office for at least two (2) years from date of receipt, for inspection by the City as it may at any time and from time to time reasonably request, during business hours and upon reasonable notice. A periodic log of all complaints and resolutions, by category, shall be provided to the City and the CATV Committee or its designee upon request. Complaints that remain unresolved for a period of ten (10) working days or more shall be reduced to writing by the Franchisee and submitted to the City or its designee for appropriate action.

(3) Complaint Notice. Franchisee shall provide written notice detailing all actions taken to resolve complaints submitted to the City within five (5) business days from written or telephone notification by the City of the complaint. Franchisee shall provide service-call and outage reports to the City or the CATV Committee upon request.

(d) Free Basic Service. Franchisee shall provide basic tier service and the most widely subscribed-to tier of cable programming service without charge to each Local Government Occupied Building, fire station, police station, any other City-owned or City-occupied buildings (excluding housing units and buildings owned by the City but not used for governmental or educational purposes), the Roanoke Higher Education Center, all Elementary and Secondary Schools, public library, state-accredited private schools with at least fifty (50) students, and public, private or community college academic buildings within its Service Area, as requested by City. One standard drop into such building and into a room or office designated by the recipient, one converter (if needed) per building, and continued delivery of the required service throughout the term of the Franchise shall constitute compliance. Any attached identified structures shall be treated as separate buildings. This subsection shall apply to any building meeting the classifications listed, regardless whether such building existed as of the effective date of this Ordinance or was constructed or occupied after the effective date hereof. The Service recipient shall be responsible for securing Franchisee's right of access to the building(s) at no cost to the Franchisee.

(e) Emergency Communications. At least one person in responsible charge of Franchisee's operations in the Service Area shall be available by local telephone during such hours as Franchisee's business office is closed, and the telephone number of such person shall be supplied in advance to the City's chief executive official, the presiding officer of Council, the City's Police and Fire Departments, and the Emergency 911 Center.

(f) Subscriber Antennas. Notwithstanding any disconnection of Subscribers' existing antennas and downleads to receivers connected to the Cable System, the Cable System shall be designed so that physical removal of antennas and downleads will not be required to receive Service, and so that the Subscriber may utilize such antennas at any time in place of the Cable System service.

(g) Parental Guidance Control. Consistent with the Cable Act (47 U.S.C. §544(d)(2)(A)), Franchisee shall make available to any Subscriber so requesting, at reasonable cost, a "parental guidance control" or "lockout key" which will permit the Subscriber to eliminate intelligible audio and video reception of any or all of the premium service channels. Franchisee shall notify all Subscribers of the availability of such parental-control devices.

(h) Call Recording Service for Current Known Outages. Franchisee shall provide a telephone number which provides a recorded message or access to an employee or agent of Franchisee, on a twenty four (24) hour basis. The recorded message shall describe current known System deficiencies and outages and thereafter accept recorded messages from Subscribers, who may leave their names; request service; report outages; and request credit for down time.

(i) Preventative Maintenance. Franchisee shall establish and adhere to a preventive maintenance policy directed toward maximizing the reliability and maintainability of the Cable System with respect to its delivery of Cable Service to Subscribers at or above the technical standards established by the FCC. When it is necessary to interrupt Cable Service for the purpose of making repairs, adjustments, installations or other maintenance activities, Franchisee shall do so at such times as will cause the least inconvenience to its Subscribers, generally between the hours of 11:30 p.m. and 6:30 a.m. the next morning.

(j) Repair Capability. Franchisee shall maintain sufficient qualified technicians, service vehicles, and test and repair equipment to provide repair service within the parameters set forth below.

(k) Notice. Except in an emergency, or when System maintenance or repair occurs between the hours of 11:30 p.m. and 6:30 a.m., Franchisee shall give Subscribers at least twenty-four (24) hours' notice of any interruption of Cable Service for purposes of maintenance or repair. In an emergency, Franchisee shall give such notice as is reasonable in the circumstances. Notice given on the Alphanumeric Channels shall be considered sufficient. When Subscriber channels will be interrupted, normal scheduled service and repair shall be performed between the hours of 11:30 p.m. and 6:30 a.m. the next morning.

(l) Refund for Outage. For any continuous service interruption or loss of service in excess of twenty-four (24) hours, Franchisee shall make a pro-rated refund of such Subscriber's regular monthly charge for the service to each Subscriber so affected, upon request of such Subscriber. The twenty-four (24) hour period shall commence when Franchisee learns of such outage whether through Subscriber notification or notification by Franchisee's maintenance personnel. Such refunds shall be prorated by multiplying the applicable monthly service rate by a fraction whose numerator equals the number of days of the outage and whose denominator equals the number of days in the month of the outage. For purposes of this paragraph, an outage shall be defined as a Subscriber's receipt of less than two thirds (2/3) of the authorized basic service and most widely subscribed to tier of cable programming service channels, or loss of any premium channel loss. Franchisee shall not be required to grant a refund in the event that an outage is caused by any Subscriber.

(m) Billing Practices. Franchisee shall maintain written billing practices and policies and shall furnish a copy thereof to the City, the CATV Committee, and all Subscribers, and to each new

Subscriber. The City and all Subscribers shall be notified in writing thirty (30) days in advance of any changes. Franchisee shall comply with all relevant state and federal laws and regulations with respect to its billing practices.

(n) Pro-rated Service. In the event a Subscriber's service is terminated for any reason, monthly charges for service shall be pro-rated on a daily basis. Where advance payment has been made by a Subscriber, the appropriate refund shall be made by Franchisee to the Subscriber within thirty (30) days of such termination, unless the amount is less than $5.00, which amount shall be refunded only upon the Subscriber's request.

(o) Disconnection for Non-Payment. Franchisee shall have the right to disconnect a Subscriber for failure to pay an overdue account provided that:

(1) Franchisee's billing practices and policy statements have set forth in writing the conditions under which an account will be considered overdue; and

(2) Franchisee provides written notice of its intent to disconnect at least fifteen (15) days prior to the proposed disconnection; and

(3) The Subscriber's account is at least thirty (30) days delinquent computed from the first day of service for which payment has not been made.

(p) Installation of Equipment. Unless otherwise provided by law, Franchisee shall not install its System on private property without first securing written permission of the owner or tenant in possession of such property or the written permission of the holder of any easement for utility lines or similar purposes, and in accordance with law. Upon request, Franchisee shall inform owners and tenants of the functions of all equipment installed on private property.

(q) Monitoring and Privacy. Unless otherwise provided by law, neither Franchisee nor any of its officers, employees, agents or contractors shall, without prior written consent of all affected parties, tap, monitor or arrange for the tapping or monitoring of any drop, outlet or receiver for any

purpose whatsoever other than legitimate technical performance testing of the Cable System or the monitoring of subscriber cable service, or where such tapping or monitoring is required by law. Franchisee shall comply with relevant federal and state statutes regarding the monitoring of Service and providing Subscriber information to government entities. Franchisee shall at all times comply with the Cable Act (47 U.S.C. §551) with regard to the protection of Subscriber privacy.

(r) Subscriber Lists or Information. Unless otherwise provided by law, Franchisee shall not sell, disclose, or otherwise make available, or permit the use of, lists of the names or addresses of its Subscribers, or any list or other information which identifies individual Subscriber viewing habits, to any person or entity for any purpose whatsoever without the consent of such Subscriber, all in accordance with and subject to the provisions of the Cable Act and applicable law. This provision shall not prevent Franchisee from performing such acts as may be necessary for the purpose of service related activities, including surveys.

Section 11. Filings with City.

(a) In addition to other filings that may be set forth herein, every Franchisee shall maintain, and file with the City Manager upon request, true and accurate strand maps (in either electronic or, if the Franchisee and City otherwise agree, in hard copy) of all existing and proposed installations in the Streets. The City hereby reserves the right to reject any proposed installation that does not conform to its ordinances, regulations or practices concerning construction in the Streets. The City may order and direct the Franchisee, at Franchisee's sole cost, to move the location or alter the construction of any existing installation to facilitate or accommodate the installation, alteration, repair or changing of the grade or location of a street, or the construction, alteration, repair or installation of any other public works or the construction of public improvements in, on, or under the Streets. Every Franchisee shall also maintain and, upon request, make

available at its local office, for review and copying by the City, true and accurate as built maps of all existing installations.

(b) Every Franchisee shall file annually with the City Manager a statement setting forth the names and addresses of all its directors and officers and the position that each holds, which statement may consist of the Franchisee's annual report.

(c) Upon request, a Franchisee shall file with the City Manager copies of rules, regulations, terms and conditions adopted by the Franchisee for the conduct of its business.

Section 12. Construction and Installation of the System.

(a) The City shall have the right to inspect all construction or installation work performed by a Franchisee within the Service Area, and to make such inspections as the City deems necessary to ensure compliance with the terms of this Ordinance, other pertinent provisions of law and any Franchise granted hereunder. No poles, underground conduits, or other wire or cable-holding structures shall be erected by a Franchisee without prior approval of the City or its duly authorized personnel, or, unless such consent is not required by applicable law, by abutting property owners where the City does not own, or hold some other right of way property interests in, the area in which such structures are to be erected. To the extent possible, a Franchisee shall use existing poles and underground conduits throughout the City. Any poles, underground conduits or other fixtures that a Franchisee is authorized by the City to install must be placed in a manner so that they do not interfere with or obstruct the usual travel on the public Streets or interfere with any existing utility services. At the time any trench is opened for installation or maintenance of conduit or underground cable, a Franchisee shall give the City at least ten (10) days advance written notice of such work and inform the City of the incremental cost of installing one additional conduit for the exclusive use of the City of such dimension as specified by the City, and unless the City otherwise directs Franchisee in writing, Franchisee shall install such conduit at a charge no greater than the actual

incremental cost of labor and materials for such additional conduit. All construction activities of a Franchisee shall be conducted in a workmanlike manner that will cause minimum interference with the rights and reasonable convenience of the public's and other utilities' use of the Streets and of the property owners directly affected thereby. Every Franchisee shall maintain all structures, cable and related Cable System equipment that are located in, over, under, and upon the Streets in a safe, suitable, substantial condition and in good order and repair at all times.

(b) All construction, installation and repair by a Franchisee shall be effectuated in a manner that is consistent with the FCC's rules, relevant local building codes, zoning ordinances and laws, all City and other governmental laws, codes or ordinances relating to public works or the Streets, and other regulatory requirements, the National Electrical Safety Code, and other standards of general applicability to Cable Systems. No Franchisee shall commence any construction without obtaining all local zoning and other approvals, permits and other licenses generally applicable to other entities performing such construction, and paying all costs and fees normally imposed or charged therefor.

(c) A Franchisee shall be required to extend energized trunk cable and make Cable Service available to any and all portions of the City within the limits of its defined Service Area with a density of at least twenty (20) Homes per linear mile for aerial installations and thirty (30) Homes per linear mile for underground installations. For purposes of calculating this density requirement, all Homes within one hundred fifty (150) feet of any Street or other right-of-way suitable for cable trunk installation shall be counted in density determinations, and shall be considered as satisfying the 20 or 30 Homes- per-mile density requirement, as appropriate. In the event that the owner of any Home or other structure within a Franchisee's Service Area not meeting the density requirement is willing to agree in writing to pay the excess cost of extending Cable Service to that location, then a Franchisee so requested by such owner shall provide Cable Service to such Home or other

structure, provided that such owner's payment obligation shall only apply to the actual costs incurred, without markup, in extending cable more than 150 feet from any trunk line.

(d) In case of any disturbance of pavement, sidewalk, driveway or other surface, a Franchisee shall, at its sole cost and expense and in a manner approved by the City or as required by any applicable City policy or standards generally applicable to similar construction in the Streets, replace and restore all paving, sidewalk, driveway or surface disturbed in as good condition as before such work was commenced.

(e) In the event that at any time during the period of a Franchise, the City or VDOT shall elect to alter or change the grade, width, or other characteristic of any Street, alley or other public way, the affected Franchisee, upon reasonable notice by the City or VDOT, at Franchisee's sole cost, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes and other fixtures or equipment as directed by the City or VDOT.

(f) No Franchisee shall place any poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant, main, or sewer, and all such poles or other fixtures placed in any Street shall be placed in accordance with the City's requirements or as established by any applicable City policy or standards.

(g) A Franchisee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires or Cable to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires or cable shall be paid by the person requesting the same, and the Franchisee shall have the authority to require such payment in advance. The Franchisee shall be given not less than seven (7) days advance notice to arrange for such temporary wire or cable changes.

(h) Every Franchisee shall have the authority to trim trees upon and overhanging Streets, alleys, sidewalks and public rights-of-way of the City so as to prevent the branches of such

trees from coming in contact with the wires and cables of the Franchisee, provided that all trimming shall be done in accordance with the ANSI 300, American National Standard for Tree Care Operation (or any such successor standard), and under the supervision and direction of the City or VDOT and at the sole expense of the Franchisee. The City or VDOT specifically reserves the right to prohibit the trimming of any tree where the City or VDOT deems that such trimming would be inappropriate. An explanation for the denial shall be provided in writing.

(i) No Franchisee shall install above-ground facilities in any portion of its Service Area where all public utility lines are underground, or in any area of the City designated as an underground utility area, and every Franchisee shall be obligated to relocate its existing facilities underground in any portion of its Service Area within ninety (90) days after all public utility lines in that portion of its Service Area have been placed underground, provided, however, that Franchisee may request a partial waiver of this requirement with respect to certain ground-mounted appurtenances, such as Subscriber taps, line extenders, System passive devices (splitters, directional couplers, etc.), amplifiers, power supplies, network reliability units, pedestals, or other related equipment.

(j) Vehicles owned or leased by a Franchisee and used in the installation, construction or repair of the Franchisee's System or installation or repair on Subscribers' premises shall be marked with the Franchisee's identity, and all employees, contractors and subcontractors of a Franchisee shall carry identification, to be produced upon request, which shall provide the employee, contractor, or subcontractor's name, local business address and local business telephone number .

Section 13. Emergency Alert System.

Every Franchisee shall comply with the federal Emergency Alert System ("EAS") standards established by Part 11 of the FCC's Rules (47 C.F.R. §11) and any state or local EAS plan approved

thereunder. In addition, and to the extent not preempted by federal law or regulation, each Franchisee shall provide for use by such authorized persons as are designated by the City, an emergency override capability whereby the audio or video portion of programming carried on all channels may be interrupted for the insertion of emergency information. The City may grant relief from the requirements of the foregoing sentence if the City determines in its sole discretion that a Franchisee's compliance with the federal EAS standards and/or any state or local EAS plan approved thereunder will provide the same functional capability to disseminate emergency information to Subscribers.

Section 14. Limits on Rights of Way.

This Ordinance shall not be construed to mean that the City, by granting any Franchise hereunder, provides any Franchisee the right to use any Street, right-of-way or property controlled by VDOT or by any person other than the City. Every Franchisee hereunder shall be required to comply with any and all VDOT regulations and requirements set forth for the use of such Streets or rights-of-way controlled by VDOT and may be required to separately obtain from private parties and others necessary consents, not otherwise preempted by federal or state statute or regulation, to use any other rights-of-way not controlled by or vested in the City prior to the installation of any Cable on, under or over the property so affected.

Section 15. Approval Required for Franchise Transfer.

No Franchisee shall sell, assign, transfer or lease its plant or Cable System to another person, nor transfer any rights under a Franchise to another person, nor may control of a Franchisee be transferred, without the Franchisee having first made written application pursuant to Section 4(f), above, for Council's consent to such transfer and without prior Council approval of such transfer on such reasonable terms and conditions as the Council may impose. No sale, transfer, assignment or lease shall thereafter be effective until the vendee, assignee, transferee or lessee has filed in the

office of the City Manager an instrument, duly executed, reciting the fact of such sale, assignment, transfer or lease, accepting and agreeing to be bound by the provisions of this Ordinance and a Franchise granted pursuant hereto, and agreeing to perform all the conditions that may be imposed by the Council pursuant to its consent. Consent for the transfer, sale, assignment or lease shall not unreasonably be withheld; provided, however, that any costs incurred by the City in evaluating and/or approving such transfer, sale, assignment or lease, not to exceed $5,000.00, shall be paid within 30 days after the submission of an invoice therefor by the City, and no such transfer, sale, assignment or lease shall become effective until such payment is made.

Section 16. City Right in Franchise.

(a) The right is hereby reserved by the City to adopt, in addition to the provisions herein contained and in existing applicable ordinances, such additional regulations as it shall find necessary and that are a lawful exercise of its police power.

(b) The City shall have the right to supervise, inspect and approve or disapprove all construction or installation work performed by a Franchisee in the Streets, subject to the provisions of this Ordinance and other City laws, ordinances, resolutions, rules and regulations, and to make such inspections as it shall find necessary to ensure compliance with applicable City laws, ordinances, resolutions or regulations.

(c) All Streets, rights-of-way, and easements that a Franchisee is permitted to use hereunder shall remain the property of the City or VDOT, as appropriate. Until such time as poles or other equipment are actually installed by a Franchisee, and in the event of future removal of such poles or other equipment, such rights shall remain vested in or immediately revert to the City or VDOT and, in the event of removal, a Franchisee's rights therein shall automatically be canceled.

(d) At the time a Franchise becomes effective, the City may require the Franchisee to furnish to the City a City-approved security, in such form and with such sureties as shall be

acceptable to the City, guaranteeing the payment of all sums which may at any time become due from the Franchisee to the City under the terms of this Ordinance and any Franchise granted, and further guaranteeing the faithful performance of all obligations of the Franchisee under the terms of this Ordinance and the agreement reflecting the grant of the Franchise. The amount of the security shall be $300,000 unless a franchise agreement otherwise provides. In the event of default under this Ordinance or a Franchise granted pursuant to this Ordinance, the City shall not assume any liability, obligation or responsibility, but shall instead be entitled, without prejudice to any other remedy available to the City, to levy on and collect from such security all amounts necessary to render the City whole.

(e) If at any time after the date a Franchisee's Cable System is activated to provide Cable Service, the Franchisee shall fail materially to comply with the terms of this Ordinance or any Franchise granted, and shall continue to fail to comply or fail to commence taking steps reasonably calculated to cause such compliance for a period of thirty (30) days after receiving notice in writing of non-compliance from the City, the Franchisee shall be assessed a monetary forfeiture by the Office of the City Manager of not less than $100.00 nor more than $1,000.00 for each day's failure to comply from the date of the first non-compliance, with each day's failure to comply being a separate and distinct offense. The provisions of this sub-section shall not apply if non-compliance is occasioned by events beyond the control of the Franchisee, provided that such events were not proximately caused by the Franchisee's acts or failure to act. In the event the Franchisee shall in good faith contest its liability or the amount of any forfeiture imposed under this Section, no further forfeiture need be paid until such liability is established by the City Council, and should such liability be established by the City Council, such determination shall be final, and the Franchisee shall have thirty (30) days within which to comply and within which to pay all forfeitures assessed. In the event the Franchisee does not then comply and pay all forfeitures assessed, the City shall have the option

(i) to initiate judicial collection proceedings; (ii) to collect upon any security posted; and/or (iii) implement procedures to revoke the Franchise and declare the security forfeited.

Section 17. Franchise Fee.

(a) Unless a lesser amount is specified in a Franchise, each Franchisee shall pay the City on a quarterly basis a fee (a "Franchise Fee") equal to five percent (5%) of its Gross Revenues derived from the immediately preceding calendar quarter. The Franchise Fee for each calendar quarter shall be paid to the City no later than thirty (30) days after the end of the calendar quarter on which such fee is based. Such payment shall be accompanied by a report, in a form acceptable to the City, itemizing the revenue sources on which the fee payment was calculated and showing how the payment amount was calculated. Any payment made after the date on which it is due shall be subject to a five percent (5%) late payment fee plus interest at the rate that the City is then currently charging for late payments owed to the City. Each Franchise Fee payment shall be accompanied by a summary report showing Gross Revenues received by the franchisee from its operations within the City during the preceding quarter and such other information as the City shall reasonably request with respect to the Franchisee's service within the City.

(b) The City shall have the right to verify by an audit conducted by an independent auditor of its own choosing, that a Franchisee has paid the correct amount of Franchise Fee, and if such audit discloses that a Franchisee's reporting of its Gross Revenues for the audit period has been understated by three percent (3%) or more, said Franchisee shall compensate the City for its reasonable audit expenses. The Franchisee shall grant the City or its auditors access to all relevant documents, records and information relevant to determining whether the Franchisee has paid the correct Franchise Fee. Consistent and material under-reporting of a Franchisee's Gross Revenues over two or more consecutive calendar quarters shall be grounds for revocation of a Franchise.

(c) In addition to the audit process of Section 17(b), each Franchisee shall, not less than annually, submit a report from an independent certified public accounting firm reasonably acceptable to the City, certifying to the accuracy of all Franchise Fee payments made for the immediately foregoing four quarters and the compliance of those payments with the requirements of this Ordinance and any Franchise granted hereunder. This annual report shall be in a form consistent with the form specified to accompany quarterly payments under section 17(a).

(d) In the event that federal, state, or other regulatory agencies permit a greater or lesser Franchise Fee than set forth in this Ordinance, such payment obligation may be increased or decreased to the maximum amount permissible, upon approval of such increase or decrease by the City Council and not less than ninety (90) days advance notice to each affected Franchisee.

(e) Consistent with applicable law, no fee, tax or other payment required to be made by a Cable System operator to the City, including payment of a Business, Professional or Occupational License fee or tax, shall be deemed as part of the Franchise Fee payable to the City hereunder, so long as such fee, tax or other payment obligation is imposed on a non-discriminatory basis on other similarly situated entities doing business within the City.

Section 18. Records and Reports.

The City and its representatives shall have access during normal business hours to a Franchisee's plans, maps, electronic data, documents, contracts, and engineering, accounting, financial, and statistical data, and, subject to the Subscriber privacy provisions of Section 631 of the Cable Act (47 U.S.C. § 551), customer and service records relating to the Cable System and its operation within the City by the Franchisee and to all other records required to be kept hereunder. The City may review, copy, and audit any such records, documents or electronic data.

Section 19. Franchise Revocation.

(a) Whenever any Franchisee shall refuse, neglect or willfully fail to construct, operate or maintain its Cable System or to provide Cable Service to its Subscribers in substantial accordance with the terms of this Ordinance or any applicable rule or regulation, or materially breaches its Franchise Agreement, or materially violates this Ordinance or other law, ordinance, resolution, rule, or regulation, or practices any fraud or deceit upon the City or its Subscribers within the City, or fails to pay Franchise Fees, or if such Franchisee becomes insolvent, as adjudged by a court of competent jurisdiction, or is unwilling or unable to pay its uncontested debts, or is adjudged bankrupt, or seeks relief under the bankruptcy laws of the United States or any state, then the Franchise may be revoked.

(b) In the event the City believes that grounds for revocation exist or have existed, it may notify the affected Franchisee in writing, setting forth the facts on which such belief is grounded. If, within thirty (30) days following such written notification, the Franchisee has not furnished reasonably satisfactory evidence to the City that corrective action has been taken or is being actively and expeditiously pursued to completion, or that the alleged violations did not occur, or that the alleged violations were beyond the Franchisee's control, the City may call and give notice of a hearing, pursuant to the hearing requirements set forth in Section 20 of this Ordinance to consider revocation of the Franchisee's Franchise. If the City, following such hearing, finds that grounds for revocation exist, the Council may by resolution or ordinance duly adopted revoke for cause the Franchise granted to such Franchisee.

(c) In the event that the Franchise has been revoked, the City shall, to the extent then permitted by existing law, have the option to:

(i) acquire, at fair market value excluding any value attributable to the Franchise itself, all the assets of the Franchisee's System located within the City; or

(ii) require the sale, at fair market value excluding any value attributable to the Franchise itself, of all such assets of the Franchisee's System to another person; or

(iii) require the removal of all such assets from the City, at Franchisee's sole expense (or, if Franchisee fails to do so, the City may remove those assets at Franchise's sole expense); or

(iv) if such assets are abandoned or deemed abandoned under applicable law, succeed to ownership or title thereof.

Unless some later date is agreed to by the Franchisee, such option must be exercised by the City within one (1) year from the date of the revocation of the Franchise, or the entry of the final judgment by a court reviewing the question of the revocation, or the entry of a final order upon appeal of same, whichever is later. In any Franchise revocation proceeding, if the City and a Franchisee cannot agree upon the fair market value excluding any value attributable to the Franchise itself of the Franchisee's assets located within the City then the City and the Franchisee shall each at their own cost select a different independent appraiser (each of whom shall be an active member of and be certified by the Appraisal Institute or its successor) who shall each provide an appraisal of the value at issue. If the greater appraised value does not exceed the lesser appraised value by more than ten percent (10%) of such lesser value, then the two appraised values shall be averaged and the resultant value shall be binding upon the City and the Franchisee; if the greater appraised value exceeds the lesser appraised value by more than ten percent (10%), then the two previously chosen appraisers shall together choose a third independent appraiser, who shall have no knowledge of the prior appraised values, and who shall provide an appraisal of the value, which shall be binding upon the City and the Franchisee. Any valuation determined in accordance with the immediately foregoing procedures shall conclusively be deemed as an equitable price, as specified at 47 U.S.C. § 547.

(d) The revocation of a Franchisee's rights as set forth herein shall in no way affect any other rights the City may have under the Franchise with such Franchisee or under this Ordinance or any other provision of law or ordinance. Notwithstanding the pendency or culmination of any proceedings terminating a Franchise, the City may nonetheless by Council action extend for a period of not more than two (2) years beyond the proposed or actual date of termination the entitlement of the affected Franchisee to operate the Cable System, during which period all provisions of this Ordinance and the applicable Franchise Agreement shall govern such operations.

Section 20. Hearing Requirements for Matters Affecting Franchises.

Whenever a requirement is set forth herein for a public hearing or meeting to be called concerning any matter related to the evaluation, modification, renewal, revocation or termination of any Franchise issued pursuant to this Ordinance, such hearing or meeting shall not be held unless, in addition to any applicable notice requirements of Virginia law, the City shall have advised the Franchisee in writing, at least thirty (30) days prior to such hearing or meeting, and provided notice to the public as required by law. In addition, the City may require the affected Franchisee to, and when so required the Franchisee shall, give notice of such hearing, and any continuation thereof, by announcement on its Cable System in such manner, on such channels and at such times as both parties shall find to be reasonable under the circumstances. Any such hearing may be adjourned from time to time as legally permitted without further notice other than the announcement, at the time of adjournment, of the time and place of the continued hearing and such announcement, if any, as the City may require the Franchisee to make on its Cable System.

Section 21. Costs.

The City may require that each applicant for an initial, renewal, modification or transfer of a Franchise compensate the City for its direct, out of pocket costs incurred in the award of a Franchise hereunder, including the City's expenses incurred for special counsel or consultants retained to

assist it in such award. A bill for such costs as are then determinable may be presented to the Franchisee by the City upon the franchisee's filing of its acceptance of a Franchise hereunder, and if so presented shall be paid at that time, and such additional costs as are determined as payable by the City shall thereafter be paid within fourteen (14) days of presentment to the Franchisee.

Section 22. Open Video System Operation.

In the event that any person shall obtain certification from the FCC as an Open Video System ("OVS") operator and thereafter offer or continue to provide service within the City as an OVS operator, then all portions of this Ordinance which are, or may lawfully be, applicable under governing statute or regulation to OVS operators, including payment of required fees, which may otherwise be imposed upon cable television operators (including, without limitation, franchise fees), shall apply without interruption or abatement to such person except to the extent expressly prohibited by law or regulation.

Section 23. Severability.

(a) All terms and conditions of this Ordinance and any Franchise are subject to the rules and regulations of, and to any required approval of, federal and state agencies. If any provision of this Ordinance or any Franchise granted hereunder is held by any court or federal or state agency of competent jurisdiction to be invalid as conflicting with any federal or state law, rule or regulation now or hereafter to become in effect, or is held by such court or agency to be modified in any way in order to conform to the requirement of any such law, rule or regulation, such provision shall be considered a separate, distinct and independent part of this Ordinance or the Franchise, and such holding shall not affect the validity and enforceability of any other provisions of this Ordinance or the Franchise.

(b) Notwithstanding the foregoing, if any part of this Ordinance or any Franchise is found to be invalid by the FCC or any court of competent jurisdiction, then the parties shall renegotiate such part to preserve, to the extent permitted by law, the benefit of the parties' original bargain. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision hereof which had been held invalid or modified is no longer in conflict with the law, rules, and regulations then in effect, said provision shall thereupon return immediately to full force and effect, at the option of the City.

Section 24 Acceptance of Franchise.

No Franchise shall be deemed as granted or renewed pursuant to this Ordinance unless such grant or renewal be approved by the Council and, within fourteen (14) days after its receipt of a Franchise provided by the City, the applicant therefor acknowledges its acceptance of the provisions of this Ordinance and accepts and executes the Franchise, files such acknowledgement, acceptance and agreement with the City, and provides payment of all sums due hereunder and submits all documentation required hereunder.

Section 25. Franchisee to Abide by Applicable Laws.

By accepting a Franchise and executing a Franchise Agreement, a Franchisee agrees that it will abide by all applicable federal, state and local laws, rules and regulations.

Section 26. Repeal of Prior Inconsistent Ordinances and Resolutions.

All prior ordinances or resolutions or parts thereof concerning cable television that are inconsistent with or contravene this Ordinance or any Franchise granted thereunder are hereby repealed as of the effective date of this Ordinance.

Section 27. Second Reading Dispensed With.

Pursuant to Section 12 of the Roanoke City Charter, the second reading of this Ordinance by title paragraph is hereby dispensed with.

Section 28. Effective Date.

The effective date of this Ordinance shall be October 31, 2003.

Appendix A: FCC Customer Service Standards 47 C.F.R. § 76.309.

ATTEST:

CITY CLERK.

APPENDIX A

FCC CUSTOMER SERVICE STANDARDS

47 C.F.R. §76.309

76.309 Customer service obligations

(a) A cable franchise authority may enforce the customer service standards set forth in section (c) of this rule against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in section (c) of this rule;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in section (c) of this rule and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by, the standards set forth in section (c) of this rule.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability.

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards

shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers.

(i) Refunds. Refund checks will be issued promptly, but no later than either-

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(ii) Credits. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions.

(i) Normal Business Hours. The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

(ii) Normal Operating Conditions. The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) Service Interruption. The term "service interruption" means the loss of picture or sound on one or more cable channels.

WALIB:93509.1\116251-00001

D.T.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE approving and authorizing the execution of a Cable Television Franchise Agreement by and between the City of Roanoke, Virginia and CoxCom, Inc., d/b/a Cox Communications Roanoke; and dispensing with the second reading by title of this ordinance.

WHEREAS, by Agreement dated May 1, 1991, the City entered into a Cable Television Franchise Agreement for a term of 12 years with Cox Cable Roanoke, Inc., predecessor in interest to CoxCom, Inc., d/b/a Cox Communications Roanoke (Cox), which was authorized by Ordinance No. 30479-42291;

WHEREAS, representatives of the City, along with representatives of Roanoke County and the Town of Vinton, have been negotiating a renewal agreement with Cox;

WHEREAS, on April 21, 2003, by Ordinance No. 36290-042103, City Council extended the 1991 Cable Television Franchise Agreement for six months, until October 31, 2003, to allow the renewal negotiations to be completed;

WHEREAS, such negotiations have been completed and a Cable Television Franchise Agreement acceptable to the City of Roanoke, and also to Roanoke County and the Town of Vinton, has been reached, subject to approval by City Council;

WHEREAS, a public hearing was held on this matter and on the City's adoption of a revised Cable Television Franchise Ordinance on October 6, 2003, at which public hearing citizens and parties in interest were afforded an opportunity to be heard on such matters; and

WHEREAS, City Council has previously adopted a revised Cable Television Franchise Ordinance that becomes effective on October 31, 2003.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. City Council hereby approves the terms of the Cable Television Franchise Agreement attached to the City Manager's letter to Council dated October 6, 2003.

2. The City Manager is authorized to execute, on behalf of the City, a Cable Television Franchise Agreement by and between the City and CoxCom, Inc., d/b/a Cox Communications Roanoke in a form substantially similar to the one attached to the above mentioned City Manager's letter, and in a form approved by the City Attorney. Such Agreement will provide for a term of 15 years, from November 1, 2003 through October 31, 2018, a Franchise Fee Payment to the City of 5% of Cox's gross revenues, a capital grant for educational and/or governmental access equipment and facilities for allocation among the City, Roanoke County and the Town of Vinton in the total amount of $1,150,000.00 to be paid in accordance with the schedule set forth in the Agreement mentioned above, and such other terms and conditions as are deemed to be in the best interest of the City of Roanoke.

3. The City Manager is further authorized to take such further actions and execute such additional documents as may be necessary to implement and administer such Cable Television Franchise Agreement.

4. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

CITY OF ROANOKE

INTERDEPARTMENTAL COMMUNICATION

TO: Mary F. Parker, City Clerk

FROM: Beryl Y. Brooks, General Registrar

DATE: September 29, 2003

SUBJCT: Emergency Change of Polling Place

Due to construction/renovations, it has become necessary to move our Highland #1 precinct, located at the Jefferson Hall Gym, to the Jefferson Center.

Normally Section 24.2-306, which prohibits us from moving a polling place 60 days before an election and without prior approval of the Justice Department, would be in affect. Due to the reason for the change the time constraints cannot be met and it is necessary to handle this temporary change as an emergency change of polling place. Under Section 24.2-310D in the event of an emergency situation, the Electoral Board is required to find a new location with prior approval of the State Board of Elections.

We are requesting that this matter be brought before City Council at the October 6, 2003 meeting. The law requires that I notify the public of any change, no later than 15 days prior to election. Although I am still required to submit for expedited approval from the Justice Department, I have to proceed with the move as approved by State Board.

Thank you, for your cooperation and if you have questions or suggestions, please call me at X1037.

BYB:

cc: Carl T. Tinsley, Sr., Secretary
Roanoke City Electoral Board

CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

October 6, 2003

The Honorable Mayor
and Members of City Council
Roanoke, Virginia

Dear Mayor and Members of Council:

I would like to sponsor a request from Beryl Brooks, General Registrar, in which she will be requesting City Council to approve the emergency change of a polling place for the November elections at the regular meeting of City Council on Monday, October 6, 2003.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB:sm

c: City Attorney
Director of Finance
City Clerk

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE temporarily changing the polling place for Highland Precinct No. 1 from the Jefferson Hall Gym, at 540 Church Avenue, S. W., to Room 105, Jefferson Center, at 541 Luck Avenue, S. W.; and dispensing with the second reading by title paragraph of this ordinance.

WHEREAS, the Jefferson Hall Gym, at 540 Church Avenue, S. W., the present location of the polling place for Highland Precinct No. 1, is undergoing extensive renovation;

WHEREAS, by Resolution adopted October 1, 2003, the Roanoke City Electoral Board has recommended the establishment of a temporary polling place for Highland Precinct No. 1 at Room 105, Jefferson Center, at 541 Luck Avenue, S. W., and such temporary polling place is located within such precinct as required by §24.2-310, Code of Virginia (1950), as amended; and

WHEREAS, the Electoral Board has given notice of such emergency relocation of this polling place to the State Board of Elections and has obtained approval of such change from the Board pursuant to §24.2-310.D., Code of Virginia (1950), as amended, and the Electoral Board will give notice of this change in polling place by mail to all registered voters in the Highland Precinct No. 1 at least fifteen (15) days prior to the November 4, 2003,

General Election, and public notice of such change, pursuant to §24.2-306, Code of Virginia (1950), as amended;

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. Notwithstanding §10-18, Code of the City of Roanoke (1979), as amended, the polling place for Highland Precinct No. 1 shall be relocated temporarily from the Jefferson Hall Gym, at 540 Church Avenue, S. W., to Room 105, Jefferson Center, at 541 Luck Avenue, S. W., for the November 4, 2003, General Election.

2. The City Clerk is directed to forward attested copies of this ordinance to Beryl Y. Brooks, General Registrar, so that notice of this change in polling place can be mailed to all registered voters of Highland Precinct No. 1, and to the Chief, Voting Section, Civil Rights Division, United States Department of Justice.

3. Pursuant to §12 of the Roanoke Charter, the second reading of this ordinance by title paragraph is hereby dispensed with.

ATTEST:

City Clerk.

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5.b.

ATTEN: MRS PARKER

THE MARKET BUILDING TENANTS ASSOCIATION ASK to ADDRESS COUNCIL at the Oct. 6th, 2003. MEETING. EUGENE FULL AND OTHER CONCERNED TENANTS WISH to ADDRESS COUNCILS POSITION ON NATIONAL CHAINS LEASING IN the HISTORIC CITY MARKET BUILDING.

CITY OF ROANOKE

CITY COUNCIL
215 Church Avenue, S.W.
Noel C. Taylor Municipal Building, Room 456
Roanoke, Virginia 24011-1536
Telephone: (540) 853-2541
Fax: (540) 853-1145

RALPH K. SMITH
Mayor

Council Members:
William D. Bestpitch
M. Rupert Cutler
Alfred T. Dowe, Jr.
Beverly T. Fitzpatrick, Jr.
C. Nelson Harris
Linda F. Wyatt

October 6, 2003

The Honorable Vice-Mayor and Members
of the Roanoke City Council
Roanoke, Virginia

Dear Members of Council:

We jointly sponsor a request of Eugene Full, representing the Market Building Tenants Association, with regard to national chains leasing space in the City Market Building at the regular meeting of City Council on Monday, October 6, 2003, at 2:00 p.m.

Sincerely,

Ralph K. Smith
Mayor

M. Rupert Cutler
Council Member

RKS:LFW:sm

pc: Darlene L. Burcham, City Manager

CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
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October 6, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: 2003 Regional Wastewater Collection and Treatment Contract

The existing 1994 Wastewater Agreement among the City of Roanoke and four area jurisdictions, Roanoke County, City of Salem, Town of Vinton, and Botetourt County has been substantially updated and revised to reflect an agreed upon cost sharing formula for the 2003 Wet Weather Improvements at the Water Pollution Control Plant. This revision was necessary in that the existing contract terms require separate negotiation of cost sharing of each major capital improvement. After some discussion, costs for the project were determined based upon existing capacity allocations.

A number of other changes were desired by all parties including a different method of metering the City's flow contribution to the WPC Plant and revised rate calculations for monthly flow charges. To address ongoing maintenance needs, all parties will make payments, based upon flow allocation, into a capital fund. This fund will allow plant staff to plan improvements over multiple years while relieving budget uncertainty for the partner jurisdictions.

The proposed Contract is attached as Attachment 1. The remaining term of the original contract, approximately 30 years, is being preserved.

Recommended Action:

Authorize the Mayor to execute the 2003 Regional Wastewater Collection and Treatment Contract on behalf of the City in a form substantially similar to Attachment 1, and authorize the City Manager to take such further action and

execute such other documents as may be necessary to implement and administer such Contract; all such documents to be approved as to form by the City Attorney.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB/mtm

c: Jesse A. Hall, Director of Finance
William M. Hackworth, City Attorney
Mary F. Parker, City Clerk
George C. Snead, Jr., Assistant City Manager for Operations
Michael McEvoy, Director of Utilities
Ann H. Shawver, Deputy Director of Finance
Scott Shirley, WPC Manager

CM03-00186

2003 REGIONAL WASTEWATER COLLECTION AND TREATMENT CONTRACT

THIS CONTRACT, made and entered into this 1st day of November, 2003, by and between the **CITY OF ROANOKE**, hereinafter referred to as the "City"; the **COUNTY OF BOTETOURT**, the **COUNTY OF ROANOKE**, the **CITY OF SALEM**, and the **TOWN OF VINTON**, hereafter collectively referred to as the "Other Parties" (all parties being political subdivisions of the Commonwealth of Virginia);

W I T N E S S E T H:

WHEREAS, the City of Roanoke operates within and without its boundaries a wastewater treatment plant (the Plant) with a system of joint use interceptors (JUIs) and interceptors other than JUIs (the System) leading therefrom providing service within the City's corporate limits and to certain points beyond said corporate limits which Plant, JUIs and System are capable of collecting and treating wastewater which otherwise would be discharged into the waters of the Roanoke River and its tributaries; and

WHEREAS, it is the desire of the parties to protect the health and well-being of their citizens, the community and its environment, and to dispose of the wastewater of the community in a safe and efficient manner sharing costs and benefits fairly; and

WHEREAS, the parties entered into an agreement dated November 1, 1994, and an amendment to the agreement dated January 31, 1997 (collectively "the 1994 Agreement") for use of the Plant and Joint Use Interceptors as a regional facility to accept, transport and treat certain of the wastewater originating in areas outside the City's corporate limits; and

WHEREAS, it is now necessary to upgrade and expand the present Plant by completing the 2003 Wet Weather Improvements Project (2003 WWIP); and

WHEREAS, the parties believe that the continuation of the transportation to and the treatment of such wastewater originating in the areas provided for in this Agreement at the Plant are to the advantage of all parties; and

WHEREAS, the parties wish to supplant and replace the 1994 Agreement and to incorporate herein all of their mutual obligations for the capital funding, operation, maintenance, capacity allocation, and other needs of the Plant, JUIs, and System (insofar as the System serves the needs of one or more of the Other Parties);

THEREFORE, FOR AND IN CONSIDERATION of the premises and of the covenants and obligations herein contained, the parties hereto covenant and agree, one with the other, as follows:

I. DEFINITIONS:

The parties agree that the following words, items and abbreviations as used in this Agreement shall have the following defined meanings:

A. Agreement: This agreement, which is designated as the 2003 Regional Wastewater Collection and Treatment Contract.

B. Area of Botetourt County: All of the area or territory of Botetourt County, Virginia, situate within the natural drainage basin of the Roanoke River and its tributaries and including the territory of the Town of Troutville, and its environs along with the associated regions of the County whose drainage may be pumped into the Roanoke River basin as determined in the judgment of Botetourt County;

Area of City of Roanoke: All of the incorporated area or territory of the City of Roanoke, Virginia.

Area of Roanoke County: All of the unincorporated area or territory of Roanoke County, Virginia not assigned as the service area of the Town of Vinton; and not served by the Montgomery County Public Service Authority.

Area of City of Salem: All of the incorporated area or territory of the City of Salem, Virginia.

Area of the Town of Vinton: All of the incorporated area or territory of the Town of Vinton and those portions of eastern Roanoke County that are served by the Town of Vinton, pursuant to an agreement between Roanoke County and the Town of Vinton dated May 25, 1979.

Areas: All of the above-defined individual Areas, taken collectively.

C. **City**: The City of Roanoke, Virginia, or its assigns.

D. **b.o.d. or b.o.d. content**: the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in parts per million by weight.

E. **Fiscal Year**: July 1 of each year to June 30 of each succeeding year.

F. **Flow Contribution from Unmetered Areas**: Estimated flows from unmetered areas of a party will be established by multiplying the party's total gallons of monthly metered water sales in unmetered areas by the ratio of the City of Salem's metered wastewater flow to the City of Salem's metered water sales as established annually by taking the average of the ratios for the immediately preceding three fiscal years, and as further illustrated in Appendix A.

G. Industrial Wastewater: wastewater delivered through the sanitary sewer system, other than Normal Wastewater, which exceeds, at the point of discharge to the sanitary sewer, 300 p.p.m. b.o.d. or 300 mg/L suspended solids, or 30 mg/L nitrogen as total nitrogen, or 3 mg/L phosphorous, or as otherwise defined by State and Federal agencies with regulatory authority over the Plant and JUIs.

H. Infiltration/Inflow (I/I) Allowance: In order to allocate I/I in the JUIs, an estimated quantity of I/I as shown in the following table shall be added to each party's Metered Flow based on the percentage of its total capacity in each segment of the JUIs, as shown and illustrated in Appendix B:

November 1, 2003 until June 30, 2008	100 gpd/in-mile
July 1, 2008 until June 30, 2013	125 gpd/in-mile
July 1, 2013 until June 30, 2018	150 gpd/in-mile
July 1, 2018 until June 30, 2023	175 gpd/in-mile
July 1, 2023 until June 30, 2028	200 gpd/in-mile
July 1, 2028 until June 30, 2033	225 gpd/in-mile
Any additional years	250 gpd/in-mile

The City shall receive a deduction, calculated as above, from its Metered Flow for any JUI segment upstream from a City-installed flow meter, as illustrated in Appendix C.

I. Joint Use Interceptors (JUIs): the portion of the Roanoke River Interceptor which is located within the City's corporate limits, and the Tinker Creek Interceptor downstream from U.S. Route 460 used jointly by the City and all or some of

the Other Parties in connection with the transmission or treatment of wastes subject to this Agreement.

J. **Metered Flow**: The flow recorded on the flow meters of a party plus that party's Flow Contribution from Unmetered Areas.

K. **mg/L**: milligrams per liter.

L. **Normal Wastewater**: wastewater delivered through the sanitary sewer system, with a strength content not exceeding 300 p.p.m. b.o.d. nor 300 mg/L suspended solids, nor 30 mg/L nitrogen as total nitrogen, nor 3 mg/L phosphorous and not containing those materials expressly excluded in Subsection III(A) of the Agreement.

M. **Objectionable Material**: any substance in Wastewater which may damage, obstruct or create a maintenance problem within the System, Plant or JUIs which could reasonably be expected to upset or create an unusual cost in the treatment process, or which is in violation of the Code of the City of Roanoke (1979), as amended (the "City Code").

N. **Other Parties**: County of Botetourt, County of Roanoke, City of Salem, and Town of Vinton, collectively, or their assigns.

O. **Person**: any individual, firm, company, association, corporation, or entity, including public agencies.

P. **pH**: the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution; a stabilized pH will be considered as one which does not change beyond the specified limits when the waste is subjected to aeration.

Q. **Plant**: the water pollution control plant and immediately related treatment facilities owned and operated by the City.

R. **Plant Capacity**: the plant capacity as permitted by DEQ.

S. **p.p.m.**: part(s) per million.

T. **Responsible Party**: the governing body responsible for the relevant Area.

U. **Suspended Solids**: solids measured in mg/L that either float on the surface of, or are in suspension in water, sewage, wastewater or other liquids, and which are removable largely by a laboratory filtration device.

V. **System**: the system of interceptors, other than the JUIs, within the corporate limits of the City.

W. **Total Plant Flow**: The sum of the Metered Flows plus the I/I Allowances for all parties for a given reporting period, as illustrated in Appendix D.

X. **Wastewater**: any effluent delivered to the JUIs or the System.

II. SCOPE:

A. This Agreement may apply to the area or territory of any incorporated town or unincorporated town in a defined Area.

It is agreed and understood by the parties that the City has and reserves the right to enter into separate contracts or agreements with persons, firms or corporations, private or governmental, in any of the Areas for the purpose of collecting and receiving Wastewater for treatment, should the Responsible Party be unwilling or unable to provide such service and so indicate by duly adopted resolution of its governing body requesting extension of City service.

B. The Other Parties agree to deliver all of the Normal Wastewater and acceptable Industrial Wastewater originating within the Areas to an existing or subsequently installed Joint Use Interceptor with adequate capacity. Each Responsible Party shall provide the City with data and information sufficient to enable the City to evaluate the circumstances and requirements of every flow proposed for delivery to the City at any point. The data and information shall be complete, accurate and projected for future conditions. Should the Responsible Party's data and information subsequently be found inaccurate or should the characteristics, extent or circumstance of flow be found at variance with such representations, the City may require the Responsible Party to limit or control such delivery to conform with the data and information provided. The City shall be obligated to receive flow from each of the Other Parties in quantity only to the allocated design capacity of the System or JUIs receiving such flow and the allocated design capacity of its Plant. Each of the Other Parties shall have the right to evaluate the capacities of the System or JUIs receiving such flow. In cases of dispute over line capacity, an engineer representing the City and one engineer representing the party or parties disputing the capacity, together with a third engineer selected by the other two engineers shall resolve the capacity in dispute by a majority vote. The fees of the third engineer shall be divided equally between the parties involved in the dispute.

The delivery points to the City shall be determined by the City based upon reasonable criteria established by the City, and any disputes shall be resolved as above.

The City agrees to accept, at such point or points, all of the Normal Wastewater and acceptable Industrial Wastewater from the Areas and to transport the

same therefrom, through its System or JUIs, to the Plant, and to accept and treat all such wastewater in the Plant to the same extent and degree that it shall accept and treat wastewater originating within the City. Such treatment shall be the exclusive responsibility of the City. No Normal Wastewater or acceptable Industrial Wastewater shall be discharged from within the Areas directly or indirectly to a stream except as may be permitted from time to time by the Virginia Department of Environmental Quality (DEQ), or its successor. All Normal Wastewater and acceptable Industrial Wastewater treated at the Plant, including Wastewater originating in the Areas, shall be the property of the City.

C. All facilities necessary for the collection of Wastewater within the Areas and the transport to the delivery points shall be provided and maintained by the Responsible Party without cost to the City, except as otherwise expressly provided in this Agreement.

All Wastewater from the Areas which are delivered or transmitted to the System or JUIs and/or the Plant shall be continuously metered by recording flow meters for the purpose of accurate measurement and recordation of volume discharges. Such meter or meters are to be installed by the Responsible Party at reasonable locations at or immediately near their boundaries as follows:

1. Should the Responsible Party connect, by its interceptor or interceptors, directly to an interceptor or interceptors of the City at or near the Responsible Party's boundaries, then a meter shall be installed at each point of connection for determination of flows received by the City.

2. Should the Responsible Party extend by interceptor or interceptors from its boundaries directly to connect with the City's sewer lines at the City's boundaries, then the meter or meters shall be installed at the other Responsible Party's boundaries and a determination as to the requirement of a meter or meters at the connections to the lines within the City's boundaries shall be made at a later time dependent upon the progress of connections.

3. Should the Responsible Party transmit Wastewater from its Area by transmission lines or facilities external to this Agreement by arrangement satisfactorily made between all parties concerned and consistent with existing related contractual agreements of the City, then the metering, sampling and other installations at the boundaries of the Responsible Party shall be provided by the other party for measurement of Wastewater transmitted from its Area.

Where meters are determined by the party receiving the Wastewater to be inadequate in operation, performance or in size, the party making the determination may replace or direct the owner of the meter to replace such meters with satisfactory meters. Upon being billed by the party making the determination, the owner shall reimburse the replacing party for any expense incurred by the replacing party in purchasing, providing, installing and maintaining each meter and necessary related equipment. Upon termination of this Agreement or upon discontinuance of the use of a metered sewer line, any meter or meters installed or maintained pursuant to this Section will be the property of the party within whose Area the meter is located. Disputes arising

under this paragraph shall be resolved in accordance with the process established in Subsection II(B).

The City and Roanoke County shall install adequate recording flow meters for all unmetered areas within their respective Areas by no later than July 1, 2005. By July 1, 2004, the City and Roanoke County shall provide the Other Parties with a flow meter implementation plan for approval by the Other Parties, which approval shall not be unreasonably withheld. The plan shall include, at a minimum, the proposed location of each flow meter necessary to record flow for all currently existing unmetered areas, the proposed installation date for each such flow meter, and the brand, type and relevant specifications for each such flow meter proposed to be installed.

Should one or more parties fail to approve the City's and Roanoke County's flow meter implementation plan, the disputed portions of the plan shall be resolved in accordance with the process established in Subsection II(B). The reasons supporting a party's objection to the plan shall be specified in writing. If no objection has been filed in writing within 90 days of the submission of the plan, the plan shall be deemed approved.

It is recognized that in order to meter Wastewater flow in a line there must be a sufficient quantity consistently in the line for the metering device to register accurately and that there may be locations where the number of connections to the line and subsequent wastewater flows would render metering impractical. If the service area of any line is of such characteristic that the operation and functioning of metering equipment would be impractical, flow quantities in such line shall be determined in such other manner as may be agreed upon between the appropriate Responsible Parties.

Determination of flow quantities shall include but not be limited to Infiltration/Inflow and other factors known or reasonably expected to exist. Notwithstanding the foregoing, should the Area served by such line also have metered water service, the Wastewater flow shall be considered Flow Contributions from Unmetered Areas and shall be estimated in accordance with Subsection I(E) of this Agreement. If the service area characteristics change for any such line so as to render metering practical, a meter shall be installed in accordance with the provisions of the preceding paragraph.

As of the first working day of the month, or as close thereto as practical, immediately following the commencement of transmission of Wastewater from an Area to the City, and monthly thereafter, the City shall read the Metered Flow from the Area to the City. The Metered Flow, plus the I/I Allowance, shall be the basis of charges made to the Responsible Parties under Section IV of this Agreement. Should weather conditions, malfunctioning of a meter or other circumstances beyond immediate remedy by the City (or other Responsible Party) reasonably prohibit the City from a regular reading of a meter, then the Wastewater flow through such line for the month shall be the average of the Wastewater flow for the three immediately preceding months with similar rainfall patterns, as determined by the City, wherein actual Wastewater flows were recorded. Records of Metered Flow, obtained and maintained by the City shall be reported to the Responsible Party and such records shall be available for inspection by the Other Parties during all normal business hours. Any dispute over such a Wastewater flow determined by the City shall be resolved as provided for disputes in Subsection II(B).

The City may provide, install and maintain, or at the City's written request to a Responsible Party, the Responsible Party shall provide, install and maintain a by-pass connection around each such meter, for emergency use only, by the City. The City may install and maintain, or at the City's written request to the Responsible Party, the Responsible Party shall provide, install and maintain manually or automatically operated facilities for taking samples at each metering place or at any point of delivery of that party's Wastewater. The Responsible Party shall reimburse the City for any and all expenses incurred by the City in installing any by-pass connections and sampling facilities, upon being billed therefor by the City.

All charges or expenses billed by the City to the Other Parties under this Subsection C shall be based on then current reasonable costs of standard equipment, and installation and maintenance thereof. Any dispute concerning equipment requirements or costs thereof, shall be resolved as provided for disputes in Subsection II(B). All such charges and expenses billed by the City shall be paid by the Responsible Party within 30 days.

D. It is expressly understood and agreed between the parties hereto that the City, by this Agreement, undertakes and obligates itself to treat Normal Wastewater and acceptable Industrial Wastewater originating only within the Areas, and that the charges hereinafter provided for are charges to the Other Parties for services arising under this Agreement. Accordingly, the Other Parties agree that they will not, without prior approval of the City expressed in the form of a resolution or ordinance of its governing body, deliver to the City under the terms and at the charges provided for in this Agreement any Wastewater originating outside the limits of the Areas.

III. CHARACTER OF WASTEWATER:

A. Except as provided in Subsection III(B), the Other Parties agree to take whatever measures are necessary to deliver only Normal Wastewater to the Plant, JUIs and, when applicable, the System. The Other Parties agree that the Wastewater as so delivered, shall comply with all requirements and limitations as set forth in the City Code current at the time and shall not contain any elements or concentrations in violation of any local, State or Federal statute, law, regulation, ordinance, or other legal requirement. The Other Parties expressly agree that the definition of Normal Wastewater may be amended should the City, as the owner and operator of the Plant, be required to upgrade the Wastewater treatment process or be ordered or compelled by State or federal regulatory authorities to modify the quality of effluent discharged by the Plant into the waters of the Roanoke River, provided that the City applies and enforces the same definition of Wastewater permitted to be introduced into its Plant or System within the corporate limits of the City. The City agrees that the above limitations or restrictions on character of Wastewater shall also be applicable to Wastewater collected by the City and delivered to the Plant. The City agrees to notify the Other Parties of any changes in the City Code relating to the Plant, the JUIs or the System.

Should the City determine that one or more of the Other Parties are delivering Objectionable Materials to the Plant, JUIs and/or System, the City, through its City Manager, shall notify the Responsible Party by certified mail with return receipt, through its chief administrative officer, of such fact. Upon being so notified, the Responsible Party agrees to immediately eliminate delivery of such Objectionable Material to the Plant, JUIs and/or System. If the City determines that the Responsible

Party has been notified of such fact and has not immediately eliminated delivery of such Objectionable Materials, then the City shall have the right to take whatever action it deems necessary to secure compliance with the Agreement. The Responsible Party shall be liable to the City for any damage resulting to the Plant, JUIs and/or System arising out of or resulting from the Responsible Party's delivery to the Plant, JUIs and/or the System of any such Objectionable Material.

The parties agree that they will use reasonable efforts to prohibit and terminate any and all connections for rain or foundation drains or for storm or surface water disposal made to the sanitary sewer system, or any other connection to the sanitary sewer system which allows rain, storm or surface waters to be introduced into the sanitary sewer system, within their service Areas or to their sewer lines. The parties further agree that they will make every reasonable effort to ensure that Wastewater does not contain introduced storm or surface waters.

B. The City shall accept at any point of delivery for transmission and treatment at the Plant certain Industrial Wastewater, not containing Objectionable Materials (hereinafter "acceptable Industrial Wastewater"), pursuant to the provisions of the City's Sewer Use Ordinance and any industrial pre-treatment agreements made by the City or any of the Other Parties. Such acceptable Industrial Wastewater shall in no event exceed a maximum of 1,000 p.p.m. b.o.d. or 1,000 mg/L Suspended Solids or containing such other concentrations of constituents in violation of the then prevailing City Sewer Use Ordinance. The Responsible Party shall pay the City a surcharge for the treatment of other than Normal Wastewater, beyond the Base Monthly Rate as provided in Section IV.

C. Each Other Party expressly agrees to adopt, maintain and enforce within its respective Area compulsory ordinances, no less regulatory or restrictive than ordinances effective within the City, regulating, limiting or prohibiting the introduction of substances, matter or materials which are objectionable, either as to quality or quantity, into such Other Party's system, the System, JUIs, and Plant.

IV. CHARGES FOR WASTEWATER TRANSMISSION AND TREATMENT SERVICE:

The Other Parties agree to pay the City the following charges for transmitting and treating their Normal Wastewater and acceptable Industrial Wastewater. Wastewater is to be measured at each point of delivery from the Areas. No part of such charges shall constitute or create an equity or ownership interest of the Other Parties in the value of the Plant, JUIs, or System.

A. The annual rates for transmission and treatment of Normal Wastewater and acceptable Industrial Wastewater from the Areas shall be set for each Fiscal Year based on the external annual audit. The Base Monthly Rate for Normal Wastewater and acceptable Industrial Wastewater per one million gallons of such Wastewater accepted for transmission and treatment shall be determined by the method set out in Subsections B, C, D, and E below.

B. On July 1, 2003 and on July 1st of each Fiscal Year thereafter, the Base Monthly Rate shall be determined for such Fiscal Year for accepting, transporting and treating Wastewater. The Base Monthly Rate shall be the amount of the "total cost to the City" for all Wastewater transmission and treatment for the previous Fiscal Year divided by the average Total Plant Flow over the three previous Fiscal Years. The Base

Monthly Rate shall be multiplied by the monthly Metered Flow plus the I/I Allowance of the Other Parties to determine the Other Parties' unadjusted monthly charge.

The phrase "total cost to the City" for purposes of this Agreement is defined to be the sum of:

1. All expenses of the City for its ownership, operation and maintenance (as defined below) of the Joint Use Interceptors and Plant and all other jointly used sewers, including payment of Capital Expenditures Which Exceed Balance of Capital Reserve Fund (as defined below); and

2. An annual increment equal to the average percentage increase or decrease, respectively, of the items enumerated in Subsection IV(B)(1) for the two years immediately preceding.

3. For the purpose of determining the "total cost to the City", the following definitions shall apply:

> **a. *Operation and Maintenance***: Actual cost of operation and maintenance of the Plant and JUIs, excluding the cost of the City's enforcement of the industrial pretreatment program within the City, and including, but not limited to the following items of cost: personal services, stationery and office supplies and equipment, postage, telephone, other communications, insurance and bond premiums, automotive, travel, supplies, fuel, electricity, water, repairs, workers' compensation costs, management, engineering, legal, treasury, accounting, employees' retirement, hospitalization and social security as paid by the City and miscellaneous expense. The above expenses shall be reduced by revenues received by the City during the year from (1) the sale of waste products of the Plant, and (2) the surcharge fees collected by the City and those provided the City by the Other Parties and (3) expenses for maintenance and construction costs of sewer lines solely owned and used by the City, to determine expenses of operation and maintenance.
>
> **b. *Capital Expenditures Which Exceed Balance of Capital Reserve Fund***: Capital Expenditures on the Plant shall be determined and communicated to the Other Parties annually for

each Fiscal Year by the City. To the extent that such expenditures exceed the fund balance of the Capital Reserve Fund established herein, and are funded from retained earnings, they shall be considered a component of "total cost to the City." If such excess expenditures exceed $500,000 in 2003 dollars adjusted annually by the Engineering News Record Construction Cost Index, the City may elect to make an adjustment to the then prevailing rate by recalculating the current Fiscal Year rate as if the excess expenditure had occurred the preceding Fiscal Year with the adjusted rate calculated to recover the necessary expenditure during the remaining months of the Fiscal Year. If the costs exceed $1,000,000 for a single excess expenditure or exceeds $2,000,000 for cumulative excess expenditures (in 2003 dollars) adjusted by the Engineering News Record Construction Cost Index in any one year, these costs shall be capitalized over ten (10) years at the prevailing "20 year-Bond" Municipal General Obligation Index as published weekly by ***The Bond Buyer*** in effect at the end of the previous Fiscal Year, plus 1%, said rate to remain fixed over the 10-year term, with the cost expressed as debt principal and interest added to the cost calculation formula.

The foregoing notwithstanding, the Other Parties, at their option, may elect to pay their portion of such excess capital expenditures without interest, within 30 days of being billed therefor.

4. The City will provide the Other Parties with an annual audited report of its costs incurred pursuant to Subsection IV(B)(3). The City will also provide quarterly an unaudited report of such costs.

C. The parties agree to apply all treatment surcharge costs collected within their respective Areas and surcharges collected as set forth in Subsections III(C) and IV(E) to the cost of treatment at the Plant. The surcharge costs shall be excluded from the "total cost to the City" and shall be a separate monthly payment to the City made as applicable by each of the Other Parties according to such Other Parties' own billings and collections records.

As an adjustment to the cost-sharing of the 1994 Plant Improvement Project, the City agrees to reimburse the Other Parties by paying or crediting (as provided herein) $1,516,000 apportioned as follows:

Roanoke County	$706,456
City of Salem	504,828
Town of Vinton	134,924
Botetourt County	169,792

The indicated amounts shall be paid or credited, without interest, by the City to each of the Other Parties in five equal monthly installments, beginning the month following the month that construction begins on the 2003 Wet Weather Improvement Project. The City may make such payments by crediting the same against each of the Other Parties' monthly bill for cost-sharing on the 2003 WWIP. If the amount owed by the City to one or more of the Other Parties hereunder exceeds a jurisdiction's monthly bill for cost-sharing, then the excess credit may be carried over to the next month, and so on, until the fifth month when each of the Other Parties share of the $1,516,000 shall be paid or credited in full.

Non-routine maintenance expenses for the JUIs will be apportioned to the benefiting parties according to their allocated capacities in the JUIs. Such expenses shall include all repairs necessitating the use of heavy construction equipment or the employment of a private contractor.

D. In any month during any Fiscal Year during which additional treatment costs are incurred by the City due to the need for or requirement of additional treatment or handling, either due to quality or quantity of Wastewater, the charge to the

Other Parties per million gallons for that month shall be adjusted by addition of such additional cost to the City based on actual monthly flow.

E. Should the strength of the Wastewater at any point of delivery to the City, or at the point of delivery to another party for delivery to the City, exceed a b.o.d. of 300 p.p.m. or Suspended Solids of 300 mg/L, as determined by the City through metering and sampling, then the Responsible Party agrees to pay to the City a surcharge in addition to the Base Monthly Rate for Normal Wastewater. Such surcharge shall be the actual cost, but not less than two percent (2%) of the Base Monthly Rate for each ten (10), p.p.m. of b.o.d. or 10 mg/L of Suspended Solids, or each fraction thereof, for the transportation and treatment of such Wastewater, within the limits set forth in Subsection III(C). The Responsible Party shall continue to pay the surcharge until such Wastewater is determined by sampling to have been reduced to the limits of Normal Wastewater. The frequency of sampling to be required for determination of the above such reduction shall be set by the City on a reasonable basis. Persistent excesses may be subject to a regular schedule of sampling. Intermittent excesses may be subjected to special and frequent sampling. The minimum period of time to which the surcharge shall be applicable shall be fifteen (15) days. The cost of the sampling shall be paid by the Responsible Party.

F. The Other Parties recognize that it would be unfair that the City be required to transport and treat such Wastewater for any period during the term of this Agreement at a rate that would enable any user within the Areas to pay less for such service than paid by City users for similar services. Therefore, the Other Parties agree

that the periodic base rate charge collected from individual users in the Areas shall at no time be less than that paid by residents of the City for similar services.

G. The City agrees to render each Other Party a monthly bill for the proper amount owed by each of them, respectively, to the City for the City's Wastewater treatment service. Each Other Party agrees to pay the bill within 30 calendar days from the receipt thereof. Payments in arrears shall be subject to the legal rate of interest as then currently provided in §6.1-330.53 of the Code of Virginia (1950), as amended, or the prime rate as published in the Wall Street Journal plus one percent, whichever is less.

The Other Parties agree that the full amounts of any and all taxes and assessments that may be lawfully assessed or imposed upon the City during the term of this Agreement by the Other Parties resulting in any manner whatsoever because of the City's providing the services required by this Agreement shall, prior to the payment dates, be added to such monthly bill and paid by each of the Other Parties as billed.

H. Should any issues or disputes arise between the City and one or more of the Other Parties relating to the accuracy or the computation of the charges, resolution of such issues or disputes shall be determined by a majority vote of a committee of three, composed of one representative of the City, one representative of the other party or parties, and an independent certified public accountant, to be chosen by the foregoing two. Any expenses incurred in hiring the independent certified public accountant shall be borne equally by the City and each of the disputing party(s).

I. Nothing in this Section IV and in Section VII shall be deemed or construed to constitute an assumption by the Other Parties of any indebtedness of the

City, bonded or otherwise, or any agreement to pay any part of the principal thereof or interest thereon to the holder of any such debt, provided, however, that nothing herein shall relieve any party of its obligations under Subsection IV(B).

V. 2003 WWIP UPGRADE AND EXPANSION:

A. The parties to this Agreement agree to share the costs of and complete all of the 2003 WWIP. The parties expressly agree to share the Total Project Cost for the 2003 WWIP as follows:

City of Roanoke	45.7%
Roanoke County	24.5%
City of Salem	17.8%
Town of Vinton	5.5%
Botetourt County	6.5%

The Total Project Cost shall include all costs necessary to cover design, acquisition of all necessary property interests, inspection, permit fees, construction and preparation and any and all claims arising out of the project and the legal defense or prosecution thereof.

1. Each party agrees to provide its own financing in order to provide the funds required to pay its percentage of costs for the 2003 WWIP.

2. During the design and construction of the 2003 WWIP the City of Roanoke will invoice each Other Party upon receipt of the contractor's invoice for its pro rata share of the invoice. The invoice for each of the Other Parties will show additionally a credit, if appropriate, calculated in accordance with Section IV(C) hereof. Each Other Party shall pay the City the net amount invoiced within thirty (30) calendar

days of receipt of each invoice. Invoices not paid within thirty (30) calendar days of receipt of each invoice shall accrue daily interest at the then current legal rate of interest, or the prime rate as published in the Wall Street Journal plus one percent, whichever is less.

B. The flow capacity achieved as a result of the 2003 WWIP, as permitted by DEQ, will be allocated among the parties based on the following percentages:

City of Roanoke	45.7%
Roanoke County	24.5%
City of Salem	17.8%
Town of Vinton	5.5%
Botetourt County	6.5%

C. Should the capacity of the Joint Use Interceptors and the permitted capacity of the Plant be expanded beyond the pending anticipated upgrade capacity during the term of the Agreement, or, having once been so expanded be later further expanded, allocation to the Other Parties of a portion of the resultant Joint Use Interceptors and Plant capacities shall again be mutually agreed upon, but such new total allocation to the Other Parties shall not be less than that quantity hereby allocated to them, expressed in MGD, of the total Joint Use Interceptors and permitted Plant capacities as designated above, unless specifically agreed to by that party. Any new allocation shall be negotiated by the parties based on any requested additional capacity.

VI. SAMPLING OF AREA'S WASTEWATER:

A. The City may, at such times as it elects, sample, by any approved method, the Wastewater delivered to it by the Other Parties through the aforementioned recording meters. If it is determined that unacceptable Industrial Wastewater or Objectional Materials are being so delivered to the City for transportation and treatment, the City at its option, may:

1. Cause the Responsible Party to immediately discontinue the delivery of any such Industrial Wastewater or Objectionable Materials and/or to reduce the b.o.d. and Suspended Solids content of such Wastewater so that the b.o.d. and Suspended Solids content thereof will conform with the provisions of Subsection III(B), and

2. Require the Responsible Party to pay such additional charge for the treatment and sampling of such Wastewater, as are provided in Section IV. Imposition of a surcharge may be retroactive over a determined period during which the violation occurred. Payment by the Responsible Party shall not constitute a basis for continuation of the delivery of Wastewater in violation of this Agreement. The acceptance by the City of such surcharge shall not be construed as an agreement or waiver by the City to vary from the terms of this Agreement.

B. The City, in the presence of the Responsible Party, shall have the right to sample and/or measure the quantity or quality of the Wastewater delivered into the sewer lines of the Responsible Party by any individual, firm or corporation and, on request, the Responsible Party shall arrange for and accompany any authorized representative of the City desiring to take such sample or measure. Alternatively, upon

written request of the City, the Responsible Party will sample or measure the Wastewater of any such individual, firm or corporation designated or requested by the City and deliver such sample or the certified analysis thereof to the City.

VII. SEWER LINES:

A. PREAMBLE:

1. The intent and purpose of this Section is to establish an equitable and functional basis for the provision of sewer lines necessary for the transportation of Wastewater from and through the Areas of the Other Parties to the point or points of treatment. The parties recognize the difficulty of establishing a basis in such detail as would be precisely applicable to each and every circumstance as may occur during the term of this Agreement. Therefore, in all instances wherein the provisions of this Section can apply, it is agreed that they shall apply, but, where circumstances beyond the anticipation or detail of these provisions are encountered, then the provisions contained herein shall control to the greatest extent practical and such further conditions as may be necessary to be employed shall be determined by the parties.

2. It is the further intent of this Section that none of the parties shall act in an unreasonable manner so as to deter a recognizable need of the other to obtain orderly means of transporting Wastewater to the point of treatment. Each party has, and is anticipated to continue to have, a schedule or program of major sewer line requirements and financing capabilities or projections pertaining thereto. Such schedules or programs shall be coordinated to the greatest extent possible between the parties, for the purposes of assuring mutual abilities to perform under this Section and

for avoiding the need of the transportation requirements of one party constituting an unexpected demand upon the other.

3. An overall objective of the provisions of this section is that the design, construction and location of sewer lines shall be such as to anticipate, to the extent that can be reasonably determined, the maximum or ultimate volume, based on existing and potential development, of Wastewater that will be required to be transported from or through the Areas of the Other Parties.

B. SEWER LINE CONSTRUCTION:

1. All parties agree that all sanitary sewer system interceptors, mains, lines, pump stations, force mains, and other facilities and all additions thereto and extensions thereof within each respective Area shall conform to the standards of the State Health Department, the Virginia Department of Environmental Quality, or other applicable regulatory agency.

2. Construction by City:

(a) The City shall design, construct, operate and maintain all sewer lines within the City, except as hereinafter set forth. The City may, at its discretion, design, construct, own, operate and maintain Wastewater transportation facilities within the Areas of the Other Parties if the location of such facilities in those Areas is deemed necessary or practical for proper extension or connection between two nearby points within the City. Such lines may be joint-use with the Responsible Party consistent with other provisions of this Agreement. Prior to construction of such facilities in the Area of the Responsible Party, plans of design and location shall be submitted by the City to the Responsible Party for approval, which approval shall not be

unreasonably withheld. The City shall cause to be obtained such interests in land as are necessary for the construction, operation and maintenance of any such facilities.

(b) The City may construct sewer lines for transporting and treating Wastewater from property owned by the City predominantly for public use beyond its corporate boundaries.

However, the City shall not construct duplicating or competitive lines in any portion of another party's Area then actively supplied with Wastewater transmission service by that party, unless such Other Party consents to such construction, or unless such construction is otherwise permitted by law.

(c) Should the City enter into a separate agreement with another governmental subdivision, or other governmental agency for providing the City allocated capacity, for the transportation and treatment of Wastewater, then any sewer lines constructed by any party to this Agreement under this Section which may be used or of use in the City's transportation of Wastewater from that other governmental subdivision or agency shall be designed, constructed and located as to permit the use of such line by all appropriate parties to this Agreement, should the other(s) so desire, and a proportionate division of the costs of designing and constructing such line shall reflect all such parties' designed use of such line.

3. Construction by the Other Parties:

(a) Each Other Party shall construct or cause to be constructed without cost to the City all sewer lines within such Other Party's own Area which are designed for the sole use of its Area and which are deemed necessary to be

constructed for the purpose of collecting and transmitting Wastewater in its own Area for delivery to the City for treatment.

(b) The Other Parties may, singly or jointly, in their discretion and at their sole expense, construct, own, operate and maintain sewer lines within the City wherein the location of such lines within the City is deemed necessary or practical for the proper extension to or connection between two nearby points within the Area or Areas to be served. Prior to such construction, plans of design and location shall be submitted for approval to the City Manager, which approval shall not be unreasonably withheld. For such sewer lines, the constructing party or parties agree that they will cause to be obtained all interests in land necessary for the construction, operation and maintenance of any such facilities.

(c) In the event the other Parties shall, within their respective programs of major sewer line requirements, seek the construction or enlargement of a sewer line within the City to extend to the Plant or to a point of connection with another line of the City, and the City shall decline to construct or participate in said line upon and after reasonable written notice from the party(s) desiring to construct, then the constructing party(s) may proceed with the construction of said line within the City, assuming the constructing party has acquired all necessary property interests including easements and rights-of-way and shall bear all costs of said line and all maintenance thereof. Notwithstanding the above, no such main or interceptor line shall be used to serve property located within the City except upon approval of the governing body of the City expressed by resolution. The City shall not act to unduly restrict the ability of the constructing party(s) to proceed hereunder.

Should the City, subsequent to construction, desire to use any portion of the line, such request shall be handled pursuant to subsection VII(B)(4)(f).

4. Construction – Generally:

(a) When any party anticipates construction of any new or relief sewer lines which could potentially be useable by another party, the constructing party shall advise the other and invite participation in the design and construction. The constructing party shall apply for any applicable State or Federal grant monies, with concurrence and support from the other party. The local share of all capital costs of design, construction, reconstruction, enlargement or replacement shall be borne by both parties on a ratio equal to the percentage of design flow allocated to each party in the new facilities, as shall be mutually agreed upon.

(b) Construction of sewer lines by any or all parties shall conform at least to the requirements and standard specifications of the Virginia Department of Health, and DEQ, applicable at the time of construction.

(c) It is agreed by the parties that each shall have established and shall maintain in effect adequate land development regulations, including zoning control and subdivision regulations, to assure the reliability and viability of determinations made under this Section for the design, location and allocation of capacity of its sewer lines.

(d) Consistent with the intent of the Preamble to this Section, in the course of planning and/or prior to the construction by any party hereto of interceptor or outfall sewer lines, coordination shall be effected between the parties to determine the extent to which joint use is practical, feasible and/or necessary, based

upon then existing or future requirements. Where practical, feasible and/or necessary, joint-use sewer lines shall be constructed. Design criteria shall anticipate fully the projected requirements of the Area or Areas which would be served by the construction, as defined in this Section. Such joint-use lines and related facilities shall be financed as provided in this Section.

(e) The design and construction costs and the costs of the maintenance and operation of interceptors, other than the JUIs, used to connect the collection systems of the parties to the Agreement shall be negotiated as separate agreements between the applicable parties, and such separate agreements shall be attached as Appendices to the Agreement at the time of their execution.

(f) For the purpose of determining design of joint-use sewer lines to be constructed by any of the parties to this Agreement, the party interested in joint use shall submit to the constructing party data and information to support the requested design capacity or to provide a sound evaluation of the capacity requirements projected for the Area to be, or which might ultimately, be served by such sewer line. The City shall make available to the constructing party, data and information pertinent to the City in planning and design of joint-use sewer lines within the City.

(g) After the date of this Agreement, if one party constructs an interceptor or outfall line not designed for joint use, either because joint use was not anticipated or because the other party failed or declined to participate in the cost of construction as provided above, the other party may be allowed temporary use of excess or unused capacity of such line. Each party agrees and covenants that such permission shall be granted until such time as the excess or unused capacity is required

for use by the party financing the cost of construction. Prior to terminating joint use of an interceptor or outfall line not designed for joint use, notice of not less than eighteen months shall be given to the party using the excess capacity during which time this party will make the necessary arrangements for discontinuing use of such line and shall provide for other methods consistent with the intent and provisions of this Agreement for transportation and disposal of its wastewater. During the period of such temporary usage, the party using the excess capacity shall pay to the other party, based on the ratio of its usage to total actual usage, an amount being a pro rata share of the total of the annual cost of operation and maintenance of the line plus a pro rata share of the initial construction cost of the line, adjusted to the then current date by standard engineering indexes and amortized over a period of twenty (20) years.

After the date of this Agreement, if two parties jointly construct an interceptor or outfall line and after construction, a third party requests use of such line, if the third party has a contract for treatment with the City, then the parties to this Agreement may permit use under the provisions of this Section. After the date of this Agreement, if the City and another party construct or shall have constructed an interceptor or outfall line, and any of the Other Parties to this Agreement request use of such line but have not participated in its cost, then the parties to the construction of the line may permit access to the requesting party under the provisions of this subsection and by mutual agreement thereof.

(h) Every effort shall be made by all parties to avoid unnecessary capital expenditures. The parties agree, where feasible, to alter direction of flows to make use of existing sewer lines with available capacity or to provide

temporary facilities, in some instances, to avoid or defer expenditures. In this *manner,* undue burdens on any other involved party can be deferred until the need arises for major construction which would fully benefit all involved parties.

(i) In the event of any party's termination of the use of any sewer line, there shall not be an obligation, unless otherwise mutually agreed upon, for the non-terminating party to refund or repay to the terminating party or parties sharing such line, any portion of funds theretofore supplied by such terminating party for construction of such line or for operation and maintenance expenses of such line under this Agreement.

(j) The City and Other Parties establish hereby a Capital Reserve Fund (CRF) to be used for capital expenditures for the Plant. The parties will collectively contribute $1,200,000 annually to the CRF. The annual contribution of each Responsible Party will be percentages of the collective annual contribution equal to the percentages for the flow capacity allocation in the Plant established in Section V(B). The City shall invoice the Other Parties monthly for 1/12 of their annual contribution to the CRF, beginning on July 1, 2004, and continuing monthly thereafter. For so long as the fund balance of the CRF is $12,000,000 or more, the Responsible Parties shall make no contributions hereunder. The City will include the CRF fund balance in its monthly invoice to the Other Parties. Each Fiscal Year, the City will provide the Other Parties with a list of anticipated projects which will be paid from the CRF during such Fiscal Year. Quarterly, the City will also provide the Other Parties with a project list showing the unaudited amounts withdrawn from the CRF for each project. The CRF shall be

used for improvements to the Plant that are required to meet permit conditions or for improvements that are agreed to by the City and the Other Parties.

VIII. ALLOCATION OF CAPACITY:

A. The parties agree that the Plant shall serve as a regional facility in order to be of beneficial use to those political subdivisions, or to portions thereof within the Roanoke Valley area and its environs, which contract with the City for such use. As assurance of such fact, the City agrees that it allocates portions of the capacity of the Plant and Joint Use Interceptors to each of the governmental entities participating in the use and funding of such facilities. Such portions of capacity and costs allocated to the parties are specified in Subsection V(B) and Appendix B, respectively.

After July 1, 2005, should any party to this Agreement meet or exceed 100% of its allocated capacity in any Joint Use Interceptor or the Plant for three months in each Fiscal Year for two consecutive Fiscal Years, it shall negotiate with any of the Other Parties, of its choosing, who shares the use of the Joint Use Interceptors and/or Plant, to acquire additional temporary capacity for the next Fiscal Year, or for such longer period as to which they may agree. If additional capacity is unavailable from any of the Other Parties, the Joint Use Interceptor and/or the Plant, as applicable, shall be expanded with the additional capacity gained by the expansion being allocated to the party who has exceeded its allocated capacity, or to such parties as the party who has exceeded its allocated capacity designates. The cost of the expansion shall be borne by the party who has exceeded its allocated capacity, or by those parties who have agreed in writing to share such costs.

If two or more parties agree on a temporary lease of additional capacity, the reimbursement for this temporary additional capacity shall be computed as agreed to by the parties. The City shall keep records to the extent practical of Joint Use Interceptors and Plant use on a monthly basis and provide a summary to the Other Parties on an annual basis.

For purposes of this Section, the phrase "exceed 100% of its allocated capacity" shall mean that a party has exceeded its percentage allocation of the capacity of the Plant as then permitted by DEQ for a given month, whether or not the Plant has in fact operated at its permitted capacity for that month.

Nothing contained herein shall be construed to mean that a party to this Agreement cannot sell excess capacity on a permanent basis to another party to this Agreement, upon such terms and conditions as the two parties may agree. In the event of such sale, the two agreeing parties shall give notice of the sale and its terms to the remaining parties.

C. In the event there should be added or annexed to the boundary of a party to this Agreement any portion of the territory of the Other Parties within which are located sewer lines transmitting to the Plant, the annexing party shall have the right to acquire such lines, together with all appurtenant rights of way and easements. The terms of the acquisition shall be as stipulated by the Court ordering the annexation.

IX. ASSIGNMENT:

It is agreed by the parties that their rights and obligations under this Agreement may be assigned and transferred to a public agency or entity organized or created by some or all of the parties under the laws of the Commonwealth of Virginia,

but no such assignment shall be construed as relieving the parties or their governing bodies of any of their responsibilities and lawful undertakings herein lawfully agreed to be undertaken.

X. TERM OF CONTRACT:

Unless terminated as herein provided for, the Agreement shall be for thirty (30) years from the date hereof.

XI. TERMINATION:

No termination of the Agreement shall occur except after notice in writing of such intent to terminate, perfected by declaratory judgment action or by other appropriate legal proceeding brought and conducted by any party in a court of competent jurisdiction in the Commonwealth of Virginia.

XII. SEVERABILITY:

If any part or parts, section or subsection, sentence, clause or phrase of this Agreement is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Agreement.

XIII. ENTIRE AGREEMENT:

The Agreement constitutes the entire agreement of the parties hereto and supersedes all prior offers and negotiations among the parties. The Agreement further supersedes the following Agreements between the City and the respective parties: the Agreement dated November 1, 1994 and the amendment thereto dated January 31, 1997, and to the extent of any inconsistency, any and all other previous agreements between the City and any of the Other Parties. No revision or amendment of the Agreement shall be valid unless made in writing and signed by the parties hereto.

XIV. COPIES:

The Agreement may be executed in quintuplicate, any one of which shall be deemed the original.

XV. REPRESENTATIONS:

Each party represents for itself and warrants to the Other Parties hereto that it has all requisite power and authority to enter into the Agreement which is legally binding upon it and that it has all requisite power and authority to perform its obligations under the Agreement and incidental hereto.

XVI. EFFECTIVE DATE:

The Agreement shall become effective on November 1, 2003.

WITNESS the following signatures and seals:

ATTEST:

_____
Mary F. Parker, City Clerk

CITY OF ROANOKE

By _____
Ralph K. Smith, Mayor

APPROVED AS TO FORM:

_____
Roanoke City Attorney

APPROVED AS TO EXECUTION:

_____

ATTEST:

_____
Gerald A. Burgess, Clerk
Board of Supervisors

COUNTY OF BOTETOURT

By _____
Stephen P. Clinton, Board Chairman
Board of Supervisors

APPROVED AS TO FORM:

_____
Botetourt County Attorney

APPROVED AS TO EXECUTION:

_____

ATTEST:

_____
Diane Childers, Clerk
Board of Supervisors

COUNTY OF ROANOKE

By _____
Joseph McNamara, Chairman
Board of Supervisors

APPROVED AS TO FORM:

_____
Roanoke County Attorney

APPROVED AS TO EXECUTION:

_____

ATTEST:

_____
James E. Taliaferro, II, City Clerk

CITY OF SALEM

By _____
Carl E. Tarpley, Jr., Mayor

APPROVED AS TO FORM:

_____
Salem City Attorney

APPROVED AS TO EXECUTION:

_____

ATTEST:

_____
Carolyn S. Ross, Town Clerk

TOWN OF VINTON

By _____
Donald L. Davis, Mayor

APPROVED AS TO FORM:

_____
Vinton Town Attorney

APPROVED AS TO EXECUTION:

_____

APPENDIX A

Example Calculations of Wastewater Flow Contribution from Unmetered Areas

For Areas that are unmetered, the volume of wastewater shall be determined by multiplying the metered water sales (WS) in the unmetered areas by the ratio (RS) of the City of Salem's annual metered wastewater to water sales, averaged for the preceding three fiscal years.

Example: Determination of RS ratio

City of Salem's annual metered water sales for fiscal year just ended = 3.5 mgd
Salem's annual metered wastewater sales for fiscal year just ended = 7 mgd
Previous two fiscal years' ratios, 1.6 and 1.4

Ratio for fiscal year just ended = 7/3.5 = 2.0

Ratio (RS) for billing purposes for current fiscal year = (2.0+1.6+1.4) / 3 = 1.67

Example: Unmetered Flow Determination

To calculate unmetered wastewater flow from a 10 unit area each with 1000 gallons per month metered water sales, sum the water sales from each of the ten units. Multiply by the City of Salem ratio.

Unmetered wastewater flow = sum of WS x RS

Unmetered wastewater flow = sum of (10 x 1000 gallons/month) x 1.67
= 16,700 gallons per month

APPENDIX B

Roanoke River Interceptor Segment	1994 Agreement Minimum Capacity (MGD)	Percentage of Total Capacity	Length (feet)	Inch Miles	I/I Rate I/I Allocation (GPD)	100 gpd/in mile 11/01/03 until 06/30/08 Monthly I/I Allocation (Gallons)	125 gpd/in mile 07/01/08 until 06/30/13 Monthly I/I Allocation (Gallons)	150 gpd/in mile 07/01/13 until 06/30/18 Monthly I/I Allocation (Gallons)	175 gpd/in mile 07/01/18 until 06/30/23 Monthly I/I Allocation (Gallons)	200 gpd/in mile 07/01/23 until 06/30/28 Monthly I/I Allocation (Gallons)	225 gpd/in mile 07/01/28 until 06/30/33 Monthly I/I Allocation (Gallons)	250 gpd/in mile after 07/01/33 Monthly I/I Allocation (Gallons)
Segment C - Salem to Mudlick Creek												
City of Roanoke	6.0	17.4%	---	6.0	602	18,303	22,879	27,454	32,030	36,606	41,182	45,757
Roanoke County	6.0	17.4%	---	6.0	602	18,303	22,879	27,454	32,030	36,606	41,182	45,757
Salem	22.5	65.2%	---	22.6	2,257	68,636	85,795	102,954	120,113	137,272	154,431	171,590
Total	34.5	100.0%	3,812	34.6	3,460	105,242	131,552	157,863	184,173	210,483	236,794	263,104
Segment B Mudlick Creek to Ore Branch												
City of Roanoke	16.4	28.8%		70.3	7,030	213,823	267,279	320,735	374,191	427,647	481,102	534,558
Roanoke County	18.0	31.6%		77.2	7,716	234,684	293,355	352,026	410,697	469,368	528,039	586,710
Salem	22.5	39.5%		96.4	9,645	293,355	366,694	440,033	513,371	586,710	660,049	733,388
Total	56.9	100.0%	22,021	243.9	24,390	741,863	927,328	1,112,794	1,298,259	1,483,725	1,669,191	1,854,656
Segment A Ore Branch to WPCP												
City of Roanoke	32.1	41.3%		102.3	10,228	311,112	388,890	466,668	544,446	622,224	700,002	777,779
Roanoke County	23.0	29.7%		73.4	7,336	223,124	278,904	334,685	390,466	446,247	502,028	557,809
Salem	22.5	29.0%		71.8	7,176	218,273	272,841	327,410	381,978	436,546	491,114	545,683
Total	77.6	100.0%	19,795	247.4	24,740	752,508	940,635	1,128,763	1,316,890	1,505,017	1,693,144	1,881,271

Tinker Creek Interceptor

Segment	1994 Agreement Mimimum Capacity (MGD)	Percentage of Total Capacity	Length (feet)	Inch Miles	I/I Rate I/I Alloocation (GPD)	100 gpd/in mile 11/01/03 until 06/30/08 Monthly I/I Allocation (Gallons)	125 gpd/in mile 07/01/08 until 06/30/13 Monthly I/I Allocation (Gallons)	150 gpd/in mile 07/01/13 until 06/30/18 Monthly I/I Allocation (Gallons)	175 gpd/in mile 07/01/18 until 06/30/23 Monthly I/I Allocation (Gallons)	200 gpd/in mile 07/01/23 until 06/30/28 Monthly I/I Allocation (Gallons)	225 gpd/in mile 07/01/28 until 06/30/33 Monthly I/I Allocation (Gallons)	250 gpd/in mile after 07/01/33 Monthly I/I Allocation (Gallons)
Segment C - Orange Avenue to Glade Creek												
City of Roanoke	13.6	50.6%	---	21.0	2,103	63,972	79,965	95,958	111,951	127,944	143,938	159,931
Botetourt County	4.3	16.0%	---	6.6	665	20,227	25,283	30,340	35,396	40,453	45,510	50,566
Roanoke County	9.0	33.5%	---	13.9	1,392	42,335	52,918	63,502	74,086	84,669	95,253	105,836
Town of Vinton	0.0	0.0%	---	0.0	0	0	0	0	0	0	0	0
Total	26.9	100.0%	4,578	41.6	4,160	126,533	158,167	189,800	221,433	253,067	284,700	316,333
Segment B - Glade Creek to Vinton Connection												
City of Roanoke	15.9	43.7%	---	12.2	1,223	37,202	46,502	55,803	65,103	74,404	83,704	93,005
Botetourt County	8.5	23.4%	---	6.5	654	19,888	24,860	29,832	34,804	39,776	44,748	49,720
Roanoke County	12.0	33.0%	---	9.2	923	28,077	35,096	42,115	49,135	56,154	63,173	70,192
Town of Vinton	0.0	0.0%	---	0.0	0	0	0	0	0	0	0	0
Total	36.4	100.0%	2,248	28.0	2,800	85,167	106,458	127,750	149,042	170,333	191,625	212,917
Segment C - Vinton Connection to WPCP												
City of Roanoke	15.9	38.1%	---	15.9	1,594	48,478	60,598	72,718	84,837	96,957	109,077	121,196
Botetourt County	8.5	20.4%	---	8.5	852	25,916	32,395	38,874	45,353	51,832	58,311	64,790
Roanoke County	12.0	28.8%	---	12.0	1,203	36,588	45,734	54,881	64,028	73,175	82,322	91,469
Town of Vinton	5.3	12.6%	---	5.3	526	16,007	20,009	24,011	28,012	32,014	36,016	40,018
Total	41.7	99.9%	4,090	41.8	4,175	126,989	158,737	190,484	222,231	253,978	285,726	317,473

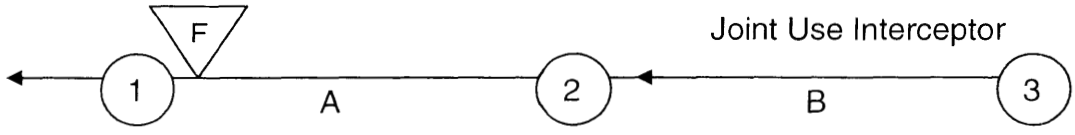
Summary of I/I
Allocation

	100 gpd/in mile 11/01/03 until 06/30/08	125 gpd/in mile 07/01/08 until 06/30/13	150 gpd/in mile 07/01/13 until 06/30/18	175 gpd/in mile 07/01/18 until 06/30/23	200 gpd/in mile 07/01/23 until 06/30/28	225 gpd/in mile 07/01/28 until 06/30/33	250 gpd/in mile after 07/01/33
	Monthly I/I Allocation (Gallons)	Monthly I/I Allocation (Gallons)	Monthly I/I Allocation (Gallons)	Monthly I/I Allocation (Gallons)	Monthly I/I Allocation (Gallons)	Monthly I/I Allocation (Gallons)	Monthly I/I Allocation (Gallons)
City of Roanoke	692,891	866,113	1,039,336	1,212,559	1,385,781	1,559,004	1,732,227
Roanoke County	583,110	728,887	874,664	1,020,442	1,166,219	1,311,996	1,457,774
City of Salem	580,264	725,330	870,396	1,015,462	1,160,528	1,305,594	1,450,660
Botetourt County	66,031	82,538	99,046	115,553	132,061	148,569	165,076
Town of Vinton	16,007	20,009	24,011	28,012	32,014	36,016	40,018

APPENDIX C

JUI I/I Deduction From Metered Flow

Example:



F = City of Roanoke Flow Meter = 100,000 gpd

1, 2, 3 = Manholes

A = 200 in-mile of JUI @100 gpd/in-mile

B = 300 in-mile of JUI @ 100 gpd/in-mile

Deduction from Metered Flow = F – A(I/I) – B(I/I)

= 100,000 gpd – (200 in-mile x 100 gpd / in-mile) + (300 in-mile x 100 gpd / in-mile)

= 100,000 gpd – 20,000 gpd – 30,000 gpd

Deduction from Metered Flow = 50,000 gpd

APPENDIX D

Calculation of Total Plant Flow

Example:

Total Plant Flow is the total of all metered flows, flow contributions from unmetered areas and I&I allocations for each jurisdiction during a fiscal year.

Jurisdiction	Metered Flow (million gallons)	Flow Contribution from Unmetered Areas (million gallons)	I/I Allocation (million gallons)
City of Roanoke	5475	730	8.3
Roanoke County	2190	365	7.0
City of Salem	2555	0	7.0
Botetourt County	365	0	0.8
Town of Vinton	365	0	0.2

Total Plant Flow = Metered Flow = (5475+2190+2555+365+365) = 10,950
+ Contributions from Unmetered Areas = (730+365+0+0+0) = 1,095
+ Sum of I&I Allowance = (8.3+7.0+7.0+0.8+0.2) = 23

= 10,950 + 1,095 + 23.3
= 12,068 million gallons

D.T.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE endorsing the 2003 Regional Wastewater Collection and Treatment Contract among the City of Roanoke, Roanoke County, the City of Salem, the Town of Vinton, and Botetourt County and authorizing the Mayor to execute such Contract on behalf of the City; authorizing the City Manager to take such further actions and to execute such documents as may be necessary to implement and administer such Contract; and dispensing with the second reading by title of this ordinance.

WHEREAS, the City of Roanoke, Roanoke County, the City of Salem, the Town of Vinton, and Botetourt County have worked together to provide a Contract concerning the 2003 Wet Weather Improvements to the Water Pollution Control Plant which serves these jurisdictions, as well as other matters concerning the collection and treatment of wastewater, the terms of such Contract being contained in the Contract attached to the City Manager's letter to Council dated October 6, 2003.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. Council hereby endorses the terms of the 2003 Regional Wastewater Collection and Treatment Contract as contained in the Contract attached to the above mentioned City Manager's letter.

2. The Mayor is hereby authorized, on behalf of the City, to execute the 2003 Regional Wastewater Collection and Treatment Contract in a form substantially similar to the one attached to the above mentioned City Manager's letter, in a form approved by the City Attorney.

3. The City Manager is hereby authorized to take such further actions and execute such documents as may be necessary to implement and administer such Contract, such documents to be in a form approved by the City Attorney.

4. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

October 6, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr. Council Member
Honorable Beverly T. Fitzpatrick, Jr. Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Joint Fugitive Task Force

Background:

The U.S. Marshals Service (USMS) has proposed the formation of a "Joint Fugitive Task Force" (JFTF) to improve cooperative efforts among local jurisdictions in locating wanted persons. The mission of the JFTF will be to conduct, in a coordinated manner, investigations and to arrest local, state and federal fugitives with outstanding warrants for crimes of violence. Members of the JFTF will include: United States Attorney's Office, United States Marshals Service, Virginia Department of Game and Inland Fisheries, Franklin County Sheriff's Office, Roanoke Police, Bedford County Sheriff's Office, and Wytheville Police Department. The membership of the JFTF will be limited to one (1) investigator and one (1) alternate from each agency, with the exception of the state agencies which may assign additional investigators due to their large geographical coverage areas. All local and state law enforcement officers will be required to be deputized as Special Deputy U.S. Marshals. These deputations will remain in effect throughout the tenure of the officer's assignment on JFTF. Supervision of the personnel assigned to the JFTF will be the mutual responsibility of the participating agencies, however, the day-to-day operations and administrative control of the JFTF will be the responsibility of the USMS JFTF Coordinator. The USMS JFTF Coordinator will oversee the prioritization and assignment of targeted cases and related investigative activities in accordance with the stated objectives of the JFTF. A copy of the "Memorandum of Understanding" proposed by the USMS for this Joint Fugitive Task Force is attached. The Memorandum of Understanding provides that the City will hold harmless the United States from any claim, cause of action or judgment resulting solely from the negligent acts of its employees, and that the City will assume liability for the negligence of its

employees and for any property damage to Federal vehicles resulting from the use of such vehicles by City police officers. This assumption of liability, by agreement, is not a waiver of sovereign immunity.

The Roanoke Police Department currently has a similar function with the Drug Enforcement Administration (DEA) and with the Bureau of Alcohol, Tobacco and Firearms (ATF). Participating in the JFTF will allow police officers to access the USMS' on-line search mechanisms in an attempt to locate fugitives. Participating officers will learn new skills from their interaction with officers from other agencies.

Recommended Action:

Authorize the City Manager to execute the Memorandum of Understanding (attachment) for the USMS Blue Ridge Fugitive Apprehension Strike Team Joint Fugitive Task Force of the Western District of Virginia.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB:fjd

Attachment

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Rolanda B. Russell, Assistant City Manager
A. L. Gaskins, Chief of Police
Glenn Asher, Risk Management

CM03-00194

U.S. MARSHALS SERVICE
BLUE RIDGE FUGITIVE APPREHENSION STRIKE TEAM
JOINT FUGITIVE TASK FORCE
OF THE WESTERN DISTRICT OF VIRGINIA
MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is being executed by the below listed agencies in connection with the U.S. Marshal Federal and State Joint Fugitive Task Force (JFTF).

United States Attorney's Office
United States Marshals Service (USMS)
Franklin County Sheriff's Office
Roanoke Police
Virginia Department of Game and Inland Fisheries
Bedford County Sheriff's Office
Wytheville Police Department

The agencies listed above agree, jointly and severally, to abide by the terms and provisions of this MOU throughout the duration of the JFTF Operations. Nothing in this MOU should be considered as limiting or impeding the basic spirit of cooperation which exists between the participating agencies listed above.

I. MISSION

The mission of the JFTF is to conduct investigations and arrest state, local and federal fugitives with outstanding warrants for crimes of violence, in a jointly coordinated manner.

II. CRITERIA

Fugitives will include those individuals who are wanted for and have been charged with crimes of violence such as: murder, attempted murder, kidnapping, assault, sex crimes, robbery, extortion, drug crimes (including methamphetamine and other dangerous drugs), and weapons offenses. Also included will be escapees from penal institutions, parole/probation violators, subjects who have failed to appear and who are wanted for or have a history of violent criminal offenses. Other cases not fitting the criteria will be examined on a case-by-case basis.

III. DEPUTATION

All local and state law enforcement officers will be required to be deputized as Special Deputy U.S. Marshals. These deputations will remain in effect throughout the tenure of the officer's assignment on JFTF. These special deputations are in effect only when the state and local law enforcement officers are performing Task Force duties.

IV. SUPERVISION

Supervision of the personnel assigned to the JFTF will be the mutual responsibility of the participating agencies, however, the day-to-day operations and administrative control of the JFTF will be the responsibility of the USMS JFTF Coordinator. The Supervisory Deputy U.S. Marshal will provide operational oversight. The U.S. Marshal and/or the Chief Deputy United States Marshal for the Western district of Virginia will have overall supervisory authority over JFTF operations.

Membership to the JFTF will be limited to one (1) investigator and one (1) alternate from each agency, with the exception of the state agencies who may assign additional investigators due to their large geographical coverage areas. These additional investigators will be mutually agreed upon by the United States Marshal and the director of the state agency in question.

V. ADMINISTRATION

The USMS JFTF Coordinator will oversee the prioritization and assignment of targeted cases and related investigative activities in accordance with the stated objectives of the JFTF. Cases will be assigned to investigative teams based on experience, training, performance, expertise, existing caseload and the discretion of the JFTF Coordinator.

All investigative reports and statistical data will be prepared in accordance with USMS policy. Subject to pertinent legal and/or policy restrictions, copies of documents created by task force members will be made available to their respective agencies, as appropriate. All investigative files generated by the JFTF will be maintained at the U.S. Marshals Service, Western District of Virginia Office.

VI. MEDIA

All media releases pertaining to JFTF investigations and/or arrests will be coordinated and made jointly by all agencies participating in this MOU in conjunction with the United States Attorney's Office and United States Marshals Service, Office of Public Affairs. No unilateral press releases will be made by any participating agency without the prior approval of the other participants. No information pertaining to the JFTF itself, or its members will be released to the media without the mutual approval of all participants.

VII. USE OF USMS VEHICLES

Subject to funding availability, the USMS hereby agrees and authorizes members of the participating agencies of the JFTF to use vehicles leased and owned by the USMS for the furtherance of the mission of the JFTF, in compliance with existing USMS policy for the operation of U.S. Government vehicles. To the extent provided, imposed or allowed by law, each Agency aforementioned agrees to assume liability for any willful, wanton or negligent act or omission of any of its employees resulting from the use of said vehicles and each agency aforementioned also agrees to assume liability for property damage to said vehicles caused by any acts or omissions of its employees in

the use of the vehicles. The USMS will supply mobile and/or portable radios for communication during JFTF operations if needed. Nothing herein waives or limits the sovereign immunity of any agency under federal or state statutory, common or constitutional law.

VIII. OFFICE SPACE AND MISCELLANEOUS ITEMS

The USMS agrees to provide office spaces at the Federal Buildings in Roanoke, Virginia. The USMS will provide equipment and supplies necessary to carry out the administrative operations of the JFTF.

The JFTF will be able to request assistance from the USMS Electronic Surveillance Unit (ESU) and other resources through the USMS warrant coordinator and the United States Marshals Service, Investigative Services Division.

IX. LIABILITY

To the extent required or imposed by law, each agency shall be responsible for the acts or omissions of its personnel. Participating agencies or their employees shall not be considered as agents of any other participating agency. Nothing herein waives or limits the sovereign immunity of any agency under federal or state statutory, common or constitutional law. The participating agencies agree to hold harmless the United States from any claim, cause of action, or judgment resulting solely from the negligent acts of their employees. Legal representation by the United States is determined on a case by case basis. The USMS cannot guarantee that the United States will provide legal representation to any federal, state or local law enforcement officer.

X. DURATION

This MOU shall remain in effect until terminated as specified below. This agreement may be modified at any time by written consent of all involved agencies. A participating agency may withdraw from this agreement at any time by providing a 30 day written notice of its intent to withdraw to all other participating agencies. Upon the termination of the JFTF and the MOU, all equipment will be returned to the supplying agencies.

New agencies may join the JFTF at the discretion of the United States Marshal and the Investigative Services Division but must agree to all provisions of the MOU.

XI. MODIFICATIONS

This agreement may be modified at any time by written consent of all agencies. Modifications to this MOU shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each participating agency.

PROSECUTION

An arrest based on a warrant will be prosecuted in the State or Federal Court that issued the warrant. A determination will be made by the United States Attorney on a case-by-case basis when there is an arrest of a fugitive on whom there is an outstanding warrant in both the State and Federal systems as to where the prosecution venue lies.

SCHEDULE OF WORK HOURS

Work hours will be decided at the monthly coordinators meeting. Each agency will be responsible for its own members' overtime pay or compensation.

INFORMANTS

It is agreed that funds for informants for state, local or federal warrants will be supplied by the agency with warrant jurisdiction according to that agency's standard procedures.

USE OF FIREARMS

It is agreed that all members of the JFTF shall comply with their agency's guidelines relative to the use of firearms and deadly force. In the event of a shooting incident, it will be investigated by the appropriate agency or both agencies as the case may be.

ARREST ATTEMPTS

When an attempt is being made to arrest a subject within a city or county, a request for a marked car and uniformed officer will be made to assist in the arrest, when feasible, at the discretion of the arrest team leader.

HOSTAGE AND BARRICADE SITUATIONS

Upon the first indication of a hostage or barricade situation, the Supervisory Deputy U.S. Marshal (SDUSM) will be notified and a request for a USMS tactical unit or a tactical unit from the nearest available agency will be made for assistance. Upon arrival of the tactical unit, the tactical unit commander will assume command of the situation and will make all operational decisions. The SDUSM will also advise JFTF headquarters of the hostage or barricade situation.

John Brownlee
United States Attorney

Date

G. Wayne Pike
United States Marshal

Date

W. Q. Overton
Sheriff
Franklin County Sheriff's Office

Date

Darlene L. Burcham
City Manager
City of Roanoke

Date

William L. Woodfin, Jr.
Director
Department of Game and Inland Fisheries

Date

Mike Brown
Sheriff
Bedford County Sheriff's Office

Date

Harry Ayers
Chief of Police
Wytheville Police Department

Date

GKD

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION authorizing the execution of a Memorandum of Understanding with the U.S. Marshal's Service and other law enforcement agencies regarding the Blue Ridge Fugitive Apprehension Strike Team Joint Fugitive Task Force of the Western District of Virginia.

BE IT RESOLVED by the Council of the City of Roanoke that the City Manager and the City Clerk, are hereby authorized to execute, seal and attest, respectively, the Memorandum of Understanding with the U.S. Marshal's Service and other law enforcement agencies, upon the terms and conditions described in the letter of the City Manager dated October 6, 2003, including provisions for assumption of liability and indemnifying the United States, in a form approved by the City Attorney.

ATTEST:

City Clerk.

CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

October 6, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr. Council Member
Honorable Beverly T. Fitzpatrick, Jr. Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Office of Domestic Preparedness State Homeland Security Grant

Background:

The Virginia Department of Emergency Management has announced the allocation of the 2003-II, Office of Domestic Preparedness State Homeland Security Grant Program. This grant is designed to allow local governments in Virginia to supplement funding received from the 2003-I Equipment Grant Program. The 2003-II Grant is for first responders to have better preparedness to combat and deal with terrorist acts involving weapons of mass destruction and to mitigate the costs of enhanced security at critical infrastructure facilities during periods of hostilities with Iraq and if enough funding remains, to help with costs in future periods of heightened threat.

The City of Roanoke has been allocated a total of $246,434 under this grant. This amount is based upon a formula that provided $50,000 plus $2.07 per capita to our locality. Funding will be made available upon review of the budget detail listing and approval by the Virginia Department of Emergency Management and the Office of Domestic Preparedness.

Considerations:

This funding, which requires no local match, must be used according to the requirements specified by the Office of Domestic Preparedness. The 2003-II Grant allows localities to spend funds in 4 areas of need in First Responder Preparedness, including specialized emergency response equipment and

terrorism incident prevention equipment; the design, development, conduct and evaluation of exercises for the combating of terrorism; institutionalizing awareness and performance level training; and for the planning and administrative costs associated with the updating and implementing of the State's Homeland security strategy. The Grant requires that the City participate in and complete an assessment of its abilities to handle a terrorist attack. It is anticipated that the assessment will take a sizeable amount of time on the part of key responders and management personnel.

Recommended Action:

Authorize the City Manager and the City Clerk to execute and attest, respectively, on behalf of the City of Roanoke, any agreements or documentation required in connection with obtaining and accepting the above allocation in the amount indicated and to furnish such additional information and take such additional action as may be needed to implement and administer such funds and agreements, such documents to be approved as to form by the City Attorney.

Appropriate funding of $246,434 and establish a corresponding revenue estimate in accounts established by the Director of Finance in the Grant Fund.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB/jsf

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
George C. Snead, Jr., Assistant City Manager for Operations
James Grigsby, Fire-EMS Chief
Paul Truntich, Administrator, Environmental and Emergency Management

#CM03-00195

AHS

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE appropriating funds for the Office of Domestic Preparedness State Homeland Security Grant, amending and reordaining certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2003-2004 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations			
Project Supplies	035-520-3525-3005	$	102,934
Other Equipment	035-520-3525-9015		143,500
Revenues			
State Homeland Security	035-520-3525-3525		246,434

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

IN THE COUNCIL OF THE CITYOF ROANOKE, VIRGINIA

A RESOLUTION authorizing the application to and acceptance of the 2003-II Office of Domestic Preparedness State Homeland Security Grant from the Virginia Department of Emergency Management to obtain federal funds under the federal Office of Justice Programs (OJP), National Domestic Preparedness Office Grant Programs and authorizing the execution of any required documentation on behalf of the City.

BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. The City Manager is authorized to execute an application, on behalf of the City of Roanoke, a public entity established under the laws of the Commonwealth of Virginia, and file it in the appropriate state office for the purpose of obtaining certain federal financial assistance under the OJP, National Domestic Preparedness Office Grant Programs, administered by the Commonwealth of Virginia, such grant being more particularly described in the letter of the City Manager dated October 6, 2003, upon all the terms, provisions and conditions relating to such application.

2. Following application and award of the grant, the City Manager is authorized to accept the grant from the Virginia Department of Emergency Management in the amount of $246,434, upon all the terms, provisions and conditions relating to the receipt of such funds.

3. The City Manager and the City Clerk are hereby authorized to execute, seal and attest, respectively, any necessary documents with regard to

the grant and to provide all documents or information to the Commonwealth and to the Office of Justice Programs with regard to all matters pertaining to such Federal financial assistance and any and all information pertaining to this grant as may be requested. All such documents to be approved by the City Attorney.

ATTEST:

City Clerk

CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
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CityWeb: www.roanokegov.com

October 6, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr. Council Member
Honorable Beverly T. Fitzpatrick, Jr. Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Regional Hazardous Materials Response Team Grant

Background:

Since July 1, 1986, the city has been under contract with the Virginia Department of Emergency Management (VDEM) to respond to Level III hazardous materials incidents in a regional concept involving firefighters/EMTs from the cities of Roanoke and Salem. On November 18, 2002, City Council authorized the City Manager to renew its agreement to participate in a Level III Regional Response Team. This agreement is renegotiated bi-annually in order to keep funding and reimbursement needs current.

Roanoke benefits in several ways from this contract. The city receives reimbursement for training, team member physical examinations and purchase of related equipment. Without this state contract, the city would still have a need for a hazardous materials response team but would not have the corresponding benefit of being a reimbursed regional provider.

Considerations:

The present VDEM hazardous materials team contract expires June 30, 2004. VDEM agreed to furnish $15,000.00 per year in "pass-through" funds in order to assist with the purchase of equipment, physicals, and to attend training programs needed to comply with Federal and State response criteria mandates.

"Pass-through" funding totaling $15,000.00 has been received from VDEM as of

this report and deposited in revenue account 035-520-3226-3226.

Recommended Action:

City Council accept the "pass-through" funding which honors the two-year VDEM hazardous materials team contract for the period July 1, 2002 until June 30, 2004. City Council appropriate funding of $15,000 as follows: $10,000 to *Expendable Equipment* and $5,000 to *Training and Development* under the Hazardous Materials Response Team Grant (035-520-3226-2035 and 035-520-3226-2043). Establish a revenue estimate of $15,000 in account 035-520-3226-3226.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB/jsf

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
George C. Snead, Jr., Assistant City Manager for Operations
James Grigsby, Fire-EMS Chief

CM03-00197

AHS

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE appropriating funds for the FY04 Hazardous Materials Response Team Grant, amending and reordaining certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2003-2004 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Expendable Equipment (<$5,000)	035-520-3226-2035	$ 10,000
Training and Development	035-520-3226-2044	5,000
Revenues		
Hazardous Materials Response Team FY04	035-520-3226-3226	15,000

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the City Manager to accept, on behalf of the City of Roanoke, "pass-through" funding from a two-year contract with the Commonwealth of Virginia, Department of Emergency Management to participate in a Regional Hazardous Materials Response Team.

BE IT RESOLVED by the Council of the City of Roanoke that the City Manager is hereby authorized, on behalf of the City, to accept $15,000.00 in "pass-through" funding pursuant on a two-year contract commenced July 1, 2002 with the Commonwealth of Virginia, Department of Emergency Management, to participate in a Regional Hazardous Materials Response Team, as is more particularly set forth in the letter of the City Manager dated October 6, 2003.

ATTEST:

City Clerk

CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

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October 6, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Mill Mountain Land Acquisition

Background:

As a part of the multi-regional Parkway viewshed planning process, the most recent Virginia Outdoors Plan states the necessity for local governments to acquire private land in order to preserve and protect the viewshed of the Blue Ridge Parkway. Furthermore, the City's Vision Plan articulates the benefit to the entire community of preserving trees in the Valley.

Currently, there are approximately 55 acres of heavily forested land identified as Tax Map #4470101 and #4480101 (Attachment 1) that lay contiguous to the Blue Ridge Parkway and Mill Mountain Park, which are privately owned. The property owner is interested in preserving this land as a pristine open public space rather than seeing the land developed.

Considerations:

In order to keep this property a natural reserve, the property owner has agreed to sell both parcels to the City for $140,000, which is slightly under the property's assessed value. Before purchase can be made, a Phase I Environmental Site Assessment and a metes and bounds survey will be conducted for both parcels. Partial funding of $57,185 is available in an undesignated capital fund balance (008-3349) and the remaining funds of $89,365 are available in capital fund interest earnings (008-3325). The total cost of $146,550 includes the cost for the assessment, survey, and property purchase.

Recommended Action:

City Council approve the purchase of properties identified as Tax Map #4470101 and #4480101, contingent upon the return of an acceptable title search and environmental assessment. Appropriate funding, as outlined above, in an account to be established by the Director of Finance in the Capital Projects Fund.

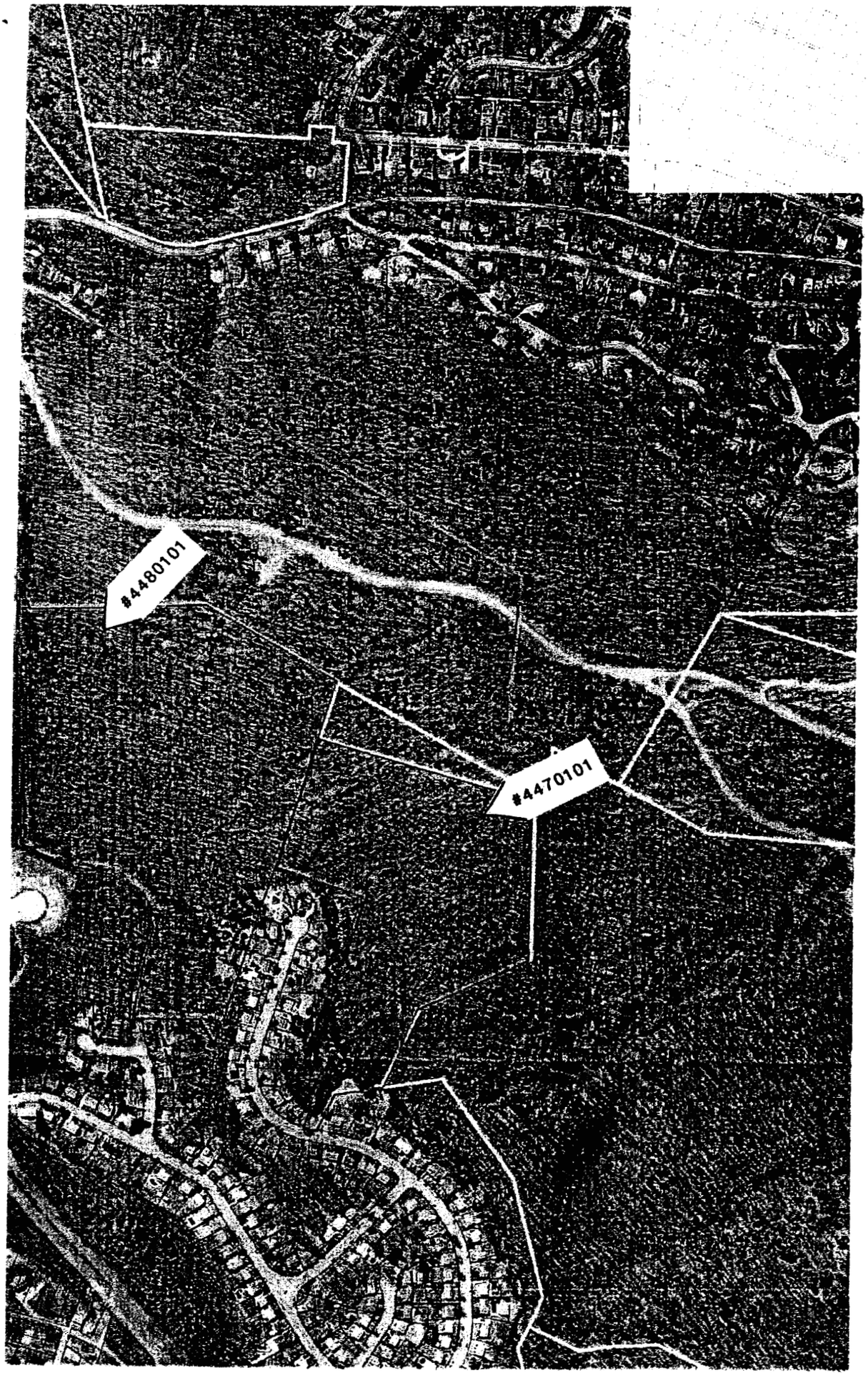
Sincerely,

Darlene L. Burcham
City Manager

DLB/SCB:kaj

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Steven C. Buschor, Director of Parks and Recreation
Rolanda B. Russell, Assistant City Manager for Community Development

#CM03-00196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AHS

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE appropriating funds for land acquisition at Mill Mountain, amending and reordaining certain sections of the 2003-2004 Capital Projects Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2003-2004 Capital Projects Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Mill Mountain Land Acquisition	008-620-3525-9050	$ 146,550
Fund Balance		
Capital Fund Interest Earnings	008-3325	(89,365)
Other Fund Balance Available	008-3349	(57,185)

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

D2C

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE providing for the acquisition of property located contiguous to the Blue Ridge Parkway and Mill Mountain Park in order to preserve the viewshed of the Blue Ridge Parkway; authorizing the proper City officials to execute and attest any necessary documents for this acquisition; and dispensing with the second reading of this ordinance by title.

BE IT ORDAINED by the Council of the City of Roanoke that:

1. To provide for the preservation and protection of the viewshed of the Blue Ridge Parkway as required by the Virginia Outdoors Plan and in keeping with the multi-regional Blue Ridge Parkway viewshed planning process, the City wants and needs fee simple title to property located contiguous to the Blue Ridge Parkway and Mill Mountain Park and identified as Roanoke City Tax Map Nos. 4470101 and 4480101, and as further stated in the City Manager's letter to City Council dated October 6, 2003, and attachment thereto. The proper City officials are authorized to execute and attest the necessary documents, in form approved by the City Attorney, to acquire for the City from the respective owner fee simple title to the parcels, for a consideration not to exceed $140,000.00.

2. The City's purchase of the above-referenced property is subject to the City being able to obtain a satisfactory environmental assessment of the property and an acceptable title report.

3. Upon delivery to the City of a deed, approved as to form and execution by the City Attorney, the Director of Finance is directed to pay the consideration to the owner, certified by the City Attorney to be entitled to the same.

4. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
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October 6, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Funding for Restricted Eligibility Worker

Background:

The City of Roanoke Department of Social Services and the State Health Department entered into an agreement in 1994 to establish an Eligibility Worker position through the Department of Social Services to be placed at the Roanoke Health Department to assure that all citizens have an opportunity to apply for Medicaid. The Agreement remains in effect until modified by mutual consent or operation of law. (See Attachment A).

There is no local cost for this position. Approximately 50% of the cost is reimbursed from federal Medicaid administrative funds, and the Health Department reimburses the remaining cost.

Considerations:

The City of Roanoke Health Department is satisfied with the results of having this position on location and wishes to continue the services.

Recommended Action:

Authorize the City Manager to continue the services of the Eligibility Worker stationed at the Health Department in accordance with the original agreement. Adopt revenues of $36,369 from state and federal sources and appropriate expenditures as outlined below in accounts to be established by the Director of Finance.

• Salary	$28,033
• City Retirement	2,179
• ICMA Match	650
• FICA	2,196
• Health Ins.	3,024
• Dental Ins.	211
• Disability Ins.	76
	$36,369

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB:rji

Attachment

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Vickie L. Price, Acting Director of Human Services
Molly O'Dell, M.D. Director of Health Department
Rolanda B. Russell, Assistant City Manager for Community Development

#CM03-00199

MEDICAID

ELIGIBILITY DETERMINATIONS

PLACEMENT OF ELIGIBILITY DETERMINATION STAFF
AT DESIGNATED HEALTH DEPARTMENTS

AGREEMENT

Between

The State Health Department

The Virginia Department of Social Services

Roanoke City Department of Social Services

ARTICLE I

PURPOSE

This Agreement is entered into as of the date specified below by and between Roanoke City Department of Social Services hereafter referred to as the Local DSS, The State Health Department hereafter referred to as Health Department, and the Virginia Department of Social Services, hereafter referred to as VDSS to locate a Medicaid worker, hereafter referred to as Health Department Eligibility Worker (HDEW), on-site at the Health Department.

The Local DSS and the Health Department agree to use the HDEW exclusively for the purpose outlined in this Agreement. The Local DSS is specifically prohibited from using the HDEW for any purpose other than completing cases originating through the Health Department.

ARTICLE II

FUNCTIONS TO BE PERFORMED BY HDEW

A. Application Acceptance and Processing

Medicaid Applications - Health Department patients referred to the HDEW shall have all the rights and privileges of any other applicant for assistance. Health Department personnel will refer for Medicaid eligibility determination all potentially eligible medically indigent patients.

1. Eligibility Criteria - Eligibility for Medicaid will be determined using all applicable rules, regulations, and policies governing the general population applying for Medicaid.

   a. Each HDEW shall be supplied a copy of the Medicaid Manual by the Local DSS. It shall be the responsibility of each HDEW to keep the Medicaid Manual current with all revising transmittals.

   b. All forms necessary to process Medicaid applications shall be ordered by the appropriate local DSS through the usual procedures and made available to the HDEW.

2. Case Development - The HDEW shall process all Medicaid applications taken at the Local Health Development for adults and children who are residents of the HDEW's locality. Completed cases shall be forwarded daily to the local DSS for immediate enrollment.

   a. Applications for patients from other jurisdictions will be forwarded by the HDEW, unprocessed, to the city or county of residence.

   b. Medicaid eligibility must be determined in conformity with processing standards contained at Part II, Chapter A, of the Medicaid Manual. Therefore, no local DSS processing procedures shall encumber or delay certifying and enrolling eligible cases.

B. Confidentiality of File Information

1. Confidentially of client information contained in existing files (both paper and electronic) is to be protected, and access to Medicaid eligibility files shall be limited to the HDEWs and Local Departments of Social Services.

2. Information released to Health Department personnel shall be limited to information authorized for dissemination in accordance with the applicant Release of Information. It shall be released in a manner consistent with efficiency and non-duplication of effort among the Medicaid, WIC, and medical services programs.

3. Information maintained by or which can be secured by the local DSS shall be shared with the HDEW when necessary to determine eligibility for Medicaid under this Agreement. This includes diagnosis information and local public records.

C. Health Department Eligibility Workers - Organization

1. Caseload Standards - The HDEW shall be an employee of the local DSS but shall not count in the determinations of local staffing needs.

2. Staffing level will be one full time position. This staffing level will be re-evaluated by representatives of the parties to this Agreement after one year of operation using the following criteria to determine its applicability and the need to make adjustment.

   a. Increased reimbursement by Medicaid due to increased Medicaid enrollment then compared to the one year period immediately prior to the effective date of the contract.

   b. Increased numbers of medically indigent eligibles enrolled in Medicaid.

3. Training - The HDEWs shall be treated as other eligibility workers as regards provision of Medicaid program training and technical assistance. HDEW will be under the supervision on local Department of Social Services Supervisor who will be responsible for instruction, accountability, payroll information, and job performance.

4. Coverage - HDEW shall be available to take applications at the Local Health Department during Local Health Department's clinics and at other times available to take applications for Health Department Home Health, CHIP and MICC patients not attending scheduled clinics and at other times agreed to by the Local DSS and Health Department.

5. Performance Standards - Performance Standards applicable to other Medicaid workers shall be the performance standards applicable to the HDEW.

6. Job Classification - The HDEW shall be employed in the same personnel classification and be afforded the same benefits as any other local Medicaid worker in the Local DSS, except that their employment is restricted to the life of this project.

7. Relationships - The Health Department, the HDEW, and their employing agencies shall cooperate to the mutual benefit of both by sharing informational materials, conducting joint staff meetings, and providing each worker with periodic reports of work performed such as: referrals made, application approvals and costs of services paid, subject to the confidentiality requirements in Article II, B.

8. Liaison - Each of the parties to this Agreement shall designate a contact person for dissemination of information about job functions, operating procedures, and problem resolution.

D. Equipment

1. The Health Department will provide, at no cost to this project, necessary secure space and equipment for the eligibility worker, such as desk, chair, reasonable office supplies, and other furniture and equipment necessary for performance of the contract.

2. The Local DSS will provide support for purposes of tracking referred patients and compiling statistical reports in MAPPER.

ARTICLE III

COSTS

A. This project, whereby local workers will be physically located at the Health Department will use funds appropriated to the State Health Department to fund the non-federally matched portion of the costs of maintaining the HDEW.

B. Procedures:

1. The Local DSS shall submit monthly to the VDSS individual claims for 100 percent reimbursement of personnel costs for the HDEW.

   a. Each claim for reimbursement shall be submitted on form DA-20-250, Accounting Voucher.

   b. Each monthly claim shall be reimbursed by the VDSS at 100 percent of costs.

2. The VDSS shall submit monthly to DMAS, separately identifiable from other federal claims for Medicaid administration reimbursement, all claims of administrative expenditures associated with operation of this Agreement.

3. The Health Department agrees to reimburse the VDSS through an Interagency Transfer of funds for any costs for which federal reimbursement does not equal 100 percent of such State agency reimbursement made for the month. Funds used by the Health Department to reimburse VDSS must not come from federal sources. The Interagency Transfer Invoice will be forwarded by the tenth working day of the month following the covered period.

ARTICLE IV

MAINTENANCE OF RECORDS

1. Administrative Records - Records of administrative costs shall, be maintained separate from other local DSS and Health Department records for evaluation and determination of the ultimate effectiveness of the project.

2. Applications - Separate identification shall be maintained of all referrals made by Health Department personnel to the HDEW. Referrals will be tracked and the outcome recorded as either approved, denied, or failure/refusal to follow through.

3. Approved cases will be tracked and total expenditures under Medicaid to the Health Department and other providers will be periodically gathered into reports by Central Office staff.

ARTICLE V

TERM OF AGREEMENT

This Agreement shall begin after all parties have signed this Agreement and when personnel have been employed and/or reassigned to the Health Department site. An effectiveness evaluation shall be conducted by representatives of this Agreement after the site has been fully operational for twelve months. After completion of the twelve month effectiveness evaluation, any party to this Agreement may terminate its participation in this project with or without cause upon sixty days notice in writing to the other parties. In lieu of such action, this Agreement shall remain in effect until modified by mutual consent or operation of law. Interim evaluations, problem identification and resolution sessions will be held quarterly after the first six-month review, on an as needed basis throughout the life of this Agreement.

SIGNATURE SHEET

Agreement for placement of eligibility workers at the Roanoke City Health Department between:

The State Health Department
The Virginia Department of Social Services
Roanoke City Department of Social Services

I hereby agree to the terms of this agreement:

_____ (Signed)
W. Robert Herbert, City Manager
Roanoke City

2-7-94 (Dated)

_____ (Signed)
Molly L. Rutledge, M.D.
Acting Health Director

2-1-94 (Dated)

_____ (Signed)
Larry D. Jackson, Commissioner
State Department of Social Services

_____ (Dated)

_____ (Signed)
Robert B. Stroube, M.D., M.P.H.
State Health Commissioner
State Health Department

3-4-95 (Dated)

AHS

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE appropriating funds for the Restricted Eligibility Worker, amending and reordaining certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that certain sections of the 2003-2004 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Regular Employee Salaries	035-630-5180-1002	$ 28,033
City Retirement	035-630-5180-1105	2,179
ICMA Match	035-630-5180-1116	650
FICA	035-630-5180-1120	2,196
Medical Insurance	035-630-5180-1125	3,024
Dental Insurance	035-630-5180-1126	211
Disability Insurance	035-630-5180-1131	76
Revenues		
Medicaid Worker State FY04	035-630-5180-5181	18,185
Medicaid Worker Federal FY04	035-630-5180-5182	18,184

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the City Manager to continue the services of the Eligibility Worker stationed at the Health Department in accordance with the original Agreement between the Roanoke City Department of Social Services, the State Health Department and the Virginia Department of Social Services, upon certain terms and conditions.

WHEREAS, Roanoke City Department of Social Services, the State Health Department, and the Virginia Department of Social Services entered into an agreement in 1994 to establish an Eligibility Worker position through the Department of Social Services to be placed at the Roanoke City Health Department to ensure that all citizens have an opportunity to apply for Medicaid;

WHERAS, the services of the Eligibility Worker are beneficial to both citizens and the Health Department in that it respectively allows citizens requesting services from the Health Department to apply for Medicaid at the same time, thereby making the application process more accessible and efficient, while enabling the Health Department to maximize Medicaid revenue; and

WHEREAS, this program is also beneficial to the Department of Social Services in that it is provided an eligibility worker at no cost for salary and benefits.

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke that the City Manager is authorized to continue the services of the Eligibility Worker stationed at the Health Department in accordance with the original agreement between Roanoke City Department of Social Services, the State Health Department, and the Virginia Department of Social Services, upon such terms and conditions as more fully set forth in the City Manager's letter dated October 6, 2003, to Council.

ATTEST:

City Clerk.

CITY OF ROANOKE
DEPARTMENT OF FINANCE

215 Church Avenue, S.W., Room 461
P.O. Box 1220
Roanoke, Virginia 24006-1220
Telephone: (540) 853-2821
Fax: (540) 853-6142

JESSE A. HALL
Director of Finance
email: jesse_hall@ci.roanoke.va.us

ANN H. SHAWVER
Deputy Director
email: ann_shawver@ci.roanoke.va.us

October 6, 2003

The Honorable Ralph K. Smith, Mayor
The Honorable C. Nelson Harris, Vice Mayor
The Honorable William D. Bestpitch, Council Member
The Honorable M. Rupert Cutler, Council Member
The Honorable Alfred T. Dowe, Jr., Council Member
The Honorable Beverly T. Fitzpatrick, Jr., Council Member
The Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

SUBJECT: August Financial Report

This financial report covers the first two months of the 2003-2004 fiscal year. The following narrative discusses revenues and expenditures.

REVENUES

The first couple of months in the fiscal year are difficult to compare to the prior year. Due to period of availability changes made during the implementation of GASB 34, certain revenues related to the prior year but received in July and August of 2003 were accrued and included in the June Financial Report. Reversal of these accruals without adequate offsetting collections in the current year cause certain revenue balances to be low at August 31st. Although we anticipate revenue growth of approximately 3.5% for fiscal year 2004, many of the large taxes, such as real estate and personal property, are not due until later in the fiscal year, and most other taxes are received at least one month in arrears.

One notable item relating to revenue was the performance of the retail sales tax. The September collection for the month of July was $1,516,822 and decreased by 0.23% from the FY 2003 collection for the same month, indicative that retail sales still haven't gained momentum from a year ago. Sales tax has been flat for the past two fiscal years.

In total, General Fund revenues are up 23.3% compared to the same period last year. A majority of this increase relates to two factors. The first factor is a timing difference in the collections of real estate taxes due October 5th. Current year receipts are $745,443 ahead of the same time period last year. The second factor is a change in the accounting for recovered costs. Effective with the 2003-2004 fiscal year, recovered costs are being reported as revenues rather than as reductions of department expenditures as in prior years. This change in reporting has the impact of increasing both revenues and expenditures as compared to the prior year. As of the end of August, approximately $635,000 in recovered costs had been received.

Revenue increases were partially offset by decreases in interest income and grants-in-aid from the Commonwealth. We just became aware of another reduction in state reimbursements. The State Compensation Board reimburses the City on a per diem basis for local and state responsible prisoners kept in our jail. Due to state budget shortfalls, the Compensation Board began reducing their reimbursement by an amount of "overhead cost recovery" based on the number of federal prisoners kept in our jail. Due to this procedure, the amount of per diem reimbursements from the state will most likely fall short of the estimate provided by the Compensation Board by approximately $700,000 for fiscal year 2004. We are discussing this issue with representatives of the Compensation Board to determine if they can provide any additional funds, since the amount we are realizing is significantly less than the estimate they provided. We will continue to monitor this revenue source, along with all others, as we progress through the fiscal year.

Historically low interest rates continue to contribute to decreases in interest income, and no significant increases are foreseen at this time. Program cuts implemented by the Commonwealth of Virginia to balance its FY 2004 budget will likely result in the City receiving no revenue growth in state funding compared to the prior year. Additionally, a timing difference in the receipt of Comprehensive Services Act funds has contributed to the shortfall in this area, compared to the previous year.

EXPENDITURES AND ENCUMBRANCES

Similar to revenues, it is difficult to analyze expenditure trend information over short time periods. Expenditure comparison will have more meaning after obtaining several months of data.

A couple of key changes will impact the obligations of the City in the 2003-2004 fiscal year. First, the City granted an average raise of 2.25% to its active employees effective July 1, 2003. Secondly, the City's purchasing division has created an initiative to assure that contractual commitments such as rents are encumbered via purchase order for the annual amount. This has resulted in higher obligations in the current fiscal year compared to the prior fiscal year, but it represents a more realistic assessment of departmental obligations. Also, the changes to recording of recovered costs, discussed above, will result in affected departmental obligations being greater than the prior year since the recovered costs are no longer deducted from obligations.

I would be pleased to answer questions City Council may have regarding the monthly financial statements.

Jane A. Hall
Director of Finance

JAH/AHS
Attachments

CITY OF ROANOKE, VIRGINIA
GENERAL FUND

STATEMENT OF REVENUE

Revenue Source	Year to Date for the Period: July 1 - Aug 31 2002-2003	Year to Date for the Period: July 1 - Aug 31 2003-2004	Year to Date for the Period: Percentage of Change	Current Fiscal Year: Revised Revenue Estimates	Current Fiscal Year: Percent of Revenue Estimate Received
General Property Taxes	$ 418,939	$ 1,457,252	247.84 %	$ 83,500,217	1.75%
Other Local Taxes	2,044,492	2,632,070	28.74 %	60,866,657	4.32%
Permits, Fees and Licenses	137,715	199,578	44.92 %	907,302	22.00%
Fines and Forfeitures	222,486	196,200	-11.81 %	1,296,130	15.14%
Revenue from Use of Money and Property	173,828	107,014	-38.44 %	1,093,091	9.79%
Grants-in-Aid Commonwealth	2,177,734	1,252,902	-42.47 %	45,711,128	2.74%
Grants-in-Aid Federal Government	-	-	0.00 %	34,300	0.00%
Charges for Services	541,583	1,161,674	114.50 %	8,472,862	13.71%
Miscellaneous Revenue	19,632	73,795	275.89 %	416,874	17.70%
Internal Services	63,399	72,445	14.27 %	2,529,153	2.86%
Total	**$ 5,799,808**	**$ 7,152,930**	**23.33 %**	**$ 204,827,714**	**3.49%**

STATEMENT OF EXPENDITURES AND ENCUMBRANCES

Expenditures	Year to Date for the Period: July 1 - Aug 31 2002-2003	Year to Date for the Period: July 1 - Aug 31 2003-2004	Year to Date for the Period: Percentage of Change	Current Fiscal Year: Unencumbered Balance	Current Fiscal Year: Revised Appropriations	Current Fiscal Year: Percent of Budget Obligated
General Government	$ 2,047,806	2,151,519	5.06 %	$ 9,715,403	$ 11,866,922	18.13%
Judicial Administration	1,069,039	1,034,233	-3.26 %	5,535,375	6,569,608	15.74%
Public Safety	8,291,334	11,491,030	38.59 %	38,465,449	49,956,479	23.00%
Public Works	6,402,789	5,547,951	-13.35 %	19,335,103	24,883,054	22.30%
Health and Welfare	3,432,265	5,359,922	56.16 %	23,158,897	28,518,819	18.79%
Parks, Recreation and Cultural	954,277	1,205,259	26.30 %	4,267,568	5,472,827	22.02%
Community Development	988,654	1,298,978	31.39 %	4,441,486	5,740,464	22.63%
Transfer to Debt Service Fund	5,827,993	5,534,818	-5.03 %	9,808,014	15,342,832	36.07%
Transfer to School Fund	7,786,124	9,173,871	17.82 %	40,741,205	49,915,076	18.38%
Nondepartmental	834,454	831,099	-0.40 %	8,854,156	9,685,255	8.58%
Total	**$ 37,634,735**	**43,628,680**	**15.93 %**	**$ 164,322,656**	**$ 207,951,336**	**20.98%**

CITY OF ROANOKE, VIRGINIA
WATER FUND
COMPARATIVE INCOME STATEMENT
FOR THE TWO MONTHS ENDING AUGUST 31, 2003

	FY 2004	FY 2003
Operating Revenues		
Commercial Sales	$ 647,777	$ 586,343
Domestic Sales	193,745	174,780
Industrial Sales	91,521	67,620
Town of Vinton	2,089	2,444
City of Salem	2,256	3,270
County of Botetourt	26,553	24,541
County of Bedford	2,034	(4,144)
Customer Services	87,381	60,783
Charges for Services	170,817	438,565
Total Operating Revenues	1,224,173	1,354,202
Operating Expenses		
Personal Services	799,735	773,070
Operating Expenses	756,279	878,448
Depreciation	298,314	309,714
Total Operating Expenses	1,854,328	1,961,232
Operating Loss	(630,155)	(607,030)
Nonoperating Revenues (Expenses)		
Interest on Investments	10,336	23,655
Rent	31,380	21,500
Main Extension Agreements	104,490	-
Miscellaneous Revenue	10,601	10,740
Interest and Fiscal Charges	(188,139)	(159,659)
Net Nonoperating Expenses	(31,332)	(103,764)
Net Loss	**$ (661,487)**	**$ (710,794)**

CITY OF ROANOKE, VIRGINIA
WATER POLLUTION CONTROL FUND
COMPARATIVE INCOME STATEMENT
FOR THE TWO MONTHS ENDING AUGUST 31, 2003

	FY 2004	FY 2003
Operating Revenues		
Sewage Charges - City	$ 656,996	$ 636,493
Sewage Charges - Roanoke County	162,484	73,173
Sewage Charges - Vinton	29,866	20,192
Sewage Charges - Salem	145,516	20,888
Sewage Charges - Botetourt County	18,422	15,238
Customer Services	99,315	92,365
Interfund Services	-	45,348
Total Operating Revenues	1,112,599	903,697
Operating Expenses		
Personal Services	431,031	380,241
Operating Expenses	707,218	620,062
Depreciation	306,790	310,214
Total Operating Expenses	1,445,039	1,310,517
Operating Loss	(332,440)	(406,820)
Nonoperating Revenues (Expenses)		
Interest on Investments	13,286	27,547
Miscellaneous Revenue	-	302
Capital Contributions - Other Jurisdictions	8,765	-
Interest and Fiscal Charges	(121,214)	(123,982)
Net Nonoperating Expenses	(99,163)	(96,133)
Net Loss	**$ (431,603)**	**$ (502,953)**

CITY OF ROANOKE, VIRGINIA
CIVIC FACILITIES FUND
COMPARATIVE INCOME STATEMENT
FOR THE TWO MONTHS ENDING AUGUST 31, 2003

	FY 2004	FY 2003
Operating Revenues		
Rentals	$ (113,866)	$ 5,788
Event Expenses	(36,813)	(10,218)
Display Advertising	2,500	-
Admissions Tax	(94,036)	(7,016)
Electrical Fees	(60)	310
Facility Surcharge	(132,355)	3,236
Charge Card Fees	8,178	323
Commissions	129	92
Catering/Concessions	(56,865)	32,329
Other	(13,309)	(4,936)
Total Operating Revenues	(436,497)	19,907
Operating Expenses		
Personal Services	331,575	273,180
Operating Expenses	3,037	314,779
Depreciation	87,938	85,646
Total Operating Expenses	422,550	673,605
Operating Loss	(859,047)	(653,698)
Nonoperating Revenues		
Interest on Investments	4,612	8,257
Miscellaneous Revenue (Expense)	349	(242)
Transfer from General Fund	35,000	-
Total Nonoperating Revenues	39,961	8,015
Net Loss	**$ (819,086)**	**$ (645,683)**

Note: Reversal of year end accruals with no offsetting activity in the current year caused certain revenues to have negative balances at August 31st. As events are closed from the Civic Center revolving account to the City, these revenue balances will become positive.

CITY OF ROANOKE, VIRGINIA
PARKING FUND
COMPARATIVE INCOME STATEMENT
FOR THE MONTH ENDING AUGUST 31, 2003

	FY2004	FY 2003
Operating Revenues		
Century Station Garage	$ 66,955	$ 63,819
Williamson Road Garage	81,388	59,737
Gainsboro Surface	6,934	38,290
Norfolk Ave Surface	10,404	97,083
Market Square Garage	40,805	68,574
Church Ave Garage	83,418	13,422
Tower Garage	69,693	5,746
Williamson Road Surface Lot	12,141	9,995
Gainsboro Garage	8,921	5,419
Other Surface Lots	21,238	-
Total Operating Revenues	401,897	362,085
Operating Expenses		
Operating Expenses	155,611	132,015
Depreciation	90,608	90,848
Total Operating Expenses	246,219	222,863
Operating Income	155,678	139,222
Nonoperating Revenues (Expenses)		
Interest on Investments	-	2,203
Interest and Fiscal Charges	(75,358)	(93,375)
Miscellaneous	-	140
Net Nonoperating Expenses	(75,358)	(91,032)
Net Income	**$ 80,320**	**$ 48,190**

CITY OF ROANOKE, VIRGINIA

CITY TREASURER'S OFFICE
GENERAL STATEMENT OF ACCOUNTABILITY
FOR THE MONTH ENDED AUGUST 31, 2003

TO THE DIRECTOR OF FINANCE:
GENERAL STATEMENT OF ACCOUNTABILITY OF THE CITY TREASURER OF THE CITY OF ROANOKE, VIRGINIA FOR THE FUNDS OF SAID CITY FOR THE MONTH ENDED AUGUST 31, 2003.

FUND	BALANCE AT JULY 31, 2003	RECEIPTS	DISBURSEMENTS	BALANCE AT AUG 31, 2003	BALANCE AT AUG 31, 2002
GENERAL	$7,835,578.27	$9,762,704.02	$24,035,461.77	**($6,437,179.48)**	($3,471,633.92)
WATER	2,816,309.17	524,066.07	259,418.65	**3,080,956.59**	7,812,436.37
WATER POLLUTION CONTROL	8,277,240.12	1,869,232.87	1,648,853.77	**8,497,619.22**	8,674,812.18
CIVIC FACILITIES	1,949,459.32	105,019.20	275,996.42	**1,778,482.10**	3,644,955.19
PARKING	(2,710,895.26)	222,844.34	85,154.92	**(2,573,205.84)**	103,308.37
CAPITAL PROJECTS	52,196,378.27	215,124.87	279,016.00	**52,132,487.14**	61,493,880.96
MARKET BUILDING OPERATIONS	295,632.64	16,749.27	12,862.06	**299,519.85**	0.00
CONFERENCE CENTER	3,903,415.28	28,683.25	6,685.21	**3,925,413.32**	4,221,663.68
RKE VALLEY DETENTION COMM	0.00	0.00	0.00	**0.00**	2,606.00
DEBT SERVICE	8,761,911.09	6,089,090.92	89,601.63	**14,761,400.38**	14,256,133.25
DEPT OF TECHNOLOGY	4,005,584.94	191,497.84	346,648.29	**3,850,434.49**	5,208,867.00
FLEET MANAGEMENT	1,360,611.29	504,755.46	575,612.52	**1,289,754.23**	299,589.56
PAYROLL	(12,259,141.59)	13,542,233.46	11,107,185.07	**(9,824,093.20)**	(8,877,379.32)
RISK MANAGEMENT	11,990,326.32	1,053,170.87	1,187,276.54	**11,856,220.65**	11,502,853.14
PENSION	938,659.42	1,419,594.53	1,263,820.15	**1,094,433.80**	(197,428.20)
SCHOOL FUND	7,697,764.01	6,100,073.79	2,822,858.66	**10,974,979.14**	10,255,952.94
SCHOOL CAPITAL PROJECTS	8,437,379.96	144,172.28	976,414.08	**7,605,138.16**	7,134,462.03
SCHOOL FOOD SERVICE	462,541.84	5,941.42	124,209.17	**344,274.09**	191,811.77
FDETC	41,982.72	31,763.45	77,765.80	**(4,019.63)**	20,513.83
GRANT	85,917.80	1,031,612.31	332,296.30	**785,233.81**	(307,642.58)
TOTAL	$106,086,655.61	$42,858,330.22	$45,507,137.01	**$103,437,848.82**	$121,969,762.25

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE STATEMENT OF MY ACCOUNTABILITY TO THE CITY OF ROANOKE, VIRGINIA, FOR THE FUNDS OF THE VARIOUS ACCOUNTS THEREOF FOR THE MONTH ENDED AUGUST 31, 2003. THAT SAID FOREGOING:

CASH:	
CASH IN HAND	**$9,886.00**
CASH IN BANK	**3,312,860.32**
INVESTMENTS ACQUIRED FROM COMPETITIVE PROPOSALS:	
COMMERCIAL HIGH PERFORMANCE MONEY MARKET	**7,263,381.50**
LOCAL GOVERNMENT INVESTMENT POOL	**20,377,494.21**
MONEY MANAGEMENT ACCOUNT	**10,411,031.76**
REPURCHASE AGREEMENTS	**10,000,000.00**
U. S. AGENCIES	**15,524,375.00**
VIRGINIA AIM PROGRAM (U. S. SECURITIES)	**36,538,820.03**
TOTAL	**$103,437,848.82**

DATE: SEPTEMBER 15, 2003

DAVID C. ANDERSON, TREASURER

CITY OF ROANOKE PENSION PLAN
STATEMENT OF CHANGES IN PLAN NET ASSETS
FOR THE TWO MONTHS ENDED AUGUST 31, 2003

	FY 2004	FY 2003
Additions:		
Employer Contributions	$ 523,067	$ 439,977
Investment Income		
Net Appreciation (Depreciation) in Fair Value of Investments	4,816,601	(13,503,767)
Interest and Dividend Income	24,097	74,603
Total Investment Income (Loss)	4,840,698	(13,429,164)
Less Investment Expense	(74,590)	(81,353)
Net Investment Income (Loss)	4,915,288	(13,347,811)
Total Additions (Deductions)	**$ 5,438,355**	**$ (12,907,834)**
Deductions		
Benefits Paid to Participants	$ 2,948,410	$ 2,721,218
Administrative Expenses	(9,521)	10,560
Total Deductions	2,938,889	2,731,778
Net Increase (Decrease)	**2,499,466**	**(15,639,612)**
Net Assets Held in Trust for Pension Benefits:		
Fund Balance July 1	283,983,057	289,534,315
Fund Balance August 31	**$286,482,523**	**$273,894,703**

Note: Negative amounts reflect the reversal of accrual accounting entries made for fiscal year-end financial reporting purposes.

CITY OF ROANOKE PENSION PLAN
BALANCE SHEET
AUGUST 31, 2003

	FY 2004	FY 2003
Assets		
Cash	$ 1,094,429	$ (197,428)
Investments, at Fair Value	286,858,545	275,447,848
Due from Other Funds	1,590	1,590
Other Assets	6,150	5,785
Total Assets	**$ 287,960,714**	**$ 275,257,795**
Liabilities and Fund Balance		
Liabilities:		
Due to Other Funds	$ 1,478,093	$ 1,354,879
Accounts Payable	98	8,213
Total Liabilities	1,478,191	1,363,092
Fund Balance:		
Fund Balance, July 1	283,983,057	289,534,315
Net Gain (Loss) - Year to Date	2,499,466	(15,639,612)
Total Fund Balance	286,482,523	273,894,703
Total Liabilities and Fund Balance	**$ 287,960,714**	**$ 275,257,795**

CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

215 Church Avenue, S.W., Room 166
Roanoke, Virginia 24011
Telephone: (540) 853-1730 Fax: (540) 853-1230
E-mail: planning@ci.roanoke.va.us

Architectural Review Board
Board of Zoning Appeals
Planning Commission

October 6, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Resolution Endorsing Amendment to H-2 Neighborhood Preservation Overlay District Design Architectural Review Guidelines Pertaining to Installation of Replacement and Substitute Siding

Background:

At its meeting on September 11, 2003, the Architectural Review Board (ARB) reviewed and approved amendments to the H-2 Neighborhood Preservation Overlay District Architectural Design Guidelines pertaining to the installation of replacement and substitute siding on buildings in the historic district. A copy of those revisions is attached. Attachment A illustrates, by use of strike-through and italics, the revisions to specific guidelines sections. Attachment B reflects the entire Siding Guideline, including proposed revised sections.

The guidelines are instrumental in guiding the review, consideration, and decisions made by the Architectural Review Board for requests that are brought before it. The guidelines, unlike provisions of the City Code, such as the Zoning Ordinance, provide both the ARB and the City Council, upon appeal, flexibility to consider any situation or context that warrants special consideration.

The revised sections of the guidelines focus on replacing the terms "vinyl or aluminum" and "substitute" as they pertain to siding with the word "synthetic." The word "synthetic" encompasses a growing number of replacement materials that are now available in the marketplace, and also includes various stucco and/or EFIS (Exterior Finish and Insulation and System) materials.

The revisions also make the installation of synthetic siding as a replacement material 'inappropriate' in the District unless the Board finds that the use of a synthetic material is necessary to save a building due to the condition of the structure and its original exterior cladding. A reference to color of the material has been removed since color is not under the purview of the Board in the H-2 District. The Board has purview over color only in the H-1 District which covers portions of downtown.

Considerations:

The Architectural Review Board requests that the City Council endorse these guideline amendments. City Council's endorsement of the overall guidelines in January, 2001, demonstrated Council's support of the guidelines. Therefore, it is appropriate that any amendments to these same guidelines also receive City Council endorsement. Furthermore, because the decisions of the ARB may be appealed to City Council, it is important that City Council use these guidelines in its decision-making process.

Recommendation:

The Architectural Review Board recommends that City Council adopt a resolution endorsing the amendments to the Architectural Review Guidelines as they pertain to the installation of replacement or substitute siding.

Respectfully submitted,

Robert N. Richert

Robert N. Richert, Chairman RBT
City of Roanoke Architectural Review Board

Attachments
cc: Darlene L. Burcham, City Manager
William M. Hackworth, City Attorney
Mary F. Parker, City Clerk
Brian Townsend, Director of Planning Building and Development
Anne S. Beckett, Agent, Architectural Review Board

Architectural Design Guidelines for the H-2 District

SIDING

Replacement and Substitute Siding

The application of ~~vinyl or aluminum~~ *synthetic* siding is ~~discouraged~~ *inappropriate* because it can trap moisture and hide damage that needs to be repaired. It is ~~acceptable, however, if necessary repairs are done and if new siding is of the same size and character as the original~~ *applicable only in the most severe cases where the Board finds it necessary to save a building.* Realize, however, that no material is completely maintenance free. Even ~~vinyl and aluminum~~ *synthetic* sidings are subject to damage and fading and will be difficult to repair when dented, torn, or discolored. ~~Only traditional colors should be used when choosing substitute *synthetic* siding~~.

Maintain the architectural characteristics of a building when applying ~~vinyl or aluminum~~ *synthetic* siding by:

- installing the siding without damaging historic materials
- limiting the use of ~~substitute~~ *synthetic* sidings to wall surfaces, not architectural elements, such as ~~door and window frames or~~ porch fascia and trim, *dormers, eaves, gable-ends, returns, etc.*
- matching the historic material in dimension, profile, ~~and~~ texture, *and reliefs.*
- installing the siding in the same direction as the existing siding
- installing cornerboards that match the width of the original cornerboards.

When installing ~~substitute~~ *synthetic* siding, maintain the original clapboard and cornerboard widths and keep window frames, door frames, and other details.

When applying ~~vinyl~~ *synthetic* siding under eaves and overhangs, do not install it with seams perpendicular to the building. Use siding that runs parallel to the building.

Remember to repair problems, such as water penetration or insect infestation, before installing ~~aluminum or vinyl~~ *synthetic* siding.

Do not install ~~substitute~~ *synthetic* siding so that it obscures or requires the removal of decorative features, such as cornices, entablatures, brackets, vents or louvers.

Do not use ~~substitute~~ *synthetic* siding with artificial wood-graining.

Siding

German siding was popular in the H-2 District during the late nineteenth century.

Residences of the H-2 Historic District demonstrate the diversity of siding materials available in the late nineteenth and early twentieth centuries. Novelty siding (also known as German or drop siding), popular during the late nineteenth century, appears frequently as an exterior material. Many district bungalows and American Foursquares exhibit the wide, sawn clapboards characteristic of the Mid-Atlantic and Southern states, while many Queen Anne styles possess geometrically patterned wood shingles. These types of sidings help to define the visual character of a building.

IMPORTANT CONSIDERATIONS

Historic wood siding is a distinctive feature of many Roanoke residences.

Changing or covering siding can often alter or destroy the authentic character of a building.

Both new and historic siding require periodic maintenance to give a building proper weather protection.

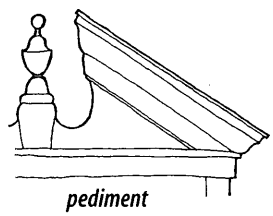
[illegible]

• **Recommended** actions or treatments are indicated by .
• Actions or treatments **not recommended** and other warnings are indicated by .

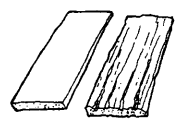
Retaining Character of Siding

Identify and keep the original exterior siding materials as well as any unique siding. Important character-defining features include:

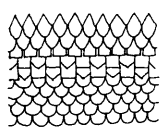
- decorative shingles
- texture
- pediments
- cornices and friezeboards
- beaded or novelty boards
- architrave mouldings
- examples of quality craftsmanship



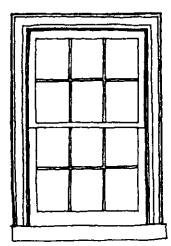
pediment



texture



decorative shingles



architrave moulding

The H-2 District has a variety of siding and wood features and decorative details.

Do not replace sound historic siding with new materials to achieve an "improved" appearance.

Preventing Deterioration

Protect siding from water damage by:

- repairing leaking roofs, gutters, and downspouts
- securing loose flashing around chimneys and other roof openings
- grading the ground to slope away from the building
- protecting against insect or fungus infestation
- replacing deteriorated caulking in joints
- replacing missing downspouts
- unclogging gutters
- using splash blocks

Select good-quality, quarter-sawn siding free from knots, checks, or wild grain to prevent warping of replacement materials.

Do not use chemical preservatives that change the appearance of exterior siding and wood features.

DEFINITIONS

Architrave. An ornamental molding used around doors and windows.

Caulking. A rubber-like compound used to seal cracks and joints and provide waterproofing.

Checks. Shallow, irregular cracks.

Clapboards. A type of wood siding, thicker along the lower edge than along the upper edge.

Cornice. Decorated trim-work placed along the top of a wall.

Entablature. The beam carried by columns, commonly decorated with trim molding.

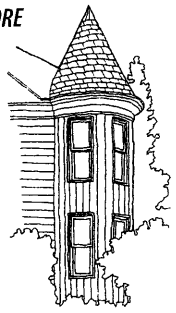
Flashing. Pieces of sheet metal or flexible membrane used to protect joints from water penetration.

Pediment. A decorative molding, typically triangular shaped, used over doors and windows.

Shingles. Siding or roofing units typically made of wood, tile, concrete, or slate, used as a covering and applied in an overlapping pattern.

Weatherface exposure. The part of overlapping wood siding boards that is visible.

BEFORE



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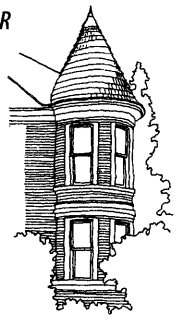
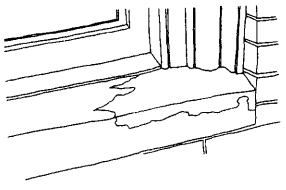


RECOMMENDED
Removing cover-up siding may restore the original character of a building.



Consider using epoxy to repair a damaged feature such as a window sill.

The Architectural Design Guidelines for the H-2 District were prepared for the City of Roanoke by Land and Community Associates of Charlottesville, Virginia.

For additional information, please contact:
City Department of Community Planning and Development, Room 162, Municipal Building
215 Church Avenue, S.W.
981-2344.

FOR ADDITIONAL INFORMATION...
Refer to other brochures in this series on the following related subjects:

Basic Design Principles • Masonry Features and Walls • Windows and Doors • Roofs • Additions and Auxiliary Structures • New Construction • Painting

Removing Inappropriate Treatments

Some owners may wish to remove inappropriate treatments and restore the property to a more historic appearance. Examples of such treatments include:

- plywood or wood paneling
- simulated stucco
- exposed aggregate board
- simulated brick, asphalt, and asbestos shingles that cover original wood clapboards or shingles

✓ Assess the impact of removing any cover-up materials by first removing a small area of the material in an inconspicuous location.

Repairing Features

✓ Repair cracks and splits by gently opening them, removing debris, and sealing with a waterproof glue.

✓ Consider using epoxy consolidants to rebuild deteriorated elements.

✓ Repair any deteriorated siding that is exposed following the removal of inappropriate treatments. Rot and insect infestation may have occurred.

✓ Remove deteriorated wood by cutting out damaged areas or removing affected elements, such as individual clapboards. Retain as much of the sound original material as possible and repair it by splicing in new materials of the same species.

✗ Do not replace a deteriorated feature if it can be repaired.

✗ Do not caulk the gap between overlapping clapboards when painting or making repairs. This traps interior water vapor within the wall and can lead to deterioration.

Replacing Missing Siding

✓ Replace missing siding using established preservation techniques, such as patching or piecing-in. Materials should conform exactly to the original in:

- size and shape
- color and texture
- joint and weatherface exposure

✓ Replace missing wood elements by using identical ones taken from an inconspicuous location, such as the rear or side of a building. Replace the borrowed elements with newly fabricated ones of the same design.

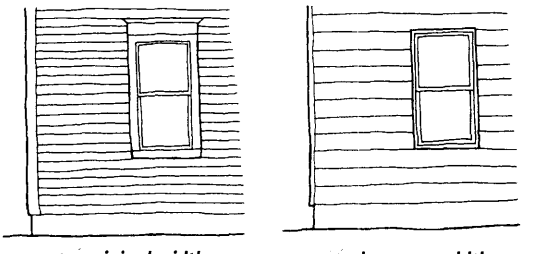
✗ Do not replace missing siding with new siding that is incompatible with the remaining materials.

Replacement and Synthetic Siding

The application of synthetic siding is inappropriate because it can trap moisture and hide damage that needs to be repaired. It is applicable only in the most severe cases where the Board finds it necessary to save a building. Realize, however, that no material is completely maintenance free. Even synthetic sidings are subject to damage and fading and will be difficult to repair when dented, torn, or discolored.

✓ Maintain the architectural characteristics of a building when applying synthetic siding by:

- installing the siding without damaging historic materials
- limiting the use of synthetic sidings to wall surfaces, not architectural elements, such as porch fascia and trim, dormers, eaves, gable-ends, returns, etc.
- matching the historic material in dimension, profile, texture, and reliefs.
- installing the siding in the same direction as the existing siding
- installing cornerboards that match the width of the original cornerboards



✓ *original widths and details* ✗ *incorrect widths and details*

When installing synthetic siding, maintain the original clapboard and cornerboard widths and keep window frames, door frames, and other details.

✗ When applying synthetic siding under eaves and overhangs, do not install it with seams perpendicular to the building. Use siding that runs parallel to the building.

✗ Remember to repair problems, such as water penetration or insect infestation, before installing synthetic siding.

✗ Do not install synthetic siding so that it obscures or requires the removal of decorative features, such as cornices, entablatures, brackets, vents or louvers.

Do not use synthetic siding with artificial wood-graining.

SST 9/20/03

IN THE COUNCIL OF THE CITYOF ROANOKE, VIRGINIA,

A RESOLUTION endorsing an amendment to the Architectural Design Guidelines for the H-2, Neighborhood Preservation District.

WHEREAS, on August 10, 1995, the Architectural Review Board for the City of Roanoke ("ARB") adopted the Architectural Design Guidelines for the H-2, Neighborhood Preservation District.

WHEREAS, subsequent to that date, the ARB amended the H-2 Guidelines to incorporate certain guidelines for retaining walls;

WHEREAS, by Resolution No. 35705-010702, City Council endorsed the Architectural Design Guidelines for the H-2, Neighborhood Preservation District, as amended by the ARB;

WHEREAS, the H-2 Guidelines, as amended, are guidelines and are not mandatory; and

WHEREAS, the ARB has requested that City Council endorse an amendment to the H-2 Guidelines, as amended, to address issues relating to the application of siding in the H-2, Neighborhood Preservation District.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke that this Council hereby endorses the amendment to the Architectural Design Guidelines for the H-2, Neighborhood Preservation District, as amended, as recommended by the

Architectural Review Board in its letter dated October 6, 2003, to this Council, to the extent that the H-2 Guidelines, as amended, are not inconsistent with either the authority granted to the City of Roanoke by the General Assembly, any law of the Commonwealth of Virginia, or any provision in the Code of the City of Roanoke (1979), as amended.

ATTEST:

City Clerk.