REGULAR WEEKLY SESSION----ROANOKE CITY COUNCIL

November 15, 2004

2:00 p.m.

The Council of the City of Roanoke met in regular session on Monday, November 15, 2004, at 2:00 p. m., the regular meeting hour, in the Roanoke City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, with Mayor C. Nelson Harris 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 pursuant to Resolution No. 36762-070604 adopted by Council on Tuesday, July 6, 2004.

PRESENT: Council Members Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., Sherman P. Lea, Brenda L. McDaniel, Brian J. Wishneff, and Mayor C. Nelson Harris----------6.

ABSENT: Council Member M. Rupert Cutler----------1.

The Mayor declared the existence of a quorum.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Ann H. Shawver, Deputy Director of Finance; and Mary F. Parker, City Clerk.

The invocation was delivered by Vice-Mayor Beverly T. Fitzpatrick, Jr.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor C. Nelson Harris.

PRESENTATIONS AND ACKNOWLEDGEMENTS:

ACTS OF ACKNOWLEDGEMENT-DECEASED PERSONS: Mr. Dowe offered the following resolution:

(#36894-111504) A RESOLUTION memorializing the late Charles Ray Hill, Sr., a former Town Councilman and Mayor of the Town of Vinton.

(For full text of Resolution, see Resolution Book 69, Page 184.)

Mr. Dowe moved the adoption of Resolution No. 36894-111504. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members, Dowe, Fitzpatrick, Lea McDaniel, Wishneff and Mayor Harris ----------6.

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

(Council Member Cutler was absent.)

The Mayor called for a moment of silence in memory of former Mayor Hill.

PROCLAMATIONS: The Mayor presented a proclamation to Joseph Lee, Chapter Vice President, Alpha Kappa Lambda Chapter, Alpha Phi Alpha Fraternity, declaring December 4, 2004, as Alpha Phi Alpha Fraternity 98th Founder's 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 two requests for Closed Session.

MINUTES: Minutes of the regular meetings of Council held on Monday, September 20, 2004, and Thursday, October 7, 2004, were before the body.

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

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

COMMITTEES-CITY COUNCIL: A communication from Mayor C. Nelson Harris requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, and to interview applicants for a vacancy on the Architectural Review Board, 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 to convene in Closed Meeting as above described. The motion was seconded by Mr. Lea and adopted by the following vote:

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

ACTS OF ACKNOWLEDGEMENT-CITY COUNCIL: A communication from Mayor C. Nelson Harris 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 to convene in Closed Meeting as above described. The motion was seconded by Mr. Lea and adopted by the following vote:

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

EASEMENTS-SPECIAL PERMITS: A communication from the City Manager requesting that Council schedule a public hearing for Monday, December 6, 2004, at 2:00 p.m., or as soon thereafter as the matter may be heard, with regard to encroachment of an awning into the public right-of-way at 105 Wall Street, S. E., Official Tax No. 4010319, was before the body.

Mr. Fitzpatrick moved that Council concur in the request of the City Manager to schedule a public hearing as above described. The motion was seconded by Mr. Lea and adopted by the following vote:

AYES: Council Members McDaniel, Wishneff, Dowe, Fitzpatrick, Lea and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

OATHS OF OFFICE-COMMITTEES-HOUSING/AUTHORITY-PERSONNEL DEPARTMENT-INDUSTRIES-ROANOKE ARTS COMMISSION: A report of the City Clerk advising of the qualification of the following persons, was before Council.

> Charles E. Hunter, III, as a Director of the Industrial Development Authority, for a term ending October 20, 2008;

Terri R. Jones as a member of the Roanoke Arts Commission, for a term ending June 30, 2007;

Mornique E. Smith as a Commissioner of the Roanoke Redevelopment and Housing Authority, for a term ending August 31, 2008; and

Gregory W. Staples as a member of the Personnel and Employment Practices Commission, for a term ending June 30, 2007.

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

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

REGULAR AGENDA

PUBLIC HEARINGS: NONE.

PETITIONS AND COMMUNICATIONS: NONE

REPORTS OF OFFICERS:

CITY MANAGER:

BRIEFINGS: See pages 428 and 435.

ITEMS RECOMMENDED FOR ACTION:

INDUSTRIES: The City Manager submitted a communication advising that on October 31, 2003, the City of Roanoke sold New Tract F, Official Tax No. 7230105, at the Roanoke Centre for Industry and Technology (RCIT) to SEMCO Inc. of Virginia; SEMCO, Inc. agreed to construct a facility and to install manufacturing equipment on the tract of land in accordance with sale of the property and now wishes to convey the property to a subsidiary named SEMCO Duct and Acoustical Products, Inc.; SEMCO, Inc. of Virginia will not be released from obligations contained in the deed and an attachment to the deed that further sets forth the obligations of SEMCO, and SEMCO Duct and Acoustical Products, Inc., will agree to conditions contained in the deed and attachments, as follows:

the facility must be at least 100,000 square feet and be built within 24 months of November 3, 2003; the Company will invest a minimum of $4 million; and if the facility is not built in time, or a minimum of $4 million has not been invested, the Company is required to pay the City $150,000.00 (discount on land).

The City Manager recommended that she be authorized to execute the deed authorizing conveyance of New Tract F at the RCIT to SEMCO Duct and Acoustical Products, Inc., with such transfer to keep the same terms and conditions related to project scope, investment, and commitments that were made in the original deed and a letter from SEMCO, Inc.

Mr. Fitzpatrick offered the following ordinance:

(#36895-111504) AN ORDINANCE authorizing the City Manager to execute the necessary documents consenting to the conveyance of New Tract F, Tax Map Number 7230105, located at the Roanoke Centre for Industry and Technology, from SEMCO Incorporated of Virginia to SEMCO Duct and Acoustical Products, Inc., upon certain terms and conditions, and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 69, Page 185.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36895-111504. The motion was seconded by Ms. McDaniel and adopted by the following vote:

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

INDUSTRIES-ECONOMIC DEVELOPMENT: The City Manager submitted a communication advising that the City and IMD Investment Group, LLC, (IMD), the developer of property located at the northwest corner of Franklin Road and Wonju Street, S. W., have negotiated an annual Economic Development Grant Performance Agreement; the Economic Development Grant will be funded by the City, but issued and administered through the Industrial Development Authority of the City of Roanoke, Virginia (IDA); the grant would assist in the provision of necessary infrastructure to make the site developable and to provide structured parking so that high quality retail activity, including a Ukrop's grocery store, a drug store, and associated retail, office, and restaurant space may be constructed on the property; currently, the site is located entirely within a floodway and flood plain and has limited development potential; IMD's plans for the site include improvement of the flood plain, therefore, making the site developable and an economic benefit to the City and its citizens; and the project will provide additional tax revenue, jobs, and services that will be available to and benefit the citizens of the City of Roanoke and the Roanoke Valley.

It was further advised that the proposed Agreement outlines the obligations of IMD in order to qualify for and to receive the grant, including successful rezoning of the site to accommodate the proposed development; construction and opening of a minimum 58,000 square foot Ukrop's Supermarket and drug store within 24 months of the date of the Agreement; and IMD entering into a 15 year or longer lease with Ukrop's.

It was noted that within the first 24 months of the date of the Agreement, IMD shall have spent, or caused to be spent, at least $3 million in site infrastructure improvements and one floor of structured parking either under the Ukrop's store or one level below the surface parking lot that will be located between the Ukrop's store and Franklin Road.

The City Manager explained that within 60 months of the date of the Agreement, IMD shall have spent, or caused to be spent, an additional $3 million on structured parking spaces and site infrastructure; in addition, within the same 60 months, a minimum of 60,000 square feet of additional buildings containing a combination of restaurants, retail and office space are to be constructed, or the amount of the grant may be reduced; subject to IMD fulfilling its obligations as enumerated above, the IDA will provide certain funds annually to IMD, as received from the City, to assist with development of the site infrastructure and structured parking; beginning at the option of IMD upon the opening of the Ukrop's grocery store, IMD may request an annual grant for 15 consecutive years; the amount of the grant shall equal the amount of revenue actually received by the City during the preceding grant year resulting directly from the property including real estate taxes, general retail sales tax (currently the local option of one per cent), professional and occupational license tax, tangible personal property tax, prepared food and beverage tax, electric consumer utility tax, natural gas utility tax, and water utility tax; however, any future increases in any of said taxes dedicated for specific purposes or projects will be excluded from the annual calculation.

It was further explained that the request cannot be for an amount greater than $600,000.00 for each year, even if total revenue resulting for the development generated by the taxes enumerated above exceed that amount; there shall be no carry-forward for funds from one grant year to the next; if IMD fails to provide the additional building development required within the 60 month timeframe of the Agreement, the requested grant shall only be in an amount equal to 60 per cent of actual revenue received from the development, with the same $600,000.00 per year limit on any such request; the Agreement requires IMD to report to the City and to the IDA on a semi-annual basis on its progress and compliance with conditions of the Agreement and to provide appropriate supporting documentation for each grant request; funding for each annual grant request will be subject to appropriation by Council to the IDA; and the annual appropriation will be in an amount equal to the anticipated grant request for actual revenues received for the preceding grant year.

The City Manager recommended she be authorized to execute a Performance Agreement among the City, IMD, and the IDA and to execute such other documents and to take such further action as may be necessary to implement and administer the Performance Agreement, to be approved as to form by the City Attorney; and that Council approve the terms of the Performance Agreement among the City, IMD, and the IDA and determine that such grant will promote economic development within the City of Roanoke.

Mr. Dowe offered the following ordinance:

(#36896-111504) AN ORDINANCE authorizing the proper City officials to execute a Performance Agreement among the City of Roanoke (City), the Industrial Development Authority of the City of Roanoke, Virginia, (IDA), and Investment Group, LLC, (IMD) that provides for certain undertakings by the parties in connection with the development of certain property located at the northwest corner of Franklin Road and Wonju Street, S. W., in the City of Roanoke; and dispensing with the second reading by title of this ordinance.
(For full text of ordinance, see Ordinance Book No. 69, Page 186.)

Mr. Dowe moved the adoption of Ordinance No. 36896-111504. The motion was seconded by Mr. Fitzpatrick.

Clark Worthy, Attorney, 10 South Jefferson Street, representing Towers Retail LLC., owner and operator of Towers Retail Center, requested that Council not waive the second reading of the above referenced ordinance, which will require a second reading by Council on Monday, December 6, 2004. He stated that the agreement involves a potential grant to IMD of $9 million over the next 15 years in return for a commitment to develop the site, which is a substantial amount of money. Therefore, he requested additional time to review the agreement prior to approval by Council.

On behalf of the Council, the Mayor advised that the City of Roanoke takes seriously the issue of aggressively pursuing all economic development opportunities as a community; not only will the proposed project develop a fallow piece of land that most likely would not be developed were it not for the proposed arrangement, but the project will allow a good corporate citizen and employer to become a part of the community. He called attention to the need to review certain of the City's economic development policies and incentives.

Ordinance No. 36896-111504 was adopted by the following vote:

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris ----------6.

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

(Council Member Cutler was absent.)

SPORTS ACTIVITIES-STREETS AND ALLEYS: The City Manager called attention to a communication from Jennifer Blackwood, Interim Executive Director, Scott Robertson Memorial, requesting that Council re-enact and amend Ordinance No. 36462-081803 to allow for an additional six months to complete the recordation process, in connection with permanently vacating, discontinuing and closing a 15 foot public right-of-way extending in a northeasterly direction from the northerly boundary of Densmore Road, N. W., between Official Tax Nos. 270906 and 2671005.

The City Manager recommended that Council adopt an ordinance to amend and reordain Ordinance No. 36462-081803 adopted on August 18, 2003, to extend the time in which the plat of subdivision can be recorded following adoption of the above referenced ordinance to 24 months from the date of adoption.

Mr. Fitzpatrick offered the following ordinance:

(#36897-111504) AN ORDINANCE amending and reordaining Ordinance No. 36462-081803; and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book 69, Page 187.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36897-111504. The motion was seconded by Mr. Wishneff.

Council Member Dowe advised that he serves on the Board of Directors of the Scott Robertson Memorial Foundation, he receives no compensation for his service, and inquired if he should abstain from voting on Ordinance No. 36897-111504.

The City Attorney responded that there is no conflict of interest inasmuch as Mr. Dowe serves on the Board of Directors in an unpaid capacity.

Ordinance No. 36897-111504 was adopted by the following vote:

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

CITY ATTORNEY: NONE.

DIRECTOR OF FINANCE: NONE.

REPORTS OF COMMITTEES:

LEGISLATION: Vice-Mayor Beverly T. Fitzpatrick, Jr., Chair, Legislative Committee, submitted a communication advising that on November 1, 2004, Council's Legislative Committee met to review the proposed 2005 Legislative Program; after careful review, the Committee recommends the program to Council for favorable action; and the School Board's portion of the Legislative Program was approved by the School Board at its meeting on November 9, 2004. (For full text, see 2005 Legislative Program on file in the City Clerk's Office.)

Mr. Fitzpatrick offered the following resolution:

(#36898-111504) A RESOLUTION adopting and endorsing a Legislative Program for the City to be presented to the City's delegation to the 2005 Session of the General Assembly.

(For full text of resolution, see Resolution Book 69, Page 188.)

Mr. Fitzpatrick moved the adoption of Resolution No. 36898-111504. The motion was seconded by Mr. Wishneff and adopted by the following vote:

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

COMMITTEES-ROANOKE NEIGHBORHOOD PARTNERSHIP: Sandra Kelly, Vice-Chair, Roanoke Neighborhood Advocates (RNA), presented the annual State of the Neighborhoods report, pursuant to Resolution No. 36397-061603.

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

Council Member Dowe spoke in support of development of a youth comprehensive plan and representation by the Youth Services Citizen Board on the Roanoke Neighborhood Advocates; whereupon, Ms. Kelly responded that a youth representative currently serves on the RNA.

Council Member McDaniel inquired if the various neighborhood organizations include youth representation which would be a good way to build community pride in young people leading to a vested interest in their neighborhoods. Ms. Kelly advised that she would take the suggestion to the RNA.

Question was raised as to whether the RNA has a plan to re-energize neighborhood organizations that do not currently meet on a regular basis; whereupon, Ms. Kelley advised that the RNA, working in conjunction with the City's Housing Development Department, would like to encourage every community to have representation on the RNA through their neighborhood association.

Mr. Bob Caudle, 4231 Belford Street, S. W., commended Ms. Kelly on her leadership as Vice-Chair of the Roanoke Neighborhood Advocates.

BUDGET-SCHOOLS: A communication from the Roanoke City School Board requesting that Council approve the following appropriations, was before the body.

- $3,000,000.00 for the Patrick Henry High School Project; the additional 2005 Capital Bond Funds will provide for Patrick Henry High School Phase I construction costs plus Phase II architect and construction management fees.

- $400,000.00 for the William Fleming High School Project; the 2005 Capital Bond Funds will provide for the William Fleming High School construction design phase.

A report of 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:

(#36899-111504) AN ORDINANCE to appropriate 2004B General Obligation Bond Proceeds to the Patrick Henry and William Fleming High School construction projects, amending and reordaining certain sections of the 2004-2005 School Capital Fund Appropriations and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book 69, Page 189.)

Mr. Dowe moved the adoption of Ordinance No. 36899-11154. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

SCHOOLS: A communication from the Roanoke City School Board advising that at a special meeting on November 11, 2004, the School Board approved a resolution requesting that Council issue General Obligation Qualified Zone Academy Bonds (QZAB) in an aggregate principal amount not to exceed $1,600,000.00 to be used to rehabilitate, repair, and/or equip Fallon Park Elementary School, was before the body.

It was further advised that the QZAB initiative is a Federal program that allows lending institutions and schools to form a mutually beneficial partnership to support education; the program offers bonds, interest-free, and allows a bank or other lending institution to purchase the special no-interest bond on behalf of a school; and schools qualify based on their percentage of free lunch students.

Mr. Fitzpatrick offered the following resolution:

(#36900-111504) A RESOLUTION (i) authorizing the School Board for the City of Roanoke to repair, rehabilitate or equip Fallon Park Elementary School, including without limitation the installation of heating, air conditioning and lighting (the "Project"); and (ii) authorizing and directing the City Manager to file an application with the Virginia Department of Education seeking an allocation of authority to issue the City's general obligation qualified zone academy bonds in an amount not to exceed $1,600,000.00 to finance the Project.

(For full text of resolution, see Resolution Book 69, Page 190.)

Mr. Fitzpatrick moved the adoption of Resolution No. 36900-111504. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

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:

ACTS OF ACKNOWLEDGEMENT-DECEASED PERSONS: Council Member Dowe requested that Council observe a moment of silence at the 7:00 p.m. session in memory of the late Bishop Antonio Thomas, Pastor, Spirit of Life Church International, who passed away on Wednesday, November 10, 2004.

SPORTS ACTIVITIES-SCHOOLS-ACTS OF ACKNOWLEDGEMENT: Council Member Dowe congratulated the William Fleming High School Colonels, winners of the Blue Ridge District Football Championship.

SCHOOLS: Council Member Lea inquired about the status of the former Roanoke Academy of Mathematics and Science building.

The City Manager advised that in order to make the land available for the new Roanoke Academy for Mathematics and Science, the City of Roanoke relinquished certain park lands and purchased, or made available, other land under certain conditions with the Federal government. She explained that structural review of the former building led the school system to believe that it would not be practical to renovate the building for school use, or for a continuing reuse by the community; three quarters of a million dollars were appropriated to the school project in order to construct a full size gymnasium; and additional monies were made available to enable the former library, now called the media center, to be enlarged, with the idea that the Roanoke Academy for Mathematics and Science would be the City's first prototype school that would be designed for community use during those hours that school is not in use by students. With additional funding, she added that it is hoped that there will be increased use of the new school in order to address community needs in that specific section of the City.

ANIMALS/INSECTS-FIREARMS: Council Member Wishneff inquired as to whether the deer management contract has been approved by Council. The City Manager responded that funds have been appropriated and two contracts have been executed.

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 response, recommendation or report to Council.

ARMORY/STADIUM-CITY MARKET: Mr. Jim Fields, 17 Ridgecrest Road, Hardy, Virginia, encouraged citizens to attend a public hearing to be held on November 16, 2004, at 7:00 p.m., at Lucy Addison Middle School, to provide input with regard to the future of Victory Stadium. He stated that the citizens of the City of Roanoke should make a decision on the fate of Victory Stadium via a referendum, and suggested that Victory Stadium be promoted for outdoor events from May-December, with profits to be used for renovation of the stadium.

He spoke against a Subway restaurant occupying space in the City Market Building inasmuch as there are numerous vacant buildings in the Market area that could be used for a Subway restaurant. He advised that the third floor of the City Market Building, which is currently vacant, should be used.

DRUGS/SUBSTANCE ABUSE: Ms. Helen E. Davis, 35 Patton Avenue, N. E., spoke with regard to the proposed methadone clinic on Hershberger Road and advised that it is regrettable that CRC Health Group is continuing with plans to establish a methadone clinic at the proposed location, especially in view of the number of schools, churches and residences in the area. She stated that Blue Ridge Behavioral Healthcare, which operates out of the Burrell Memorial Nursing Center, will provide public mental health, mental retardation, and substance abuse services to residents of Botetourt County, Craig County, and the Roanoke Valley; the proposed methadone clinic will also provide substance abuse services, therefore, it is not necessary or desirable for two clinics of this nature to be located in the community. She stated that urban renewal was used as a reason to destroy certain northeast and northwest Roanoke neighborhoods; private property was purchased inexpensively only to be resold and developed as commercial establishments, which resulted in tears in the fabric of black communities and a loss of connectivity, community pride, neighborhood churches, businesses, schools and recreation centers that were within walking distance. She advised that citizens knew nothing about the proposed methadone clinic prior to an article that was published in *The Roanoke Times*, therefore, no opportunity was afforded for public input or for expressions of concern by citizens. She referred to an article that was published in *The Roanoke Times* on June 20, 2004, in which it was stated that the proposed methadone clinic could draw addicts from four states to the Roanoke Valley for treatment, which also has created a concern in the community. She stated that if a methadone clinic was not an acceptable use in Roanoke County, for the same reasons, the facility should not be acceptable in the City of Roanoke. She noted that CRC Health Group, operator of the methadone company that plans to open the facility in northwest Roanoke, has been citied on 54 occasions for violating state regulations at six of its clinics in West Virginia.

The City Attorney was requested to investigate the validity of the alleged citations referenced by Ms. Davis.

COMPLAINTS-CITY GOVERNMENT-YOUTH: Mr. Robert E. Gravely, 727 29th Street, N. W., encouraged citizens to attend a meeting to be held on November 30, 2004, at 7:00 p.m., at Lucy Addison Middle School, in connection with various community concerns. He spoke with regard to the lack of economic growth in the City of Roanoke, the City's promotion of businesses versus the overall well being of its citizens, and the need to provide more jobs for Roanoke's disadvantaged citizens and youth population.

CITY MANAGER COMMENTS:

REFUSE COLLECTION-CITY EMPLOYEES: The City Manager commended City employees who participated in the indoor garage/yard sale that was held on Saturday, November 13, 2004, in the Exhibit Hall at the Roanoke Civic Center, which was sponsored by the City of Roanoke, the Western Virginia Water Authority and the Virginia Cooperative Extension. She advised that the yard sale was held in recognition of America Recycles Day (November 15) to promote reuse and to raise money for recycling education efforts in the City.

BUSES-ACTS OF ACKNOWLEDGMENT: The City Manager called attention to the Greater Roanoke Transit Company Safety Awards Banquet which was held on Sunday, November 14, 2004, at which time awards were presented to public transit drivers with 34 consecutive years of safety on the road, and two drivers were recognized for reaching the one million mile mark as operators of City of Roanoke public transit buses. She commended all employees of the transit company for the service they provide to the citizens of the Roanoke Valley on a daily basis.

At 3:20 p.m., the Mayor declared the Council meeting in recess to be reconvened in Room 159, Noel C. Taylor Municipal Building, for two briefings.

The Council Meeting reconvened at 3:25 p.m., in Room 159, Noel C. Taylor Municipal Building.

CITY MARKET: The City Manager advised that a Member of Council previously raised questions with regard to the City Market; therefore, Mark Woods, Historic Market Liaison, and David Diaz, Executive Director, Downtown Roanoke, Inc., participated in a briefing on management of the Farmer's Market by Downtown Roanoke, Inc.

Mr. Diaz advised that:

- Based upon his travels, Roanoke's downtown market is the best outdoor market for its size in the United States.

- Key factors that make the Farmer's Market special are its central location in downtown Roanoke; the street network, or the compact nature of Roanoke's downtown; and a vender mix policy of 60/40--60 per cent farmers and growers and 40 per cent crafters and others.

- Limitations and challenges involve inclement weather.

- A full time market works well on a Monday - Saturday basis, but in a City of 95,000 in population, there are limits in terms of the number of people who will shop on the City Market.

- The key ingredient that is preventing the City Market from reaching its full economic potential is a decreasing customer base due to a declining employment base in downtown Roanoke over the past ten years.

- Persons visiting downtown Roanoke get a positive impression due to not only the Farmer's Market, but an increase in dining and entertainment options; i.e.: the O. Winston Link Museum, the Roanoke Higher Education Center, Eight North Jefferson Place, etc., all of which draw hundreds of people to the downtown area.

- Mill Mountain Theatre, Center in the Square, the development of condominiums, Dumas Center development, and the future art museum all position downtown Roanoke to become a center for arts and cultural opportunities over the next 25 years.

- Forty-four permanent vendors currently operate on the City Market, with a total of 59 permits, and the numbers have remained generally constant during the past few years.

- The City Market does not close due to inclement weather.

- An investment plan for the Farmer's Market to address infrastructure and other pertinent needs will be submitted in the near future.

- Two key obstacles to the future success of the Farmer's Market are investing in the infrastructure and increasing the employment base in downtown Roanoke.

In closing, Mr. Diaz advised that Downtown Roanoke will work with City staff to prepare an investment plan for the City Market; studies are currently underway to identify strategies for downtown employment and to recruit companies to locate in downtown; a Downtown Roanoke office listing was included on the web site which generated 17,000 visitors during the month of September; and an advertising campaign will be launched at the Valley View Cinema regarding the Farmer's Market and the City Market area in general.

CITY MARKET: The City Manager introduced Elizabeth Neu, Director of Economic Development, and a representative of Advantis Real Estate Services Company, the firm that was engaged by the City of Roanoke to operate the City Market Building, for a briefing on day to day operation of the Market Building.

Ms. Neu advised that the City of Roanoke entered into a one year Lease and Management Agreement with Advantis Real Estate Services Company (Advantis) on March 1, 2003; the Agreement provided for a one-year renewal option; however, the Agreement was not renewed and Advantis now manages the property on a month-to-month basis.

She explained that Advantis was selected as the successful candidate after a detailed search and selection process; the selection committee rejected three proposals in August 2002; the second request for proposal was issued in November 2002, with four firms responding; following the interview process, the top two firms were Advantis Real Estate Services Company and a combined team of Hall Associates and Downtown Roanoke, Inc.; each firm was scored and ranked based on their presentation and overall response to the request for proposals; and the process of competitive negotiation permitted City staff the ability to negotiate with both firms simultaneously since final scores were close; and as the selection team learned more about the two plans, the proposal submitted by Advantis was the first choice.

Ms. Neu explained that Advantis continues to perform at an acceptable level; maintenance of the facility has improved significantly; Advantis is currently in the process of replacing the janitorial contractor in an effort to continue to provide the best possible service for the property; and Advantis has been instrumental in assisting the City with the installation of the new HVAC project and handled all efforts involving the relocation of the electric service out of the basement of the building to avoid future damage due to flooding.

Tim Allison, Area Manager, Advantis Management Services Company, advised that in addition to numerous property issues, Advantis has worked with tenants to resolve a number of tenant issues, specifically the common area maintenance (CAM) fee; in addition to rent, each tenant pays a monthly CAM fee to cover costs associated with maintaining the common areas of the property; in revamping the CAM fee, Advantis has proposed a flat fee that would be increased only when the lease is renewed and would be negotiated along with the rent; administering the CAM in this manner is different from the traditional method of annual reconciliation which requires each tenant to pay a pro-rata share of actual expenses; the flat CAM method ensures that tenants are not over burdened by excessive maintenance charges; and the CAM fee and language in the lease regarding the fee was changed to address specific concerns raised by tenants.

He advised that Advantis has forwarded each tenant an addendum to their current lease agreement in an effort to update the CAM fee and accompanying language in the lease, and Advantis will continue to work with tenants to resolve remaining problems regarding the CAM fee; and adjustments made by Advantis in the Lease Agreement included specifically spelling out what is included in the CAM charges and adding a paragraph to the agreement that states, "excluded in the common area costs will be capital costs to replace the HVAC system, replace the roof, replace sidewalks and other capital accounts."

Mr. Allison advised that Advantis has renewed a total of six leases with existing tenants and signed two leases with new owners; three leases are currently in negotiation; Advantis has worked with an existing tenant to open a new food court space in the property and is working with another tenant on the possibility of expanding into an adjacent space; there are currently two vacant tenant spaces on the first floor; over the past few months, Advantis has continued to market available space in the Market Building, but signing new leases for vacant space is hindered by the construction project, and the two vacant spaces continue to be used by contractors for the HVAC construction project.

Ms. Neu advised that HVAC construction at the City Market Building is progressing; most of the new mechanical equipment has been installed and most of the direct interruptions to tenant spaces are complete; however, some businesses have expressed a concern that business activity has been somewhat slower during the construction period; when a business is directly impacted by the construction project, the rent is abated for the time that the business must be closed, and while most tenants are pleased with the progress of the construction project, some tenants have been impacted more significantly than others; and City staff and the management company will continue to work with tenants to ensure that all concerns are quickly and adequately addressed.

She stated that Advantis has provided City staff with an extensive list of recommended building improvements; some improvements are currently underway, while others cannot be started until additional funding is available; in addition to the $1.6 million HVAC replacement project and $295,000.00 in other capital repairs and replacements authorized by Council, the City's General Fund supplemented the operating budget for the Market Building Fund by $74,000.00 in fiscal year 2004; considering these three expenditures, the General Fund has subsidized the property by $1,969,000.00 since January 2003; during the time that the previous management firm managed the property, a number of maintenance and capital items were not addressed which now require the City's attention; and during this period, the City continued to address maintenance and capital repairs at the request of the previous management firm totaling $275,000.00.

Kelly Crovo, owner, Red Coyote Mexican Grill, located in the City Market Building, advised that the City Market Building has been neglected by the City, the previous and current management companies, therefore, Market Building occupants should not be expected to pay for repairs. He stated that he is currently paying $48.00 per square foot, yet requests for repairs to his space have not been addressed by Advantis. In summary, he stated that the Market Building is the City's asset, it is not the responsibility of tenants to upgrade the building, he currently pays a high rate per square foot for space and should not be expected to pay for building renovations. He advised that if a Subway restaurant is allowed to open in the Market Building, it would be equivalent to a Kroger or a Ukrops operating on the Farmer's Market.

River Bonhotel, Co-owner of the local Subway franchise, advised that his lease for the Subway restaurant at 102 South Jefferson Street will not be renewed, therefore, he previously approached representatives of Advantis with regard to locating in a vacant perimeter space in the City Market Building under a ten year lease arrangement. He stated that there is little or no profit to be made in downtown Roanoke due to the lack of business and pedestrian traffic, and expressed dismay with regard to concerns expressed by City Market Building tenants regarding competition with a Subway, inasmuch as a Subway restaurant would represent another food choice, and a Subway restaurant is currently located just one block away from the City Market Building. He noted that any customers coming to the City Market Building because of a Subway restaurant could and would do business with other City Market Building food vendors in the event of an over flow. He added that Subway is a national food chain which advertises extensively, and there is a level of comfort for out of town visitors when they see a restaurant that they recognize, therefore, a Subway restaurant could draw more people to the area who will spend their money with other City Market Building vendors. He stated that competition causes business owners to operate more efficiently and to upgrade their facilities; Subway is open until 7:00 p.m., each evening in an effort to develop a customer base, while other businesses in the City Market Building close at 2:00 p.m. In closing, he advised that Subway would like to think of itself as a good alternative and a good corporate citizen that donates thousands of dollars to various worthwhile causes in the Roanoke Valley.

Mr. Jens Rasmussen, 1623 Bluemont Street, S. W., advised that having lived and worked in downtown Roanoke, he is impressed with the vision of City leaders to recognize the downtown area as one of the premier cultural destinations for southwest Virginia. He stated that opening the City Market Building to a national food chain restaurant would do harm to the City Market area in general, and asked that the City Market Building and the City Market Square be maintained as a unique and vibrant expression of the Roanoke community and not a reflection of corporate food chains similar to what has happened in and around Times Square in New York City where various national food chains have been allowed to operate.

Phil Ful, owner, New York Subs located in the City Market Building, spoke against locating national food chains in the City Market Building. He advised that New York Subs has operated in the City Market Building since the food court concept was established, and there are good tenants in the City Market Building who deserve to have the backing of the management company. He called attention to portions of the Market Building tenants lease agreement regarding a non-compete clause, and advised that he is not against a Subway restaurant per se, but not in the City Market Building.

Mr. Ful presented petitions signed by residents of and outside of the Roanoke Valley in opposition to locating national chain restaurants in the City Market Building which will stifle the diversity that currently exists; persons who work and live in the downtown Roanoke area need inexpensive alternatives to corporate giants; independent restaurants and other independent businesses make downtown Roanoke an interesting and unique place for visitors; independent businesses allow more people to engage in the local economy, while not passing along a homogenized product allowing the wealthy few to reap the profits; independent businesses give back to the community in ways that corporations are not willing to do so; uniformity is not progress; and to allow chain restaurants to locate in the City Market Building would cause current vendors to go out of business and would forfeit the uniqueness that current tenants of the City Market Building now claim.

Anita Wilson, President, City Market Building Association, advised that a Subway restaurant does not belong in the City Market Building; some Market Building vendors have made substantial improvements to their stalls and take great pride in the service they provide and the uniqueness of the Market Building. She stated that the City Market Building has been successful and will continue to be successful without a national food chain restaurant; and clarification is needed on lease agreements with the current management company.

Rupert Bonhotel, Co-owner of the local Subway franchise, advised that Subway would like to be a part of the City of Roanoke; it is disturbing to know that no national chain restaurants are located in the City Market Building; and Subway would provide an anchor to the Market Building with a ten year lease. He stated that it is comforting for a potential customer to drive by and see a restaurant that he or she is familiar with. Before making a decision, he requested that Council visit the Subway location at 4203 Plantation Road, N. W., to see the Tuscany décor which is proposed for the City Market Building. He challenged the City of Roanoke to identify a location close to the City Market Building for a Subway restaurant with the same reasonable rental rate and square footage that the City Market Building would offer.

There was discussion with regard to:

- The fine line between exclusion and competition.
- The availability of space in downtown Roanoke for a Subway restaurant.
- The need to address the non-compete clause in certain Market Building leases, while other leases do not contain a non-compete clause.

- Efforts to recruit ethnicity type restaurants to the City Market Building.
- Efforts to replace restaurants leaving the Market Building with similar types of restaurants.
- Expectations of the management company.
- Common area maintenance fees (CAM).
- Management issues in the City Market Building.
- The lack of a built in financial structure to enable the Market Building to be a successful investment venture for out of town investors.
- The City Market Building has acted as a retail incubator for restaurateurs.
- The uniqueness of the City Market Building should be maintained.
- A strategic plan is needed for the City Market Building and the Farmer's Market and the relationship of the various components; i.e.: property values, future vision, and ways to make the City Market area more pedestrian friendly, etc.

Mr. Wishneff moved that Council hold in abeyance any lease agreement with a national food chain for rental of space in the City Market building; that the City Manager be requested to report to Council with regard to development of a broad strategic plan for the City Market/City Market Building, including renovations, future of the Market Building, and a funding subsidy; and that the City Manager be further requested to address management issues relating to the City Market Building. The motion was seconded by Mr. Lea and unanimously adopted.

At 5:20 p.m., the Mayor declared the Council Meeting in recess for two Closed Sessions to convene at 5:30 p.m., in the Council's Conference Room, Room 451, Noel C. Taylor Municipal Building.

At 6:15 p.m., the Council Meeting reconvened in the City Council Chamber, with all members of the Council in attendance, except Council Member Cutler, Mayor Harris presiding.

COUNCIL: With respect to the Closed Meeting just concluded, Mr. Fitzpatrick 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 Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

OATHS OF OFFICE-COMMITTEES-YOUTH: The Mayor advised that there is a vacancy on the Youth Services Citizen Board created by the resignation of Elvah D. Taylor; whereupon, he opened the floor for nominations to fill the vacancy.

Mr. Fitzpatrick placed in nomination the name of Ernestine Garrison.

There being no further nominations, Ms. Garrison was appointed as a member of the Youth Services Citizen Board, for a term ending May 31, 2006, by the following vote:

FOR MS. GARRISON: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

(Council Member Cutler was absent.)

OATHS OF OFFICE-ZONING-COMMITTEES: The Mayor advised that the four year terms of the office of Kermit E. Hale and Benjamin S. Motley as members of the Board of Zoning Appeals will expire on December 31, 2004; whereupon, he opened the floor for nominations to fill the vacancies.

Mr. Fitzpatrick placed in nomination the names of Kermit E. Hale and Benjamin S. Motley.

There being no further nominations, Mr. Hale and Mr. Motley were reappointed as members of the Board of Zoning Appeals, for terms ending December 31, 2007, by the following vote:

FOR MR. HALE AND MR. MOTLEY: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff and Mayor Harris----------6.

(Council Member Cutler was absent.)

At 6:20 p.m., the Mayor declared the Council meeting in recess until 7:00 p.m., in the City Council Chamber.

At 7:00 p.m., on Monday, November 15, 2004, 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 C. Nelson Harris presiding.

PRESENT: Council Members Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., Sherman P. Lea, Brenda L. McDaniel, Brian J. Wishneff and Mayor C. Nelson Harris----------6.

ABSENT: Council Member M. Rupert Cutler----------1.

The Mayor declared the existence of a quorum.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Ann H. Shawver, Deputy Director of Finance; and Mary F. Parker, City Clerk.

The invocation was delivered by Council Member Alfred T. Dowe, Jr.

A moment of silence was observed in memory of Bishop Antonio Thomas, Pastor, Spirit of Life Church International, who passed away on November 10, 2004.

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

PUBLIC HEARINGS:

ZONING: Pursuant to Resolution No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Monday, November 15, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, on the request of Preston A. Waldrop that property located at 3830 Keagy Road, S. W., identified as Official Tax No. 5130117, be rezoned from RS-1, Residential Single Family District, to C-2, General Commercial District, subject to certain conditions proffered by the petitioner, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, October 29, 2004, and Friday, November 5, 2005.

The City Planning Commission submitted a written report advising that the petitioner filed a request to conditionally rezone Official Tax No. 5130117 on September 2, 2004, subject to the following proffered conditions:

The property will be used only for a medical office or medical clinic.

The property will be developed substantially in accordance with the site plan attached to the petition as Exhibit C, subject to any changes required by the City of Roanoke during site development plan review.

The building to be constructed on the property will be in substantial conformity with the elevations attached to the petition as Exhibits D and E.

All exterior lighting in the parking area at the rear of the building will be recessed into the walls surrounding the parking area, and no source of light will be located above the top of the tallest section of the wall.

It was advised that the petitioner proffers the use of a medical office/clinic; physician offices in general are not intensive uses and are compatible in residential areas; the uses are characterized by Monday through Friday daytime hours and generally lower traffic generation for a commercial activity.

The City Planning Commission recommended that Council deny the request for rezoning.

Mr. Dowe offered the following ordinance:

"AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 513, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City, subject to certain conditions proffered by the applicant; and dispensing with the second reading by title of this ordinance."

Mr. Dowe moved the adoption of the above referenced ordinance. The motion was seconded by Mr. Fitzpatrick.

Daniel F. Layman, Jr., Attorney, representing the petitioner, advised that:

- The petitioner began the rezoning process by holding a meeting with representatives of the Greater Deyerle Neighborhood Association, and following the meeting, the services of a nationally known physician's office design consultant was engaged. The recommendation of the consultant was to reduce both the size and the scale of the building from 10,000 to approximately 8,700 square feet and to reduce the size of the building from two stories to a one and one-half story structure.

- Proposed building design changes were presented to the neighborhood and received a negative reception; however, the position of the neighborhood has more to do with general principle than with specific merits of the project.

- The dominant physical feature of the entire area is Lewis Gale Hospital, which is an economic engine that attracts similar uses such as physician's offices, medical laboratories, rehabilitation centers, etc., all of which have the advantage of being soft commercial uses, creating less traffic, less noise, and less lights than other kinds of commercial uses, and are generally regarded as ideal buffering or transitional uses between commercial areas and residential areas. If the City of Roanoke is to have any benefit from the spin off effect of Lewis Gale Hospital, development must occur along Keagy Road.

- The proposed building will be valued at ten times the value of the current structure and generate additional jobs by the addition of two physicians and three to four professional medical positions for each physician.

- Specific objections cited by neighborhood representatives to the proposed rezoning include traffic, lights and noise. The building is intended to house four orthopedic physicians and 12 staff, with the possibility of later expanding to five physicians; the facility will be hospital oriented, observe regular hours of operation from 8:00 a.m. to 5:00 p.m., Monday through Friday, with no evening or weekend hours; the City's Traffic Engineer has projected a maximum of 300 trip generations per day from the property, which, in a nine hour day, would represent one car approximately every minute and 48 seconds or less.

- The petitioner and his associate currently occupy an office to the east of Lewis Gale Clinic, therefore, two of the doctors and their staff and patients are presently located at the site and would not generate new traffic.

- The petitioner performs surgery at Lewis Gale Hospital two days per week, therefore, it is unlikely that there would be four doctors in the building at the same time seeing patients.

- A substantial number of patients enter from Route 419, drive 400 feet from the traffic signal to the petitioner's driveway, and exit in the same direction.

- All lighting in the parking lot has been proffered to be recessed in the retaining wall and will be no higher than the retaining wall.

- The only noise will be the sound of vehicles entering and exiting the property and car doors closing.

- Neighborhood opposition centers around a concern regarding the "domino" affect of the rezoning and the perception that if the proposed development is approved, commercial development will occur up and down Keagy Road. Topographical features will control any type of "domino" affect.

- The project is well designed, fits well in the proposed location, and provides the City with an opportunity to benefit from certain synergies that are created by Lewis Gale Hospital; impacts are limited to only one property which is owned by Ms. Evelyn Wilson, 3820 Keagy Road, S. W.; impacts are not entirely negative because Ms. Wilson's house is 50 feet or less from the house that is currently on the property and when the structure is demolished, the view from Ms. Wilson's house will be of a green buffer, and her property will be 170 feet from the nearest point of the petitioner's building.

- The highest and best use of the property is a medical office building which is compatible with Lewis Gale Hospital and can be attained without any threat to the neighborhood.

- Storm water management will be addressed through a system of underground pipes allowing water run off to be collected, stored and trickle down to a ditch on Keagy Road.

The Mayor inquired if there were persons present who would like to be heard in connection with the public hearing; whereupon, the following persons addressed Council.

Mr. Bob Caudle, 4231 Belford Street, S. W., referred to the City's Comprehensive Plan and advised that the City's future is a continuing process with each neighborhood plan having been developed as a way to continue and to implement the vision for Roanoke's future as a City of neighborhoods; and the success of the Comprehensive Plan depends on the partnership efforts and strong commitment of both the neighborhoods and the City working together toward a better future for the City of Roanoke.

He called attention to overwhelming opposition by the Greater Deyerle neighborhood with regard to the proposed rezoning and expressed concern over the appearance of the proposed building which looks more like a mausoleum or a funeral home than a structure that will blend in with the remainder of the neighborhood. On behalf of those residents who pay approximately $1,750,000.00 a year in real estate taxes to the City of Roanoke, he asked that the request for rezoning be denied.

Ms. Evelyn Wilson, 3820 Keagy Road, S. W., owner of property adjacent to the property which is the subject of the proposed rezoning, advised that she purchased the property in 1952 and has resided in the house since 1959. She spoke against the proposed rezoning for the following reasons:

- A large number of trees have been planted for privacy purposes which will be destroyed, or partially destroyed, by building excavation.

- The trees provide a buffer between her property and noise from Lewis Gale Hospital.

- There will be an increase in traffic and a decrease in property values.

She requested that residents of the area be allowed to live in peace and privacy without the addition of more businesses.

Paul Glassbrenner, 5221 Medmont Circle, S. W., President of the Medmont Lake Neighborhood Association, and owner of property abutting the southeast side of the petitioner's property, spoke in opposition to the request for rezoning. He stated that the 1986 Roanoke Vision Plan and the Vision 2001-2020 Plan advocates preservation and enhancement of existing neighborhoods and recommends efforts to support neighborhood preservation. He advised that the Greater Deyerle Neighborhood Plan, adopted by Council in 1990, states that the neighborhood is a stable, residential community and that good quality housing plays a major role in the City's economic health; and the Plan also states that the City encourages the maintenance of stable neighborhoods, which is reflected in the above average property taxes paid by property owners in the area. He added that in 1976, residents petitioned the City of Roanoke to annex the area from Roanoke County because it was believed that the City would provide the neighborhood with better services and improve the quality of life, and since annexation, residents have chosen to live in the area because of the natural beauty and the rural atmosphere of surrounding neighborhoods. He stated that residents are concerned about the quality of life that they have chosen for their families, and the possible commercialization of Keagy Road, which will decrease property values and negatively impact their quality of life. He advised that under consideration by Council is not a project that will save the City of Roanoke from financial ruin, or a project that will have great humanitarian value, but the case of

a doctor whose office is currently within walking distance of a hospital who wants the convenience of walking across the street from his office to Lewis Gale Hospital. He called attention to other large and open space lots in the area and expressed concern that there could be future efforts to commercialize Keagy Road. He referred to an agreement between the City of Roanoke and the Greater Deyerle Neighborhood Association with regard to mitigating traffic volumes in the area when such exceed a preset volume; since the agreement was entered into traffic counts have exceeded the pre set volume for the last four out of six traffic counts; and the City's Traffic Department has provided an estimated traffic count of an additional 300 cars per day if the request for rezoning is approved which will push traffic volumes well beyond the 25 per cent level. He stated that additional traffic will cause vehicles to back up further on Keagy Road, making it more difficult for residents to exit on Keagy Road. In closing, he advised that the proposed development brings nothing beneficial to the neighborhood, but will be detrimental to the neighborhood by encouraging further commercialization along Keagy Road; the rezoning will decrease property values; Keagy Road does not meet the commercial village definition as described in the Vision 2001-2020 Comprehensive Plan; the proposed rezoning would be in violation of the Greater Deyerle Neighborhood Plan, and most importantly, the rezoning would represent spot zoning. On behalf of the Medmont Lake Neighborhood Association, he requested that the property remain residential.

Mr. John Bolosin, 5312 Medmont Circle, S. W., spoke against the request for rezoning and cited a decrease in property values. He called attention to over $2 million of taxable, residential income in the area, compared to a building that could cost in the range of $700,000.00 - $800,000.00, therefore, property owners pay more than two and one half times the benefit to the City of Roanoke in tax revenues. He added that there is no justification for the proposed rezoning, residents were previously promised by Council that the City would help to maintain the residential character of the neighborhood; and residents have invested over $2 million in residential improvements and are concerned that the proposed commercial building will decrease the value of their property and lead to more commercialization of Keagy Road.

Mr. David Harrison, 5305 Medmont Circle, S. W., expressed concern in regard to the "domino" affect that the proposed rezoning could have on the neighborhood. He referred to the City's Vision 2001-2020 Comprehensive Plan, the Greater Deyerle Neighborhood Plan and a contract between the City of Roanoke and the Greater Deyerle Neighborhood Association. He stated that the proposed rezoning is not in conformance with the City's Vision 2001-2020 Plan, and advised that whether the request is for a nicely designed commercial building appropriate for a commercial lot is not the issue, rather the issue is whether property that is currently classified as residential should be rezoned.

He referred to an existing agreement between the City of Roanoke and the Greater Deyerle Neighborhood Association with regard to traffic on Keagy Road which requires the City to discuss mitigating measures with the neighborhood if traffic increases 25 per cent above 1989 levels; in three of the past six years, traffic has exceeded the 25 per cent level, yet no discussions have been held in regard to mitigating traffic, and the development proposed by the petitioner will increase traffic. He also expressed concern with regard to noise and a decrease in property values and requested that the petition for rezoning be denied by Council.

Troy Smith, 3749 Chesterton Street, S. W., Vice President, Greater Deyerle Neighborhood Association, advised that City Council has been a partner with the neighborhood for many years; the City Planning Commission was aware of the existing partnership and voted unanimously to deny the request for rezoning; therefore, it is requested that Council continue to be a partner with the Greater Deyerle Neighborhood Association and deny the request for rezoning.

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

It was noted that the City Planning Commission voted to deny the request for rezoning; however, staff recommended in favor of the request; whereupon, the Director of Planning and Community Development was requested to summarize the position of City Planning staff.

R. Brian Townsend, Director, Planning, Building and Development, advised that staff primarily looked at the petition for rezoning in terms of the relative location to the Lewis Gale Hospital complex across Keagy Road; and City staff focused on the fact that a site plan and elevations were proffered, as well as the way that development would be situated on the lot, and the fact that the building was on the street with parking proposed to be slightly over the minimum required at the rear of the building.

There was discussion with regard to a previous undocumented agreement with the neighborhood in connection with approval of a rezoning for Valley Bank, located at the corner of Keagy Road and Route 419, that would prevent further commercial zoning down Keagy Road which was an effort on the part of the City to address concerns of the Medmont Lake Neighborhood Association and the Greater Deyerle Neighborhood Association; the rezoning could lead to more commercialization of the Keagy Road area; an increase in traffic; the appearance and building design of Lewis Gale Hospital and that the corner of Route 419 and Keagy Road is under the jurisdiction of the City of Salem, Roanoke County and the City of Roanoke; the encouragement of more commercial business into the area through a "domino" affect if the rezoning is approved; and quality of life issues for the surrounding neighborhoods.

Following discussion, the above referenced ordinance was lost by the following vote:

AYES: Council Member Wishneff----------1.

NAYS: Council Members Dowe, Fitzpatrick, Lea, McDaniel, and Mayor Harris----------5.

(Council Member Cutler was absent.)

Council Member Wishneff advised that while he was interested in residential growth and an increase in property values, he would support the request for rezoning inasmuch as it could be the end of commercial development along Keagy Road, and the proposed rezoning provides a good transition into the neighborhood, rather than the beginning of a "domino" affect.

BUDGET-CMERP: Pursuant to Resolution No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Monday, November 15, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, on the request of the City of Roanoke to adjust the aggregate amount of the Fiscal Year 2004-2005 Technology Fund Budget, in an amount not to exceed $716,270.00, in connection with appropriation of funds for the Capital Maintenance and Equipment Replacement Program for Technology, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, November 5, 2004, and in *The Roanoke Tribune* on Thursday, November 4, 2004.

A communication from the City Manager advising that the Information Technology Committee (ITC) has completed its review of technology projects and equipment needs throughout the organization and has developed a list of recommendations designed to meet the goals of the Information Technology Strategic Plan; an attachment to the communication provides supporting detail and cost information for each of the needs; and all items will be purchased in accordance with requirements established by Chapter 23.1, Procurement, of the Code of the City of Roanoke, 1979, as amended.

It was further advised that the Department of Technology's Internal Service Fund currently has retained earnings available for appropriation in the amount of $416,270.00 that can be allocated for technology needs; and additional funding in the amount of $300,000.00 is available from the following sources:

• School Fund - Year two of five (a total fund commitment of $1.5 million for Financial Application Systems Project, which represents a second installment of $150,000.00 for Year two).	$150,000.00
• Current Year Capital Maintenance and Equipment Replacement Program	$150,000.00
Total:	$300,000.00
The total of all funding sources available for appropriation is	$716,270.00

The City Manager recommended that Council adopt an ordinance to appropriate funding to new or existing project accounts to be established by the Director of Finance to support strategic technology needs and enhancements.

Mr. Fitzpatrick offered the following ordinance:

(#36901-111504) AN ORDINANCE to appropriate funding to various technology projects, amending and reordaining certain sections of the 2004-2005 General and Department of Technology Funds Appropriations, and dispensing with the second reading by title of this ordinance.
(For full text of ordinance, see Ordinance Book No. 69, Page 192.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36901-111504. The motion was seconded by Mr. Dowe.

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

There being no questions or comments by Council Members, Ordinance No. 36901-111504 was adopted by the following vote:

AYES: Council Members Dowe, Fitzpatrick, Lea, McDaniel, Wishneff, and Mayor Harris----------6.

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

(Council Member Cutler was absent.)

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 response, recommendation or report to Council.

CITY MARKET: Mr. Gary Harkrader, 2928 Rosalind Avenue, S. W., spoke with regard to the uniqueness of the City Market Building where merchants and restaurants offer a variety of food choices and wares, which he referred to as "upscale dining on a paper plate". He called attention to numerous store fronts in the downtown area that would be suitable for a Subway restaurant, and encouraged the City to maintain the current unique character of the City Market Building with local specialty type restaurants.

There being no further business, the Mayor declared the Council meeting adjourned at 8:25 p.m.

APPROVED

ATTEST:

Mary F. Parker
City Clerk

C. Nelson Harris
Mayor

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