

REGULAR MEETING

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FEBRUARY 23, 1999

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Rodney Eagle; City Manager Steven E. Stewart; Assistant City Manager Roger Baker; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Hugh J. Lantz, Council Member John H. Byrd, Jr., Walter F. Green, III, and Larry M. Rogers; City Clerk Yvonne Bonnie Ryan, CMC, and Chief of Police Donald Harper.

Council Member Byrd delivered the invocation and Mayor Eagle led everyone in the Pledge of Allegiance.

Council Member Rogers offered a motion to approve the minutes on the consent agenda and to dispense with the reading of the minutes from the previous meeting. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council.

City Manager Stewart explained that Council had adopted a resolution to file an application with the Virginia Public School Authority for school bond funding. These bonds in the amount of \$2,005,000 will be used for the renovation of Keister Elementary School. Mr. Stewart also said that following the public hearing, Council will be asked to approve a first reading of the resolution that authorized the bonds. He pointed out that it would be to the City's advantage to use level principal payment as opposed to level debt service payments. Over the 20-year life of the bonds, the City should save in excess of \$150,000 in interest savings.

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND

AWARD OF NOT TO EXCEED \$2,005,000 GENERAL

OBLIGATION

SCHOOL BONDS OF THE CITY OF

HARRISONBURG, VIRGINIA, SERIES 1999, TO BE

SOLD TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY, AND

PROVIDING FOR THE FORM AND DETAILS THEREOF.

WHEREAS, the City Council (the "Council") of the City of Harrisonburg, Virginia (the "City"), has determined that it is necessary and expedient to borrow not to exceed \$2,005,000 and to issue its general obligation school bonds for the financing of certain capital projects for school purposes, to pay a portion of the costs of the acquisition, construction, reconstruction, renovation, expansion and equipping of public school facilities in the City including, but not limited to, additions to the Keister Elementary School within the City of Harrisonburg, Virginia.

WHEREAS, the School Board of the City (the "School Board") has requested, by resolution, dated December 15, 1998, the Council to authorize the issuance, sale and award of the Bonds.

WHEREAS, the City held a public hearing, duly noticed, on February 23, 1999, 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").

REGULAR MEETING

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, 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 \$2,005,000 (the "Bonds") for the purpose of financing certain capital projects for school purposes as described above. 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, and the City to sell to the VPSA, the Bonds at a price, determined by the VPSA to be fair and accepted by the Mayor or Vice-Mayor and the City Manager that is not less than 98% of par and not more than 103% of par upon the terms established pursuant to this Resolution. The Mayor and Vice-Mayor of the Council, the City Manager and such officer or officers of the City as any of them may designate, are hereby authorized and directed to enter into a Bond Sale Agreement to be dated as of April 5, 1999, 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 registered form in denominations of \$5,000 and whole multiples thereof; shall be dated the date of issuance and delivery of the Bonds; shall be designated "General Obligation School Bonds, Series 1999"; shall bear interest from the date of delivery thereof payable semi-annually on each July 15 and January 15 (each an "Interest Payment Date"), beginning July 15, 1999, at the rate or 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 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 rate or rates on the Bonds established by the VPSA, provided that no such interest rate shall be more than ten one-hundredths of one percent (0.10%) over the annual rate to be paid by the VPSA for the corresponding maturity 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 six and one-half percent (6 ½%) 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 the Interest Payment Dates and the Principal Installments requested by the VPSA as having been so accepted as authorized by this Resolution.

REGULAR MEETING

5. Form of the Bonds

. For as long as the VPSA is the registered owner of the Bonds, the Bonds shall be in the form of a single, temporary typewritten bond substantially in the form attached hereto as Exhibit A. On twenty (20) days written notice from the VPSA, the City shall deliver, at its expense, Bonds in marketable form in denominations of \$5,000 and whole multiples thereof, as requested by the VPSA, in exchange for the temporary typewritten Bond.

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 of, 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, Principal Payment Date or date fixed for prepayment or redemption, 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, Principal Payment Date or date fixed for prepayment or redemption.
- b. All overdue payments of principal or interest shall bear interest at the applicable interest rate or rates on the Bonds.
- c. Crestar Bank of Richmond, Virginia, is designated as Bond Registrar and Paying Agent for the Bonds.

1. Prepayment or Redemption

. The Principal Installments of the Bonds held by the VPSA coming due on or before July 15, 2010 and the definitive Bonds for which the Bonds held by the VPSA may be exchanged that mature on or before July 15, 2010 are not subject to prepayment or redemption prior to their stated maturities. The principal installments of the Bonds held by the VPSA coming due after July 15, 2010 and the definitive Bonds for which the Bonds held by the VPSA may be exchanged that mature after July 15, 2010 are subject to prepayment or redemption at the option of the City prior to their stated maturities in whole or in part, on any date on or after July 15, 2010 upon payment of the prepayment or redemption prices (expressed as percentages of principal installments to be prepaid or the principal amount of the Bonds to be redeemed) set forth below plus accrued interest to the date set for prepayment or redemption:

Dates

Prices

July 15, 2010 through July 14, 2011 102%

July 15, 2011 through July 14, 2012 101

July 15, 2012 and thereafter 100

Provided, however, that while the VPSA is the registered owner of the Bonds, the Bonds shall not be subject to prepayment or redemption prior to their stated maturities as described above without first

REGULAR MEETING

obtaining the written consent of the registered owner of the Bonds. Notice of any such prepayment or redemption shall be given by the Bond Registrar to the registered owner by registered mail not more than ninety (90) and not less than sixty (60) days before the date fixed for prepayment or redemption

- Execution of the Bonds

. The Mayor or Vice-Mayor and the Clerk or any Deputy Clerk of the Council are authorized and directed to execute and deliver the Bonds and to affix the seal of the City thereto.

- Pledge of Full Faith and Credit

. For the prompt payment of the principal of, the 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, the 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.

- Use of Proceeds Certificate

. The Mayor or Vice-Mayor of the Council, the City Manager and such officer or officers of the City as any of them may designate, are hereby authorized and directed to execute a Use of Proceeds Certificate and Certificate as to Arbitrage 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. The Council covenants on behalf of the City that the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in such Use of Proceeds Certificate and

- State Non-Arbitrage Program; Proceeds Agreement

. The Council hereby determines that it is in the best interest 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 or Vice-Mayor of the Council, the City Manager, the City Director of Finance and such officer or officers of the City as any of them 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 (Mentor Investment Advisors, L.L.C.), and the depository (Wachovia Bank, N.A.). Such Proceeds Agreement shall contain such terms and provisions as may be requested by the VPSA for the issuance, sale and award of the Bonds, and shall be in the general form as previously submitted to the City, which form is hereby approved.

- Continuing Disclosure Agreement

. The Mayor of the Council, 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 F to the Bond Sale Agreement, setting forth the reports and notices to be filed by the

REGULAR MEETING

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).

• 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 Rockingham County, Virginia.

• 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, sale and award of the Bonds and any such action previously taken is hereby ratified and confirmed.

• Consent to Representation

. The City hereby acknowledges that the law firm of Wharton, Aldhizer & Weaver, P.L.C. has represented the School Board as general counsel from time to time, and, at the request of the City, has agreed also to serve as the City's bond counsel, and hereby consents to such multiple representations in connection with the financing for capital projects for school purposes in the City and the transactions contemplated thereby.

• Effective Date

. This Resolution shall take effect immediately upon the approval and second reading as provided in the City Charter.

Date: February 23, 1999 - First Reading

March 9, 1999 - Second Reading

[SEAL] Mayor, City Council,

City of Harrisonburg, Virginia

City Manager, City of Harrisonburg, Virginia

CERTIFICATE of VOTES

Record of the roll-call vote by the City Council of the City of Harrisonburg, Virginia, upon first reading on an AUTHORIZING RESOLUTION, taken after lawful public notice at its regular public meeting held on February 23, 1999:

REGULAR MEETING

	AYE	NAY	ABSTAIN	ABSENT
Rodney L. Eagle, Mayor	X			
Hugh J. Lantz, Vice Mayor	X			
Dr. Walter F. Green, III	X			
Larry M. Rogers	X			
John H. Byrd, Jr.	X			

CERTIFICATE of VOTES

Record of the roll-call vote by the City Council of the City of Harrisonburg, Virginia, upon second reading on an AUTHORIZING RESOLUTION, taken after lawful public notice at its regular public meeting held on March 9, 1999:

	AYE	NAY	ABSTAIN	ABSENT
Rodney L. Eagle, Mayor				
Hugh J. Lantz, Vice Mayor				
Dr. Walter F. Green, III				
Larry M. Rogers				
John H. Byrd, Jr.				

Mayor

ATTEST: _____

Clerk, City Council of

City of Harrisonburg, Virginia

Carolyn Perry, attorney with the law firm of Wharton, Aldhizer and Weaver, reviewed the terms that the Virginia Public School Authority will require if the City approves issuing these bonds. She reviewed

REGULAR MEETING

pre-payment, interest rates and noted that they will not determine the City's interest rate until the VPSA sells its bonds in the spring sale. Interest is payable semi-annually and the first interest payment will commence July 15, 1999. The City has selected Crestar Bank as the bond registrar and paying agent.

At 7:45 p.m., Mayor Eagle closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on Tuesday, February 9, and Tuesday, February 16, 1999.

NOTICE OF PUBLIC HEARING WITH RESPECT TO THE ISSUANCE, SALE AND AWARD OF GENERAL OBLIGATION SCHOOL BONDS BY THE CITY OF HARRISONBURG, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$2,005,000 TO BE SOLD TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY A PORTION OF THE COSTS OF CAPITAL PROJECTS FOR SCHOOL PURPOSES WITHIN THE CITY OF HARRISONBURG, VIRGINIA.

Notice is hereby given that the City Council of the City of Harrisonburg, Virginia, will hold a public hearing pursuant to the provisions of Section 15.2-2606 of the Code of Virginia (1950), as amended, with respect to the adoption by the City Council of a Resolution authorizing the issuance, sale and award of the principal amount not to exceed \$2,005,000 of General Obligation School Bonds of the City of Harrisonburg, Virginia, to be sold to the Virginia Public School Authority, for the purpose of providing funds to pay a portion of the costs of the acquisition, construction, reconstruction, renovation, expansion and equipping of public school facilities in the City including, but not limited to, additions to the Keister Elementary School within the City of Harrisonburg, Virginia.

The public hearing which may be continued or adjourned will be held at 7:30 p.m. on February 23, 1999, before the City Council in the City Council Chambers, Municipal Building, located at 345 South Main Street, Harrisonburg, Virginia. Any person interested in the issuance, sale and award of the Bonds may appear at the hearing and present his or her views. A copy of the proposed Resolution is on file and open for inspection at the office of the City Manager located at 345 South Main Street, Harrisonburg, Virginia from 8:30 a.m. to 5:00 p.m. Monday through Friday.

City of Harrisonburg, Virginia

Steven E. Stewart

City Manager

Mayor Eagle called on anyone desiring to speak for or against issuing these bonds. There being no one desiring to be heard, the public hearing was declared closed at 7:46 p.m., and the regular session reconvened. Council Member Green offered a motion to approve issuing these general obligation school bonds for a first reading. The motion was seconded by Council Member Rogers, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd

Vice-Mayor Lantz

Council Member Green

Council Member Rogers

REGULAR MEETING

Mayor Eagle

No - None

At 7:50 p.m., Mayor Eagle closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record on Saturday, February 13, and Saturday, February 20, 1999.

The City of Harrisonburg is presently preparing its annual grant application for Operating and Capital Funds for FY 99-00. This application is for Federal and State funds under the Federal Transit Administration 49 USC Section 5311 (formerly Section 18) Program.

A public hearing for this application will be held on Tuesday, February 23, 1999, at the City Council meeting. This meeting will be held in Council Chambers in the Municipal Building at 7:30 p.m. All interested citizens are encouraged to attend.

Comments and suggestions for the Transit system are encouraged and welcomed. Please contact Reggie Smith or Vickie Conley, before February 22, 1999 at 540-432-0492; or mail comments to: Harrisonburg Public Transit, 475 East Washington Street, Harrisonburg, VA 22802.

Transportation Director Smith explained that this is the annual application for state and federal funds including capital funds for fiscal year 1999-2000 which are administered through the Virginia Department of Rail and Public Transportation. He reviewed the operating budget for fiscal year 1999-2000. He said that part of the funds will be used to purchase transit buses and add an addition to the transportation facility. There being no one present desiring to be heard, the public hearing was declared closed at 7:51 p.m., and the regular session reconvened. Council Member Rogers offered a motion to approve this application for state and federal funds. The motion was seconded by Council Member Green, and approved with a unanimous vote of Council.

Mayor Eagle relinquished the chair to Vice-Mayor Lantz and excused himself from the room due to personal interest. Planning and Community Development Director Turner introduced a request by Rodney Eagle, Ken Kline and G.R. Gordon Construction, Inc., for approval of a preliminary plat entitle "Devon Lane Townhomes" with a variance to Section 10-2-42(d) of the City of Harrisonburg Subdivision Ordinance, which requires that all lots must front on a public street. She explained that this property is approximately 4.04 acres and is located at the corner of Port Republic Road & Devon Lane to Foxhill Townhomes. This property is currently zoned R-3 multi-family residential district. The request is to subdivide the property into 39 lots to construct multi-family townhomes with a variance to the subdivision ordinance because 17 of the proposed lots will not front on a public street. The variance is being requested because of the steep topography of the land. The 17 units that are in the back would front onto private parking areas that have common access to a public street. Planning Commission did recommend approval of the request. Council Member Green offered a motion to approve this request. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council Members present. Mayor Eagle returned to Council Chambers and resumed chairing the meeting.

Council Member Rogers offered a motion to refer an alley closing request by Gary Beatty to the Planning Commission. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

At 8:00 p.m., Council Member Rogers offered a motion that Council enter an executive session for discussion and consideration of personnel and prospective candidates for a recommendation to the Circuit Court for Board of Zoning Appeals exempt from public meeting requirements pursuant to Section 2.1-344(A)(1) of the Code of Virginia, 1950, amended. Discussion and consideration of the acquisition of real estate to be used for

REGULAR MEETING

public purposes, exempt from public meeting requirements pursuant to Section 2.1-344(A)(3) of the Code of Virginia, 1950, as amended. Consultation with the City Attorney and briefings by staff members concerning two contracts, requiring the provision of legal advice by the City Attorney, exempt from public meeting requirements pursuant to Section 2.1-344(A)(7) of the Code of Virginia, 1950, as amended. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

At 10:06 p.m., the executive session was declared closed and the regular session reconvened. The following statement was agreed to with a unanimous recorded vote of the Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such public matters as were identified in the motion by which the executive or closed meeting were convened, were heard, discussed or considered in the executive session by the City Council.

Council Member Green offered a motion that Carl Wassum, 1169 Westmoreland Drive, should be recommended to the Circuit Court for a second term on the Board of Zoning Appeals to expire on March 20, 2004. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

At 10:08 p.m., there being no further business and on motion adopted the meeting was adjourned.

MAYOR

CLERK