

REGULAR MEETING

DECEMBER 21, 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.

Vice-Mayor Lantz delivered the invocation and Mayor Eagle led everyone in the Pledge of Allegiance.

Vice-Mayor Lantz offered a motion to approve the consent agenda, including approval of the minutes, and the second reading of supplemental appropriations for the Fire Department, Fire Programs, School Division and insurance funds. The motion also included amending changes to the City ordinance on taxicabs and enacting City Code Section 13-1-96. The motion was seconded by Council Member Green, 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
 Mayor Eagle

Absent: None

City Manager Stewart said that Bob Fowler, President of Public Finance Consultants, and Sandi McNinch, bond counsel with the law firm of Mays and Valentine, would be presenting brief reports on issuing bonds and bond anticipation notes to finance a golf course. He also said that following the public hearing City Council would be asked to consider two actions: 1) Resolution authorizing the financing of the golf

course and 2) Amendments to the fiscal year 1999-2000 budget necessarily to establish a capital projects fund for the development of the golf course.

Sandi McNinch, bond counsel with the law firm of Mays and Valentine, explained that before any City Council can authorize the issuance of debt obligation for Capital Projects a public hearing must be held. She said that when these bonds are issued the principal amount would exceed \$6,410,000 and would be secured by the full faith and credit of the City and by the net revenues of the golf course. The net revenues are expected to be sufficient to pay the debt service on the golf course, but the extra layer of adding the City's full faith and credit to the obligations will save the City considerable amount of interest on the obligations because it is a more secure obligation for the investors. The purpose of the bond anticipation notes which will be issued later this year is to provide temporary short term financing until the long term bonds can be issued. Ms. McNinch reviewed the two reasons for issuing the bond anticipation notes financing now. The bank anticipation notes will be purchased by Crestar Bank at a 4.38% and will mature by December 1, 2000.

Bob Fowler, President of Public Finance Consultants, said that the bond anticipation notes would be issued this year and a permanent-financing note next year. The bond, which will be issued for \$6,410,000 includes project cost at \$4.8 million, estimated bond interest during construction at \$732,000, working capital of \$120,000, financing cost at \$163,000, and debt service reserve fund at \$593,000. If there is any type of disruption in the revenue flow because of weather related issues or other issues, these reserve funds will be used. He said the Internal Revenue Services which regulates the City's ability to issue bonds on a tax-exempt basis have very specific rules regarding the amount which they may borrow for a project. He also noted that the IRS only allows borrowing an amount which is sufficient to complete the project including borrowing a reasonably required reserve fund. According to the IRS a reserve fund is reasonably required and permitted provided it is the lesser of the maximum annual debt service, 125% of the average debt service or 10% of the principal amount of the bonds. The proposed size of this reserve fund is less than any one of those three tests. The City is not over borrowing in order to make money. The reserve fund will be invested and will at least be able to earn the interest rate that will be paid on the bonds to fund that reserve fund.

At 7:44 p.m., Mayor Eagle closed the regular session temporarily and called the evenings first public hearing to order. The following notice appeared in the Daily News-Record on Monday, December 6, 1999, and Monday, December 13, 1999.

NOTICE OF PUBLIC HEARING ON PROPOSED

ISSUANCE OF BONDS AND BOND ANTICIPATION NOTES TO FINANCE

A GOLF COURSE AND RELATED CAPITAL IMPROVEMENTS

IN THE CITY OF HARRISONBURG, VIRGINIA,

AND ON BUDGET AMENDMENTS NECESSARY FOR

DEVELOPMENT OF A GOLF COURSE

Notice is hereby given that the City Council of the City of Harrisonburg, Virginia (the Council) will hold a public hearing on the proposed issuance by the City of Harrisonburg, Virginia (the City), of long-term bonds in a principal amount not to exceed \$6,410,000 (the Bonds) and on the issuance of the City s short-term notes (the Notes) in anticipation of the issuance of the Bonds. It is expected that the Notes will be retired when the Bonds are issued. The proceeds of the Bonds and the Notes will be used to finance a public golf course and other related capital improvements in the City and to pay the costs of issuing the Bonds and the Notes and funding any financial reserve funds.

Notice is hereby further given that the Council will hold a public hearing on amendments to the City s Fiscal Year 1999-2000 budget necessary to establish a capital projects fund for the development of the golf course. Funding for the capital projects fund will come from the proceeds of short-term notes and long-term bonds in a principal amount not to exceed \$6,410,000.

The public hearings, which may be continued or adjourned, will be held at 7:30 p.m. on Tuesday, December 21, 1999, before the Council in the Council Chambers on the first floor of the Municipal Building at 345 South Main Street in Harrisonburg, Virginia 22801. Any person interested in the issuance of the Bonds and the Notes, the purposes for which the Bonds and the Notes are being issued, and the proposed budget amendment may appear at the hearing and present his or her views.

CITY OF HARRISONBURG, VIRGINIA

Steven E. Stewart

City Manager

Dr. Vern Sequin said that a study made a few years ago on a proposed golf course to be financed and operated by the City of Harrisonburg concluded that the venture was not financially viable. A new proposed plan was published on November 2, 1999. The difference between the two studies is that the old study said the bond will be paid off in 20 years and the new study says the bond will be paid off in 30 years. At that time, the 30-year U.S. Treasury bonds were paying 5.8 percent interest. These same bonds are now paying about 6.4 percent interest. The study assumed that the average interest cost would be about 6.01 percent. So, in today s market a realistic expectation now, would be a 6.6 percent interest rate for the proposed bonds. Thus, over the life of the issue, a total interest load would be increased by more than \$926,000. A second question of the project s feasibility is that the scheduled debt repayment is back end loaded. An important question to be asked is whether required total revenues, and thus, net income can be continually increased over the years in the face of the expansions of existing competing courses and new golf courses which are under consideration now. The construction funds required for the golf course are estimated at \$4,800,000. The additional \$1,610,000 in the proposed bond issue is needed mainly to cover interest costs on the construction money in the first five years. Dr. Sequin suggested that since the money has been invested in the land, the City could make more money by selling the land to a developer for student housing or leave the land like it is for all the citizens to enjoy.

Warren Dillenbeck said that the golf course financial analysis prepared by public financial consultants for the City depended almost completely on the projection of the National Golf Foundation's study of 1999. He said that the study stated that the success of the proposed golf club would be highly dependent on how much competition it faces. An 18-hole golf course is being developed in the Keezletown area at Packsaddle Ridge, which will open before the Harrisonburg course does. There is also the possibility of additional nine holes at Lakeview Golf Course. The National Golf Foundation study stated there is a present under supply of approximately 22,000 rounds of golf annually. Packsaddle will add approximately 30,000 rounds. He said "How can the City be confident of the financial success of their golf course and the ability to repay these bonds in the face of this competition.

Dick Randle, a Rockingham County resident, said that somehow the County would absorb the expense of this golf course. He questioned why the City needed to spend so much money for a golf course.

Ben Prichard said that he was impressed with the comments of the consultants and commended City Council for doing their homework.

Carolyn Frank said that she had done a lot of homework on the golf course issue. She said "The test I don't think it will pass is the revenue test. The revenue projections seemed unrealistic. She said the City's financial analysis showed the municipal golf course grossing as much as the well-established Lakeview Golf Course almost right away. Lakeview Golf Course had 70,000 rounds of golf in 1996, but that number dropped to 64,000 rounds in 1998. I don't think that the City's golf course will make the revenue projections if we have any type of decrease like that.

Walter Alldredge said that he appreciated what City Council has done in providing a municipal golf course and that he was looking forward to having a golf course in the City. He said that it would be an asset to the City and he was willing to spend his tax dollars on the golf course.

Henry Clark said that he has been a taxpayer for the City of Harrisonburg more than 50 years. He said speculation on whether the municipal golf course will make money is not the issue because there were larger issues such as developing recreation that contributes to the quality of life that is important in attracting employers to the region. He said "I do not see the necessity of the golf course being self-supporting nor do I doubt the City Council willingness and courtesy to listen to all sides. In addition, I have no reason to doubt their ability to make proper decision. For other 30 years he said he has been involved with commercial and industrial development of this community. Through these efforts the tax base of the City of Harrisonburg is larger and thousands and thousands of jobs have been created that makes these commercial enterprises and industries the basic tax base for this community. This tax base provides schools, police and recreation. One of the principal interests of potential industrial job makers has been the way of life that is provided in this community. The people who built the industries that form the tax base are interested in their employees not their management. Mr. Clark said he did not object to the building of swimming pools, soccer fields, parks and other things that he does not use because it is for the best of the community. However, he said, "I don't know whether the hidden agenda is political or personal for some people who speak in opposition to the golf course. My tax dollars can be well spent for the people that I have encouraged to move here and raise their families here.

Bob Bersson read the following statement "Harrisonburg City residents have raised a number of concerns about the proposed Hillandale golf course. This letter addresses one of those concerns the financial risk born by City taxpayers. Its central thesis is that this risk is being unnecessarily magnified by (a) the type of loan being sought by the City to fund this golf course and (b) the absence of the detailed review of the project by a key oversight institution the Harrisonburg Planning Commission, and (c) the apparent rejection by the City Council of the option to negotiate a carefully constructed long-term lease with a private developer who would then bear the financial risk of the golf course. In order to reduce financial risk associated with this golf

course the City Council of Harrisonburg at a minimum should honor the intent of the Virginia Legislation which set up Planning Commissions by requesting that the Harrisonburg Planning Commission conduct a detailed review of this project on all issues including financial risks.

Dorn Peterson requested that City Council delay action on seeking bids to build the golf course. He said that bids could not come in until February or March, which would be before the May's election. He suggested that Council proceed with all of the preliminary planning and engineering studies necessary for the bids, but only have as little an impact as possible on the current character of the land area of the proposed golf course. City Council should also announce either that the bond issue would be put up for approval of the City taxpayers in the May 2000 election or at the very least that Council will schedule bidding so that the final decision on whether to commit the City of Harrisonburg to the \$6.4 million project would be decided by the newly elected Council.

Dale Diaz quoted a statement from the National Golf Foundation study, which said that "It won't be until to year five that the course is fully self-supporting." This fact is an indication that management cannot offer discounts or other measures as the competition can. She noted that other area golf courses use discounts for seniors, juniors, annual memberships, and an occasional free green fee. She said that this hearing was a sham because the City had already begun clearing trees on the project's proposed golf course site.

Art Fovargue pointed out a few inconsistencies in the financial analysis conducted by Love and Associates. He said that the construction cost was based on the recent November study of the association, but the operating expenses and the revenues were based on the April NGF study. He questioned if an actual business fee schedule had been developed by the City as part of an overall business plan for the project prior to the course construction. He also said that according to the National Golf Foundation study an over abundance of rounds were expected in 2003 of 27,000 rounds in comparison to the average of 38,000 rounds at other golf courses in the Harrisonburg area. He questioned what effect the financial analysis would have if Harrisonburg didn't have 38,000 rounds of golf. He encouraged City Council to listen to the people and recognize the inconsistencies in the report.

There being no others desiring to be heard, the public hearing was declared closed at 8:21 p.m., and the regular session reconvened.

Vice-Mayor Lantz commented that City Council had consulted the top experts who know something about golf. He said regardless of how many rounds are played, will the golf course make a profit, or how much is charged per round, these facts cannot be determined tonight. A meeting was held for three hours at the Harrisonburg High School and City Council members have heard a lot of comments about the golf course. He said that this Council has not rushed into any decision, but has consulted the top experts and listened to these people.

Mayor Eagle commented that the City spends \$2.3 million every year on recreation. He also noted whether this golf course turns a profit or not, it will provide a better quality of life in the City.

Council Member Rogers commented that at times City Council members have disagreements, but no one on City Council is making a decision to hurt the City. Council Member Rogers offered a motion to

support the resolution authorizing the financing of the golf course for a first reading. The motion was seconded by Vice-Mayor Lantz, 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

Mayor Eagle

Absent: None

**RESOLUTION AUTHORIZING THE ISSUANCE OF
GENERAL OBLIGATION AND REVENUE BONDS OF THE
CITY OF HARRISONBURG, VIRGINIA IN A PRINCIPAL AMOUNT NOT TO EXCEED \$6,410,000
AND THE ISSUANCE OF BOND ANTICIPATION NOTES**

The City Council of the City of Harrisonburg, Virginia (the ACouncil@) has determined that it is necessary and expedient to issue general obligation and revenue bonds (the ABonds@) of the City of Harrisonburg, Virginia (the ACity@) in a principal amount not to exceed \$6,410,000. The proceeds of the Bonds will be used to finance the development of a public golf course and other related capital improvements in the City (together, the AProject@) and to pay the costs of issuing the Bonds.

The Council has further determined that it is necessary and expedient to issue bond anticipation notes (the ANotes@) of the City in a principal amount not to exceed \$6,410,000 in anticipation of the issuance of the Bonds, to provide temporary interim financing for the Project. The Council has received a proposal from Crestar Bank (the ABank@) to purchase the Notes upon the terms set forth in the proposal.

The Council held a public hearing, duly noticed, on December 21, 1999, on the issuance of the Bonds and the Notes in accordance with the requirements of Section 15.2-2606 of the Code of Virginia of 1950, as amended (the AVirginia Code@);

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:

1. **Authorization of the Bonds.** The Council hereby determines that it is advisable to contract a debt and issue and sell its Bonds for the purpose of financing the costs of developing the Project and the costs of issuing the Bonds. The Council hereby authorizes the issuance and sale of the Bonds in the form and upon the terms to be established by subsequent resolution of the Council.

The Bonds will be secured by the full faith and credit of the City and by the net revenues of the Project. For the prompt payment of the principal of, premium, if any, and interest on the Bonds as the same shall become due, the full faith and credit of the City are hereby irrevocably pledged. Further, for the prompt payment of the principal of, premium, if any, and interest on the Bonds as the same shall become due, the net revenues of the Project (which are equal to the gross revenues of the Project minus its operating expenses) are hereby irrevocably pledged. Further details regarding these pledges will be established by subsequent resolution of the Council.

2. **Authorization and Terms of the Notes.** The Council hereby determines that it is advisable to issue and sell its Notes in anticipation of the issuance of the Bonds to provide temporary interim financing for the Project. The Council hereby authorizes the issuance and sale of the Notes to the Bank in substantially the form attached to this Resolution as Exhibit A. The Notes, which may be issued as a single Note, shall be in a principal amount of \$6,410,000, shall bear interest at the rate of 4.38% per year, payable semiannually, shall be secured by (A) the proceeds of the sale of the Notes (until expended on the Project), (B) the proceeds of the sale of the Bonds and (C) the full faith and credit of the City, and shall mature on December 1, 2000, subject to prepayment, all as set forth in the form of the Notes. The Notes will be issued pursuant to the Public Finance Act of 1991, Chapter 26, Title 15.2 of the Virginia Code. The City Manager will serve as the registrar for the Notes.

For the prompt payment of the principal of and interest on the Notes as the same shall become due, the full faith and credit of the City are hereby irrevocably pledged. In each fiscal year while any Notes are outstanding there shall be levied and collected in accordance with law an annual *ad valorem* tax upon all taxable property in the City subject to local taxation sufficient in amount to provide for the payment of the principal of and the interest on the Notes as such principal 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. Further, the Council hereby pledges to the payment of the Notes the proceeds of the sale of the Notes (until expended on the Project) and the proceeds of the sale of the Bonds.

3. **Execution and Delivery of Notes.** The Mayor and the Vice Mayor, either of whom may act, are each authorized and directed to execute the Notes. The City Clerk and any Deputy Clerk, any of whom may act, are authorized and directed to execute the Notes, to affix the seal of the City to the Notes, to attest the seal and then to deliver the Notes to the Bank upon payment of the purchase price of 100% of the principal amount thereof.

4. **Designation for Purchase by Financial Institutions.** The City hereby designates the Notes as Aqualified tax-exempt obligations@ eligible for the exception from the disallowance of the deduction of interest by financial institutions allocable to the cost of carrying tax-exempt obligations in accordance with the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the ACode@). The City does not reasonably anticipate that it and any Asubordinate entities@ have issued or will issue more than \$10,000,000 in qualified tax-exempt obligations during calendar year 1999 and the City will not designate more than \$10,000,000 of qualified tax-exempt obligations in calendar year 1999.

5. **Further Actions.** The Mayor, the Vice Mayor, the City Manager and such officers, employees and agents of the City as may be designated by any of them are authorized and directed to take such further actions as they deem necessary regarding the issuance and sale of the Notes including, without limitation, the execution and delivery of closing documents and certificates including Form 8038 G and a Non Arbitrage and Tax Certificate (the ATax Certificate@). All such actions previously taken by the Mayor, Vice Mayor, the City Manager or such officers, employees and agents are hereby approved, ratified and confirmed.

The Council covenants on behalf of the City that (i) the proceeds from the issuance of the Notes will be invested and expended as set forth in the Tax Certificate, (ii) the City shall comply with the other covenants and representations contained in the Tax Certificate and (iii) the City shall comply with the provisions of the Code, so that interest on the Notes will remain excludable from gross income for federal income tax purposes.

6. **Selection of Bond Counsel.** The Council hereby consents to Mays & Valentine, L.L.P. serving as Bond Counsel to the City in connection with the issuance of the Notes and the Bonds.

7. **Construction Fund.** There is hereby created by the City a trust fund to be designated the ACity of Harrisonburg Golf Course Construction Fund@ (the AConstruction Fund@). All proceeds received by the City from the sale of the Notes shall be deposited into the Construction Fund. All such proceeds and the interest earnings thereon shall be withdrawn by the City from the Construction Fund for Project purposes, as set forth in the Tax Certificate.

Any amounts remaining in the Construction Fund upon the earlier of the completion of the Project or the maturity of the Notes shall be used to prepay the Notes or for such other purposes as may be approved in an opinion of Bond Counsel.

The City shall invest or direct the investment of moneys in the Construction Fund in the investments permitted for the investment of public funds under the laws of the Commonwealth of Virginia, including the Virginia State Non-Arbitrage Program (ASNAP@). The City staff has received and reviewed information describing SNAP and the Council hereby authorizes the use of SNAP in connection with the investment and disbursement of the proceeds of the Note. The Council acknowledges on behalf of the City that the Treasury Board of the Commonwealth of Virginia is not, and shall not be, in any way liable to the City in connection with SNAP, except as otherwise provided in the information provided by SNAP.

8. **Limitation of Liability of Officials of the City.** No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of any officer, employee or agent of the City in his or her individual capacity, and no officer of the City executing the Notes or the Bonds shall be liable personally on the Notes or the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. No officer, employee or agent of the City shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.

9. **Contract with Bank.** The provisions of this Resolution shall constitute a contract between the City and the Bank for so long as the Notes are outstanding. This Resolution may not be amended by the City in any manner without the consent of the Bank, except to cure any defect, error, omission or ambiguity herein.

The City Manager is directed to send to the Bank the City's Comprehensive Annual Financial Report for the fiscal year ended June 30, 1999 promptly upon its availability.

The City agrees to pay all fees and expenses of the Bank, including reasonable fees and expenses of its counsel, in connection with the purchase and administration of the Notes.

10. **Reimbursement Declaration.** In adopting this resolution, the City declares its official intent to allow for the use of the proceeds of the Notes and the Bonds to reimburse the City for original expenditures associated with the development or financing of the Project, to the full extent permitted by Treasury Regulation Section 1.150-2. The City reasonably expects that it will reimburse the original expenditures with the proceeds of the Notes and the Bonds.

11. **Filing of Resolution.** The City Clerk is hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the City.

12. **Effective Date.** This Resolution shall take effect immediately.

Adopted: December 21, 1999

CERTIFICATE

The undersigned City Clerk of the City of Harrisonburg, Virginia, hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the Council held on December 21, 1999, and of the whole thereof so far as applicable to the matters referred to in such extract. I hereby further certify that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing Resolution, a quorum was present. The vote of the members of the Council upon the foregoing Resolution was as follows:

<u>Member</u>	<u>Present/Absent</u>	<u>Vote</u>
Rodney L. Eagle	Present	Aye
Hugh J. Lantz	Present	Aye
Walter F. Green, III	Present	Aye
Larry M. Rogers	Present	Aye
John H. Byrd	Present	Aye

WITNESS MY HAND and the seal of the City of Harrisonburg, Virginia, this 21 day of December, 1999.

City Clerk, City of Harrisonburg, Virginia

[SEAL]

Council Member Rogers offered a motion to approve a supplemental appropriation amending the fiscal year 1999-2000 budget for a first reading, and that:

\$6,410,000.00 chge. to: 1326-34112 Loan proceeds

\$6,410,000.00 approp. to: 1326-910771-48660 Golf course construction

The motion was seconded by Council Member Green, 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
Mayor Eagle

Absent: None

City Manager Stewart introduced a request for a boundary line agreement between the City of Harrisonburg and Rockingham County. He explained that the proposed agreement exchanges 1.160 acres in the City with 1.160 acres in the County.

At 8:47 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 Monday, December 6, and Monday, December 13, 1999.

PUBLIC NOTICE

Please take notice that the Harrisonburg City Council will hold a public hearing on the adoption of a Boundary Line Agreement between the City of Harrisonburg, Virginia, and the County of Rockingham, Virginia. The Agreement provides for the exchange of 1.160 acres from the County to the City and 1.160 acres from the City to the County. The land being on the West Side of South Main Street, formerly owned by the estate of Elmer Baxter Kaylor. The Agreement is on file at the City Manager's Office for review by the public. A Public Hearing on the City's adoption of the aforesaid Agreement shall be held on:

Tuesday, December 21, 1999 at 7:30 p.m.

Mayor Eagle called on anyone desiring to speak for or against approving the proposed agreement.

There being no one desiring to be heard, the public hearing was declared closed at 8:48 p.m., and the regular session reconvened. Vice-Mayor Lantz offered a motion to approve the agreement. The motion was seconded by Council Member Green, 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

Mayor Eagle

Absent: None

Planning and Community Development Director Turner introduced a request by Cantrell Avenue - Harrisonburg Investors, LLC to amend the conditional B-2 zoning designation of 780 Cantrell Avenue. She explained that the applicant, owner of CVS Pharmacy, wishes to amend an approved proffer that limits the drugstore's hours of operation to 9:00 p.m. The owner is seeking to extend the drugstore's hours to 11:00 p.m. This property was the subject of a rezoning that occurred in 1990 to allow portions of the 7.29 acres to be rezoned to B-2 General Business District, and R-3 Multiple Dwelling Residential District. As part of the rezoning request proffers were made limiting the hours of operation for any business to 9:00 p.m. The owner feels it would be beneficial to both the store and City residents to have the store remain open until 11:00 p.m. She said that Don Kuhns spoke at the Planning Commission meeting and stated that several of the proffers made by Lawson Associates during the 1990 rezoning have not been enforced for the adjacent property. Staff will be notifying Lawson Associates that proffers made in 1990 to include a buffer of trees dead trees replaced will be enforced. In addition, Lawson Associates will be informed that school parking shall be screened from the neighbors on Mountain View Drive. The school parking lot shall also be closed and locked during non-school hours. Mrs. Turner also commented that if another type of business occupies the CVS building in the future, that business would be held to the 9:00 p.m. closing time. Planning Commission recommended approval of the request.

At 8:53 p.m., Mayor Eagle closed the regular session temporarily and called the evening's third public hearing to order. The following notice appeared in the Daily News-Record on Monday, December 6, and Monday, December 13, 1999.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, December 21, 1999, at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:

REZONING

Request by Cantrell Avenue - Harrisonburg Investors, LLC, to amend the B-2 conditional zoning designation of tax map parcel 26A-K-6. The applicant, owner of CVS Pharmacy at 780 Cantrell Avenue, wishes to amend an approved proffer that limits the drugstore s hours of operation to 9:00 p.m. The owner is seeking to extend the drugstore s hours to 11:00 p.m. nightly.

Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m. All persons interested will have the opportunity to express their views at this public hearing.

Any individual requiring auxiliary aids, including signers, in connection with the public hearing, shall notify the City Manager at least five (5) days prior to the date of the meeting.

CITY OF HARRISONBURG

Steven E. Stewart

City Manager

Mayor Eagle called anyone desiring to speak for or against approving this request.

Kevin Flynn, Senior Vice-President of Aston Properties, said that the CVS store has been opened since the fall and the response from the community has been overwhelming. The pharmacist are having trouble filling all the prescriptions, meeting the community needs and are actually turning people away at 9:00 p.m. without filling the prescriptions. Aston Properties has been developing properties in the City of Harrisonburg for the last 18 years and has had an excellent relationship with the City. The company developed Rockingham Square, Harmony Square, and Market Square East. There being no others desiring to be heard, the public hearing was declared closed at 8:56 p.m., and the regular session reconvened. Following further discussion and comments, Vice-Mayor Lantz offered motion to approve this request. The motion was seconded by Council Member Byrd, 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

 Mayor Eagle

Absent: None

Planning and Community Development Director Turner introduced a request by Tim Lacey to rezone 8.8 acres, located at 1231 Garber's Church Road, from R-1 Single-Family Residential District to R-2 Residential District (conditional). She explained that the property is located on the western side of Garber's Church Road. Mr. Lacey has submitted a preliminary plat for the site and has proffered that only single-family dwelling units would be permitted along with its accessory buildings. In connection with the rezoning request, Mr. Lacey has proffered to remove duplexes from the list of uses permitted by right on the property. The proposed subdivision of 27 single-family lots on 8.8 acres will have an overall density of three units per acre. Without this proffer, approximately 46 lots would be possible under the R-2 zoning regulations. The R-2 district permits a minimum lot area of 7,000 square feet and a minimum lot width of 60 feet. Under the property's current R-1 zoning, approximately 32 units may be constructed on the property; however, steep topographic conditions could reduce the total number of units. The Land Use Guide recommends the site for Low Density Residential use. She said that Planning Commission recommended approval of the rezoning as requested.

At 9:06 p.m., Mayor Eagle closed the regular session temporarily and called the evening's fourth public hearing to order. The following notice appeared in the Daily News-Record on Monday, December 6, and Monday, December 13, 1999.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, December 21, 1999, at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:

REZONING

Request by Tim Lacey to rezone 8.8 acres, located at 1231 Garber's Church Road, from R-1 Single-Family Residential District to R-2 Residential District (conditional). The property is identified as tax map parcel 114-A-1. The Land Use Guide recommends the site for Low Density Residential use, which is intended for single-family detached dwellings with a maximum density of 1 to 4 units per acre.

Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m. All persons interested will have the opportunity to express their views at this public hearing.

Any individual requiring auxiliary aids, including signers, in connection with the public hearing, shall notify the City Manager at least five (5) days prior to the date of the meeting.

CITY OF HARRISONBURG

Steven E. Stewart

City Manager

Mayor Eagle called on anyone desiring to speak for or against this rezoning request.

Tim Lacey said the unusual configuration off of Garbers Church Road into the back of the property has created unique steepness. The R-2 conditional zoning would strictly be single-family and would allow some flexibility into developing the property as a single-family neighborhood. The average lot size would be approximately 14,000 square feet.

Barry Henderson said that he was concerned the rezoning would set a precedent that was not appropriate for single-family neighborhoods that could lead to a domino-type effect. He said that I think you are destroying the character of the neighborhood when you do that. What does the Council say to someone else that has a similar request when you have granted this request to him. To change it, I think, is consistent with overall plan of the City. He also noted that a traffic study needed to be conducted once the new Wal-Mart opens in January and the effect it will have on the intersection at Garbers Church Road and Erickson Avenue.

Chip McIntyre said there are traffic conditions and other major development problems that need to be addressed in the area before any rezoning should occur. He requested that the area remain R-1.

Richard Tysinger said he would also like to see the land left zoned specifically for single-family homes. He also raised a concern about setting a precedent for future development on Garbers Church Road. Mr. Tysinger said A lot of homes along Garbers Church Road are on lots of at least one-half acre. To go in and change that to where you can put smaller lots and a bunch of houses would be an injustice to the neighborhood. There being no others desiring to be heard, the public hearing was declared closed at 9:17 p.m., and the regular session reconvened. Discussion included concern about safety and number of vehicles on Garbers Church Road, largest R-1 tract remaining in the City, re-zoning, R-1 neighborhood remaining single-family, steep topographic conditions, narrowness of land, and too many lots in the proposed subdivision that would not conform to lot-size regulations to simply grant a variance for the proposal. Tim Lacey added that it was his intention to develop something that looked like a single-family subdivision and not be intrusive to any one. Vice-Mayor Lantz offered a motion to table this item until additional information can be received from staff after they have consulted with Mr. Lacey regarding this rezoning. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

Planning and Community Development Director Turner introduced a request by Jay Strawderman to rezone 2.26 acres, located at 107 and 137 Vine Street, from M-1 General Industrial District to B-2 General Business District (conditional). She explained that the Comprehensive Plan recommends this site for

Planned Business use that is described as areas suitable for commercial development but need careful controls to ensure compatibility with adjacent land uses. She reviewed the current M-1 zoning industrial uses permitted in this area and the submitted proffers the applicant has proposed. She also said Planning Commission has recommended approval of this request.

At 9:50 p.m., Mayor Eagle closed the regular session temporarily and called the evening's fifth public hearing to order. The following notice appeared in the Daily News-Record on Monday, December 6, and Monday, December 13, 1999.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, December 21, 1999, at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:

REZONING

Request by Jay Strawderman to rezone 2.26 acres, located at 107 and 137 Vine Street, from M-1 General Industrial District to B-2 General Business District (conditional). The Land Use Guide recommends the site for Planned Business use. The property is identified as tax map parcels 42-D-21 and 22.

Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m. All persons interested will have the opportunity to express their views at this public hearing.

Any individual requiring auxiliary aids, including signers, in connection with the public hearing, shall notify the City Manager at least five (5) days prior to the date of the meeting.

CITY OF HARRISONBURG

Steven E. Stewart

City Manager

Mayor Eagle called on anyone to speak for or against this rezoning request. There being no one desiring to be heard, the public hearing was declared closed at 9:51 p.m., and the regular session reconvened. Council Member Rogers offered a motion to approve this rezoning request. The motion was seconded by Vice-Mayor Lantz, 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

Mayor Eagle

Absent: None

Ken Huffman, a representative from Phibbs, Burkholder, Geisert & Huffman, presented the 1998-1999 Comprehensive Annual Financial Report. He said that the City received a Certificate of Achievement for Excellence in Financial Reporting for the fiscal year ended June 30, 1999 which is awarded by the Government Finance Officers Association of the United States. He also noted that this is the fourth consecutive year that the City has received this certificate. Council Member Rogers offered a motion to approve this report. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

The agenda item to consider a request by Tim Lacey for approval of a preliminary plat entitled Springfield Village, with variance was tabled because of previous action tonight by City Council to table a request by Mr. Lacey for rezoning 8.8 acres located on Garbers Church Road.

Assistant City Manager Baker presented the following resolution for Council's consideration of approval:

CONCURRENT RESOLUTION AND ORDINANCE

REGARDING

THE SHENANDOAH VALLEY JUVENILE DETENTION CENTER COMMISSION

Member Jurisdictions

WHEREAS, the Shenandoah Valley Juvenile Detention Center Commission (the Commission) is a public body corporate duly formed under the provisions of Article 13, Chapter 11, of Title 16.1 of the Code of Virginia, and formerly known as the Shenandoah Valley Juvenile Detention Home Commission;

WHEREAS, the Commission operates a juvenile detention home located in Staunton, Virginia (the "Existing Detention Home");

WHEREAS, the City of Harrisonburg, Virginia (the City), is a member of the Commission and has used the Existing Detention Home to house juvenile detainees from time to time during the Existing Detention Home's extended period of operation;

WHEREAS, the secure detention space within the Existing Detention Home is no longer adequate to serve the needs of the jurisdictions comprising the Commission (the Member Jurisdictions) and those contracting with the Commission (the Contracting Jurisdictions);

WHEREAS, the Commission has received approval from the Department of Juvenile Justice, Commonwealth of Virginia (the Department), for the construction of a new detention home having a rated capacity of 50 beds (the New Detention Home);

WHEREAS, the Commission is making arrangements to issue or incur such debt as is necessary to construct the New Detention Home, with a goal of commencing construction in the Fall of 2000; and

WHEREAS, the Commission's financing arrangements necessitate the approval of Amended and Restated Bylaws to govern the Commission, as well as approval and execution of a Lease Agreement which documents the lease of bed space by the City with respect to the Existing Detention Home and the New Detention Home, upon its completion;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City that the formation and prior existence of the Commission pursuant to the provisions of Article 13, Chapter 11, of Title 16.1 of the Code of Virginia, are hereby ratified, confirmed and approved; and

FURTHER RESOLVED that the Amended and Restated Bylaws of the Commission attached to this Resolution as Exhibit A and the Lease Agreement attached to this Resolution as Exhibit B are hereby approved and adopted, and that the City shall continue as a member of the Commission in accordance with the terms of such attached Amended and Restated Bylaws and Lease Agreement; and

FURTHER RESOLVED that the admission of Alleghany County and Rockbridge County as new member jurisdictions of the Commission, effective on July 1, 2001, is hereby approved, subject in

each case to such jurisdiction's approval and execution of a lease agreement with the Commission in substantially the form of the attached Lease Agreement but relating only to the New Detention Home; and

FURTHER RESOLVED that the withdrawal of the City of Charlottesville and Albemarle County as members of the Commission, effective on July 1, 2001, is hereby approved; and

FURTHER RESOLVED that nothing contained in the Amended and Restated Bylaws or the Lease Agreement shall constitute debt or a pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof, including the parties thereunder. Accordingly, neither the Commonwealth of Virginia nor any political subdivision thereof, including the parties thereunder, shall be obligated to make rental payments or to pay other costs or charges except as monies may be lawfully available and appropriated therefor from time to time by this governing body and the respective governing bodies thereunder in the then current fiscal year during the term of the Amended and Restated Bylaws or the Lease Agreement, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the parties under such documents, shall be pledged to the payment of any rent or other costs or charges under such documents.

This Resolution shall become effective immediately upon its approval by the last of the participating Member Jurisdictions to act thereon; provided, however, that if a substantially similar resolution has not been approved by all Member Jurisdictions by March 1, 2000, this Resolution shall become effective March 1, 2000, so long as at least three Member Jurisdictions have approved a substantially similar resolution.

Approved: _____, _____, _____

CERTIFICATE

The record of the roll-call vote by the City Council of Harrisonburg, Virginia, on a Concurrent Resolution and Ordinance of the City Council entitled, Concurrent Resolution And Ordinance Regarding The Shenandoah Valley Juvenile Detention Center Commission Member Jurisdictions at its regular public meeting held on December 21, 1999 is hereby certified as follows:

AYE NAY ABSTAIN ABSENT

Hugh J. Lantz	X
John H. Byrd, Jr.	X
Dr. Walter F. Green, III	X
Larry M. Rogers	X
Rodney L. Eagle	X

Mayor, City of Harrisonburg, Virginia

[SEAL]

ATTEST: _____

**Clerk, City Council, City of
Harrisonburg, Virginia**

Assistant City Manager Baker explained that since the Shenandoah Valley Juvenile Detention Center has outgrown its present facility, a new center is planned to be built in Verona adjacent to the new regional jail to allow for sharing laundry, kitchen and other facilities as appropriate. Adoption of this resolution amends the by-laws allowing two members to withdraw July 1, 2001 and two new members to be admitted July 1, 2001 and approves a lease agreement. Council Member Byrd offered a motion to support this resolution. The motion was seconded by Vice-Mayor Lantz, 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

Mayor Eagle

Absent: None

City Manager Stewart said that Mayor Eagle had been approached by the Chamber of Commerce asking that the City send a letter to Governor Gilmore requesting support funding for preliminary engineering for a loop road around the City. He said that everyone knows at this point that Governor Gilmore has not included this request in his budget, which will be given to the General Assembly in January. However, Delegate Glenn Weatherholtz still thought it would be appropriate to send the letter to Governor Gilmore because the letter is requesting an endorsement of 20 million dollars for the project. A resolution adopted by City Council on November 9 will be included with the letter pointing out the City's position on the spokes that connect to the loop. Vice-Mayor Lantz offered a motion to amend the letter being sent to the Governor to read "The Harrisonburg City Council endorses the request by Delegate Glenn Weatherholtz for twenty million dollars to begin preliminary engineering studies for a loop road and connector streets to it in Harrisonburg and Rockingham County." The motion was seconded by Council Member Green, and approved with a unanimous vote of Council.

City Manager Stewart presented a certified receipt of 1999 government election results provided by the Electoral Board.

Senate of Virginia

John Adams	1	Nikita Imon	1
Carrie Breig	1	Ming Ivory	1
Ronald Carrier	1	John Leake	1
G. Christian Clark	1	Jeremy Leickty	1
Dale Diaz	1	Donald Litten	1
R. Fakor Szacki	1	Jeff Mellott	1
Carolyn Frank	1	W. Neal Menefee	1

Harry Gardner		1	Robert Mesler	1
Kevin Hammer	1		Kevin G. Miller	1
Glenn P. Hastedt	1		Nathan Miller	1
Margaret Hayes	1		Inigo Montoya	1
Bill Helsley	1		Jeri Morris	1
Patricia Reynolds	1		Larry Rogers	3
Bijon Sandalmadd		1	John Souder	1
Sherry Stanley	1		Jon Stetson	1
Ida Tennont	1		Richard Wettstone	1
Frank Wilt	1			

House of Delegates

Glenn M. Weatherholtz	3313		Allen Lewis	1
John Adams	2		Pete Mohoney	1
Richard Baugh		2	George Morrah	1
Michael Beahn		1	Terry L. Martin	1
Bob Bersson	1		Jessica Mendez	1
Joe Corico	1		Claire Menefee	1
Ronald Carrier		1	Inigo Montoya	1
Steffon Carter	1		Bruce Morris	2
H. Clay Clark, II		1	Louis J. Morris	1
Paul Cline	1		Gary M. Mowbray	1
James Clough	1		Marvin Perry	1
Ronald A. Copeland			1 Quiet T. Please	1

Ann Copper	1	Larry Rogers	2	
Faromory Damon Pour	1	Earl Shirkey		1
Dale Diaz	1	Don Smith	1	
Rodney Eagle	1	Jessica Smith	1	
Anthony J. Eksterowicz	1	John Snipes		1
R. Fakar-Szocki	1	Sherry Stanley		1
Ben Fordney	14	Jon Stetson	1	
Gary Green	1	Ida Tennont	1	
Wayne Harper		1	Fred LaSpina	1
Bob Johnson	1	John Krall	1	
Michael Key	1	Hugh Lantz	1	

Commonwealth's Attorney

Marsha L. Garst	3497	Tom Miller	4	
Richard Baugh		2	Migo Montoya	1
W. G. Clinton	1	Daniel Thetter	1	
Aaron Cook	1	Mark D. Okenshain	1	
Tim Cupp	1	Amy Ore	1	
Walter Green, III		1	Sean Powers	1
Aki Weydarian	1	Robert Roberts	1	
Michael Key	1	Doug Stark	32	
D.D. Litten	1	T.J. Wilson	1	
Winnie McConnell	1			

Clerk of Court

L. Wayne Harper	2505	Reginald Foucar-Szocki	1
E.K. Kerry Maloney, Jr.	1786	L.A. Hollan	1
Mary Dennis	1	E.K. Maloney	1

Sheriff

Carl A. Tony Stovall	702	Dave Kyger	1
Donald W. Farley	3557	Greg Miller	1
Terri Doran	1	Jack Taylor	1
William Holloway	1		

Vice Mayor Lantz offered a motion to accept the election results. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

City Manager Stewart presented a request to authorize the Finance Department to set up two new funds. He explained that one fund will be a golf course enterprise fund which will be used to account for the operations of the golf course once it opens for play. The other fund will be a golf course capital projects fund which will be used to account for the construction and grow-in expenses associated with the golf course. 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.

Public Utilities Director Collins presented for Council's consideration charging off delinquent utility bills incurred between the dates of April 1997 to December 1998. Mr. Collins explained that these delinquent accounts will be written off as uncollectible; however, the collection agencies will continue to pursue these accounts as outstanding. Council Member Rogers offered a motion to charge off these delinquent utility bills as presented. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council.

City Manager Stewart presented a request to transfer funds from the Blacks run Interceptor Capital Projects code to the Infiltration/Inflow abatement code from sanitary sewers. Several projects in the former program have encountered scheduling delays pushing their actual construction into fiscal year 2000-2001. In contract, projects to remediate sewers in the Hillandale and EMU subsections have advanced to the construction phase

at this time. Vice-Mayor Lantz offered a motion to transfer these funds:

\$200,000.00 chge. to: 1322-911161-48641 Blacks Run Interceptor

\$200,000.00 approp. to: 1322-911161-48645 PHR &A II

The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

City Manager Stewart presented a request for a supplemental appropriation for Police Department. He explained that these funds will be used to replace an old postage machine in the department. Council Member Rogers offered a motion to approve this request for a first reading:

\$915.58 chge. to: 1000-31901 Recoveries & Rebates

\$915.58 approp. to: 1000-310131-45210 Postage

The motion was seconded by Vice-Mayor Lantz, 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

Mayor Eagle

Absent: None

City Attorney Thumma presented for Council s of a first reading an ordinance amending and re-enacting Section 12-1-10(b)(5) of the Harrisonburg City Code. He explained that adoption of this amendment would restore a grandfathered provision to the City Code and bring the law into compliance. Council Member Rogers offered a motion to approve amending the City Code for a first reading. The motion was seconded by Council Member Byrd, 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

Mayor Eagle

Absent: None

Vice-Mayor Lantz offered a motion that Brenda Lenhart, 1052 Wyndam Drive, and Carl B. Harman, 1848 College Avenue, be appointed to a second term on the Harrisonburg Electric Commission to expire on December 31, 2002. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council.

Assistant City Manager Baker announced that generators are in place at the Harrisonburg High School and a trailer mounted generator have been tested and should be in operation by December 31, 1999.

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

CLERK

MAYOR

cc: City Council

City Manager

Assistant City Manager

Director of Finance

Public Library

Charlene Rice

