

REGULAR MEETING

APRIL 25, 2000

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 A Bonnie Ryan, CMC/AAE, and Chief of Police Donald Harper.

Mayor Eagle delivered the invocation and Matthew L. Wright from the Asbury United Methodist Church Troop #40 led everyone in the Pledge of Allegiance.

Vice-Mayor Lantz 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 Green, and approved with a unanimous vote of Council.

City Manager Stewart presented the proposed 2000-2001 budget to the City Council. There are no tax rates or fee increases in the proposed 2000-2001 budget. This is the seventh straight year with the same real estate and personal property tax rates. The City currently enjoys the second lowest real estate rate among all independent cities in Virginia. Also, a 1% unemployment rate is the second lowest in the entire state. For the fourth consecutive year the City has received the ACertificate of Achievement for Excellence in Financial Reporting@ presented by the Government Finance Officers Association of the United States and Canada. The City continues to be a growth situation indicating a 13.3% population increase since the 1990 census. The proposed 2000-2001 budget in total net expenditures is approximately \$83 million. The General Fund revenues has increased by nearly \$2.5 million. The primary increases (based on growth, not rate increases) will occur in property taxes, sales tax, lodging taxes, meal taxes and an additional contribution from the Harrisonburg Electric Commission. No increases in tax rates or fees are proposed to balance the General Fund budget. The proposed budget is based upon a 62 cent real estate rate which is the third lowest real estate rate among all independent Cities in Virginia. City Manager Stewart explained that the budget focuses on three primary functions, which include education, public safety and infrastructure. The school board budget represents approximately 41% of the total budget. The proposed funding by the City for the School s operating budget represents a 4.9 % increase over the current year funding and represents 100% of the School Board request. For the City to again grant 100% funding increase speaks loudly as to the priority placed on schools. It also reflects the School Division s cooperative spirit in working with Council to insure adequate funds for a quality educational experience for every student. In addition, the City has already approved the issuance of \$5,100,000 in bonds for the Spotswood and Waterman renovations, and air conditioning of the High School fieldhouse. With Council agreeing to fund both school renovation projects at one time, rather than one a year as previously agreed to, the School Division has done its part in the reasonableness of its request for new operating funds. The City s total projected 2000-2001 revenue from all property taxes (real

estate and personal), including penalties and interest is \$16,524,580. The City's proposed 2000-2001 appropriation to the Schools is \$19,761,902. In addition, another \$290,000 is proposed in the Public Transportation budget for the purchase of four (4) new school buses. He pointed out that the increase in student population from 1996-1997 projected through 2000-2001 school year is an increase of approximately 28 students or 0.7%. Also, during that same time period the local funding from the City based on the average daily membership has increased from \$4,609 per student to \$5,520 per student while adding approximately 73 new teachers and teachers= assistants positions to the school division budget. The Police Department's proposed budget has increased by 48.6% when compared to the 1996-1997 budget. In addition, the \$4,471,870 includes hiring two (2) additional investigators, one assigned specifically to narcotics investigations and the other to general investigations, and other civilian support positions. The Fire Department budget has increased by 51% since 1996-1997 primarily due to additional personnel. Six new firefighter positions are proposed in order to complete the City's commitment to the OSHA requirement of the ATwo-In-Two-Out@ rule. Since 1996-1997 through 2000-2001, 18 new firefighters have been added to the Fire Department. Maintaining the City's infrastructure includes an on going bridge replacement including the Chesapeake Avenue Bridge, Port Republic Road improvement, resurfacing nearly 11 miles of City streets, replacing deteriorated sidewalks, replacing various construction equipment, steam plant renovations, feasibility study for the material recovery facility (MRF), renovating and improving the resource recovery facility, sanitation equipment replacement, closing and monitoring the City's existing landfill, upgrading the recycling building, and the City's share of developing the County landfill. The Parks and Recreation's budget includes tennis and basketball court renovations, playground equipment replacement, softball field renovations, railroad crossing safety improvement program, school and transit buses. The Water Fund budget includes development of an eastern water supply, next phase of water treatment plant expansion, replacing aging water lines, and water tank repair. Mr. Stewart said the Sewer Fund includes an on going Blacks Run sewer interceptor upgrade, and infiltration and inflow abatement in various sections of the City.

At 7:50 p.m., Mayor Eagle closed the regular session temporarily and called the evening's public hearing to order. The following notice appeared in the Daily News-Record on Monday, April 17, 2000.

CITY OF HARRISONBURG, VIRGINIA

PROPOSED BUDGET FOR FISCAL YEAR ENDED JUNE 30, 2001

For information and fiscal planning purposes only

A public hearing will be held by the Harrisonburg City Council on Tuesday, April 25, 2000 at 7:30 p.m. in the Harrisonburg Municipal Building, 345 South Main Street, Harrisonburg, Virginia. Interested citizens are encouraged to attend and express their views.

2000-01

1999-00

As

As

Revenue-By Funds

Proposed

Amended

General	49,357,061	49,265,400
School	33,921,936	32,561,804
Friendship Industry Grant	-	700,000
General Capital Projects	1,085,000	10,368,483
School Capital Projects	-	2,830,265

Water Capital Projects	1,900,467	3,591,791
Sewer Capital Projects	1,421,807	3,329,777
Public Transportation Capital Projects	50,000	-
Sanitation Capital Projects	1,535,027	3,752,521
Parking Authority Capital Projects	-	52,060
Golf Course Capital Projects	-	6,410,000
Water	5,671,369	5,816,181
Sewer	6,003,711	5,962,473
Public Transportation	3,294,594	4,707,867
Sanitation	8,066,153	7,224,331
Parking Authority	235,143	246,683
Central Garage	599,141	505,939
Central Stores Operating	<u>82,644</u>	<u>94,888</u>
Gross	113,224,053	137,420,463
Inter fund transfers	<u>(29,687,263)</u>	<u>(29,943,548)</u>
Net	<u>83,536,790</u>	<u>107,476,915</u>

Expenditures - By Funds

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Copies of the proposed budget in its entirety are available for public review in the City Manager's office, 345 South Main Street, Harrisonburg, Virginia and the Rockingham Public Library, 45 Newman Avenue, Harrisonburg, Virginia.

Steven E. Stewart

City Manager

City of Harrisonburg, Virginia

Mayor Eagle called on anyone present desiring to speak either for or against the 2000-2001 budget. John Whitfield, Blue Ridge Legal Services Executive Director, presented a request to include \$5,277 into the budget for Blue Ridge Legal Services. He explained that Blue Ridge Legal Services is a non-profit charitable organization serving as the legal aid society for the Shenandoah Valley. The primary office is located in Harrisonburg. Blue Ridge Legal Services mission is to provide free legal assistance to low income people who have civil problems not criminal problems. He said that since 1977 the Federal Government has decreased funding to legal services to the poor. He said that several years ago Congress made a very significant cut in legal services for the poor.

Sally Strickler, a resident living at 1017 Smithland Road, requested that more funding be added to the budget to provide water and sewer to the Smithland Road area. She said that this area was annexed into the City in 1981 yet it remains without water and sewer. She strongly urged City Council to increase the amount of money going toward the Smithland Road project so the residents of the area can have the same benefits as everyone else within the City of Harrisonburg. There being no others desiring to be heard, the public hearing was declared closed at 8:07 p.m., and the regular session reconvened.

Vice-Mayor Lantz commented that education is the biggest part of the budget and he thanked Superintendent Ford for bringing a realistic budget to City Council. He also said that the Liaison Committee positive step in improving communications and the School Division's cooperative spirit in working with Council has insured adequate funds for a quality educational experience for every student. Mayor Eagle commented that it is a realistic budget focusing on three primary functions education, public safety and infrastructure. Vice-Mayor Lantz offered a motion that the 2000-2001 budget be approved for a first reading with the stipulation that the City Manager look into providing some funding for Blue Ridge Legal Services to be included in the second reading of the budget. 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

Mayor Eagle

Jim Costie representing the Stonewall Jackson area Boy Scout Council presented a Certificate of Appreciation to Mayor Eagle thanking him for his support of the Friends of the Scouting program. He said that Mayor Eagle held a luncheon inviting many of his friends to participate in the scouting program and raised approximately \$5,000 for the program. The money will be used to support the youth and volunteers in the Harrisonburg/Rockingham area.

Planning and Community Development Director Turner introduced a request by Myrtle Shifflett for approval of a preliminary plat entitled A Division of Lot 4 of the F. E. Mathias Plat. She explained that a variance is being requested to the subdivision regulation which states that all lots front on a public street. The variance was requested because the rear lot would front an alley, not a public street. She said that the purpose is to take the existing single-family home lot currently fronting on Collicello Street and subdivide it so that the rear of the lot can be developed with a duplex dwelling. There is ample area for both lots to exist and still meet the minimum zoning district requirements. The side of the lot will front on Jackson Street and City services including water, sewer, trash pick up, and emergency access can be provided from this street. She said that Planning Commission recommended approval of the request. Council Member Byrd offered a motion to approved this request as presented. 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

Mayor Eagle

City Manager Stewart presented a request from the Public Utilities Department to increase petty cash from \$300 to \$600. He explained that the distribution of responsibilities to accept A walk-in@ customers by more than one employee requires the establishment of additional cash drawers. Council Member Green offered a motion to approve this request. 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

Mayor Eagle

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these funds will increase the Police Department's budget to pay for tests for the position of police officers. This money was recovered from applicants taking the police test on April 8, 2000. Vice-Mayor Lantz offered a motion to approve this request for a first reading.

\$537.50 chge. to: 1000-31901 Recoveries and Rebates

\$537.50 approp. to: 1000-310131-46140 Other Operating Supply

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

School Superintendent Ford presented a request for a supplemental appropriation for the School Division. He explained that these funds are from interest received on school bonds and funds from the Federal Immigrant Grant. Council Member Green offered a motion to approve this request for a first reading.

\$ 5,121.77 chge. to: 1311-31010 Amount from fund balance

65,328.61 chge. to: 1311-31513 Investment earnings

8,019.00 chge. to: 1111-33301 School revenue - Federal

\$70,450.38 approp. to: 1311-910114-48690 Repairs to elementary schools

8,019.00 approp. to: 1111-111114-40610 Instruction

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

Mayor Eagle

Warren Dillenbeck representing the TAGS (Taxpayers Against Golf Spending) group read the following statement: The following questions relate to apparent irregularities in various procurement and financial management processes in the golf course project. Reference is made to the City Purchasing and Contracting Manual, hereafter called the AManual.@

1. Is the contract with Turf Drain Inc. a valid contract?

The contract which was let to Turf Drain Inc. dated April 3, 2000 is not the one which was put out in the Request for Bid of January 26, 2000 and Addenda 1 and 2, published before the bid opening date.

The Supplementary Conditions in the original Project Manual refer to EJCDC Document 1910-8, 1990 Edition. The Project Manual also includes the required contract forms.

The contract which was let used AIA Document A101-1997 as the Agreement form and AIA Document A201-1997 as the General Conditions. The General Conditions were further modified by addendum between the City and Turf Drain dated April 3, 2000, long after bid opening. Among the modifications in this addendum is Par. 14.4.3. relating to cancellation of the contract by the Owner, which says, A...the contractor shall be entitled to receive ... liquidated damages in the amount of \$200,000 for consequential damages.@

Thus it appears that the City modified the contract in many respects from that which was bid, in violation of the intent of the Manual (See 4-3-14, 16b, 25b) and in particular, in a manner to benefit the contractor with an illegal golden parachute worth \$200,000, which was not offered to other bidders.

In addition, the City awarded the contract in an amount greater than the low bidder's base bid. His base bid was \$2,862,105. The contract was awarded for \$2,889,855, an increase of \$27,750. Turf Drain's bid showed in a note that this was the price of their payment/performance bond, not included in the base bid. The contract documents clearly indicated that this bond was to be included in the base bid.

Paragraph 4-3-25b of the Manual allows negotiation after bid opening only to lower the price of a bid to obtain a contract within available funds. In the two instances cited the City added value to the contractor, in violation of the Manual. Paragraph 4-3-12 of the Manual says, "Any purchase order or contract made contrary to the provisions hereof is not approved and the City shall not be bound thereby."

QUESTION: Why can't we verify the legality of the City's contract with Turf Drain?

2. Was trucking service to haul dirt obtained competitively?

Regarding the trucking of dirt onto the golf course site, Mr. Stewart in a letter of March 31, 2000 to Attorney Steven Blatt said that private hauling costs of \$174,944 were spent from the Public Works budget. The hourly rate paid was from \$35 to \$39 per hour.

This procurement was well over the \$25,000 limit for non-competitive purchases allowed in the Manual, Paragraph 4-3-44. Thus one of two procurement methods were allowed: (1) Advertise for hauling services with a Request for Proposals and award the work on the basis of lowest sealed bids. (Article D) or lowest negotiated bidder (Article F). or (2) Purchase the services from any qualified supplier who matches or lowers the state contract pricing for that service. Paragraph 4-3-45 (6).

We were informed that this work was not advertised on a Request for Proposal. The prices paid were higher than the State contract price for hauling at that time, which was \$32 per hour.

QUESTION: Why did the City violate the Manual in this procurement?

3. Where is the accounting for dirt hauling expenditure?

(1) Mr. Stewart, in his letter of March 31 to Mr. Blatt, said that the Public Works Department also provided dirt hauling services in the amount of \$68,009. So the total Public Works Department funds spent to haul dirt for the golf course were \$174,944 plus \$68,009, or \$242,953.

Although these funds came from the Public Works budget, according to Mr. Stewart, there appears to be no budget item for them in the annual budget. So where did they come from?

QUESTION: Is there some Public Works slush fund that gives ready access to a quarter million dollars?

(2) The golf course budget furnished by W. R. Love in the Concept Plan of November, 1999, showed a line item of \$125,000 for fill material. We've nearly doubled that figure and construction has just begun! And the contract documents anticipate that more fill may be required.

QUESTION: Where is this expenditure being charged? To the golf course? If not, why were we promised that no tax money would be spent on the golf course?

Mayor Eagle commented that developers and contractors traditionally haul dirt and stockpile it especially when it is free. He said that this dirt will be used for various projects in the City and until it is used it will not be charged to the project.

Vice-Mayor Lantz said that since Mr. Dillenbeck had asked so many questions relating to apparent irregularities in various procurement and financial management processes including referring to technical paragraphs, provisions and certain sections of the City's Purchasing and Contracting Manual, he proposed that Mr. Dillenbeck meet with City Manager Stewart and City Attorney Thumma to discuss these questions.

City Attorney Thumma commented that he knew of no violations of procurement practices and knew of no legal problems with the execution of the contract with Turf Drain Inc.

At 8:35 p.m., Vice-Mayor Lantz offered a motion that Council enter a closed session for discussion and consideration of personnel and prospective candidates to be appointed to the Social Services Advisory Board, Harrisonburg Parking Authority, and Board of Zoning Appeals, exempt from public meeting requirements pursuant to Section 2.1-344(A)(1) of the Code of Virginia, 1950, as amended. Consultation with the City Attorney and briefings by staff members pertaining to probable litigation and a proposed contract, exempt from public meeting requirements pursuant to Section 2.1-344(A)(7) of the Code of Virginia, 1950, as amended. Discussion concerning a prospective business locating within the City, exempt from public meeting requirements pursuant to Section 2.1-344(A)(5) of the Code of Virginia, 1950, as amended. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

At 10:30 p.m., the closed 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 was convened, were heard, discussed or considered in the closed session by the City Council.

At 10:31 p.m., there being no further business and on motion adopted the meeting was adjourned.

CLERK

MAYOR