

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

REGULAR MEETING

MARCH 26, 2002

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Carolyn W. Frank; City Manager Roger Baker; City Attorney Thomas H. Miller, Jr., Vice-Mayor Dorn W. Peterson; Council Member Larry M. Rogers, Hugh J. Lantz, Joseph Gus Fitzgerald; City Clerk Yvonne Bonnie Ryan, CMC/MMCA, and Chief of Police Donald Harper. Absent: Assistant City Manager Kurt Hodgen.

Council Member Lantz delivered the invocation and Mayor Frank led everyone in the Pledge of Allegiance.

Vice-Mayor Peterson offered a motion that Council resolve to approve the consent agenda, including approval of the minutes and the second reading of supplemental appropriations for the School Board and Police Department. The motion also included the second reading amending and re-enacting Section 10-3-24 and Section 10-3-84 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

Absent None

Karen G. Collins and Greg Snow with Palmer & Cay presented an overview of the proposed Compensation and Benefits Study. Ms. Collins said Palmer & Cay Consulting Group has studied Harrisonburg's payroll, benefits and job positions during the past five months. The group projects have included a compensation and benefits strategy, external competitiveness review, benefits equity study, review the internal equity, review job classification/evaluation, develop a new salary structure, provide recommendations for making benefits plans more acceptable to the employees, and finally conduct a cost

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

analysis associated with all of the firm's recommendations. The City's top management met with Palmer & Cay many times providing input to every part of the study and also devoted a significant amount of their time to make sure what is being recommended will actually meet the needs of the City of Harrisonburg. Input was provided from all Task Force members and the City Manager for the compensation and benefits strategy. Specific topics included market definition comparing municipalities of similar size and the local market. Development of compensation and benefits goals included a base salary at market which is the approximately the 50th percentile or market median. All data was adjusted to the Harrisonburg geographic area. An external competitiveness review was conducted which involved a private survey identifying 36 benchmark jobs within the City and receiving data from 24 survey participants. An analysis comparing the private survey data to Harrisonburg's data indicated that Harrisonburg's salary schedules are slightly below market including that minimum is 4.2% below market overall, midpoint is 6.5% below market overall and maximum is 8.2% below market overall. An analysis comparing survey data to Harrisonburg's data indicated overall actual average salaries are below market competitive ranges. The private survey indicates the City is 10.2% below market and published survey data indicates 9% below market. The analysis shows the most under compensated City employees are firefighters, police officers, assistant directors, engineers and those working in communications at the emergency operation center. It should be noted that comparison to the market would take into consideration Harrisonburg's desired goals and its benefits package. Ms. Collins said points were established for job evaluation/classification. Point factors used to utilized establish internal equity included education required, minimum experience required, complexity of analysis/creative thinking, consequence of error, decision-making responsibility, inside/outside contacts, work environment, risk/safety demands and degree of supervision/span of control. A salary structure of 15 pay ranges is recommended. She said her firm would be finalizing a salary structure and job placement within ranges, reducing job titles, finalizing cost analysis and implementing a plan, finalizing salary administration guidelines, and submitting a final report within the next month.

Greg Snow said that the benefits equity study indicates that Harrisonburg's current benefits are approximately 8% above market. He said that medical plan is above market and the City contribution for dependent coverage is above market. He said, It's typical for a municipality to be running about 5% above market. Unfortunately, health costs are expected to increase nationwide between 10%-20% next year. Mr. Snow said Palmer & Cay are recommending implementing changes to the current medical plan, introducing choice for medical and dental plans, reviewing feasibility of implementing a paid time off program, and developing a strategy for communicating benefits to employees. Changes were made to the medical plan in 2000 and a Key Care design was introduced in 2001. These changes have provided some additional discounts to the City and the employees. Most employers are making significant changes in benefit plans due to increase in cost. He said that the City still had a healthy reserve in its health plan. He encouraged offering employees a variety of health plans.

Some discussion by Council Members relative to the subject included whether the City was offering a competitive package, questioned why average salaries were 10% below market, questioned why benefits were 8% above market, maintaining and keeping employees, City experiences low turnover of employees, need to increase payroll by 5% to raise its salaries to Virginia's median for public employees, final report should provide percentages in dollar numbers, and keeping vacation and sick leave separate, not combining vacation and sick leave.

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

David Rose with Davenport and Company, LLC presented an overview of a capital financing options analysis for the City of Harrisonburg. Mr. Rose said the simple issue is, Should the City of Harrisonburg access the Credit Markets via a stand-alone City General Obligation Bond issuance or should they consider issuing debt through a State intermediary like the Virginia Resources Authority? He said that Davenport recommends assessing two major factors in considering this issue economic factors and control factors. In reviewing the economic and control factors, Davenport has modeled and reviewed three separate issuance options available to the City, which includes issuance of A-Rated City General Obligation Bonds, issuance of AAA-Rated Insured City General Obligation Bonds, and issuance of AA-Rated Virginia Resources Authority Bonds. The VRA contends that a debt issuance through its program will provide a locality two major benefits versus that locality issuing debt in its own name. He reviewed the current market interest rate comparison for the years 2003 through 2032. The lowest of the three options for the general obligation bonds is the AAA-rated insured at about 5.21%. This option should save the City approximately \$1,053,740. The amortization was included in the bond. He reviewed the economic factors summary and the cost of issuance comparison. He also noted that beyond these economic factors, the City stands to sacrifice a number of Control Factors in issuing via the VRA. While the Virginia Resources Authority provides a viable financing alternative to some localities, the City of Harrisonburg is in a strong position to issue General Obligation bonds in order to satisfy its capital needs. Based upon this analysis as well as our financing experience, Davenport strongly recommends that the City proceeds with the Plan of Finance as previously presented and that the City does so via a competitive sale of General Obligation Bonds. In doing so, the City will secure capital funding at the most cost effective rates while retaining maximum control and flexibility.

Steve Johnson, Attorney with Troutman & Sanders, presented a resolution for the issuing the bonds. He reviewed the clauses in the resolution.

RESOLUTION AUTHORIZING THE UNDERTAKING

OF CERTAIN PRELIMINARY ACTIONS

WITH RESPECT TO THE ISSUANCE OF BONDS

BY THE CITY OF HARRISONBURG, VIRGINIA

WHEREAS, exceed \$60,000,000 (the Bonds the City Council of the City of Harrisonburg, Virginia (the Council) wishes to undertake, for the benefit of the City of Harrisonburg, Virginia (the City), the financing of (a) a portion of the costs of the acquisition, renovation and equipping of a building for public safety and other administrative use by the City, (b) the costs of improvements to and the acquisition of equipment for the City s steam plant and resource recovery facility and (c) the costs of expansion and improvements to the City s water system, including the expansion and acquisition of equipment for the City s water treatment plant, the installation of covers on certain of the City s water reservoirs, including the Tower Street water reservoirs, and the development, construction, equipping and integration of additional water sources into the City s water system, including the installation of additional water lines (collectively, the Projects);

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

WHEREAS, to finance the Projects, to pay related issuance costs and to fund capitalized interest, the City will need to issue bonds in an aggregate principal amount not to);

WHEREAS, the Bonds will be issued pursuant to the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the Act), and will be secured by a pledge of the full faith and credit of the City;

WHEREAS, a public hearing on the issuance of such Bonds has been held on March 26, 2002 after newspaper publication thereof in accordance with Section 15.2-2606 of the Act, and such public hearing was held at the time and place set forth in such notice; and

WHEREAS, the City Manager and staff of the City will need to take certain actions prior to the final authorization of the Bonds to facilitate the offering, sale and issuance of the Bonds in a timely and orderly manner;

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

- 1. It is hereby determined to be in the best interests of the City to undertake the financing of the Projects and to issue the Bonds therefor.**

- 2. Pursuant to the Act, there are hereby authorized to be issued Bonds of the City in the maximum aggregate principal amount of \$60,000,000 to be issued at one time or from time to time, to provide funds, together with other funds that may be available, to finance the Projects, to pay related issuance costs and to fund capitalized interest.**

- 3. The Bonds shall mature at such time or times not exceeding forty years from the date of their issuance, shall bear interest at such rate or rates, shall be redeemable for such amounts and at such times, shall be in such form and shall contain such other details not inconsistent with the Act, as shall be fixed by the Council by resolution adopted at a subsequent meeting prior to the time that any Bonds are sold. The Bonds may be issued in one or more separate series appropriately designated and may be issued alone or together with any other general obligation bonds authorized by the City.**

- 4. The Council hereby determines that it will be in the best interests of the City to sell the Bonds by public sale in a competitive bidding process pursuant to a Preliminary Official Statement to be dated**

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

the date of its release (the Preliminary Official Statement) in accordance with a Notice of Sale to be dated the date of the Preliminary Official Statement (the Notice of Sale) which states the structure and terms of the sale of the Bonds.

5. The Council hereby appoints Troutman Sanders Mays & Valentine LLP to serve as Bond Counsel to the City in connection with the issuance of the Bonds and to supervise all proceedings in connection with the issuance of the Bonds.

6. The City Manager is hereby authorized to advertise all or a portion of the Bonds for public sale, as he deems in the best interests of the City, to determine the appropriate series designations and fix the amounts, dates, maturity schedules, redemption provisions and other terms of the Bonds, to determine the terms upon which bids must be made, the amount of any deposit required in order to bid and the amount of any good faith deposit, to prepare an appropriate Notice of Sale, summary Notice of Sale and, if required, official bid form, and to take all other necessary action for the sale of the Bonds, all subject to approval by the Council by resolution adopted at a subsequent meeting prior to the time that any Bonds are sold.

7. The City Manager and his staff are authorized to work with Davenport & Company LLC, the City's financial adviser (the Financial Adviser), to prepare a Preliminary Official Statement of the City describing the Bonds and their terms and manner of purchase, the purposes for which the Bonds are being issued and the security for and other information relating to such Bonds, and setting forth certain information with respect to the City.

8. The City Manager and his staff are authorized to take such actions as shall be necessary or appropriate to obtain a credit rating or ratings for the Bonds from Fitch Ratings, Moody's Investors Service, Inc. and/or Standard & Poor's Ratings Services, if the City Manager, in consultation with the Financial Adviser, determines that the receipt of such ratings would be beneficial to the City.

9. The City Manager and his staff are authorized to take such actions as shall be necessary or appropriate to obtain a commitment or commitments for municipal bond insurance or other credit enhancement to secure the Bonds, if the City Manager, in consultation with the Financial Adviser, determines that the receipt of such municipal bond insurance or other credit enhancement would be beneficial to the City. Any final determination of the security to be offered by the City for the Bonds such as bond insurance or other credit enhancement will be subject to approval by the Council by resolution adopted at a subsequent meeting prior to the time that any Bonds are sold.

10. The City Manager and his staff are authorized to take such actions as shall be necessary or appropriate to make application to a qualified securities depository to act as securities depository for the Bonds during any period ownership of the Bonds is to be evidenced by book entry.

11. The City Manager, his staff and other officers of the City are further authorized to take any other actions that they may feel are necessary or desirable in connection with the offering, issuance or sale of the Bonds.

12. This Resolution shall take effect immediately upon its adoption.

Adopted: March 26, 2002

CERTIFICATE

The undersigned Clerk of the City Council of the City of Harrisonburg, Virginia, hereby certifies that the foregoing constitutes a true, complete and correct copy of a resolution duly adopted by the City Council at a meeting duly called and held on March 26, 2002, following a public hearing. 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 and that the foregoing Resolution was adopted by the affirmative roll call vote of a majority of all members of the City Council present and voting. The vote of the members of the City Council upon the foregoing Resolution was as follows:

<u>Member</u>	<u>Present/Absent</u>	<u>Vote</u>
Carolyn W. Frank, Mayor	Present	Aye
Dorn W. Peterson, Vice Mayor	Present	Aye
Joseph Gus Fitzgerald	Present	Aye
Hugh J. Lantz	Present	Aye
Larry M. Rogers	Present	Aye

WITNESS MY HAND and the seal of the City of Harrisonburg, Virginia, this 26th day of March, 2002.

Clerk, City Council of

the City of Harrisonburg, Virginia

[SEAL]

At 8:50 p.m., Mayor Frank closed the regular session temporarily and called the evening's public hearing to order. The following notice appeared in the Daily New-Record on Tuesday, March 12, and Tuesday, March 19, 2002.

NOTICE OF PUBLIC HEARING

ON PROPOSED ISSUANCE OF BONDS BY THE CITY OF

HARRISONBURG, VIRGINIA

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), without a referendum and subject to final approval, of general obligation bonds in a principal amount not to exceed \$60,000,000 (the Bonds) for capital improvement projects. The Bonds may be issued from time to time and in one or more series.

The proceeds of the Bonds will be used to (i) finance a portion of the costs of the acquisition, renovation and equipping of a building for public safety and other administrative use by the City, (ii) finance the costs of improvements to and the acquisition of equipment for the City's steam plant and resource recovery facility, (iii) finance the costs of expansion and improvements to the City's water system, including the expansion of and acquisition of equipment for the City's water treatment plant, the installation of covers on certain of the City's water reservoirs, including the Tower Street water reservoirs, and the development, construction, equipping and integration of additional water sources into the City's water system, including the installation of additional water lines, (iv) pay certain costs of issuance of the Bonds and (v) fund capitalized interest.

The public hearing which may be continued or adjourned, will be held at 7:30 p.m. on Tuesday, March 26, 2002, before the Council at a regularly scheduled meeting 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 purposes for which Bonds are being issued may appear at the hearing and present his or her views.

CITY OF HARRISONBURG, VIRGINIA

Roger D. Baker, City Manager

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

Mayor Frank called on anyone present desiring to speak for or against issuing the bonds. There being no one desiring to be heard, the public hearing was declared closed at 8:51 p.m., and the regular session reconvened. Council Member Fitzgerald offered a motion that the Council resolve to adopt the resolution as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

Absent None

Dr. Donald Ford, Superintendent of Harrisonburg City Schools, presented the School Board's proposed 2002-2003 budget. He reviewed the time line for budget developed through a process that included input from school personnel, parents, community members, and school board members. The proposed school budget provides a breakdown of anticipated revenue and expenditures for the coming year. However, he noted at this point we still do not have a clear picture of what our state revenues are going to be. The school board included in the budget an amount based on the best estimate of information provided by the Virginia Department of Education and on previous budget experience. The budget is based on a projected average daily membership (ADM) which next year is projected to be approximately 3,900. Dr. Ford reviewed the process used in developing the budget. He said that the budget includes a projected average salary increase of 6% for teachers and a 4% salary increase for all other personnel. The maintenance and operations fund includes projected expenditures for next year's projects identified in our five-year maintenance/special projects schedule, as well as ongoing routine maintenance costs. Some planned projects will not be possible due to funding constraints this year. He reviewed the significant budget increases which include debt service at \$2,220,974 (67.4% increase), health & dental insurance \$509,115, textbooks (major adoption year) \$160,533, special education, \$77,559, and utilities \$46,748 for a total of \$3,014,929. The School Board will receive more money from state funds than in the current year. However, he said that excluding increased debt service, the school board is requesting an increase in local funds for 2002-2003 of \$1,349,905. Meeting the needs of a very diverse student population increase has become a difficult challenge for the School Board. The total school population has currently 23% who speak English as a second language or approximately 800 students. Dr. Ford reviewed and identified the new positions, which are included in the 2002-2003 school board budget. He reviewed budget information for FY 2002-2003 which included 73 Fund categories of which 42 of all of the Fund categories (or 58%) were either level-funded or reduced from current levels, six of the Funds are increasing because of federal programs, eight of the increased Funds are utility funds, no state money is being provided for salary increases for 2002-2003, no state money is being provided for maintenance, SOL teaching materials, SOL teacher training, additional teachers, or truancy programs, and a group life holiday. He said that of the total budget increase, 48% is directly for increases in salaries and benefits (including both existing and new positions), 48% is also for debt service increases and 4% is for increases in all other areas.

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

Council Member Lantz said, Dr. Ford, you have stated that no state money would be provided for salary increases; however, as I look back at state increases since 1997, I don't see any salary increases that have ever been appropriated. Is that true?

School Superintendent Ford said that the School Board has received money from the state which is generally in the neighborhood of 2.2%. This money becomes effective in December or January of the year, which reduces it effectively to approximately to a 1% increase the first year and then 2% the second year. The increases in salaries for the teachers in Harrisonburg have been funded almost exclusively by the City Council. There have been some funding from the state; however, when the state provides funding it must be used for SOQ (Standard of Quality positions). The number of positions in Harrisonburg are far beyond the standard of quality positions.

Council Member Rogers commented that he is very proud of the City's schools because of the dedicated teachers, administrative staff, supporting staff members and achievement of the students.

Vice-Mayor Peterson asked Dr. Ford to review the projected salary increases. Dr. Ford said that the budget includes straight salaries and he compared Harrisonburg benefits to other localities. The City's school benefits ranks 25% in the state. He reviewed the adjustment made in the teacher's salary scale. Vice-Mayor Peterson also questioned why more funding was needed for utility increases especially natural gas and requested data on salaries across the state and in particular the direct salaries and benefit packages. Dr. Ford responded that he would provide the information.

Senior Planner Anderson introduced a request by Nelson Swartz, with representative Triad Engineering, to subdivide tax map parcel 1-D-2 & 8 and 7-A-1 & 3 (38.726 acres) into 100 residential and two commercial lots. He explained this a preliminary plat with a variance to the Subdivision Ordinance to allow variations in road construction standards and the length and units permitted on a cul-de-sac. The property is zoned R-3C, Multiple Dwelling Residential District (conditional), B-2C, General Business District (conditional), and B-2, General Business District and is located at 2675 South Main Street. The site is currently undeveloped. He reviewed the surrounding uses in the area. The proposed subdivision of Nelson Swartz's property would allow the development of a planned community featuring a variety of residential home options as well as a commercial center that would serve the community with different small-scale retail operations on roughly 39 acres of land in the Southern end of the City. In October 2001, this property was the subject of a rezoning request to adjust the zoning from a R-2, Residential District and B-2, General Business District to the current zoning. At the time of the rezoning the development plan was proffered and showed the existing layout of the preliminary plat. The plat shows the proposed business area on one lot and the residential neighborhood being divided into 58 townhomes, 30 patio homes and 12 single-family structures. The patio homes would be similar to duplex construction; however, each home would be a distinctly separate structure with shared driveway access with its neighbor. In addition, every two-patio homes would also be connected by a small utility shed, to conform to the existing two-family home regulations. The lots are served by two roads, Cedar Pointe Drive and Swartz Lane. The main road into the subdivision will be Cedar Pointe Drive. Cedar Pointe Drive begins off South Main Street as three lanes (60 feet wide), tapering to two lanes at

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

the first rear entrance to the eastern townhomes, then continues on as two lanes (50 feet wide) to the cul-de-sac. Swartz Lane is the connector road between Cedar Pointe Drive and Pointe Drive with 68 feet of right-of-way. This road has an eleven foot wide landscaped median down the middle and 16 feet of drive lane on either side. Parking is restricted on both sides and the median's landscaping will be the responsibility of the Home/Property Owner's Association. The property owner has requested variances to Section 10-2-41(a), streets and alleys, of the Subdivision Ordinance which states that, proposed streets and alleys shall conform to the standards and specifications outlined in the Design and Construction Standards Manual. The owner states that the, unnecessary hardship which is peculiar to the property in question is due to the topography and shape of the lot. There is a large portion of this tract of land that does not lend itself to residential development. This area consists of very steep topography on the northern boundary of the site. The Subdivision Ordinance states that a variance can be granted where a subdivider can show that provisions for the Subdivision Ordinance would cause an unnecessary hardship if strictly adhered to, because of the topographical or other conditions peculiar to the site. The proposed site has very extreme topography in the northern portion of the residential development, therefore it was necessary to change the pattern of the street to accommodate the terrain. In addition, the subdivision ordinance allows developments that are residential planned unit developments. The subdivision ordinance allows these types of development as long as they provide adequate public spaces and improvements for circulation, recreation, light, air and service needs. The landscape median for Swartz Lane would fall under these provisions. The median will provide aesthetic and beauty to the townhouse neighborhood, while providing for the flow of pedestrian and vehicular traffic. The elevation changes and division between the business, townhomes, patio homes, and single-family homes provides the development with an overall sense of community, while buffering the area from the more intense uses along South Main Street. After review by staff, it is recommended that the plat with variances as noted be approved. He said that Planning Commission recommend approval for the preliminary plat with the variances. Vice-Mayor Peterson offered a motion that the Council resolve to approve this preliminary plat with the variances. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

Absent None

Senior Planner Anderson introduced a request by David and Teresa Walsh to subdivide tax map parcel 117-F-1 (approximately 11 acres) into five residential lots with a variance to Section 10-2-42(d) that requires all lots to front on a public street. The property is zoned R-1, Single-Family Residential District and is located at 620 Garber's Church Road. He said that there is one existing single-family house on the site located approximately 550 feet from Garber's Church Road. He reviewed the surrounding uses in the area. The preliminary plat requested would subdivide an eleven-acre lot into four lots, with two of these lots not having any road frontage. The layout presented will facilitate the relocation of a house that abuts the proposed

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

driving range of the Heritage Oaks Golf Course. The subdivision would allow the current house existing at 776 Garber's Church Road to be relocated to Lot 3 as shown on the preliminary plat. The house is being relocated, so that the Heritage Oaks Golf Course can purchase the house's lot, otherwise an 80 foot, in height, safety net would need to be purchased and installed along the driving ranges' boundary to this and other residential properties. With the relocation of the house to Lot 3, the requirement for the net would not be needed and the Heritage Oaks Golf Course would own much of the land between the courses' current property and Garber's Church Road. Access to Lots 3 & 4 will be through a thirty-foot private access easement created along the southern boundary of Lots 5 & 4. This access will make possible a private drive that will be maintained by the property owners of Lots 3, 4, & 5 through a private maintenance agreement. The variance request, if approved, could set a precedent for development in this area as well as other areas of the City, because it could be perceived as if the City is giving itself a privilege and development standard lower than that expected and required of private developers and individuals. The variance should only be granted if Planning Commission feels the situation is justifiable unique and can articulate the reasons it merits special consideration. He said that Planning Commission recommended approval with a five to two vote to allow the lots not to front on a public street. Council Member Fitzgerald offered a motion that the Council resolve to approve this request as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

City Attorney Miller presented an overview of a purchase agreement with Willow Lane Partners and the Kenneth Bahn Land acquisition agreement. He said that the Bahn property has an existing house that could present some difficulty for the driving range, if the City decided to add additional tees, unless an 80-foot net was installed. He reviewed some of the language in the agreement including a purchase price of \$70,200 for the real estate, paying Mr. Bahn \$100,000 to move the house, and Mr. Bahn purchasing lot number three for \$30,000 from the Walsh subdivision. Also, included in the negotiation is a price to remove an underground storage tank. Mr. Miller continued to review provisions in the agreement including that Mr. Bahn could remove the dwelling house and any improvements, but there will not be a fees for water and sewer hook-up at the new lot on the Walsh property. The City obligation to perform under this contract is continuant upon the purchaser closing on the real estate under negotiations with the Willow Lane Partners. Mr. Miller said that all three agreements had to be approved to meet the April 15th deadline. He said that he is working with another attorney on the Willow Lane Partners agreement.

Mr. Jay Litten, attorney with the law firm of Litten & Sipe, and representing Mr. Bahn said details in the language of the contracts have not been completed.

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

Council Member Lantz expressed his disappointment that this agreement had not been resolved. He said, Vice-Mayor Peterson and I met last week with the representatives of Willow Lane Partners hoping that all three projects would be completed by tonight. I don't believe we should go forward with any of the deals until we can complete the mechanics of the agreement. I am disappointed they haven't occurred before tonight.

Mr. Litten said, My client has been trying to push forward the agreement since January. It is only technical aspects of the contract that need to be resolved and Mr. Miller and I should be able to complete those details.

Following further discussion and comments, Vice-Mayor Peterson offered a motion that the Council resolve to accept the contract. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

No - Council Member Lantz

Council Member Rogers

Abstained Mayor Frank

Some discussion by Council Members relative to agreement included issues still need to be worked through, manners of phasing the agreement, property exchange, haste to produce a contract, wanting a good contract, policy terms, some Council Members uncomfortable with agreement, implementations, assurance from both attorneys contract will not prevent the sale of the other properties, and certain obligations to deliver clear titles.

Council Members agreed to take a five-minute recess to let both attorneys further discuss the issues.

City Council proceeded with other agenda items while the attorneys continued to discuss the issues of the Willow Lane Partners and Kenneth Bahn Land acquisition agreements

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

Council Member Rogers offered a motion that the Council approve a request by the Chamber of Commerce to use a City trolley for 45 minutes on April 20th for a conducted tour of the City. The motion to resolve was approved with a unanimous vote of Council.

Dr. James Perkins, President of Blue Ridge Community College, and Jean Gearing, a board member, presented an overview of the progress Blue Ridge Community College is making in serving the needs of the City of Harrisonburg. Ms. Gearing said the 2001-2002 year has been an exciting one for the college. Highlights of the college include record enrollment in credit and in non-credit classes, enrollment and credit classes in up over 16% from last year, ground breaking in construction of the Robert E. Plecker Work Force Center, completion of construction of the Regional Criminal Justice Training Academy, additional space for evening classes, a gymnasium for physical education, and laboratory space for more computing courses will help Blue Ridge Community College to expand without waiting for the state to catch up with space needs. She said that this year BRCC added an associate degree program in administration of justice. Completion and expansion of BRCC veterinary technology classroom and laboratory has allowed BRCC to expand the program from 60 to 80 on campus students and to 60 students enrolled in our distance-learning program. Our guarantee admissions agreement with James Madison University is already drawing larger numbers of younger full-time students to the college transfer program. Agreements with Mary Baldwin College and Old Dominion University are benefiting many adult students. The number of Harrisonburg residents enrolled in credit classes at BRCC for fall 2001 was 434 and approximately 244 non-credit students took classes at the Harrisonburg center. Distance learning through web-based courses is helping make BRCC more accessible to Harrisonburg residents. The next two years will be challenging ones for BRCC as the state struggles to overcome significant revenue shortfalls. This year the college budget was reduced over \$200,000 by the state and next year the reduction is projected \$400,00 and \$500,000 in 2004. Higher tuition, larger classes, slower growth fewer new initiative are the consequences BRCC faces. As always the college will deal with the challenges in ways which will have the smallest impact on the students. There is good news for BRCC because a proposed general obligation bond package includes over \$7 million in building projects for BRCC. A new \$5 million humanities and fine art program is the most exciting part of the project. Assuming the bond bill is signed by the Governor, BRCC will be working hard to secure voter approval in November. The City's financial support to the college has been an excellent investment in the future of Harrisonburg.

City Attorney Miller returned to the Council Chamber after continuing negotiations with Attorney Litten and explained that Mr. Bahn has committed to getting a reasonable bid for removing the underground storage tank. He reviewed other changes and wording in the paragraphs in the contract and the settlement date. Council Member Lantz offered a motion that the Council resolve to reconsider the purchase contract and authorize the City Manager sign on behalf of the City with the changes as presented.

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

Vice-Mayor Peterson

Mayor Frank

Absent None

City Attorney Miller presented for Council's consideration a draft of an agreement with the Willow Lane Partners. He explained that Willow Lane Partners owns a parcel of land consisting of 11.8 acres. Willow Lane Partners also owns another parcel, which he identified on a plat and said that it fronts on Garber's Church Road and is improved by a barn. The City wants to purchase this land from Willow Lane and established the price at \$30,200 per acre or \$181,200 pending a formal survey of the land. Per the negotiated agreement, the City also will reimburse Willow Lane about \$1,200 for costs spent by the partnership for engineering expenses for the Bridgewater College potential development. The City will also honor a lease Willow Lane has with a local farmer until it expires October 26, 2002. Mr. Miller continued to review language in the contract. Willow Lane set a price for the land at \$25,000 per acre, or about \$297,000, when adjusted for an official land survey. The price increases with an adjustment for the consumer price index every year after April 15, 2003. Mr. Miller said, "If we don't get an agreement tonight, there's no way to make an April 15 closing on any of these proposals." Mr. Miller continued to review the language in the contract including that the City would buy the additional 12 acres it now leases within three years. The one remaining issue is the engineering cost.

Vice-Mayor Peterson commented that it was only fair if the City does buy the six acres, it will agree and commit not to leave the other twelve acres land locked.

Attorney Litten asked City Council to purchase the land sooner rather than waiting six years.

Vice-Mayor Peterson said two years is too soon and he was not in favor of purchasing the property within two years.

City resident Mary Strate, a member of Willow Lane Partners, commented that using the CPI would put the landowners in a bind financially because we won't have the cash for the land, but the value is fixed. She said, "We can't access our money to do something that would be a better investment nor is this a good investment anymore for us." She asked Council to purchase the property within three years. She said, "We are feeling in a one down position in negotiations anyway because our choices were to negotiate with the City and take the best deal or have the net go up and have the property devalued."

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

Following further discussion and comments, Council Member Fitzgerald offered a motion that the Council resolve to accept this agreement as written, but not setting a deadline on selling the property. The recorded roll call vote was taken as follows:

Vote: Yes Council Member Fitzgerald

No - Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

Absent - None

Council Member Lantz recommended that Mary Strate and the Willow Lane Partners needed to come up with something everybody can live with or we will have to accept this agreement, which mean the 80-foot netting will be erected. He also suggested a compromise of four and one-half years before the City purchase the land. He said, I thought that the seller were making an offer of a price and condition and we left the meeting held on Friday, March 22nd that everything was fine except for the consumer price index. Then Monday I received an e-mail stating that the seller were changing their minds on what was discussed at the meeting. I though the seller were making an offer to sell at \$25,000 an acre and the only thing they were concerned about was using the consumer price index as a gauge to value future value.

This issue was again tabled and the attorneys left Council Chamber to further discuss the issue and the meeting continued.

The presentation of water supply and demand as it relates to implementation of conservation measures was tabled until the next meeting.

Mayor Frank presented the following resolution for Council s consideration of approval:

PROJECT PROGRAMMING RESOLUTION

WHEREAS, in accordance with Virginia Department of Transportation construction allocation procedures, it is necessary that a request by Council resolution be made in order that the Department program an urban highway project in the City of Harrisonburg; now

THEREFORE BE IT RESOLVED, that the City of Harrisonburg, Virginia requests the Virginia Department of Transportation to establish a project for the reconstruction and extension of Stone Spring Road/Erickson Avenue from the East City limits to the West City limits.

BE IT FURTHER RESOLVED, that the City of Harrisonburg hereby agrees to pay its share of the total costs for construction of this project, and that if the City of Harrisonburg subsequently elects to cancel this project, the City of Harrisonburg hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

BE IT FURTHER RESOLVED, that this project takes priority over all presently requested projects.

Adopted and approved this 26th day of March, 2002.

MAYOR

Attest:

CLERK OF COUNCIL

City Manager Baker explained that the Commonwealth Transportation Board would meet in Verona on April 5, 2002 at the Augusta County Government Center. This is the 2002 Virginia Transportations Program meeting formally called the pre-allocation hearing. This meeting is our single best opportunity to

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

publicly influence the plan. Mr. Baker recommended that the City select one project this year and push it as our top priority. He said that staff recommends Stone Spring Road from East City limits to West City limits. Council Member Fitzgerald offered a motion that the Council resolve to adopt this resolution. The motion to resolve was approved with a unanimous vote of Council.

Vice-Mayor Peterson offered a motion that the Council resolve to authorize the City Manager to enter into a contract for the Resource Recovery rebuild at an estimated cost of \$23,000,000. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

Absent None

City Manger Baker presented a request to amend Personnel Policy Section 5.7 Shared Leave. He explained there are two proposed changes in this section of the Personnel Policy. The first change removes a 10-day waiting period before an employee can get leave time donated to their account. The second change requires the employee donating leave to maintain a balance of 240 hours in their sick leave account after a donation is made. Vice-Mayor Peterson offered a motion that the Council resolve to amend this policy. The motion also included that the City Manager could amend the personnel policy as needed. The motion to resolve was approved with a unanimous vote of Council.

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds would be used to purchase lap top computer through a Division of Motor Vehicles Grant. The Police Department had to purchase the lap top computer first and then will be reimbursed by the grant. Council Member Fitzgerald offered a motion that the Council resolve that this supplemental appropriation be approved for a first reading, and that:

\$1,468.87 chge. to: 1000-33524 DMV Grant (Federal)

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

\$1,468.87 approp. to: 1000-310231-46010 Office Supplies

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

Absent None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds would be used to purchase stop sticks. These funds were also available through a Division of Motor Vehicles grant. Council Member Fitzgerald offered a motion that the Council resolve that this supplemental appropriation be approved for a first reading, and that:

\$1,303.00 chge. to: 1000-33524 Federal DMV grant

\$1,303.00 approp. to: 1000-310231-46100 Police Supplies

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

Absent None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds will replace overtime money in the department's budget which was spent on weed and seed grant. Council Member Fitzgerald offered a motion that the Council resolve that this supplemental appropriation be approved for a first reading, and that:

\$10,93.07 chge. to: 1000-31901 Recoveries & Rebates

\$10,963.07 approp. to: 1000-310231-41020 Salaries/Wages OT

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

Absent None

Bucky Berry, a resident of 877 North Main Street, suggested that City Council should learn to get along with each other.

Attorney Jay Litten returned to the Council Chamber and said, "After referring with my clients, the substance of the agreement that was in the motion on the floor will be acceptable to my clients." Vice-Mayor Peterson offered a motion that the Council resolve to reconsider the motion to accept the terms of the agreement. The recorded roll call vote was taken as follows:

MINUTES - REGULAR MEETING OF CITY COUNCIL - MARCH 26, 2002

Vote: Yes - Council Member Fitzgerald

Council Member Lantz

Council Member Rogers

Vice-Mayor Peterson

Mayor Frank

Absent None

Vice-Mayor Peterson offered a motion that the Council resolve to appoint Jack D. Reich, 210 The Green, to a first term on the Industrial Development Authority, to expire on April 24, 2006. The motion to resolve was approved with a unanimous vote of Council.

At 11:36 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR