

REGULAR MEETING

MAY 12, 1998

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 and Police Captain Malcolm Wilfong. Absent: Chief of Police Donald Harper.

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

Council Member Byrd 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 Rogers, and approved with a unanimous vote of Council.

Planning and Community Development Director Turner introduced a request to amend Article F. Definitions, and Section 10-3-47, Area and Dimensional Regulations, of the Zoning Ordinance. She explained that staff had received an inquiry from a developer regarding further subdivision of a single lot containing a four-unit apartment building. The initial inquiry received dealt with a building containing two units downstairs and two units upstairs which were separated down the middle by a firewall. The desire was to subdivide this property along the firewall into two separate lots. After reviewing the subdivision and zoning regulations specifically in the R-3 classification, it was decided that the current regulations did not specifically provide for this type of subdivision. Mrs. Turner said that although the developer who made this inquiry pointed out that this type of division had been approved in 1983, staff felt that it would be better for all concerned if the regulations clearly stated that subdivisions of quadraplex units in this manner were permitted. After reviewing the circumstances to determine if there was any reason why this would not be a wise change to make to the regulations, staff determined that subdividing a four-unit building into two or possibly even more lots would probably not present any problems. However, it was a concern that subdividing a building that contained more than four units might be too broad a change which could result in problems for existing homeowners. Specific types of problems that could be encountered if the owner of the end unit of a group of townhouses tried to add an apartment to their already existing dwelling, or if people who currently own duplexes that are separated into individual lots added an apartment. In these cases the neighboring residents might have felt safe that they were buying a dwelling attached to another single-family attached dwelling and adding apartments such as these and increasing the density could be objectionable to them. To limit this type of thing, it was decided to add an addition of quadraplex to the zoning ordinance and to provide lot and area dimensional regulations to allow the lots on which they are located to be further subdivided. She recommended that the definition of "dwelling, quadraplex" be added to state the following: "A type of attached multiple dwelling containing four attached dwelling units in one building, with each unit having a minimum of two outside walls and sharing one or more walls with an adjoining unit or units." These dwellings would be designed and constructed to permit individual and separate ownership of lots and dwellings or combinations of dwelling units. She said that Planning Commission recommended approval of the proposed change to the zoning ordinance.

At 7:40 p.m., Mayor Eagle closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on Monday, April 27, and May 6, 1998.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, May 12, 1998, at 7:30 p.m., in the City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia, to consider the following:

Amendments and Changes:

Consider amending the following sections of the Harrisonburg Zoning Ordinance:

Article F. Definitions., Section 10-3-47. Definitions., and Section 10-3-47, R-3 Area and Dimensional Regulations.

The purpose of this request is to allow multi-tenant buildings to be divided along party walls and conveyed separately.

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 an opportunity to express their views at this public hearing.

Any person requiring auxiliary aids, including signers, in connection with the Public Hearing, shall notify the City Manager at least five (5) days prior to the time 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.

Randy Harmon

representing Triple H Farms, developer of the Harmony Heights Subdivision, said that Harmony Heights has some R-3 zoned areas with duplex and quadraplex construction. The duplexes in Harmony Heights have been constructed with a firewall so different owners can own one building. He said they had been told in the past that if a quadraplex was constructed in such a way potentially those units could be separated off and sold. He noted that one individual would like to pursue selling off two units on one side of the firewall. He requested that City Council uphold what the developer had been told in the past. There being no others desiring to be heard, the public hearing was declared closed at 7:42 p.m., and the regular session reconvened. Council Member Green offered a motion to approve amending the zoning ordinance for a first reading. The motion was seconded by Vice-Mayor Lantz, and approved with a recorded vote of Council.

City Manager Stewart presented for Council's consideration a resolution authorizing the issuance of general obligation bonds for a second reading. He explained that these bonds for \$499,900 would allow the Housing Authority to acquire and rehabilitate improvements on real estate in the downtown area. The Housing Authority will commit to refund the advance back to the City, subject to annual appropriations by the Housing Authority.

At 7:43 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 Friday, April 24, and May 1, 1998.

NOTICE OF PUBLIC HEARING ON PROPOSED ISSUANCE OF BONDS BY THE CITY OF HARRISONBURG, VIRGINIA

Notice is hereby given that the City of Harrisonburg, Virginia (the "City"), 345 South Main Street, Harrisonburg, Virginia 22801, will hold a public hearing pursuant to §15.2-2606 of the Code of Virginia for the issuance of the City's bonds in an amount not to exceed \$500,000 to assist the Harrisonburg Redevelopment and Housing Authority (the "Authority"), 286 Kelley Street, Harrisonburg, Virginia 22802, in acquiring, rehabilitating and constructing improvements on real estate owned by the Authority. The public hearing which may be continued or adjourned, will be held at 7:30 o'clock p.m. on May 12, 1998, before the City Council in the council chamber at the Municipal Building, 345 South Main Street, Harrisonburg, Virginia 22801. Any person interested in the issuance of the bonds may appear and present their views.

CITY OF HARRISONBURG

Steven E. Stewart

City Manager

Mayor Eagle called on anyone desiring to speak on this resolution. There being no one desiring to be heard, the public hearing was declared closed at 7:44 p.m., and the regular session reconvened. Council Member Rogers offered a motion to approve this resolution for a second reading. The motion was seconded by Council Member Byrd, and approved with a unanimous recorded vote of Council.

Council Member Rogers explained that at the last Council meeting, he had made a motion to table action on the budget until tonight to consider the comments made concerning the School budget and to make sure all Council Members were present for the vote. He said that the budget is one of our most important responsibilities as elected officials and everyone at this table takes that responsibility very seriously. "I, as I know all of my colleagues on Council, have been carefully reviewing the proposed budget in light of comments made at the public hearing." I have reached the following conclusions: The budget provides in excess of one million dollars in new local dollars that can be used for operating costs of the Schools. Based on an average daily membership of 3,625 students next year, the City's appropriation of \$18,172,932 equals more than \$5,000 per student in local dollars. Also, by Council's foresight earlier this year in paying off taxable debt that had been issued for the School's VRS early retirement, \$161,000 has been made available in the School budget that can be used to leverage as much as 1.6 million dollars for elementary school renovations. However, if the School Board at some point decided that it didn't want the \$161,000 to be able to get about 1.6 million dollars for School renovations, it could request that Council transfer the money out of debt service into another budget classification. Of course, that would leave no money budgeted for School renovations. The Schools will receive in excess of \$170,000 in state and federal funds for operating costs that they had not anticipated when the City first considered its proposed level of local funding. The Schools will receive at least \$250,000 from the state in each of the next two (2) fiscal years for school construction or renovation. Again, this funding had not been approved when the City first considered its proposed level of local funding. As a reminder, everyone should recall that Council appropriated \$490,000 at the end of the last fiscal year and another \$490,000 in July 1997 for school renovations, which has not yet all been spent. Council Member Rogers offered a motion that the 1998-99 appropriation ordinance be approved for a first reading. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous recorded vote of Council. Vice-Mayor Lantz commented that Council Member Rogers had made some very good points and noted that Council had spent a lot of time reviewing the proposed budget. Council will continue its commitment to look at year end revenues to see if they can make additional one-time funding available to the schools.

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA AUTHORIZING, AMONG OTHER THINGS, THE ISSUANCE OF INDUSTRIAL DEVELOPMENT AUTHORITY OF ROCKINGHAM COUNTY, VIRGINIA RESIDENTIAL CARE FACILITY FIRST MORTGAGE REVENUE BONDS (VIRGINIA MENNONITE RETIREMENT COMMUNITY), SERIES 1998A AND INDUSTRIAL DEVELOPMENT AUTHORITY OF ROCKINGHAM COUNTY, VIRGINIA RESIDENTIAL CARE FACILITY FIRST MORTGAGE REVENUE BONDS (VIRGINIA MENNONITE RETIREMENT COMMUNITY), SERIES 1998B EXTENDABLE RATE ADJUSTABLE SECURITIES _ (EXTRAS _)

WHEREAS, the City of Harrisonburg, Virginia (the "City") is a political subdivision of the Commonwealth of Virginia exercising public and essential governmental functions pursuant to the Constitutional and laws of the Commonwealth of Virginia; and

WHEREAS, the Industrial Development Authority of the County of Rockingham, Virginia (the "Authority") is a political subdivision of the Commonwealth of Virginia and is authorized under Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), to acquire, improve, maintain, equip, own and sell medical facilities and facilities for the residence or care of the aged within or without the municipality creating the Authority to protect and promote the health and welfare of the inhabitants of the Commonwealth of Virginia, and is further authorized to lease or sell to others any or all of its facilities, to issue its bonds and notes for the purpose of carrying out any of its powers, to loan the proceeds thereof for the purposes set forth in the Act, to mortgage and pledge any or all of its facilities, whether then owned or thereafter acquired, as security for the payment of the principal of and interest on any such bonds and notes and any agreements made in connection therewith and to pledge the revenues and receipts from the leasing or sale of such facilities, or from any other source, to the payment of such bonds and notes; and

WHEREAS, the Authority has previously issued its Health Care Facility Revenue Bond (Virginia Mennonite Home, 1995) (the "Series 1995 Bond"); and

WHEREAS, the Series 1995 Bond was issued to refund (a) the outstanding Health Care Facility Revenue Bonds (Virginia Mennonite Home, Inc. Project) of the Industrial Development Authority of the City of Harrisonburg, Virginia (the "Prior Bonds") and (b) the outstanding principal of a Refunding Note issued by Virginia Mennonite Home, Inc. ("VMH"), a not-for-profit Virginia nonstock corporation and a controlled affiliate of Virginia Mennonite Retirement Community, Inc. ("VMRC"), a not-for-profit Virginia nonstock corporation, the proceeds of which were used to refund a portion of the Prior Bonds; and

WHEREAS, the Prior Bonds were issued to finance the acquisition, construction and equipping of a 120-bed intermediate care and skilled nursing facility for the aged in the City for the benefit of VMH (the "Oak Lea Nursing Home"); and

WHEREAS, Park Village, Inc. ("PVI") is a not-for-profit Virginia nonstock corporation and a controlled affiliate of VMRC; and

WHEREAS, Virginia Mennonite Foundation, Inc. ("VMF") is a not-for-profit Virginia nonstock corporation and a controlled affiliate of VMRC; and

WHEREAS, the Authority has, by resolution adopted on May 4, 1998 (the "Authority Resolution"), authorized the issuance of two series of its revenue bonds for the purpose of providing funds, together with other available funds, to (I) finance the costs of (a) the construction and equipping at an existing multi-facility retirement community located in the City (the "Campus") of (1) an apartment building consisting of 88 independent living apartments, kitchen facilities and shopping and common areas to serve the entire Campus

("Park Gables"), (2) an adult care residence consisting of approximately 81,820 square feet and 86 adult care beds to replace the existing Woodland Home for Adults located on the Campus and consisting of 80 adult care beds (the "New Adult Care Facility"), (3) a wellness center consisting of approximately 26,125 square feet to serve the entire Campus (the "Wellness Center") and (4) enclosed walkways connecting the facilities on the Campus (the "Walkways") and (b) the renovation of certain existing facilities on the Campus (the "Campus Renovations" and, collectively, the "1998 Project"), (ii) pay a portion of the interest accruing on said revenue bonds during the period of construction of the 1998 Project, (iii) refund the Series 1995 Bond, (iv) fund a debt service reserve fund for said revenue bonds and (v) pay certain expenses incurred in connection with the authorization and issuance of said revenue bonds; and

WHEREAS, the Oak Lea Nursing Home is, and the New Adult Care Facility and the Wellness Center will be, owned by VMHI and operated by VMRC; Park Gables will be owned by PVI and operated by VMRC; the Walkways and the Campus Renovations will be operated by VMRC; and the Oak Lea Nursing Home is, and Park Gables, the New Adult Care Facility, the Wellness Center, the Walkways and the Campus Renovations will be, located at 1501 Virginia Avenue, Harrisonburg, Virginia; and

WHEREAS, the City Council of the City (the "City Council") must first approve the issuance of said revenue bonds before the Authority can proceed with the financing; and

WHEREAS, the Authority has delivered or caused to be delivered to the City Council the following: (I) a reasonably detailed summary of the comments expressed at the public hearing held by the Authority in connection with the issuance of said revenue bonds, (ii) a fiscal impact statement in the form specified in Section 15.2-4907 of the Act, and (iii) a copy of the Authority Resolution, which constitutes the request of the Authority that the City Council concur with the adoption of the Authority Resolution and the recommendation of the Authority that the City Council approve the financing of the 1998 Project, the refunding of the Series 1995 Bond and the issuance of said revenue bonds; and

WHEREAS, the City Council has determined that it is necessary at this time to approve the issuance by the Authority of said revenue bonds to promote the improvement of health and living conditions of the people of the City and the Commonwealth of Virginia, increase opportunities for gainful employment, assist in the acquisition, construction, equipping, expansion, enlargement and improvement of facilities for the residence or care of the aged of said City and Commonwealth and otherwise aid in improving the prosperity and welfare of said City and Commonwealth;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisonburg, Virginia:

Section 1. The City Council hereby authorizes the issuance by the Authority of its Residential Care Facility First Mortgage Revenue Bonds (Virginia Mennonite Retirement Community), Series 1998A (the "Series 1998A Bonds") and its Residential Care Facility First Mortgage Revenue Bonds (Virginia Mennonite Retirement Community), Series 1998B Extendable Rate Adjustable Securities _ (EXTRAS _) (the "Series 1998B Bonds" and, together with the Series of 1998A Bonds, the "Bonds"), in the aggregate principal amount of \$37,450,000.00, for the purpose of providing funds, together with other available funds, to (a) refund the Series 1995 Bond, (b) pay the costs of the 1998 Project, (c) pay a portion of the interest accruing on the Bonds during the period of construction of the 1998 Project, (d) fund a debt service reserve fund for the Bonds and (e) pay certain expenses incurred in connection with the authorization and issuance of the Bonds.

Section 2. The City Council hereby concurs with the adoption of the Authority Resolution.

Section 3. The Mayor, the City Manager and the Clerk or any Deputy Clerk to the City Council are hereby authorized and directed, on behalf of the City, to take any and all action necessary, including the execution of any documents, to consummate the issuance and sale of the Bonds in conformity with the provisions of this

resolution.

Section 4. This Resolution shall take effect immediately upon its passage.

Date Rodney L. Eagle, Mayor

Attest:

Clerk of City Council

—
/ Service mark of Ziegler Securities, a Division of B.C. Ziegler and Company

City Manager Stewart explained that this resolution would allow the Industrial Development Authority of Rockingham County to issue bonds for the Virginia Mennonite Retirement Community. Approval of this resolution does not obligate the City in anyway nor does it count against the City's bond capacity. Because the City will be using its "bank qualified" status for borrowing money for other projects in the 1998-99 budget, it cannot exceed \$10 million in a single fiscal year.

Carolyn Perry

, attorney with the law firm of Wharton, Aldhizer and Weaver, said that City Council approval is required by law since VMRC and its affiliates are located within City limits. This approval will not impact or affect in any way the bank qualifying eligibility of the City of Harrisonburg. Ms. Perry presented the following documents to City Council: copy of the Notice of Publication for the public hearing held by the Industrial Development Authority of Rockingham County; copy of the Summary of Comments from the public hearing; copy of the Fiscal Impact Statement; copy of the May 4 and May 11 Resolutions of the Rockingham Authority. She reviewed the bond counsel and underwriters' counsel for VMRC bonds and said that the \$37.4 million bond has been sold. Ms. Perry asked Vice-Mayor Lantz to abstain and not vote or discuss this issue since he is a member of the firm of Wheat First Union Security. Council Member Rogers offered a motion to approve this resolution as presented. The motion was seconded by Council Member Byrd, and approved with a recorded four to zero vote with Vice-Mayor Lantz abstaining.

Sheryl Wyse, representing the City Schools, presented a request for the City Manager to sign an application for a grant for the Virginia Preschool Initiative for At-Risk Four-Year-Old Children. Ms. Wyse said that this is a continuation of an existing program, local funds are the same as the current year, and are in the School Division's budget. Each program has 16 children, a teacher and an assistant which are required by law. Council Member Rogers offered a motion to authorize the City Manager to sign the application. The motion was seconded by Council Member Green, and approved with a unanimous vote of Council.

Public Transportation Director Smith presented a request for approval of Disadvantaged Business Enterprise Policy and Plan for the Harrisonburg Transit. He explained that this plan is a Federal program which has been in existence for 15 years. Since the City receives more than \$300,000 in operating funds, it must have its own adopted plan and policy. It requires that 10% of the City's contracting opportunities with Federal funds be

awarded to disadvantaged businesses, minority, or women-owned businesses which are more than 50% owned by minorities. Mr. Smith said that the City can meet these requirements. Mr. Smith announced that a new City transit bus will be on display at the Community Transportation Association Trade Show in Albuquerque, New Mexico. The manufacturer liked the appearance of the City's bus rather than its demonstrator and requested permission to display the bus. Council Member Byrd offered a motion to endorse this plan. The motion was seconded by Council Member Green, and approved with a unanimous vote of Council.

Assistant City Manager Baker presented a request authorizing the City Manager to sign a deed on behalf of the City. He explained that Harrisonburg Physical Therapy has acquired property, lot #72, on Reservoir Street that extends into the existing street. When they surveyed the lot #72, they discovered that it extended about halfway into Reservoir Street. Harrisonburg Physical Therapy would like to acquire a portion of lot #73 for parking. They are willing to exchange land the City owns for land necessary to improve Reservoir Street at Norwood Street. They will be paying all of the surveying and attorneys fees for closing and it will give the City an opportunity to have a better flow of traffic on Reservoir Street. Council Member Byrd offered a motion authorizing the City Manager to sign the deed as presented. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

City Manager Stewart presented a request from the Office on Youth for additional funding. He explained that the General Assembly did appropriate \$35,000 for Harrisonburg and Rockingham County to establish an Office on Youth beginning July 1, 1998. At the September 23, 1997 meeting, City Council had approved supporting the Office on Youth by contributing \$5,000. However, because the state has an unusual way of determining the local match, the City will need to provide an additional \$834 to bring the total City and County match to \$11,667 rather than the \$8,750 as was previously determined. Council Member Rogers offered a motion to approve this request for additional funding. The motion was seconded by Council Member Green, and approved with a unanimous recorded vote of Council.

City Manager Stewart presented a certified receipt of 1998 Council elections results provided by City Registrar Long.

Larry M. Rogers 947 Glen Loucks I

Hugh J. Lantz 927 Jeff Mellott I

Michael P. Key K80 Richard Pennington I

John Adams 1 Dan Plecker I

Kenneth Handrich 1 Robert Roberts J

Council Member Green offered a motion to accept the report. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council.

Gregory Speck appeared before Council to request that the zoning ordinance be amended to prevent neighbors from parking vehicles, boats, or trailers on their lawn when the property has a driveway or garage suitable for parking these vehicles. There is nothing in the zoning ordinance to prevent these vehicles from being parked in the middle of the lawn. He asked Mayor Eagle to refer this matter to the Community Development Department or the Planning Commission for their consideration so he could avoid paying the \$300 fee for a formal application.

At 8:16 p.m., Council Member Byrd offered a motion that Council enter an executive session for discussion and consideration of personnel and prospective candidates to be appointed to the Social Services Advisory

Board, Harrisonburg-Rockingham Regional Sewer Authority, and Community Services (Chapter 10) Board, and the evaluation of a City department, exempt from public meeting requirements pursuant to Section 2.1-344(A)(1) of the Code of Virginia. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

At 9:55 p.m., the executive session was declared closed and the regular session reconvened. The following statement was agreed to with a unanimous recorded vote of the Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the executive or closed meeting were convened were heard, discussed or considered in the executive session by the City Council.

At 9:56 p.m., there being no further business and on motion adopted the meeting was adjourned until 6:00 p.m. on May 19, 1998 at Massanutten Resort at which time Council planned to go into executive session to discuss economic development, evaluation of a City department and

consultation with the City Attorney.

The meeting reconvened at 6:00 p.m. Council Member Byrd offered a motion to go into an executive session for discussion and consideration of evaluation of a City department, economic development and consultation with the City Attorney concerning specific legal matters requiring the provision of legal advice by counsel, exempt from public meeting requirements pursuant to Section 2.1-344(A) 1., 5. And 7. of the Code of Virginia. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

At 11:02 p.m., the executive session was declared closed and the regular session reconvened. The following statement was agreed to with a unanimous recorded vote of the Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the executive or closed meeting were convened were heard, discussed or considered in the executive session by the City Council.

At 11:03 p.m., there being no further business and on motion adopted the meeting was adjourned.

MAYOR

CLERK

cc: City Council

City Manager

Assistant City Manager

Director of Finance

Public Library

Charlene Rice