

REGULAR MEETING

AUGUST 10, 1999

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

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

Council Member Rogers offered a motion to approve the consent agenda, including approval of the minutes, and the second reading of a supplemental appropriation for the Police Department, and reappropriating several encumbrances. The motion also included amending and re-enacting Section 4-1-35 of the Harrisonburg City Code. The motion was seconded by Council Member Byrd, and approved with a recorded roll call vote taken as follows:

- Vote: Yes - Council Member Green
- Council Member Rogers
- Council Member Byrd
- Vice-Mayor Lantz
- Mayor Eagle

Absent: None

Commissioner of Revenue Hosaflook presented a brief report concerning the estimated loss of City revenue due to General Assembly action regarding the meals/food and beverage taxes. She explained that the Commissioners of the Revenue Association working with the Virginia Municipal League directed the Virginia Association of Local Tax Auditors (VALTA) to conduct a potential statewide revenue impact study. She said that based on the estimated current figures, Harrisonburg could lose in excess of \$250,000 in meals tax revenue with the passage and enactment of HB 1601 which unless it is amended goes into effect July 1, 2000. She said that HB 1601 refers to the definition of food which is defined as food products for human consumption. Mrs. Hosaflook said that her office interpreted that definition to mean all cold food being exempt from the meals tax including all cold food sold at grocery delicatessens, convenience stores, fast-food restaurants, but not at eat-in restaurants. When the Virginia Association of Local Tax Auditors read the food stamp act, stating that the human consumption phase is actually home consumption, they said that the meal's tax could not be charged on cold food to go. She also said that the Commissioners of the Revenue Association and VML are working together toward getting an opinion from the Attorney General's office. Discussion included examples of cold food being a salad, cold drink, or ice cream being sold at a drive-through restaurant would not be taxed or any cold item bought inside a

restaurant being sold as to go. She said that HB 1601 is very confusing and certainly not manageable.

Economic Development Director Shull presented for Council's consideration an endorsement of a grant request for City-County MRF Feasibility Analysis. He explained that the next step in an effort to bring the City-County Material Recovery Facility (MRF) to reality is to move forward with a feasibility analysis which involves some preliminary engineering, site analysis, going through the layout of an actual facility, and language for the ordinance. This action will enable Harrisonburg and Rockingham County to apply for a \$15,000 grant from the SVP's Regional Competitiveness Program Round III funding cycle. The City and County will be providing \$5,000 each for the project. The City Council also ranked this project as a high priority for Harrisonburg. Council Member Green offered a motion to support this plan. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

City Treasurer Neal submitted a list of delinquent taxes as of June 30, 1999 as required by the Virginia State Code. Mrs. Neal also included for reference and viewing year-end reports for all collectible tax years for both real estate (20 years) and personal property (five years).

City Treasurer Neal presented a request to accept the delinquent tax collection report and to authorize the advertising of delinquent real estate taxes for 1996/97 and 1997/98. Council Member Rogers offered a motion to authorize the City Treasurer to advertise the delinquent real estate taxes. The motion was seconded by Council Member Green, and approved with a unanimous vote of Council.

City Treasurer Neal presented a request to charge off four (4) uncollectible checks in the amount of \$61.35. She explained that she has been unable to collect these checks. Vice-Mayor Lantz offered a motion to approve this request. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

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

**CONCURRING RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HARRISONBURG, VIRGINIA
APPROVING ISSUANCE OF BONDS BY THE INDUSTRIAL
DEVELOPMENT AUTHORITY OF THE TOWN OF BRIDGEWATER, VIRGINIA
FOR THE BENEFIT OF FRIENDSHIP INDUSTRIES, INC.**

The Industrial Development Authority of the Town of Bridgewater, Virginia (the "Authority"), has considered the application of Friendship Industries, Inc. (the "Company") requesting the issuance of the Authority's revenue bond in an amount not to exceed \$1,000,000 (the "Bond") to assist the Company with a portion of the financing for the acquisition, construction, expansion and equipping of an approximately 39,280 square foot building located partially in the City of Harrisonburg, Virginia, and partially in Central District, Rockingham County, Virginia, to enable the Company to expand and enhance the training and

employment opportunities by the Company, including but not limited to: (I) training persons with disabilities and increasing the number and diversity of jobs which the Company has available for more severely disabled persons, (ii) providing additional placements for disabled persons in community employment after adequate training and work experience, (iii) providing facilities for a computer learning center in order to prepare disabled persons to function and succeed in work world of today, and (iv) paying a portion of the costs of issuance therefor (the "Project").

Section 147(f) of the Internal Revenue Code of 1986, as amended, provides that the governmental units having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the Bond.

Section 15.2-4905 of the Code of Virginia of 1950, as amended (the "Virginia Code"), provides that if a locality has created an industrial development authority, no industrial development authority created by a second locality may finance a facility located in the first locality unless the governing body of such first locality concurs with the inducement resolution adopted by the industrial development authority created by the second locality.

The Authority issues its Bond on behalf of the Town of Bridgewater, Virginia (the "Town"); the Project is located partially in the City of Harrisonburg, Virginia (the "City") and partially in Central District, Rockingham County, Virginia; the City Council (the "City Council") of the City constitutes the highest elected governmental unit of the City, and the Town Council of the Town (the "Town Council") constitutes the highest elected governmental unit of the Town.

The Authority held a public hearing on the issuance of the Bond at 7:00 p.m. on August 10, 1999, and recommended that the Town Council, the City Council and the Board of Supervisors of Rockingham County, Virginia, approve the issuance of the Bond. The Town Council has approved issuance of the Bond at its 7:30 p. m. meeting on August 10, 1999, as required by law.

A copy of the Authority's authorizing resolution (the "Resolution") approving the issuance of the Bond, subject to the terms to be agreed upon, a copy of certificate of publication of the notice of the public hearing, summary of public comments from such public hearing, and a fiscal impact statement have been filed with the City Council as required by law.

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

1. The City Council concurs with the Resolution as required by law and approve the issuance of the Bond by the Authority for the benefit of the Company.

2. The approval of the issuance of the Bond does not constitute an endorsement to a prospective purchaser of the Bond or the creditworthiness of the Project or the Company.

3. The Bond shall provide that it shall not be deemed to constitute a debt or pledge of the faith and credit or taxing power of the Commonwealth of Virginia, or any political subdivision thereof, including the Authority, the Town and the City, and neither the Authority nor any other political subdivision shall be obligated to pay the principal of, premium, if any, or interest on the Bond or other costs incident thereto, except from the revenues and monies pledged therefor, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, or any political subdivision thereof, including the Authority, the Town and the City, shall be pledged for the payment of principal or premium, if any, or interest on the Bond or other costs incident thereto.

This Resolution will take effect immediately upon its adoption.

Adopted: August 10, 1999

CERTIFICATE of VOTES

Record of the roll-call vote by the City Council of the City of Harrisonburg, Virginia, upon second reading on a resolution titled "CONCURRING RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA APPROVING ISSUANCE OF BONDS BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE TOWN OF BRIDGEWATER, VIRGINIA, FOR THE BENEFIT OF FRIENDSHIP INDUSTRIES, INC." taken at a regular meeting of the City Council held on August 10, 1999, public notice thereof for such meeting:

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

[SEAL]

Mayor, City of Harrisonburg, Virginia

ATTEST: _____
Clerk, City Council of
City of Harrisonburg, Virginia

Chris Brown, attorney with the law firm of Wharton, Aldhizer and Weaver, representing Friendship Industries said that City Council approval is required by law to approve a concurring resolution approving the issuance of a \$1,000,000 bond by the Bridgewater Industrial Development Authority. Approval of this resolution does not obligate the City in anyway nor does it count against the City's bond capacity. Vice-Mayor Lantz offered a motion to approve this resolution as presented. The motion was seconded by Council Member Green, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Green
Council Member Rogers
Council Member Byrd
Vice-Mayor Lantz
Mayor Eagle

Absent: None

City Manager Stewart presented a request for a supplemental appropriation of funds to increase the 1999-00 budget. He explained that during 1998-99 the City made a commitment to provide \$325,000 for the construction of the Charles McNulty Child Care Center. Council Member Rogers offered a motion to approve this request for a first reading, and that:

\$325,000 chge. to: 1000-31010 Amount from fund balance
\$325,000 approp. to: 1000-910411-47013 Charles McNulty Child Care Center

The motion was seconded by Council Member Byrd, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Green
Council Member Rogers
Council Member Byrd
Vice-Mayor Lantz
Mayor Eagle

Absent: None

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these grant funds will cover expenses for salary, overtime, and benefits for a Harrisonburg High School Resource Officer. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

\$26,436.00 chge. to: 1000-33505 School Rescource Officer
\$17,811.00 approp. to: 1000-310131-41010 Salaries/Wages Reg.
1,875.00 approp. to: 1000-310131-41020 Salaries/Wages OT.
1,232.25 approp. to: 1000-310131-42010 FICA
1,871.25 approp. to: 1000-310131-42020 Retirement

3,162.75 approp. to: 1000-310131-42050 Hospital Ins.
137.25 approp. to: 1000-310131-42060 Life Ins.
346.50 approp. to: 1000-310131-42110 Worker's Comp.

The motion was seconded by Council Member Rogers, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Green
Council Member Rogers
Council Member Byrd
Vice-Mayor Lantz
Mayor Eagle

Absent: None

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these funds will replace Police Department's overtime funds which were spent through a Division of Motor Vehicles Grant. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

\$7,256.09 chge. to: 1000-32520 DMV Grant
\$7,256.09 approp. to: 1000-310131-41020 Salaries/Wages OT

The motion was seconded by Council Member Rogers, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Green
Council Member Rogers
Council Member Byrd
Vice-Mayor Lantz
Mayor Eagle

Absent: None

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these funds will cover expenses for overtime, FICA, and purchase of new surveillance equipment through a state grant. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

\$20,010.00 chge. to: 1000-33502 Enhancing Drug Enforcement/Drug Interdiction
\$ 1,012.50 approp. to: 1000-310131-42010 FICA
12,487.50 approp. to: 1000-310131-41020 Salaries/Wages OT
6,510.00 approp. to: 1000-310131-48211 Machinery/Equip. (Addition)

The motion was seconded by Council Member Rogers, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Green
Council Member Rogers
Council Member Byrd
Vice-Mayor Lantz
Mayor Eagle

Absent: None

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these grant funds will cover expenses for salary, overtime, and benefits for a Thomas Harrison Middle School Resource Officer. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

- \$28,606.00 chge. to: 1000-33505 School Resource Officer
- \$19,981.00 approp. to: 1000-310131-41010 Salaries/Wages Reg.
- 1,875.00 approp. to: 1000-310131-41020 Salaries/Wages OT
- 1,232.25 approp. to: 1000-310131-42010 FICA
- 1,871.25 approp. to: 1000-310131-42020 Retirement
- 3,162.75 approp. to: 1000-310131-42050 Hospital Ins.
- 137.25 approp. to: 1000-310131-42060 Life Ins.
- 346.50 approp. to: 1000-310131-42110 Worker's Comp.

The motion was seconded by Council Member Rogers, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Green
Council Member Rogers
Council Member Byrd
Vice-Mayor Lantz
Mayor Eagle

Absent: None

✓ Warren Dillenbeck questioned the activity taking place on the Gates Property at Garbers Church Road. He said that he had observed three City dump trucks and a bulldozer operating and moving some dirt on the property. He questioned whether the cost associated with this activity was being charged to the golf course. He wanted to know if this was a preliminary activity toward building the golf course. He suggested that the City was sweeping golf course expenses under the rug and that citizens were not being informed of the facts.

City Manager Stewart clarified that at this point the City continues to stabilize and stockpile dirt on the site. He also said that expenses are being charged through the Public Works Department because there is no commitment about how the dirt may be used.

Mayor Eagle said that as a developer, he buys dirt and stockpiles it on his property because he will use the dirt for a project sometime in the future. He noted that the dirt on the site on Garbers Church Road was free.

City Manager Stewart reminded everyone that Congressman Goodlatte will be at the Rockingham County's office on Wednesday, August 11th at 2:00 p.m. for a joint session with City and County representatives.

✓ City Manager Stewart announced that a ribbon cutting ceremony for WHSV-TV will be held Wednesday, August 11th at 5:00 p.m.

At 7:56 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 Community Services (Chapter 10) Board, 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, exempt from public meeting requirements, pursuant to Section 2.1-344(A)(7) of the Code of Virginia, as amended. Discussion concerning location of a prospective industry, 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 were convened, were heard, discussed or considered in the closed session by the City Council.

At 10:56 p.m., there being no further business and on motion adopted the meeting was adjourned.

Yvonne Ryan, CMC Richard L. Eagle
CLERK MAYOR