

## REGULAR MEETING

NOVEMBER 9, 1999

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

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

Human Resource Director Whistleman introduced three new City employees: Floyd Reedy, Public Utilities Department; Edward Roach, Planning & Community Development Department; and Shari Shifflett, Police Department.

Council Member Rogers offered a motion to approve the consent agenda, including approval of the minutes, and the second reading of several supplemental appropriations for the Police Department, and the Eastern Mennonite University Park Road project. The motion also included setting a date of November 23, 1999 for a public hearing on the proposed Capital Improvement Program (CIP). 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

Planning and Community Development Director Turner introduced a request by F. Lynn and Betty Griffith for a Special Use Permit to allow four (4) unrelated persons to occupy a dwelling in R-2 Residential District at Roosevelt Square, per Section 10-3-40(7) of the Zoning Ordinance. She explained the applicant is requesting that an addition to Roosevelt Square be considered a "Group Housing Project" in the R-2 Residential District. A group housing project is defined as "two (2) or more buildings located on a site where the building arrangement is such that the property cannot be divided into traditional streets and lots. Mrs. Turner said that the existing buildings in Roosevelt Square were approved as a Group Housing Project in October 1989. Mrs. Turner said that staff and

Planning Commission recommended the following conditions be attached to the Special Use Permit: 1) Only four (4) individuals shall reside in the dwelling. 2) Permanent off-street parking must be adequate to address the parking needs of residents in the dwelling. The Special Use Permit will require one off-street parking space per tenant. 3) The owner or owners representative must schedule a yearly inspection, similar to the boarding house inspections, to ensure that building code requirements are met and the number of people residing on the premises fit the criteria of the permit.

The permit shall be revoked by the Zoning Administrator if this inspection does not take place every 12 months. 4) This permit expires one year from the date of approval by City Council and is renewable administratively on an annual basis thereafter, provided that the use is still permitted by the Zoning Ordinance. Staff is authorized to review complaints received on the property on an annual basis. Based on those findings, staff has the authority to renew the special use permit or the authority to notify the landlord that the owners will have to reapply for a special use permit. She said that Planning Commission recommended approval of the special use permit.

At 7:38 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, October 25, and Monday, November 1, 1999.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a Public Hearing on Tuesday, November 9, 1999, at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:**

#### **SPECIAL USE - PUBLIC HEARING**

**Request by F. Lynn and Betty Griffith for a special use permit to allow four (4) unrelated persons to occupy a dwelling in the R-2 Residential District, per section 10-3-40(7) of the zoning ordinance. The site is located at Roosevelt Square, between South High Street and Roosevelt Street. The property is identified as tax map parcels 24-Q-6 and 24-S-3 and 4.**

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

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

**CITY OF HARRISONBURG  
Steven E. Stewart  
City Manager**

Mayor Eagle called on anyone desiring to speak for or against approving this special use permit. There being no one desiring to be heard, the public hearing was declared closed at 7:39 p.m., and the regular session reconvened. Council Member Rogers offered a motion to approve this special use permit with conditions as proposed by the Planning Commission. The motion was seconded by Vice-Mayor Lantz, 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

Planning and Community Development Director Turner introduced a request by Laura and John Stemper for a special use permit to allow four (4) unrelated persons to occupy dwellings in the R-2 Residential District at 375 West Bruce Street. She explained that in December 1998, the Zoning Ordinance was changed requiring a Special Use Permit to rent a dwelling in the R-3 Residential District to four (4) unrelated persons. The applicant is requesting a special use permit to allow four (4) unrelated persons to occupy a dwelling at 375 West Bruce Street. The entire area is zoned R-2 Residential District and contains a large number of rental properties and owner occupied property. The owners are currently working on the renovations of the dwelling to include four bedrooms. Mrs. Turner said that staff and Planning Commission recommended the following conditions be attached to the Special Use Permit: 1) Only four (4) individuals shall reside in the dwelling. 2) Permanent off-street parking must be adequate to address the parking needs of residents in the dwelling. The Special Use Permit will require one off-street parking space per tenant. 3) The owner or owners representative must schedule a yearly inspection, similar to the boarding house inspections, to ensure that building code requirements are met and the number of people residing on the premises fit the criteria of the permit. The permit shall be revoked by the Zoning Administrator if this inspection does not take place every 12 months. 4) This permit expires one year from the date of approval by City Council and is renewable administratively on an annual basis thereafter, provided that the use is still permitted by the Zoning Ordinance. Staff is authorized to review complaints received on the property on an annual basis. Based on those findings, staff has the authority to renew the special use permit or the authority to notify the landlord that the owners will have to reapply for a special use permit. She said that Planning Commission recommended approval of the special use permit.

At 7:44 p.m., Mayor Eagle closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record on Monday, October 25, and Monday, November 1, 1999.

#### **NOTICE OF PUBLIC HEARING**

The Harrisonburg City Council will hold a Public Hearing on Tuesday, November 9, 1999, at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:

**SPECIAL USE - PUBLIC HEARING**

Request by Laura and John Stemper for a special use permit to allow four (4) unrelated persons to occupy a dwelling in the R-2 Residential District, per Section 10-3-40(7) of the zoning ordinance. The site, located at 375 West Bruce Street, is identified as tax map parcel 25-E-14.

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

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

**CITY OF HARRISONBURG**  
**Steven E. Stewart**  
**City Manager**

Mayor Eagle called on anyone desiring to speak for or against approving this special use permit. There being no one desiring to be heard, the public hearing was declared closed at 7:45 p.m., and the regular session reconvened. Council Member Green offered a motion to approve this special use permit with conditions as proposed by the Planning Commission. 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 the following resolution for Council's consideration of approval.

**RESOLUTION**

**Council supports the renovation of the Spotswood Elementary School, Waterman Elementary School and air conditioning at the Harrisonburg High School Field House to be funded by issuing not more than \$5,000,000 in general obligation bonds to be financed through**

**the Virginia Public School Authority in its Spring, 2000 bond sale. It is estimated that this additional debt will add about \$400,000 in new debt service to the FY 2000-01 budget. This action goes beyond the original agreement between Council and the School Board to renovate one school per year. Therefore, Council requests that the locally funded operating budget increase proposed for FY 2000-01 not exceed the increased local funding provided in the 1999-2000 budget as compared to the 1998-99 budget (\$672,010).**

Council Member Rogers offered a motion to support this resolution for the renovations of the Spotswood Elementary School, Waterman Elementary School and air conditioning at the Harrisonburg High School Field House with the understanding that the \$5,000,000 would be increased to \$5,100,000 to insure that the cost of the field house could be covered by the additional \$100,000 in bonds plus interest earned on the bond proceeds. The motion was seconded by Vice-Mayor Lantz, 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 Council presented a certificate of achievement to the following players and coaches of the Harrisonburg Deacons AAU Baseball Team for playing in the National AAU 12 & Under Tournament and Placing Ninth in the Nation: Jacob Bandy, Andrew Brown, Aaron Brunk, Brad Buracker, Dusty Dean, John Gira, Barrett Henderson, Nathanael Kline, Justin "Gus" Miller, Alex Stover, Patrick Ward, Derek Wimer, Marty Dean, Mark Kline, Wayne Ward, and Tim Wimer.

Shep Spink, The First Tee Director of Development, showed a video providing some background information regarding The First Tee program. He said that the game of golf has historically excluded low income people, minorities and youth. The leading organizations in the United States including the Professional Golfers Association of America, the PGA Tour, Ladies Professional Golf Association, the United States Golf Association and Augusta National Golf Association are committed to changing this fact. They have formed a non-profit organization called The First Tee to change the face of golf making it affordable and accessible to youth regardless of income, race or tongue. The City of Harrisonburg in partnership with the Boys and Girls Club has applied for membership in The First Tee. The partnership means Harrisonburg's young people will be given an opportunity to learn golf skills, rules and etiquette of the sport and to learn the life lessons of the game, particularly honesty, integrity and sportsmanship. The First Tee will provide a golf teaching curriculum developed by the PGA and LPGA, equipment, computers, web site and an opportunity for children to attend a week long summer camp at no cost at Kansas State University. There is also financial assistance in the form of discounts, free goods and services, and a direct financial grant of

\$100,000. The City of Harrisonburg will provide access to the golf course, a special three-hole training facility where kids can learn without interfering with the main course, free rounds of golf for all participants in the program, and discounts on additional rounds of golf, affordable well-conceived programs, scheduled group lessons with professional instructions and supervised practice play and competition. The City will provide a place for children to learn to play golf, and a continuum of practice and play that offer kids the chance not just to swing a golf club a few times, but an opportunity to advance their skills. Mr. Spink said there are 78 or 79 First Tee chapters around the country, some affiliated with junior golf programs. However, only a few of these chapters are open because of construction and renovation of needed play areas. First Tee's goal is to have 100 chapters by the end of 2000 enrolling 50,000 children in the program. Council Member Rogers noted that City Council will address the issue of affordable golf for senior citizens. He also said that President George Bush serves as Honorary Chairman of The First Tee.

Bill Love, W.R. Love Golf Course Architecture President, presented an updated report on the municipal golf course. He reviewed the process used to gather information for the report. The conceptual design of the golf course and overall planning of the site began with a thorough understanding of constraints and opportunities. He said that they studied all aspects of the site including topography, elevation, drainage patterns, tree cover, wildlife habitat, wetlands, and soil condition. This information was investigated further on site and then evaluated for use in the conceptual planning and design of the golf course taking into consideration designing the best places to put in the golf holes and what places to avoid. The rolling ground on the site is a big advantage because there are not many elevation changes. The lay of the land, orientation of the sun, predominant wind, location of the clubhouse, existing ponds, and drainage will all contribute to designing the golf course. One of the most successful characteristics of a golf course is the variety and the diversity of challenges of each hole and he noted that this is a beautiful site having the character of the valley. He reviewed the length of the course and the number of strokes designed into each hole of the golf course. This golf course has been designed to provide players of all levels with a quality golf experience. Mr. Love said that the construction of the golf course will cost \$2,832,000 and the total amount for development of the facility is \$4,800,000. Mr. Love also clarified that none of the present Hillandale Park will be used for the golf course.

Ron Boyd, Williamsburg Environmental Group President, presented a report on the environmental approach to the development of the golf course. He said that as part of the overall analysis a preliminary site inventory was conducted. The inventory report included topography, soil, rock, elevation, vegetation, wetlands, 100 year flood plain, threaten endangered species, seasonal irrigation demands, trees, historical resources, utility issues, and potential water supply while identifying two key areas needing more information, irrigation supply and a potential for shallow bedrock. An existing pond on the site will need some repair to expand its storage volume. Ponds at holes sixteen, seventeen and eighteen during the summer will provide almost 100% surface water run off controls coming in through some type of pond system recycling water onto the golf course. Backwash, run off, rainfall and pond storage should be enough to satisfy the irrigation water supply even in extremely drought conditions. In most extreme drought, the on-site wells might be needed,

but no potable water will be needed for irrigation. The wetlands on the site are very minimal and are confined to the stream channels.

Bob Fowler, President of Public Finance Consultants, Inc., presented updated financial analysis of the golf course. He said that the estimate of revenues from the golf course was based on 27,000 rounds of golf being played in the course's first full year of operation. The number of rounds is expected to rise to about 39,000 rounds by the fourth year. They have estimated that \$4.8 million will be needed for construction cost of the golf course and related facilities. He said the most cost effective and flexible financing for the City would be to issue revenue bonds guaranteed by a general obligation of the City. The guarantee would only step in if there were insufficient revenues. As part of the bond issue a reserve fund will be funded which is equal to a one year debt service on the bonds. The financing using the guarantee provides the greatest flexibility and lowest possible interest rate. This will also give the City the greatest flexibility in maintaining low green fees. This project could be financed on a pure revenue basis with no guarantee; however, that would mean a higher interest rate on the bonds.

Sandi McNinch, bond counsel with the law firm of Mays and Valentine, said that the City's guarantee on the revenue bonds is quite typical and very appropriate for this project. She indicated many jurisdictions, as well as the Commonwealth of Virginia, use this type of financing.

Council Member Rogers thanked Shep Spink for his presentation on The First Tee and providing an opportunity for the youth of the community to learn to play golf. Vice-Mayor Lantz commented that Council has taken the study of the golf course very seriously. Council Member Green commented it has taken 13 years to get to this point since the City purchased the Straite property. He also noted that since 1970 the City has invested \$28 million in recreational pursuits and said that he was very proud of that fact. He also noted that it probably is a contributing factor as to why people want to live in the City.

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 AND APPROVING THE  
ISSUANCE OF ITS \$1,382,100 APPROPRIATION NOTE**

The City of Harrisonburg, Virginia (the "City") shares in the cost of the solid waste disposal facility operated by the County of Rockingham, Virginia (the "County"). The City and the County have agreed to develop additional waste disposal cells at such facility. The City Council of the City of Harrisonburg, Virginia (the "Council"), has determined that it is necessary and desirable to finance the City's portion of the cost of the development of the new cells and other facility improvements (the "Project").

There has been presented to the Council a plan for the financing of the Project which would not create debt of the City for purposes of the Constitution of Virginia. The City has decided, pursuant to such financing plan, to issue its Appropriation Note in the original principal amount of up to \$1,382,100 (the "Appropriation Note").

The payments due under the Appropriation Note will be subject to annual appropriation by the Council. The proceeds of the Appropriation Note will be used to pay the cost of the Project, including the cost of the issuance of the Appropriation Note.

The Appropriation Note will be sold by the City to Crestar Bank (the "Bank") pursuant to the Proposed Terms and Conditions received from the Bank on November 4, 1999 (the "Term Sheet"), which is hereby accepted by the City.

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

1. Authorization of Appropriation Note and Use of Proceeds. The City Council determines that it is advisable to issue the City's Appropriation Note in the maximum principal amount of \$1,382,100, and to sell the Appropriation Note to the Bank, all pursuant to the terms of this Resolution and the Term Sheet. The issuance and sale of the Appropriation Note are authorized and approved. The proceeds from the issuance and sale of the Appropriation Note shall be used, together with other available funds, if any, to pay the cost of the Project, including the cost of the issuance of the Appropriation Note.

2. Details of Appropriation Note. The Appropriation Note shall be issued upon the terms and conditions set forth therein and in the Term Sheet. The Appropriation Note shall be issued as a single note in fully registered form, shall be dated the date of its issuance and delivery and shall bear interest at the rate of interest per year as set forth therein. The maturity date of the Appropriation Note and the scheduled principal and interest payments shall be as set forth in the form of the Appropriation Note. The City Manager will serve as the registrar for the Appropriation Note.

3. Form of Appropriation Note. The Appropriation Note shall be in substantially the form submitted to this meeting, with such variations, insertions or deletions as may be approved by the Mayor or the Vice Mayor. There may be endorsed on the Appropriation Note such legend or text as may be necessary or appropriate to conform the Appropriation Note to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto. All payments under the Appropriation Note are subject to annual appropriation by the Council, and the Council is not, under any circumstances, obligated to make such appropriations.

4. Execution and Delivery of Appropriation Note. The Mayor and the Vice Mayor, either of whom may act, are each authorized and directed to execute the Appropriation Note. The City Clerk is authorized and directed to affix the seal of the City to the executed Appropriation Note and to attest it and then to deliver the Appropriation Note to the Bank upon payment of the purchase price of 100% of the principal amount thereof.

5. Financial Statements. The City agrees to submit to the Bank, annually as soon as available, but in any event within five (5) months following the City's fiscal year end, the City's Comprehensive Annual Financial Report for the City's most recent fiscal year.

6. Designation for Purchase by Financial Institutions. The City hereby designates the Appropriation Note as a "Qualified tax-exempt obligation" eligible for the exception from the disallowance of the deduction of interest by financial institutions allocable to the cost of carrying tax-exempt obligations in accordance with the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The City does not reasonably anticipate that it and any "subordinate entities" will issue more than

\$10,000,000 in qualified tax-exempt obligations during calendar year 1999 and the City will not designate more than \$10,000,000 of qualified tax-exempt obligations pursuant to Section 265(b)(3) of the Code.

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

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

8. Selection of Bond Counsel. The City Council hereby consents to Mays & Valentine, L.L.P. serving as Bond Counsel to the City in connection with the issuance of the Appropriation Note.

9. Essentiality of Project. The Project is hereby declared to be essential to the efficient operation of the City, and the Council anticipates that the Project will continue to be essential to the operation of the City during the term of the Appropriation Note. The Council, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intention and recognizes its moral obligation to make annual appropriations in future fiscal years in amounts sufficient to make all payments under the Appropriation Note and hereby recommends that future Councils do likewise during the term of the Appropriation Note.

10. Submission of Appropriation Request. The City Manager is hereby directed to submit during the regular budget process for the City for each fiscal year a request to the Council for an appropriation in an amount equal to the payments becoming due on the Appropriation Note in the next fiscal year. Nothing in this Resolution shall obligate the Council to make such appropriation or shall constitute a pledge of the full faith and credit of the City beyond the constitutionally permitted annual appropriations.

If, in the final budget for a fiscal year, the Council has failed to appropriate an amount equal to the payments becoming due on the Appropriation Note, the City Manager is hereby directed to notify the Bank promptly.

11. Fees and Costs. All expenses incurred by the Bank, the City and legal counsel in connection with the issuance of the Appropriation Note shall be paid by the City.

12. Construction Fund. There is hereby created by the City a trust fund to be designated the "City of Harrisonburg Construction Fund" (the "Construction Fund"). All proceeds received by the City from the sale of the Appropriation Note shall be deposited into the Construction Fund. All such proceeds and the interest earnings thereon shall be withdrawn by the City from the Construction Fund for Project purposes, as set forth in the Tax Certificate.

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

The City shall invest or direct the investment of moneys in the Construction Fund in the investments permitted for the investment of public funds under the laws of the Commonwealth. The City may withdraw moneys from the Construction Fund without a formal requisition.

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

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

15. Effective Date. This Resolution shall take effect immediately.  
Adopted: November 9, 1999

CERTIFICATE

The undersigned City Clerk of the City of Harrisonburg, Virginia, hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the Council held on November 9, 1999, and of the whole thereof so far as applicable to the matters referred to in such extract. I hereby further certify that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing Resolution, a quorum was present. The vote of the members of the Council upon the foregoing Resolution was as follows:

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

WITNESS MY HAND and the seal of the City of Harrisonburg, Virginia, this 9th day of November, 1999.

\_\_\_\_\_  
City Clerk, City of Harrisonburg, Virginia

APPROPRIATION NOTE

November \_\_, 1999 \$1,382,100

FOR VALUE RECEIVED, the CITY OF HARRISONBURG, VIRGINIA (the "City"), hereby promises to pay, subject to annual appropriation as further described below, to the order of CRESTAR BANK (the "Noteholder"), its successors or registered assigns, without offset, at 919 East Main Street, 16th Floor, Richmond, Virginia 23219, or at such other place as the Noteholder may designate that is acceptable to the City, the principal sum of One Million Three Hundred Eighty-Two Thousand One Hundred Dollars (\$1,382,100) with interest payable on the unpaid principal balance of such sum from the date of this Appropriation Note until this Appropriation Note is repaid in full at the interest rate per year of four and ninety-eight hundredths percent (4.98%). Commencing on December 19, 1999 and continuing on the 19th day of each month thereafter to and including October 19, 2004, principal and interest on this Appropriation Note will be payable in sixty (60)

combined installment payments, each in the amount of \$ \_\_\_\_\_. If not earlier paid, all principal together with all interest due hereunder, shall be paid in full, subject to appropriation, on October 19, 2004.

All payments made on this Appropriation Note shall be applied first to accrued interest and then to principal. Principal of and interest on, this Appropriation Note shall be payable in lawful money of the United States of America. Interest on this Appropriation Note shall be computed on the basis of a year consisting of 360 days with twelve thirty-day months. If the due date of any payment hereunder would otherwise fall on a day on which commercial banks are authorized or required to close, then payment need not be made on such date, but may be made on the next succeeding date which is not such a date, and interest shall be payable on any principal so extended for the period of such extension.

This Appropriation Note is subject to optional prepayment in whole or in part, without premium or penalty, at any time prior to maturity upon seven (7) day's written notice from the City to the Noteholder. In the case of any partial prepayment of this Appropriation Note, the Noteholder shall make an appropriate endorsement on the Certificate of Prepayments attached hereto of the amount and date of such prepayment. Any partial prepayments shall be applied to the principal installments due under this Appropriation Note in inverse order of maturity.

This Appropriation Note is executed and delivered pursuant to Proposed Terms and Conditions received from the Noteholder on November 4, 1999 (the "Term Sheet"), and a Resolution of the City Council of the City (the "Council") adopted on November 9, 1999 (the "Resolution"), for the purpose of financing the development of additional waste disposal cells at a landfill facility utilized by the City. The Noteholder shall be entitled to all benefits, and this Appropriation Note is issued subject to all terms and conditions, of the Term Sheet and the Resolution.

The City has designated this Appropriation Note as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

The City Manager shall act as Registrar (until a different Registrar is selected) and shall maintain registration books for the registration and the registration of transfer of this Appropriation Note. The transfer of this Appropriation Note may be registered only on the books kept for the registration and registration of transfer of this Appropriation Note upon surrender thereof to the Registrar at his or her address together with an assignment duly executed by the registered holder in person or by his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon any such transfer, the City shall execute and deliver, in exchange for this Appropriation Note, a new registered Appropriation Note registered in the name of the transferee. Prior to due presentment for registration of transfer, the Registrar shall treat the registered holder as the person exclusively entitled to payment of principal of, and interest on, this Appropriation Note and to the exercise of all other rights and powers of the owner.

If this Appropriation Note has been mutilated, lost or destroyed, the City shall execute and deliver a new Appropriation Note of like date and tenor in exchange or substitution for, and upon cancellation of, such mutilated Appropriation Note or in lieu of and in substitution for such lost or destroyed Appropriation Note; *provided*, that the City shall execute and deliver such Appropriation Note only if the holder has paid the reasonable expenses and charges of the City and the Registrar in connection therewith and, in the case of a mutilated Appropriation Note, such mutilated Appropriation Note shall first be surrendered to the Registrar, and in the case of a lost or destroyed Appropriation Note, the holder has furnished to the City and the Registrar (if different from the City) (a) evidence satisfactory to them that such Appropriation Note was lost or destroyed and the holder was the owner thereof and (b) indemnity satisfactory to them.

The City hereby expressly waives presentment, demand, protest and notice of dishonor and waives any rights which it may have to require the Noteholder to proceed against any other person or any property now or hereafter securing this Appropriation Note.

Any failure or delay by the Noteholder to exercise any right hereunder or under the Term Sheet shall not be construed as a waiver of the right to exercise the same or any other rights at any time.

The term "Noteholder" as used herein shall include any future holder of this Appropriation Note. This Appropriation Note shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. Whenever possible, each provision of this Appropriation Note shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Appropriation Note shall be prohibited by or invalid under such law, such provisions shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Appropriation Note. This Appropriation Note shall apply to and bind the City's successors and assigns to the extent provided herein and shall inure to the benefit of the Noteholder, its successors and assigns.

The payment of this Appropriation Note, the interest hereon and any other costs incident hereto is subject to and dependent upon appropriations being made from time to time by the Council. Nothing herein or in the Term Sheet or the Resolution obligates the Council to make such appropriations.

All acts and conditions required to happen, exist or be performed precedent to and in connection with the issuance of this Appropriation Note have happened, exist and have been performed.

IN WITNESS WHEREOF, the City Council of the City of Harrisonburg, Virginia, has caused this Appropriation Note to be issued in the name of the City of Harrisonburg, Virginia, and to be executed by its Mayor or Vice Mayor and its seal to be affixed to this Appropriation Note and attested by its City Clerk.

CITY OF HARRISONBURG, VIRGINIA

By \_\_\_\_\_

[SEAL]

Attest:

\_\_\_\_\_  
City Clerk

FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney-in-fact to transfer the Appropriation Note on the books kept for the registration thereof, with full power of substitution in the premises.

Dated:

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears in the registration books of the City.

In the presence of:

NOTICE: The registered owner's signature to this assignment must be guaranteed by an institution participating in the Securities Transfer Agent Medallion Program ("STAMP") or similar program. Please affix signature guarantee ink Stamp with appropriate signature, title of officer and date.

CERTIFICATE OF PREPAYMENTS

The principal amount of this Appropriation Note shall be reduced by an amount equal to the aggregate of prepayments noted on this Certificate of Prepayments. All prepayments shall be certified under this Certificate of Prepayments by an authorized representative of the Noteholder, and such certification shall constitute a cancellation of the principal amount due on this Appropriation Note in the aggregate of the amounts certified below.

<u>Amount</u>	<u>Date</u>	<u>Authorized Signature</u>
_____	_____	_____

City Manager Stewart explained that this resolution would allow the City to finance its share of the new County landfill cell and landfill closure costs. The financing will be for five (5) years and was proposed as part of the FY 1999-2000 budget. Crestar Bank will be financing the project. Council Member Green offered a motion to approve this resolution. 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 for Council's consideration setting a public hearing date of December 21, 1999 for considering a boundary line agreement. Mark Callahan, attorney with the law firm of Clark & Bradshaw, representing property owner Bill Neff said that this agreement will adjust boundary lines between the City and County and will allow for squaring up the property. When the property was purchased, they discovered that the new boundary line did not meet the old jurisdiction lines. Each jurisdiction will exchange 1.160 acres of land, so that there will be no net changes in the amount of property in either jurisdiction. Council Member Green offered a motion to set a public hearing on December 21, 1999. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

Planning and Community Development Director Turner introduced a request by Daniel Michael, agent for Orden and Carl Harman, for approval of a preliminary plat entitled "Harmony Heights, Section 10." She explained that the applicant is requesting approval of a preliminary plat to subdivide this property into 69 townhouse lots. The applicant has also requested variances to the requirement that all lots must front on a public street. This property is currently zoned R-3 Multi-

Dwelling Residential District divided into 69 townhouse lots which does meet zoning density. Lots N41 through N60 of the proposed development does not meet the requirement that all lots must front on a public street. Instead they are fronting onto the private parking area that have access to the public street. They are also asking for a variance to lots N61 through N68 which have their rears facing onto Virginia Avenue. The applicant has proffered that they will place a landscape buffer along Route 42 consisting of evergreen trees spaced at 12 foot intervals. She said that Planning Commission recommended approval of the variances and the preliminary subdivision request. 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 for Council's consideration adoption of the City of Harrisonburg Y2K Contingency Plan. He explained that the plan has been prepared to deal with any problems resulting from Y2K. The plan includes designating the Harrisonburg High School field house as the primary shelter. The City is in the process of installing stand by generators at the school. The James Madison University Recreation Center is the secondary shelter in the proposed plan. The City is also in the process of installing stand by generators at all of the City's water pump stations, and water treatment plant. There will be staffing in every department and plans to contact additional staff. Council Member Rogers offered a motion to adopt the Y2K Contingency Plan. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

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

#### RESOLUTION

**Council approves the Harrisonburg Area Transportation Study (HATS) map with modifications as recommended by VDOT staff, which include the revised eastern bypass and a new east/west collector route as recommended by Rockingham County, with the stipulation that improvements to East Market Street, Port Republic Road and Stone Spring Road (projects commonly referred to as the spokes that connect the wheel) as shown on the HATS map must be completed before or at the same time any funds are spent on any portion of the bypass or collector route.**

Mr. Stewart also presented an updated revised Harrisonburg Area Transportation Study (HATS) map which Rockingham County and VDOT has approved and recommended. Assistant City Manager Baker presented a historical review of the plan. Mr. Baker reviewed a 1946 plan conducted by the state for the City. He noted that some of the conclusions included in the plan states that Harrisonburg is one of the most important shopping and business center in the Northwest part of Virginia, and must maintain a high position to relieve and avoid traffic congestion. The 1946 plan also stated that the streets in the City are extremely narrow and due to building encroachment very few can be widen and that the traffic flow within is rather heavy especially when considering the narrow streets. Mr. Baker noted that some of these conditions apply today as they did 53 years ago. In 1960 the plan was updated and in 1980 another plan was adopted. In reviewing the plans it was

realized that some of the projects had been accomplished or would be impossible to accomplish because of development. The state was contacted in November 1989 to include their ideas in the City's updated plan. The state decided to look at a wide area surrounding the City and not just to look within the City limits as the other plans had done in the past. Harrisonburg, Dayton, and Bridgewater adopted the HATS plan in April 1995. Rockingham County adopted the HATS plan as a planning guide. City Manager Stewart said that the revised HATS map should be adopted with the stipulation that certain projects (improvements to East Market Street, Port Republic Road, and Stone Spring Road) in the original HATS be completed before or at the same time funds are spent on any portion of the bypass. Vice-Mayor Lantz offered a motion to adopt the resolution approving the revised HATS map. 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 to adopt an updated job classification list. He explained that this list updates five new job classifications that have been added or changed since the last update. Council Member Rogers offered a motion to approve these changes. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council.

City Manager Stewart presented a request to modify Section 6.3 of the City's Personnel Policy Manual. He explained that the post retirement insurance benefits have been changed to reflect the City's previous decision to allow unreduced retirement benefits at age 50 with 30 years of service. This section has also changed the method for contribution to retiree's health insurance to be similar to the current policy for School employees. Vice-Mayor Lantz offered a motion to approve these changes in the City's Personnel Policy Manual. The motion was seconded by Council Member Rogers and approved with a unanimous vote of Council.

City Manager Stewart presented a request to transfer funds from reserve for contingencies to the City Attorney's budget. He explained that these additional funds are needed to cover current and projected 1999-00 charges. Council Member Green offered a motion to approve the transfer of these funds:

\$6,000 chge. to: 1000-940111-48310 Reserve for contingencies

\$6,000 approp. to: 1000-120411-43152 Other legal services

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

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these funds will be used to recover money left over from old budget from Cops More Grant. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

\$1,205.64 chge. to: 1000-31010 Amount from Fund Balance

\$1,205.64 approp. to: 1000-310131-41010 Salaries & Wages - Reg.

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 for the Police Department. He explained that these funds will be used to recover overtime money for the Rush Task Force officers working on Federal drug cases. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

\$379.00 chge. to: 1000-31901 Recoveries and Rebates

\$379.00 approp. to: 1000-310131-41020 Salaries/Wages OT

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 Attorney Thumma presented for Council's consideration of a first reading an ordinance amending and re-enacting Section 4-2-85, 4-2-95 and 4-2-107 of the Harrisonburg City Code. He explained that ordinances requested by Commissioner of Revenue Hosaflook will update our City ordinances relating to a penalty for collection of the meals tax, admission tax, and transient occupancy tax. Council Member Green offered a motion to approve these ordinances for a first reading. The motion was seconded by Vice-Mayor Lantz, and approved with a recorded roll call vote taken as follows:

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

Absent: None

✓ Warren Dillenbeck requested that City Council instruct the City Manager to see that an account of all expenses in creating the golf course be kept. He also requested that the account list spending in detailed categories including purchase of the land, consulting contracts, Public Works Department expenses, engineering and construction contracts. He asked that the data be published quarterly in the local press showing spending for period and cumulative spending to date. Vice-Mayor Lantz said, "I have a real problem with that because I don't view this project any differently from building soccer fields or anything else and I think that you somehow insinuate that we are not going to keep records, that our City Manager is not going to do his job. That's not the case at all. I would never make that resolution to him." Mr. Lantz said that he would expect and demand that the City has good records. Mr. Lantz also said, "It is my personal feeling the records are there and if anyone wants to come and look at them, that is fine like any other project." Mayor Eagle commented that he didn't know of any expense that was not accounted for. Council Member Green said that he thought the City records were impeccable and they were subject to internal and external audits.

Vice-Mayor Lantz said that he wanted to congratulate the Harrisonburg High School football team for achieving an 8-0 winning season, winning the district, going undefeated and hopefully winning the state championship. He said that he was very disappointed with the coverage provided in the Daily-News Record. He also wished the team good luck and invited everyone to attend the upcoming game.

Council Member Byrd offered a motion for the following people to be appointed to Commissions and Boards: Upper Valley Regional Park Authority; David Wigginton, 1726 Central Avenue, to a second term to expire on September 30, 2003, Central Shenandoah Emergency Medical Services Council; Douglas Gaylor, 451 Green Street, to a second term to expire on October 10, 2002, Parks and Recreation Commission; Charles Chenault, 976 South Dogwood Drive, to a second term to expire on December 31, 2003; and Rockingham Extension Leadership Council; Larry Rogers,

