

// A regular meeting of the Council of the City of Lynchburg was held on the 11th day of March, 2008, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Garrett gave the Invocation, followed by the Pledge of Allegiance led by Cub Scout Troop #180. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Absent: 0

// At the request of Council Member Johnson, City Council held a moment of silence in remembrance of the Council Members killed in the Missouri tragedy.

// Mayor Foster read a proclamation proclaiming March 11, 2008, as "Josh McDougal Day" in recognition of his many accomplishments, including being the first member of the Liberty University Men's Track and Field Team to win the 2007 NCAA Division I Cross Country Championship.

// Copies of the minutes of the February 26 (three meetings), 2008 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Central VA Mental Health, City Council received the list of candidates interested in serving on the Central Virginia Community Services Board.

// In the matter of Finance - General, City Council Report #3 was considered. On motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-08-022, as presented, authorizing the Department of Financial Services Billings and Collections Division to destroy paid tickets for real estate and personal property taxes for FY 2001 in accordance with the requirements of the Library of Virginia records retention guidelines:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Schools - General, City Council Report #4 was considered. On motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-08-023, as presented, approving the \$7,500,000 Literary Fund Loan Application to finance the construction of the new Sandusky Middle School and adopting Resolution #R-08-024, as presented, authorizing reimbursement from bond proceeds for capital expenditures in accordance with Treasury Regulation Section 1.150.2:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Schools – Board of Trustees, a public hearing was held to seek interested candidates to fill a vacancy in District III on the Lynchburg School Board and to receive the views and/or nominations of the citizens of Lynchburg concerning the appointment of a District III representative. Mayor Foster read the names of two individuals who reside in District III who are interested in filling the vacancy on the

School Board: Jenifer Fleury and LaVerne Reid. Mr. Jim Weigand asked that City Council appoint an individual who understands the duties and responsibilities of being a School Board member as outlined in the Virginia State Code as well as understanding a locality's ability to fund the local school system. There was no one else present who wished to speak to this item. On motion of Council Member Johnson, seconded by Council Member Helgeson, Council by the following recorded vote agreed to continue the public hearing until March 25 to allow more time for individuals to submit their name for the District III vacancy on the Lynchburg School Board:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster

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Noes:

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// In the matter of City Council, a public hearing was held to receive public input on whether or not the City should convey its interest in the reversionary clause that was included in the February 8, 1995, deed conveying the former Garland-Rhodes Building to the Virginia School of the Arts (VSA). City Manager Kimball Payne provided a brief summary regarding the request. Page Carrington, Past Board President, Virginia School of the Arts, outlined the request and asked for approval. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to questioning, Ms. Carrington explained that the reversionary clause is detrimental to the School's attempts to finance improvements to the building by borrowing against the property. Mr. Payne also noted that the deed does convey the retaining walls, including future responsibility for maintenance of the walls, to VSA. On motion of Vice Mayor Dodson, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-08-025, as presented, authorizing the execution of a deed and such other documents as may be necessary to remove the reversionary clause that was included in the February 8, 1995, deed conveying the former Garland-Rhodes School Building to the Virginia School of the Arts:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster

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Noes:

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// In the matter of Community Planning - Zoning Amendments, Mayor Foster announced that the petition of David Ahrens to amend the Future Land Use Map from Office to Medium Density Residential and for a conditional use permit to allow the construction of 6 townhouses (for sale) with associated parking in a B-1, Limited Business District, at 4873 Fort Avenue and 1103 Tolleys Lane has been withdrawn.

// In the matter of Community Planning – Historic Districts, a public hearing was held regarding City Council Report #8 regarding the petition of Filiaggi Restoration, LLC and the City of Lynchburg to designate all properties located on the southwest side of Hancock Street from C Street to G Street, known as 305, 317, 401, 403, 415, 419, 503, 507, 511, 601, 605, 609, 613, 617, and 621 Hancock Street, 401 C Street; and 423, 507 and 517 Spring Street as a local Historic District overlay zone (Section 35.1-44.1 Historic Districts of the Zoning Ordinance) to be incorporated into the existing Daniel's Hill Historic District. Historic Preservation Commission Secretary Annette Chenault along with Real Estate Manager Steve Lawson provided a brief summary regarding the request. Larry Filiaggi and Mike Bedsworth spoke in support of the request. Mr. Richard Telling, an adjoining property owner, expressed concern regarding the

City's future plans to expand the historic district to include his property on Victoria Avenue. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to Council questioning, Ms. Chenault explained that it would be the neighborhood and not City staff that would need to initiate a petition for historic district designation of Victoria Avenue. City Manager Kimball Payne went on to say that although staff has no intention of bringing a petition forward for historic designation of Victoria Avenue, they cannot predict what the neighborhood will do. Council Member Helgeson questioned if it would be more difficult to develop the vacant property if it is located in a historic district. Community Development Director Charlene Montford stated that the purpose of the historic district designation is not to limit choice but to preserve the character of the historic neighborhood. Following discussion, and on motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-08-026, as presented, designating all properties located on the southwest side of Hancock Street from C Street to G Street, known as 305, 317, 401, 403, 415, 419, 503, 507, 511, 601, 605, 609, 613, 617, and 621 Hancock Street, 401 C Street; and 423, 507 and 517 Spring Street as a local Historic District overlay zone (Section 35.1-44.1 Historic Districts of the Zoning Ordinance) to be incorporated into the existing Daniel's Hill Historic District:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster

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Noes:

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// In the matter of Community Planning/City Code, a public hearing was held regarding City Council Report #9 regarding amending Section 35.1-44.1, Historic Districts, of the Zoning Ordinance concerning the composition of the Historic Preservation Commission (HPC). Historic Preservation Commission Secretary Annette Chenault explained that the City is petitioning to amend Section 35.1-44.1 Historic Districts (c) (2) Composition, of the Zoning Ordinance to change the following: (1) "At least one (1) member of the HPC shall be an architect or an architectural historian..." (2) "At least two (2) members shall ~~meet~~have professional training in or equivalent experience in any of the following disciplines: architecture, history, architectural history, archaeology or planning as provided in the Professional Standards Qualification used by the National Parks Service..." (3) "The minimum number of professionally qualified members of the HPC may be waived by the Virginia Department of Historic Resources when the City can demonstrate it made a reasonable effort to fill those positions but was unable to do so." Ms. Chenault went on to say that the Planning Commission and Historic Preservation Commission recommend approval of Proposed Amendments (1) and (2), but recommends denial of Amendment (3) because:

- The petition for Amendment (3) "The minimum number of professionally qualified members of the HPC may be waived by the Virginia Department of Historic Resources when the City can demonstrate it made a reasonable effort to fill those positions but was unable to do so" does not agree with the Comprehensive Plan's Goals, Objectives & Strategies, which ensures that regulations and review procedures are effective in achieving Plan goals and objectives. (5.12) It

does not meet the CLG Program's requirements for at least two (2) members to have professional training or experience. (CLG Program Requirements, page 13, II.B.2)

- Although the CLG Program regulations permit less than the required minimum number of professional HPC members if the local government can demonstrate it has made a reasonable effort to fill those positions, the Virginia CLG Program permits the appointment of qualified individuals from outside the community. When adequate review of any proposed action would normally involve a professional discipline not represented on the HPC, the HPC must seek appropriate professional advice before rendering its decision.
- With only one (1) HPC member meeting the professional qualifications, there is the greater likelihood for this member to have the need to abstain from participating, requiring the HPC to seek outside professional advice.
- Proposed Amendment (3) does not fulfill the CLG Program requirements for HPC Composition, and this amendment could put Lynchburg's CLG status in jeopardy.

There was no one else present who wished to speak to this item, and the public hearing was closed. In response to questioning, City Attorney Walter Erwin explained that the wording in Proposed Amendment (3) was taken directly from the Virginia Certified Local Government Program Requirements. Mr. Erwin went on to say that since the State guidelines already allow local governments this option, it is not necessary for it to be included in the City Code. Council Members discussed whether or not Amendment (3) was needed in the City Code and determined that since the option was allowed via State guidelines, then it was not necessary for it to be included in the City Code. On motion of Council Member Johnson, seconded by Council Member Seiffert, Council by the following recorded vote adopted Ordinance #O-08-027, as revised by including only Proposed Amendments (1) and (2), and amending Section 35.1-44.1, Historic Districts of the Zoning Ordinance concerning the composition of the Historic Preservation Commission:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster

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Noes:

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// In the matter of Community Planning - General, a public hearing was held regarding City Council Report #10 regarding adoption of a Resolution to approve the exchange of real estate owned by the City of Lynchburg at 2617 Lakeside Drive for real estate owned by WCI, L.C. at 2625 Lakeside Drive along with various sanitary sewer and temporary construction easements. Real Estate Manager Steve Lawson provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-08-028, as presented, approving the exchange of real estate owned by the City of Lynchburg at 2617 Lakeside Drive for real estate owned by WCI, L.C. at 2625 Lakeside Drive along with various sanitary sewer and temporary construction easements:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster

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Noes:

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// In the matter of Public Works - Refuse, a public hearing was held regarding City Council Report #11 regarding adoption of the Regional Solid Waste Management Plan. Public Works Director Dave Owen along with Region 2000 Regional Service Authority Director Clark Gibson provided a brief summary regarding the request. One individual requested more enforcement of contractors who do not provide adequate dumpsters to control on-site debris. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-08-029, as presented, adopting the Regional Solid Waste Management Plan:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Finance - Bonds, a public hearing was held regarding City Council Report #12 regarding the issuance of \$15,000,000 General Obligation Public Improvement Bond Anticipation Notes (BANS). Financial Services Director Donna Witt provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed.

On motion of Council Member Seiffert, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-08-030, as presented, authorizing the issuance of \$15,000,000 General Obligation Public Improvement Bond Anticipation Notes and authorizing the City Manager to execute appropriate documents to establish a \$15,000,000 Line of Credit:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

On motion of Council Member Seiffert, seconded by Council Member Garrett, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-08-031, as presented, amending the FY 2008 General Fund's Adopted Budget and appropriating \$34,250 from the General Fund Reserve for Contingencies for fifty percent (50%) of the issuance costs:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Community Planning - General, City Council Report #13 was considered. On motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-08-032, as presented, amending the FY 2008 City Capital Project Funds and appropriating \$185,000 to install a traffic signal at the intersection of Paulette Circle and Enterprise Drive:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Finance - Bonds, City Council Report #14 was considered. On motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-08-033, as presented, authorizing the reallocation of General Obligation Public

Improvement Bond Anticipation Notes in the amount of up to \$500,000 from Sewer Capital Projects to Water Capital Projects:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Finance - Bonds, City Council Report #15 regarding the issuance of not to exceed \$10,000,000 principal amount of General Obligation Public Improvement Refunding Bonds, Series 2008 was considered. Director of Financial Services Donna Witt provided a brief summary regarding the request. On motion of Council Member Seiffert, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-08-034, as presented, authorizing the issuance of not to exceed \$10,000,000 principal amount of General Obligation Public Improvement Refunding Bonds, Series 2008:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

On motion of Council Member Seiffert, seconded by Council Member Garrett, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-08-035, as presented, amending the FY 2008 General, Water, Sewer and Solid Waste Management Funds' Adopted Budgets and appropriating \$24,250, \$6,790, \$11,155 and \$6,305, respectively, with resources from the refunding bond proceeds for \$48,500 of estimated issuance costs:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

On motion of Council Member Seiffert, seconded by Council Member Garrett, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-08-036, as presented, amending the FY 2008 Solid Waste Management Fund's Adopted Budget by \$292,000 to redeem its entire principal portion of the City's outstanding General Obligation Public Improvement Refunding Bonds, 1998B Series:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// Council Member Gillette stated that one of the Committees being considered in the closed meeting is the Central Virginia Community Services Board and since he has a contract with that organization, he plans to excuse himself from participating in the discussion and voting on the appointment to this Board.

// On motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., Board of Zoning Appeals, School Board (District III), Board of Building Code Appeals, Community Development Advisory Committee, Community Services Board, Transit Company Board, and Parking Authority pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// Council Member Gillette excused himself from the closed meeting during the discussion regarding the appointment of an individual to fill a vacancy on the Central Virginia Community Services Board.

// The meeting was re-opened to the public.

// Council Member Johnson made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Council Member Seiffert, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Appointments, and on nomination of Council Member Seiffert, Council by the following recorded vote appointed Beatrice E. Barbour to serve on the Community Development Advisory Committee for a term to expire December 31, 2008:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed James H. Mundy to serve on the Transit Company Board to fill an unexpired term ending October 31, 2008:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// City Council briefly discussed an appropriate process for reviewing the qualifications of volunteers and making appointments to the School Board and asked that this matter be placed on the March 25 work session agenda for discussion.

// The meeting was recessed at 9:23 P.M. to March 18, at 1:00 P.M., to conduct a work session regarding the FY2009 Budget.

Clerk of Council