

// A regular meeting of the Council of the City of Lynchburg was held on the 12th day of February, 2008, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Seiffert gave the Invocation, followed by the Pledge of Allegiance led by Junior Girl Scout Troop #601. The following Members were present:

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

Absent: 0

// Copies of the minutes of the two January 22, 2008 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Garrett, seconded by Council Member Gillette, 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 Fire Department - General, City Council Report #2 was considered. On motion of Council Member Garrett, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-08-008, as presented, amending the FY 2008 City/Federal/State Aid Fund budget and appropriating \$156,528, with resources from the Department of Homeland Security Federal Emergency Management Agency's National Preparedness Directorate's FY 2007 Assistance to Firefighters Grant, to purchase hoses, nozzles, and a breathing air compressor:

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

Noes: 0

// In the matter of Fire Department - General, City Council Report #3 was considered. On motion of Council Member Garrett, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-08-009, as presented, amending the FY 2008 City/Federal/State Aid Fund budget and appropriating \$213,005, with resources of \$84,407 from the Virginia Office of Emergency Medical Services and \$128,598 from the FY 2008 General Fund Reserve for Contingencies, to purchase and equip a Type 1 Ambulance:

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

Noes: 0

// In the matter of Public Works – Street Vacations, a public hearing was held regarding City Council Report #4 regarding a request to vacate Spencer Street located between Belmont and Blackford Streets. City Manager Kimball Payne provided a brief summary regarding the request. Mr. Julio Uchimura, the petitioner, requested Council support of 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 Seiffert, Council by the following recorded vote adopted Ordinance #O-08-010, as presented, vacating Spencer Street between Belmont and Blackford Streets:

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

Noes: 0

// In the matter of Public Works – Street Vacations, a public hearing was held regarding City Council Report #5 regarding a request to vacate a portion of 15th Street located between 1417 and 1501 Kemper Street. City Manager Kimball Payne provided a brief summary, explaining that the Conditional Use Permit adopted by City Council on January 8 contained a condition that required the vacation of this portion of 15th Street. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Johnson made a motion, seconded by Council Member Gillette, to vacate a portion of 15th Street located between 1417 and 1501 Kemper Street. Council Member Garrett questioned if the City wanted to reserve an easement regarding the proposed detention pond for the Midtown Connector Project. City Attorney Walter Erwin stated that language could be added to the ordinance that could reserve an easement to construct, maintain and operate any storm water management facilities that may be needed as part of the Midtown Connector Project. Council Member Garrett offered a friendly amendment to the motion, seconded by Council Member Seiffert, to add language to the ordinance that would reserve an easement to construct, maintain and operate any storm water management facilities that may be needed as part of the Midtown Connector Project. The friendly amendment was accepted, and Council by the following recorded vote adopted Ordinance #O-08-011, as amended to include language to reserve an easement to construct, maintain and operate any storm water management facilities that may be needed as part of the Midtown Connector Project, and vacating a portion of 15th Street located between 1417 and 1501 Kemper Street:

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

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Noes:

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// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #6 outlining the petition of Lynchburg College for a conditional use permit to amend the existing master plan and allow the construction of a press box and an office/classroom addition at 1501 Lakeside Drive. City Planner Tom Martin provided a brief summary regarding the request. Mr. John Lewis, Associate Vice President for Lynchburg College, 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. On motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-08-012, as presented, granting the Conditional Use Permit:

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

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Noes:

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// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #7 outlining the petition of JBO, LLC for a conditional use permit at 401 Cornerstone Street and 100, 200 and 300 Capstone Drive to amend the existing master plan and allow the construction of a public street, the construction of a private street, changes to the location of various open space areas and changes to number of single-family attached, single-family detached and multifamily housing units within the Cornerstone Traditional Neighborhood Development (TND) in an R-1, Single-Family Residential District and R-C, Conservation District. City Planner Tom Martin provided a brief summary regarding the request.

Mr. Martin explained that JBO, LLC is petitioning for a conditional use permit to amend the Cornerstone Traditional Neighborhood Development Master Plan approved by City Council on June 27, 2006. Mr. Martin noted that the amendment includes the construction of one public street (Ridgeline Lane), one private street (Meridian Street), changes in the location of open space within certain blocks, and changes to the distribution of residential units. Mr. Martin went on to say that the amendment would not exceed the one thousand (1,000) residential units and two hundred thousand (200,000) square feet of commercial space originally approved by City Council; however, the housing mix would change to provide for six hundred (600) condominiums, two hundred and fifty (250) townhouses and one hundred and fifty (150) single-family detached homes, which is slightly different than what was originally approved. Mr. Martin also noted that the amendment would also slightly increase the amount of parks, squares and open space to thirty-five and one tenth (35.1) acres. Mr. Mark Borel, Mr. Marcus Borel and Mr. Jeff Allen of JBO, LLC provided an overview regarding the petition and offered additional conditions to the resolution as follows:

3. The total number of single-family detached units in the edge area (Blocks O, P, Q & R) shall not exceed one hundred eight (108). The one hundred eight (108) units include:

a. One hundred units to be placed in Blocks O, P, Q & R (17.1 acres) as shown on the Cornerstone Traditional Neighborhood Development Master Plan as prepared by Sympoetica and Hurt & Proffitt Engineers dated April 24, 2006 and approved by City Council June 26, 2006.

b. Two (2) units at the southeastern corner of the private extension of Rotunda Street (amended block O).

c. Six (6) units at the northern terminus of Cornerstone Street (amended blocks Q & R).

4. The remaining eight hundred ninety-two (892) units may be dispersed throughout the development as allowed by the approved Cornerstone Design Guidelines and the master plan entitled "Cornerstone Conditional Use Permit Street Additions" dated January 23, 2008 and prepared by Guffey Warner & Associates Engineers and Surveyors, and Perkins & Orrison Engineers, Planners & Surveyors provided that no single unit type shall exceed seventy (70) percent of the total number of units.

5. The total number of units for the Cornerstone Development shall not exceed one thousand (1,000).

Mr. Mark Borel explained that the new conditions would add additional greenspace throughout the project, reduce the number of townhouse units, adhere to the one hundred (100) single-family detached units adjacent to the adjoining neighborhood, and adhere to the 1,000 total number of units in the development. Mr. Borel also noted that the six units at the northern terminus (amended blocks Q & R) would have no

connectivity to the adjoining neighborhood. Three individuals spoke in support of the petition. Six individuals, including a representative of the Windsor Hills Neighborhood Association, cited numerous concerns regarding the development of the property, i.e., enormous amounts of dust and trash blowing onto their properties from the site, developer not adhering to the original grading plan, and asked that City Council require the developer to adhere to the one hundred single-family detached units next to the adjoining neighborhood. One individual suggested that City Council revise its current development procedures to prevent similar problems from future developments. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Helgeson stated that he could not support any increase in the number of units adjacent to the Windsor Hills neighborhood, and offered an amendment to the resolution submitted by staff that would add the following sentence to condition #1: "Provided, however, that no more than a total of one hundred (100) single-family detached residential homes may be constructed in blocks O, P, Q, and R, the Neighborhood Edge Areas, of the Cornerstone Traditional Neighborhood Development. Council Member Helgeson made a motion to adopt the resolution with the additional sentence in condition #1. The motion was seconded by Council Member Garrett. Several Council Members commented that they did not have a problem with adding the two (2) units at the southeastern corner of the private extension of Rotunda Street (amended block O), and following discussion, Council Member Garrett offered a friendly amendment to Council Member Helgeson's motion to also include the following at the end of condition #1: "plus an additional 2 units at the southeastern corner of the private extension of Rotunda Street, amended Block O." Council Member Helgeson accepted the friendly amendment. Council Members discussed at length the request for the additional six units at the northern terminus of Cornerstone Street, and while some Council Member indicated that they did not have a problem with adding the six units since the area did not abut the adjoining neighborhood, other Council Members argued that the density in this area is already too high and that they could not support adding any additional housing units in this area. Following discussion, Vice Mayor Dodson made a motion, seconded by Council Member Johnson, to adopt the developer's revised resolution, and Council by the following recorded vote defeated the substitute motion:

Ayes: Dodson, Johnson, Foster

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Noes: Garrett, Gillette, Helgeson, Seiffert

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In response to Council questioning, City Manager Payne stated that it would be helpful to staff if the maximum number of each type of unit could be included in the resolution. Council Members discussed the design estimates included on the new sketch plan and following discussion agreed on the following: "That the design estimates for the Cornerstone Traditional Neighborhood Development shall be a maximum of 600 condominiums, 300 town homes, and 150 residential homes with a maximum of 1,000 units for the development." Council Member Gillette offered a friendly amendment, seconded by Council Member Garrett, to add the above mentioned condition to the resolution. The friendly amendment was accepted, and Council by the following recorded vote adopted Resolution #R-08-013, as amended to include the revisions to condition #1 and the addition of condition #2 as follows:

1. The property shall be developed in substantial compliance with the submitted master plan entitled "Cornerstone Conditional Use Permit Street Additions" dated January 23, 2008 and prepared by Guffey Warner & Associates Engineers and Surveyors, and Perkins & Orrison Engineers, Planners and Surveyors. Provided, however, that no more than a total of one hundred (100) single-family detached residential homes may be constructed in blocks O, P, Q and R, the Neighborhood Edge Areas, of the Cornerstone Traditional Neighborhood Development, plus an additional 2 units at the southeastern corner of the private extension of Rotunda Street, amended block O.
2. That the design estimates for the Cornerstone Traditional Neighborhood Development shall be a maximum of 600 condominiums, 300 town homes, and 150 residential homes with a maximum of 1,000 units for the development.
3. All conditions of Resolution #R-06-075, approved by City Council on June 26, 2006, will remain in effect for the Cornerstone Traditional Neighborhood Development.

and granting the Conditional Use Permit:

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

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Noes: Johnson

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// City Attorney Walter Erwin recommended that City Council proceed with General Business Item #10 in order to wrap up Cornerstone. In response to Council questioning, Mr. Erwin stated that the agenda is to help Council move its meeting along and that if Council wanted to move up an item on the agenda, then that is okay.

// In the matter of Community Planning - General, City Council Report #10 regarding approving the dedication and naming of one public street to be known as "Ridgeline Lane" and the naming of one private street to be known as "Meridian Street" in the Cornerstone Traditional Neighborhood Development was considered. City Planner Tom Martin provided a brief summary regarding the request. On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-08-017, as presented, approving the dedication and naming of one public street to be known as "Ridgeline Lane" and the naming of one private street to be known as "Meridian Street" in the Cornerstone Traditional Neighborhood Development:

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

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Noes:

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// In the matter of CATV, a public hearing was held to receive public input on a proposed negotiated Cable Franchise Agreement between the City of Lynchburg and Comcast of Georgia/Virginia, Inc., d.b.a. Comcast to operate a Cable Television Franchise within the City of Lynchburg and to repeal Chapter 12.1, Cable Television, of the Lynchburg City Code. Information Technology Director Mike Goetz explained that

Comcast has requested a cable television franchise in order to continue to provide cable television service in Lynchburg. Mr. Goetz stated that the old franchise, originally signed in 1988, expired in 2003 and that staff has negotiated a proposed 15 year franchise agreement with Comcast and recommends approval of this agreement. Mr. Goetz went on to say that in addition, with the awarding of this franchise, Chapter 12.1 of the City Code, dealing with cable television, will become obsolete and it is recommended that this section of the City Code be repealed. City Manager Kimball Payne did note that even though Comcast must have capacity on the system for up to three PEG channels, they are not required to provide any in-kind services or equipment to support these channels. Mr. Payne went on to say that on the effective date of the new franchise, the Education and Government channels are required to be operational, but a public access channel will only be required to be operational when a public access producers' organization is operational and ready to broadcast their signal. Fifteen individuals, including public access producers, asked that City Council provide financial or in-kind support in order to keep the public access channel operational. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to questioning, City Manager Payne stated that City Council did provide funding for the operation of a government channel which is scheduled to become operational on February 15. Mr. Payne also suggested that any discussion regarding funding the public access channel should be discussed during the upcoming budget process. Council Member Johnson asked that this item be scheduled for discussion during one of the upcoming budget work sessions. Mr. Payne stated that he would have staff determine exactly what it would cost to keep the public access channel. On motion of Council Member Johnson, seconded by Council Member Seiffert, Council by the following recorded vote adopted Ordinance #O-08-014, as presented, awarding a Cable Television Franchise to Georgia/Virginia, Inc., d.b.a. Comcast to operate a Cable Television Franchise within the City of Lynchburg for a 15 year term:

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

Noes: 0

On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #O-08-015, as presented, repealing Chapter 12.1, Cable Television, of the Lynchburg City Code:

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

Noes: 0

// In the matter of Community Planning - General, a public hearing was held regarding City Council Report #9 regarding adding the improvements to the intersection of Lakeside Drive/Park Avenue/Memorial Avenue as an Urban Project of the Six Year Improvement Plan in accordance with the Virginia Department of Transportation guidelines. City Traffic Engineer Gerry Harter provided a brief summary regarding the request. City Manager Kimball Payne stated that since no decision has been made at this time regarding the type of improvements to be made at this intersection, he recommended that the following words be deleted from the last sentence in paragraph two of the proposed resolution – “to

include a roundabout, signal replacement or other specified improvement to increase safety at this intersection.” There was no one else present who wished to speak to this item, and the public hearing was closed. Council Members agreed with removing the words from the resolution, and on motion of Council Member Garrett, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-08-016, as amended, adding the improvements to the intersection of Lakeside Drive/Park Avenue/Memorial Avenue as an Urban Project of the Six Year Improvement Plan in accordance with the Virginia Department of Transportation guidelines:

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

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Noes:

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// In the matter of Community Planning - General, City Council Report #11 was considered. On motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-08-018, as presented, approving the dedication and naming of a public street located off Chiles Circle to be known as “Advantage Court:”

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

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Noes:

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// In the matter of Library - General, City Council Report #12 was considered. On motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #0-08-019, as presented, amending Sections 24-24.2, 24-24.4, 24-24.5 and 24-24.8 of the City Code relating to the City's Museum Advisory Board:

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

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Noes:

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// The meeting was recessed at 11:32 P.M. to February 26, at 4:00 P.M., to conduct a work session regarding several items.

Clerk of Council