

// A regular meeting of the Council of the City of Lynchburg was held on the 9th day of February, 2010, at 5.00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

Present: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7

Absent: 0

// City Manager Kimball Payne stated that the Proposal to Move Polling Place was requested by Council to be placed on the work session agenda for discussion. Mr. Payne stated that the City Attorney Walter Erwin would be in a better position to brief Council on the Proposal. Mr. Erwin explained options regarding relocating the polling place; the tight timeframe and the public hearing would have to be advertised twice before the February 23 Council meeting; notify the citizens 15 days before voting; allows polling place to be within 1 mile of precinct boundary. Council Member Helgeson made a motion to hold a public hearing; begin the advertisement to hold a public hearing, for the discussion, to relocate the polling place from Heritage Elementary School to Circuit City, which is the old Circuit City building in Candler's Station and to schedule the public hearing for February 23, regarding the relocation of the polling place from Heritage Elementary School to the Circuit City building. The motion was seconded by Council Member Perrow. Several Council Members had concerns regarding the motion (1) this item should be referred to the Electoral Board first to address technical issues; (2) the traffic problem on Candler's Mt. Road; moving the polling place out of the precinct where citizens have voted for many years; (3) it is disadvantageous/disrespectful to the permanent residents of that precinct; (4) "disenfranchised" voters; (5) not to move ahead without formal request and (6) should hear from voters in precinct. Electoral Board Chair Arelia Langhorne was asked questions by Council. After recognizing the Electoral Board, the Registrar and Deputy Registrar, Ms. Langhorne explained some of the concerns: compliance, suitability, 5 polling places in Ward 3, to staff the polling place, election officers and more equipment. Vice Mayor Dodson made a substitute motion to consider moving the polling place to the First Church of the Nazarene, Council Member Gillette seconded that motion. Mayor Foster asked Vice Mayor Dodson if he would consider a friendly amendment to the substitute motion to have the Electoral Board approach The First Church of the Nazarene as having the opportunity to move the polling place from Heritage Elementary School possibility to the First Church of the Nazarene on Wards Ferry Road for the May 4 election and to have a public hearing on February 23 in relation to the proposed change so that it will be enough time to make application to the Federal Justice Department. The friendly amendment was seconded by Council Member Nelson. Mayor Foster called for a vote on the item, Council by the following recorded vote agreed to hold a public hearing to move the polling place from Heritage Elementary School possibility to the First Church of the Nazarene on Wards Ferry Road for the May 4 election:

Ayes: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster 6

Noes: Johnson 1

Council Member Helgeson commented about procedures for voting at Heritage Elementary School and asked Mr. Bill McRorie, representing Liberty University, about the timeline that would be needed to put the paperwork together, to meet a 15 day notice requirement, if Justice Department takes two months and could be asked to expedite the review. Council Member Perrow had some concerns that Heritage may no longer be an adequate place but will support Substitute Motion as a tip in the right direction.

Council Member Nelson's concerns were about the expenditures of taxpayer's dollars on this effort that at best only "might" happen then support substitute motion.

Vice Mayor Dodson restated his motion that the Electoral Board approve The First Church of the Nazarene, have Public Hearing on February 23 for proposed change. Vice Mayor Dodson made the motion and Council Member Gillette seconded. Council Member Helgeson suggested having a backup site and the answer was "No". Mayor Foster called for a vote on the substitute motion, Council by the following recorded vote agreed to hold a public hearing to move the polling place from Heritage Elementary School possibility to the First Church of the Nazarene on Wards Ferry Road for the May 4 election:

Ayes: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster

6

Noes: Johnson

1

//Mayor Foster recognized Alex Jennings and Thacher Jennings of the Mayor's Youth Council.

//Parks and Recreation Director Kay Frazier gave a brief update regarding the proposal to form a recreation Youth Football and Cheerleading League to be managed by the Department of Parks and Recreation. Ms. Frazier explained since the January 12th work session, Parks and Recreation staff and representatives from Hill City Youth Football and Cheerleading (HCYF) have met to discuss the recreation league and a draft agreement was given to HCYF for their consideration. Ms. Krazier stated that at this time, it is the recommendation that the recreation youth football and cheerleading program remain under the management of the Hill City Youth Football and Cheerleading Program. Ms. Frazier went on to say that this recommendation is contingent on both the City and HCYF signing an agreement that formalizes the local governmental and non-governmental partnership and establishes the general terms and conditions that will guide the expectations of both parties and management of a recreation youth football and cheerleading program. Ms. Frazier included in the report information requested by Council on the Adult (16+) Open Gym program. The open gym program has had consistent participation for many years. A youth program is also offered serving for ages 6-18. Both programs are free and open to the general public with no requirement for registration. Several Council Members commented that there had been good progress made and supported the suggestion made by Parks and Recreation Kay Frazier in relation to continue the relationship with Hill City Football for a year obviously with the agreement signed. A motion was made by Vice Mayor Dodson and seconded by Council Member Johnson that the Hill City Youth Football and Cheerleading continues to manage the program, and not the City. After further discussion by Council, City Manager Kimball Payne stated that he wanted to be clear what the motion was and stated the following: The motion is to accept the recommendation which is that the Hill City Youth Football and Cheerleading continues to manage the program contingent on the successful

negotiation of an agreement with the Parks and Recreation Department. Council by the following recorded vote approved the recommendation that the Hill City Youth Football and Cheerleading continues to manage the program contingent on the successful negotiation of an agreement with the Parks and Recreation Department:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster

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Noes:

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//City Planner Tom Martin gave an overview of the Proposed Zoning Ordinance Amendment regarding the Institutional Overlay District. Mr. Martin stated that the City's Zoning Ordinance currently requires institutions such as schools, colleges, universities, churches and hospitals to obtain a conditional use permit for expansions depending on the district in which they are located. Mr. Martin explained that the proposed ordinance would create a mechanism that would allow established institutions to develop an overlay district with development standards. Mr. Martin went on to say after consideration and review by the Planning Commission and adoption by City Council, the overlay district and development standards would become the land use regulations guiding future development of the institution. Mr. Martin stated that this would eliminate the need for future and multiple conditional use permits for institutions with an approved institutional overlay district. Mr. Martin stated Section 35.1-17, Amendments of the Zoning Ordinance states that the City Council may initiate an amendment to the text of the Zoning Ordinance provided that its resolution or motion proposing the rezoning shall state the public necessity, convenience, general welfare or good zoning practice constituting the public purpose of such rezoning. Mr. Martin listed the following tentative schedule for the draft Institutional Overlay District to come before City Council for final consideration:

Tuesday, February 9: City Council initiates Zoning Ordinance Amendment.

Wednesday, March 10: Planning Commission Public Hearing.

Tuesday, March 23: City Council Work Session.

Tuesday, April 13: City Council Public Hearing and consideration of adoption

Several Council Members commented that they were glad that they had heard from the stakeholders, which would allow the stakeholders to apply to the overlay district, and no way effect the building, zoning under lining zoning and building permits. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote approved Resolution #R-10-009 for the Proposed Zoning Ordinance Amendment regarding the establishment of an Institutional Overlay District:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster

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Noes:

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//During roll call Council Member Perrow commended the City Manager and City staff, especially Public Works Department, for dealing with all the snow. Council Member Johnson wanted to take a moment and remind Council and City Staff that the City lost two City employees over the weekend and we should honor their lives with a moment of silence at the beginning of our next meeting. Vice Mayor Dodson has been

approached by several caterers in the City regarding meal tax for non-profit, would like opinion from City Attorney and then place it on a future work session if required.

// City Council recessed the meeting at 7:01 p.m.

// City Council reconvened the meeting at 7:30 p.m. Council Member Gillette gave the Invocation, followed by the Pledge of Allegiance.

// Copies of the minutes of the January 26, 2010 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7

Noes: 0

// In the matter of Commonwealth's Attorney, City Council Report #6 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-010, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$90,253, with \$67,683 reimbursement, to support the Domestic Violence Prosecution Unit:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7

Noes: 0

// In the matter of Fire - General, City Council Report #7 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-011, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$38,579, with \$19,289 reimbursement, to purchase a Physio LifePak 15 cardiac monitor/defibrillator and a 24 7 Now CentreLearn Learning Management System for the Fire Department:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7

Noes: 0

// In the matter of Juvenile Services, City Council Report #8 was considered. On motion of Council Member Gillette seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-012, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$16,801, with 16,351 reimbursement, to provide support to localities in their efforts to strengthen the local juvenile justice system:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7

Noes: 0

// In the matter of Community Development – CDBG, a public hearing was held regarding City Council Report #9 regarding Program Year 2008 (2008-2009) Consolidated Annual Performance and Evaluation Report (CAPER) for the Community Development Block Grant (CDBG) and HOME Program. Deputy City Manager Bonnie Svrcek provided a brief summary regarding the request. Ms. Svrcek stated that the U.S. Department of Housing and Urban Development (HUD) requires each jurisdiction receiving HUD-administered grants (CDBG and HOME) to draft a CAPER and submit it for public review and comment.

Ms. Svrcek explained that the CAPER describes the City's progress towards the housing and community development goals established within the 2005-2010 Consolidated Plan and the 2008 Annual Action Plan.

The CAPER is for the period of July 1, 2008, through June 30, 2009. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Gillette, Chair of the CDAC, commended the Committee on all the hard work that went into this plan. There was no action taken or required by Council.

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report # 10 to rezone properties at 4005, 4011, 4015, 4019, 4023, 4101, 4105, 4109, 4115, 4121, 4201, 4205, 4117, and 4225 Hydro Street from I-3, Heavy Industrial District to R-2, Low-Medium Density, Single-Family Residential District, to allow continued use of residential properties as single-family homes. City Planner Tom Martin provided a brief summary regarding the request. Mr. Martin explained although the homes are currently allowed as "nonconforming" uses under the current industrial zoning, the homes may not be enlarged, expanded or rebuilt (unless damaged by acts of God). Mr. Martin went on to say that the proposed rezoning to R-2 would allow for rebuilding or expansion of existing residences "by-right," as well as infill development of new single-family homes on vacant lots, provided the standards of that zoning district are met. Mr. Martin stated that under the Virginia law, in order to justify a downzoning, there must have been a substantial change in circumstances since the previous zoning. On June 3, 2008, FEMA adopted a revised flood study that adjusted the limits of, and removed the properties from the one hundred (100)-year floodplain. Mr. Martin went on to say that prior to the floodplain revision, any addition of earth or the construction of a structure proposed for the properties would have required a conditional use permit (CUP) from City Council for fill within the floodplain; the revision to the flood study negates the need for a CUP. The *Comprehensive Plan 2002-2020* also identifies both Low Density Residential and Resource Conservation uses – not Employment 2 (i.e. industrial) uses – as appropriate for the subject area. Although an industrial zoning designation has been in effect for the subject properties since 1978, the properties never developed as industrial uses and the area has remained a single-family residential neighborhood (with the majority of the homes constructed in the late 1800's and early 1900's). Mr. Martin stated that the Planning Commission recommended approval of the rezoning petition. Mr. Duane Burks a representative of the residents spoke in favor of the rezoning change on Hydro Street. 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 Helgeson, Council by the following recorded vote adopted Ordinance #O-10-013, as presented, granting the petition:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster

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Noes:

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// Mayor Foster announced that Agenda Item #11 has been removed from the agenda.

// In the matter of Economic Development - General, City Council Report # 12 was considered. On motion of Council Member Joshnson, seconded by Vice Mayor Dodson, Council by the following recorded vote

adopted Resolution #R-10-014, as presented, approving the issuance of not to exceed \$5,000,000 bonds through the Economic Development Authority of Lynchburg, Virginia (EDA), for Lynchburg College.

Council Member Nelson stated that he would refrain from voting on this item due to a conflict regarding the Lynchburg College:

Ayes: Dodson, Gillette, Helgeson, Johnson, Perrow, Foster	6
Noes:	0
Abstain: Nelson	1

// In the matter of Juvenile Services - General, City Council Report #13 was considered. On motion of Council Member Helgeson, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-015, as presented, amending the FY 2010 Comprehensive Services Act (CSA) Fund budget and appropriating \$370,570, with \$269,182 reimbursement, to increase the amount of local resources:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Noes:	0

// On motion of Council Member Perrow, seconded by Council Member Nelson, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., Planning Commission, Lynchburg Community Action Board and Region 2000 Economic Development Council, and for consultation with legal counsel and briefings by staff members about a specific legal matter, the collection of delinquent accounts by the City, respectively, pursuant to Section 2.2-3711(A)(1)(7) of the Code of Virginia, 1950, as amended.

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Noes:	0

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

// Council Member Gillette 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 Perrow, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Noes:	0

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// In the matter of Appointments, and on nomination of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote appointed Kevin D. Hooper, to serve on the Planning Commission for a term ending December 31, 2012:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7

Noes: 0

// On nomination of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote appointed Council Member J. Randolph Nelson to serve on the Lynchburg Community Action Board to fill an unexpired term ending June 30, 2010:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7

Noes: 0

// On nomination of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote appointed Council Member J. Randolph Nelson to serve on the Region 2000 Workforce investment Board to fill an unexpired term ending June 30, 2010:

Ayes: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7

Noes: 0

// The meeting was adjourned at 8:30 P.M.

Interim Clerk of Council