// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of February, 2011, at 4:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

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

Absent: 0

// Mr. Sonny Witt, Assistant Superintendent of Schools and Mr. Steve Gatzke, Director of Facilities and Mr. Mark Smith, Craddock Cunningham Architectural Partners, gave a report on the recommendations made to the School Board with respect to Heritage High School. Mr. Witt reviewed the list of problems facing the school which ranged from HVAC, plumbing fixtures, windows, exterior walls, elevator being undersized, classrooms lacking natural light, drainage around the building being poor and heavy rains sending stormwater under the walls and across the classroom floors.

Mr. Gatzke explained that since the school was built in 1977 it has always leaked. In 1986 a new roof was installed but did not stop the leaks. In 1997 to 2000 a new foam roof was installed and this also did not stop the roof from leaking. Mr. Gatzke went on to say in 2010 the schools partnered with Craddock Cunningham to conduct a study and find the source of the leaks and recommend possible solutions. It was discovered that most of the leaks occurred in the curtain wall area. There were 3 systems considered to solve the problem, (1) a panel system, (2) an EIFS system and (3) a elastomeric coating system . After evaluating each system, it was ultimately settled to go with the EIFS system which is expected to cost $267,500. This fix will cover Heritage's exterior walls with a multi-layered system of insulation and water-resistant coating. In addition to reducing water seepage, the wall repairs are also expected to cut down on energy costs and generate a savings of nearly $83,500 between now and 2018.

During discussion one member of Council suggested that the schools should consider replacing the curtain walls in the near future, rather than adding an additional layer to waterproof and insulate the current curtain walls and that replacing the curtain walls could take a much larger-scale renovation or replacement of Heritage High School off the table. Other Council Members felt that the leak and insulation problems were not the only problems with the school.

// Mr. Terry Hutchens, IT Manager, made a presentation to Council on replacing the current laptops with iPads. Mr. Hutchens stated that the warranties on the existing Council laptops have expired and due to budget constraints last year no computers were replaced. Several localities in Virginia have switched to iPads which are less expensive than laptops and will reduce the costs of preparing the Council agenda packets which will improve the mobility of Council resources. Mr. Hutchens further stated that their recommendation was to go forward with the iPads and start the transition. The main use of the iPads would be for email, for document markup and management, and browsing the internet. After some discussion with Council about replacing their laptop computers with iPads, City Manager Payne asked Council if they were comfortable with this approach and Council agreed.

// City Attorney Walter Erwin, gave a briefing on decennial redistricting of federal and state election districts. Mr. Erwin explained that the release of U.S. Census data at the state and local level, which may occur as early as the first week of February, will trigger the redistricting process. In addition to the Virginia Constitution, localities also face the competing requirements of the federal Voting Rights Act, which demands that race be taken into account to avoid “retrogression” and “vote dilution,” and the Equal Protection Clause, which prohibits using race as the predominant factor in drawing election districts. Mr. Erwin informed Council on the redistricting process and the Commonwealth of Virginia requirements, which include ward requirements, precinct requirements, and polling place requirements. Mr. Erwin further explained the Registrar’s and Electoral Board role in the upcoming redistricting process.

Mr. Erwin noted that Section 5 of the Voting Rights Act requires that certain states which have a history of past discriminatory voting practices must obtain “preclearance” from either the United States District Court for the District of Columbia or the United States Attorney General for every redistricting ordinance, precinct ordinance, change in polling places, etc. before such changes can be implemented. When requesting preclearance the locality has the burden of proving that a proposed election change or redistricting does not have a discriminatory purpose and will not cause “retrogression.”

Mr. Erwin stated that since Lynchburg does not have local elections scheduled for November 2011 the City does not have to complete its redistricting until 2012. Therefore, the City has the option of either trying to complete its redistricting in time for the November 2011 elections or waiting until 2012 to complete its redistricting. Mr. Erwin also noted that there are several decisions City Council will need to make as part of the upcoming redistricting and explained each issue:

- Does the City Want to Redistrict in 2011 or 2012?
- What is the Appropriate Level of Public Participation?
- Establishing a New Precinct and Polling Place for Liberty University Students.
- Moving Council Elections from May to November.

During Council discussion Council agreed that since there was no local election coming up in November there was no urgency in completing the redistricting. Council also discussed the pros and cons of changing local elections from May to November.

// Deputy City Manager Bonnie Svrcek gave a brief overview of the changes to the CDBG/HOME Public Participation Plan and will come back before Council on March 8 for a public hearing. Council agreed that the revised Participation Plan is a good document with needed changes.

// Tim Mitchell and Jeff Scarano, Utilities Department, gave a presentation on the proposed staff recommendations on stormwater level of service, funding and billing mechanisms and ordinance language to Council. Mr. Scarano restated the guiding principle and that the first principle, provide service that promotes the health, safety and prosperity of the city, is the main reason for this presentation. Mr. Scarano further stated the benefits of a stormwater utility and that the staff recommendations are:

- A fee is more equitable than a tax – all properties pay based on impervious area
- Credits incentive good stormwater practices on private property
- Property owners can modify their impervious area, tenants cannot
- Water/Sewer bill allows 12 equal payments
- Reduces burden on General Fund

Mr. Scarano stated the benefits of a higher level of service which are:

- Ensure continued compliance with existing regulations

• Keep City well-positioned on future regulations

• Address existing infrastructure and stormwater needs more efficiently and effectively

• Position City to qualify for grants or loans

• Improved customer service

• Better water quality

During Council discussion, some questions were asked about who would get billed for the fee, property owners or tenants. Discussion also included the differences between "Plan A" and "Plan B". It was felt that Plan A was the most efficient way but that some of the options in Plan B would also have to be included. Also a discussion was held regarding what would be the bare minimum to start this Plan. It was felt that due to the bad economy and city employees not getting raises for several years, this was not a good time for this program. After further discussion Council Member Perrow made a motion to postpone this item indefinitely, seconded by Council Member Cary. After some discussion, a friendly amendment was made by Mayor Foster to bring this back in six months, and by the following recorded vote, the motion failed:

Ayes: Cary, Helgeson, Perrow 3

Noes: Gillette, Johnson, Nelson, Foster 4

// During Roll Call Council Member Helgeson stated that he is formally asking again that the Schools send in a report giving the number of personnel that the City is paying 100% for. In response to Council Member Helgeson's question, City Manager Kimball Payne stated that information would be included in the Schools budget document. Vice Mayor Johnson stated that a citizen asked why the city does not have a Facebook page. Mayor Foster invited all of Council to attend a "Love To Read Event" to be held on Saturday, February 12, 2011 from 11:00 a.m. to 1:00 p.m., at Jubilee Family Development Center hosted by Mayor Foster and Vice Mayor Johnson. Katie Nylund, Vice President of Mayor's Youth Council coordinated the event.

// City Council recessed the meeting at 7:25 p.m.

// City Council reconvened the meeting at 7:30 p.m.

The following Members were present:

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

Absent: 0

Vice Mayor Johnson gave the Invocation, followed by the Pledge of Allegiance.

// Copies of the minutes of the January 18, 2011 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Cary, seconded by Council Member Gillette, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// Copies of the minutes of the January 25, 2011 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Cary, seconded by Council Member Gillette, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of Human Services – General, City Council Report #9 was considered. On motion of Council Member Cary, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-11-010, as presented, amending the FY 2011 City/Federal/State Aid Fund and appropriating $14,117 with resources of $12,706 from the federal government's Juvenile Accountability Block Grant program, and $200 from Campbell County to purchase GPS systems and provide additional mentoring and/or family counseling services:

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

// In the matter of Parks and Recreation – General, City Council Report #10 was considered. On motion of Council Member Cary, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-11-011, as presented, amending the FY 2011 City Capital Projects Fund budget and appropriating $17,261, with resources from a donation from the Friends of Lynchburg Stream Valleys to support the rehabilitation and extension of the Creekside Trail, in accordance with the Creekside Trail Extension Plan:

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

// In the matter of Commonwealth Attorney, City Council Report #11 was considered. On motion of Council Member Cary, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-11 -012, as presented, amending the FY 2011 City/Federal/State Aid Fund budget and appropriating $40,000, fully reimbursable, to support a Family Violence Legal Assistant position and activities related to the Domestic Violence and Intimate Partner Prosecution Unit:

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

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #12 regarding a request from the Lynchburg Redevelopment and Housing Authority (LRHA) for authorization to pursue acquisition of blighted property at 913 Second Street under Section 36-19.5 of the Code of Virginia. Robert Vincent with LRHA 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 Perrow, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted Resolution #R-10-012, as presented, approving a request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 913 Second Street under Section 36-19.5 of the Code of Virginia:

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

// In the matter of Community Planning – Zoning Amendments, a public hearing was held regarding City Council Report #13 regarding the petition of Robert Crocker to amend the Future Land Use Map (FLUM) from Low Density and Medium Density Residential to Regional Commercial use to rezone 3.21 acres from

B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) to allow the construction of a building addition and to allow the use of the property as a hotel/motel and restaurant/banquet facility at 2134 Old Forest Road. City Planner Tom Martin gave a brief overview of the request stating that a previous public hearing was held on January 11, 2011 for the rezoning. Due to an error in advertising, the FLUM amendment was not considered at the January 11 meeting. Mr. Martin stated that the petitioner has voluntarily sent in revised proffers in an attempt to address the concerns expressed during the January 11 Public Hearing. The Planning Commission conducted a new public hearing on the FLUM on January 26, 2011 and recommended approval of the FLUM and rezoning amendments. The City's Transportation Engineer, Gerry Harter, has analyzed the site distance on Old Forest Road from the driveway and has determined that the site distance is adequate for the driveway.

Mr. Robert Crocker, petitioner, gave an outline of the request and asked for Council approval. One individual spoke in favor of the petition stating that Acorn Hills is a real asset to the community and the City. One individual spoke in opposition of the petition stating concerns about a restaurant/hotel changing more intensification of the zoning of the neighborhood and would like to see something done about maximum build out. There was no one else present who wished to speak to this item, and the public hearing was closed.

During Council discussion, Council Member Helgeson stated that this is a neighborhood and could not see any compelling reasons to change the rezoning. On motion of Council Member Perrow, seconded by Council Member Nelson, Council by the following recorded vote adopted Ordinance #O-11-014, as presented, amending the Future Land Use Map from Low Density and Medium Density Residential to Regional Commercial use:

Ayes: Cary, Johnson, Nelson, Perrow, Foster 5

Noes: Gillette, Helgeson 2

On motion of Council Member Perrow, seconded by Council Member Cary, Council by the following recorded vote adopted Ordinance #0-11-015, as presented, rezoning 3.21 acres from B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) to allow the construction of a building addition and to allow the use of the property as a hotel/motel and restaurant/banquet facility at 2134 Old Forest Road:

Ayes: Cary, Johnson, Nelson, Perrow, Foster 5

Noes: Gillette, Helgeson 2

// In the matter of City Council, City Council Report #14 was considered and discussion was held regarding Council's work session schedule and starting times. City Manager Kimball Payne discussed the amount of work that has to be put into a 2-hour work session, and Council is asking for more reports from staff and asked Council for their thoughts about starting the work sessions at different times and submitted three options for Council consideration. During Council discussion it was the consensus of Council to start the work sessions at 4:00 P.M.

// On motion of Council Member Helgeson, seconded by Council Member Cary, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and

Commissions, i.e. Community Development Advisory Committee, Transit Company Board and Lynchburg Parking Authority pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended:

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

Noes: 0

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

// Vice Mayor 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 Perrow, and Council by the following recorded vote adopted the motion:

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

Noes: 0

// In the matter of Appointments, and on nomination of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote appointed Alexander Duncan, Jeffery W. Schneider and Ceasor T. Johnson, to serve on the Community Development Advisory Committee for terms to expire December 31, 2011:

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

Noes: 0

// On nomination of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote appointed John S. Hellewell to serve on the Greater Lynchburg Transit Company Board for a term to expire October 31, 2013:

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

Noes: 0

// On nomination of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote appointed David Burnett to serve on the Lynchburg Parking Authority to fill an unexpired term ending October 30, 2014:

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

Noes: 0

// The meeting was adjourned at 8:35 P.M.

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Clerk of Council