

// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of January, 2008, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Johnson gave the Invocation, followed by the Pledge of Allegiance led by Brownie Troop #266. The following Members were present:

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

Absent: 0

// Copies of the minutes of the December 11 (two meetings), 2007 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 Taxes, Resolution #R-07-169 amending the FY 2008 General Fund budget and appropriating \$88,530.66 to refund an overpayment by Banker Steel Company LLC of business licenses and business personal property taxes for calendar years 2004, 2005 and 2006, laid over from the December 11, 2007 meeting, was again presented and read, and on motion of Council Member Garrett, seconded by Council Member Gillette, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Public Works - General, a public hearing, continued from December 11, was again held regarding adding the Greenview Drive widening project as an Urban Project to the Six Year Improvement Plan in accordance with the Virginia Department of Transportation (VDOT) guidelines. City Manager Kimball Payne 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. In response to Council questioning, City Traffic Engineer Gerry Harter stated that the cost for the project has gone up, in part due to the grading costs associated with lowering the Leesville Road/Greenview Drive intersection. On motion of Council Member Seiffert, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-08-001, as presented, adding the Greenview Drive widening project as an Urban Project to the Six Year Improvement Plan in accordance with the Virginia Department of Transportation guidelines:

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

Noes: 0

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #4 outlining the petition of Systematic Concepts, LLC for a Conditional Use Permit for a Planned Unit Development to allow for the construction of a combination of 31 single-family attached and single-family detached homes at 2016, 2020 and 2028 Mimosa Drive. City Planner Tom Martin provided a brief summary regarding the petition, explaining that both the Planning Division and Planning Commission are recommending approval of the Conditional Use Permit. Mr. Tom Guffey, Guffey, Warner & Associates, representing the petitioner, outlined the request and asked for approval. Mr. Guffey explained that

the developers have submitted a revised conceptual layout to address comments and concerns presented at the November 28 Planning Commission meeting. Mr. Guffey went on to say that the existing cemetery will be cleaned up and made a focal point of the development. An adjoining property owner spoke in support of the petition stating that she prefers this development with smaller homes over a development by right with larger homes. Fourteen individuals spoke and a petition was presented in opposition to the proposed development citing concerns regarding traffic, pedestrian safety, that the development would not be in character with the existing neighborhood, stormwater runoff onto adjoining properties with potential damage to adjacent streams/valleys, damage to the adjacent watershed, previous commitment to existing property owners regarding maintaining the residential status of properties in the area, overdevelopment of the property, too high density for the amount of land, and the negative impact on adjoining property values. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Members discussed the proposed development and offered the following comments and concerns, i.e., environmental impact needs more study, the R-1 zoning commitment made to citizens should be preserved, development does not fit and will change the character of the neighborhood, too high density, traffic, pedestrian safety, overdevelopment of the property, impact to enrollment on adjacent elementary school, and stormwater runoff onto adjoining properties with potential damage to adjacent streams/valleys, damage to the adjacent watershed. Council Member Helgeson did note that this is not a request to change the zoning of the property, that it is a development allowed by right with a conditional use permit, that it is a professional development, that the existing cemetery will be cleaned up and maintained, and that all of the structures will be single family homes. Council Member Garrett offered a suggestion that the developers consider donating a portion of the property to resource conservation and revising the site plan to reduce the number of buildings to no more than twenty homes. Other Council Members voiced support for Council Member Garrett's suggestion and when questioned, the developers' representative stated that they would like an opportunity to work on the environmental concerns and density of the site and asked that City Council table this matter. On motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded agreed to postpone action indefinitely regarding the petition of Systematic Concepts, LLC for a Conditional Use Permit for a Planned Unit Development to allow for the construction of a combination of 31 single-family attached and single-family detached homes at 2016, 2020 and 2028 Mimosa Drive:

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

7

Noes:

0

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #5 outlining the petition of HROK, LLC to rezone approximately 8.5 acres from B-3C, Community Business District (Conditional) to B-3C, Community Business District (Conditional) and for a Conditional Use Permit to allow the construction of a new building and parking as part of a Cluster Commercial Development at 1401, 1405, 1415, 1417 and 1501 Kemper Street. City Planner Tom Martin

provided a brief summary regarding the request. Mr. Martin explained that the purpose of the petition is to amend the existing proffers and conditions approved by City Council on August 14, 2007, to allow the construction of a new twenty-four (24) unit, mixed-use residential and commercial building with parking as part of a Cluster Commercial Development [CCD] as shown on a revised site plan entitled "Amendment to the Rezoning Plan for Property of HROK, LLC, 1417 Kemper Street and 1501 Kemper Street, dated October 30, 2007, and revised November 19, 2007. Mr. Martin went on to say that the stormwater detention pond will be designed to incorporate the stormwater from this development and will handle the stormwater from the new Midtown Connector. Mr. Oliver Kuttner, owner of the property, along with a representative of the developer of the property 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. Upon questioning, City Manager Kimball Payne explained that when the project was originally approved by City Council last August, the location of the building for the Kemper Street Lofts had not been determined and therefore was not included on the site plan. Council Member Helgeson stated that he has some concerns regarding amending proffers that were only approved a few months ago and stated that he is not prepared to vote at this time on this petition. Council Member Helgeson also voiced concern that there were a lot of unanswered questions in the Planning Commission minutes regarding the project. In response to Council questioning, Mr. Russ Nixon with Nixon Land Surveying pointed out that they are proposing to work in conjunction with the Virginia Department of Transportation (VDOT) to design the detention pond that will be handling the stormwater not only for this development but also the Midtown Connector project. In response to questioning, City Manager Payne stated that he was unaware that VDOT was planning to locate the detention pond for the Midtown Connector on this site. Some Council Members commented that the only change being requested is approval of a revised site plan to include the new building. Following discussion, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #0-08-002, as presented, rezoning approximately 8.5 acres from B-3C, Community Business District (Conditional) to B-3C, Community Business District (Conditional) to allow the construction of a new building and parking as part of a Cluster Commercial Development at 1401, 1405, 1415, 1417 and 1501 Kemper Street:

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

6

Noes: Helgeson

1

On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-08-003, as presented, granting the conditional use permit:

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

6

Noes: Helgeson

1

// In the matter of City Council, Jeremy White, a local attorney, requested City Council support in asking the General Assembly to place a 36% cap on the annual interest rate charged by payday lenders. Council Members discussed the request at length. Some Council Members commented that payday lenders prey

on those less able to pay and that City Council should request the General Assembly to place a cap on the annual interest rate, while other Council Members commented that this is a state issue that should be decided by the General Assembly and that payday lenders wouldn't exist if there wasn't a need in the community. Walter Fore, President of the Central Virginia Labor Council, spoke in support of the request and urged City Council to ask the General Assembly to place a 19% cap on the annual interest rate. Following discussion, Council Member Johnson made a motion, seconded by Mayor Foster, to adopt the Resolution to request the General Assembly to place a 36% cap on the annual interest rate charged by payday lenders. Council Member Seiffert made a substitute motion, seconded by Council Member Gillette, to adopt the Resolution with two revisions, i.e., delete the word "significant" from the second paragraph, and delete item 2. Prohibition of the use of a personal check or other method by a creditor to gain access to a consumer's bank account or method to gain title to a consumer's motor vehicle as collateral for a payday loan, and Council by the following recorded vote adopted Resolution #R-08-004, as revised, to request the General Assembly to place a 36% cap on the annual interest rate charged by payday lenders:

Ayes: Gillette, Johnson, Seiffert, Foster 4

Noes: Dodson, Garrett, Helgeson 3

// Council Member Johnson left the meeting at 10:45 p.m.

// In the matter of Parks & Recreation - General, City Council Report #7 was considered. City Manager Kimball Payne 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-08-005, as presented, supporting an application to the Virginia Department of Transportation for Recreational Access Funds to create an access road to serve the Ivy Creek Natural Area:

Ayes: Dodson, Garrett, Gillette, Helgeson, Seiffert, Foster 6

Noes: 0

Absent: Johnson 1

// In the matter of Registrar, Resolution #R-07-168 amending the FY 2008 General Fund budget and appropriating \$17,860 to cover the local costs of the statewide Democratic and Republican Presidential Primary on February 12, 2008, laid over from the December 11, 2007 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

Ayes: Garrett, Gillette, Helgeson, Seiffert, Foster 5

Noes: Dodson 1

Absent: Johnson 1

// On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended:

Ayes: Dodson, Garrett, Gillette, Seiffert, Foster 5

Noes: Helgeson 1

Absent: Johnson 1

// Council Member Johnson rejoined the meeting at 10:48 p.m.

// 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 Johnson, 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 Gillette, Council by the following recorded vote appointed Theodore B. Hannon to serve on the Planning Commission for a term to expire December 31, 2010:

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

Noes: 0

On nomination of Council Member Gillette, Council by the following recorded vote appointed Terri Proffitt to serve on the Lynchburg Parking Authority to fill an unexpired term ending October 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, Council by the following recorded vote appointed Amy Brown to serve on the Historic Preservation Commission to fill an unexpired term ending June 30, 2008:

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

Noes: 0

On nomination of Council Member Gillette, Council by the following recorded vote appointed Neil W. Bohnert to serve on the Historic Preservation Commission to fill an unexpired term ending June 30, 2010:

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

Noes: 0

// The meeting was recessed at 11:15 P.M. to January 22, at 1:00 P.M., to conduct a work session regarding several items.

Clerk of Council

**LYNCHBURG CITY COUNCIL
Agenda Item Summary**

MEETING DATE: January 22, 2007		AGENDA ITEM NO.: 2
CONSENT:	REGULAR: X	CLOSED SESSION: (Confidential)
ACTION: X	INFORMATION:	
<u>ITEM TITLE:</u> Rezoning Application Review Fees		

RECCOMENDATION: Amend the fee schedule to cap rezoning fees after 100 acres.

SUMMARY: The Zoning Ordinance, at Section 35.1-17, Amendments, provides that fees charged for a rezoning application shall be submitted in the amount set forth in the fee schedule adopted by the City Council. The amount currently set in the fee schedule for a rezoning is \$400 + \$75 per acre involved in the rezoning. There is no "cap" set on the amount of the review fee required. Fees charged for a rezoning are intended to recoup a portion of the City's cost involved in processing a rezoning application. Costs associated with rezoning applications typically involve copying costs and staff time expended in review, report writing and attending neighborhood meetings. While exact City costs are hard to quantify, typically equilibrium between costs and fees are obtained.

Occasionally, rezoning applications are submitted that require fees beyond actual costs to the City. Currently in review is a petition to rezone 237 acres. The rezoning fee required for this petition is \$18,175. The petitioner has requested relief from the required fee.

City staff has surveyed rezoning fees of other Virginia First Cities and the Counties of Amherst, Bedford and Campbell. The fees are as follows:

Locality	Fee
Charlottesville	\$1,200
Danville	\$150
Fredericksburg	\$1000 + \$100 per acre
Hampton	\$650 + \$100 per acre
Hopewell	\$300
Lynchburg	\$400 + \$75 per acre
Martinsville	\$200
Newport News*	\$650 + \$150 per acre
Norfolk	\$415
Petersburg	\$800
Richmond	\$825 + \$110 per acre
Roanoke	\$1000 + \$25 per acre
Staunton	\$250
Winchester	\$1000 + \$200 per acre
Amherst	\$300
Bedford	\$300 + \$5 per acre
Campbell	\$300

**Cap set at 100 acres*

Staff believes that fairness dictates that there should be a cap on the rezoning fee since it is hard to justify that the costs associated with a rezoning application increase with the acreage beyond a certain point. One hundred acres seems to be a reasonable cap.

PRIOR ACTION(S):

June 13, 2000: City Council amended fee schedule for development review.

FISCAL IMPACT: Potential for loss of revenue in rezoning fees.

CONTACTS:

Charlene Montford/ 455-3902

Tom Martin/ 455-3909

ATTACHMENT(S): Previously approved fee schedule.

REVIEWED BY: lkp

COMMUNITY PLANNING & DEVELOPMENT – General - #1
LYNCHBURG CITY COUNCIL REPORT

Meeting Date: June 13, 2000
Strategic Leadership Team Contact: Rachel Flynn

Council Report # 16
Report Writer: Rachel Flynn

Subject: Fee increases/decreases

Purpose of Action:

Approval of fee increases that were inadvertently left out of the legal notices for the budget hearings in May 2000.

Approval of the fee decreases for industrial buildings per Council request.

Requested Action:

Adopt an ordinance to increase/decrease development fees.

Prior Action:

May 23, 2000: City Council approved increase of fees to cover staff costs for administration.

Attachments:

Schedule of current fees and proposed fee increases/decreases

Resolution:

#O-00-126

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the following fee schedule is approved and adopted and shall become effective on July 1, 2000:

Subdivision Plats

- Major - \$150* + \$30/lot
- Repeat review - \$75

Site Plan Reviews – Commercial/Multi-family

- Major - \$300* + \$50/acre

Site Plan Reviews – Industrial

- Minor - \$100
- Major - \$200 + \$35/acre
- Repeat review - \$75*

Zoning Permits

- Rezoning - \$400* + \$75/acre

* Fee amount approved by Council on May 23, 2000.

Adopted: June 13, 2000

Certified:


Clerk of Council

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: January 22, 2008		AGENDA ITEM NO.: 3
CONSENT:	REGULAR: X	CLOSED SESSION: (Confidential)
ACTION: X	INFORMATION:	
<u>ITEM TITLE:</u> Residential Rental Property Inspection Program		

RECOMMENDATION: Adopt the attached ordinance amending Sections 11-167 AND 11-168 of the City's residential rental property inspection program.

SUMMARY: The State Code allows local governments to adopt residential rental property inspection programs. The City of Lynchburg adopted such a program for residential rental dwelling units located within the center City on September 28, 1993. The purpose of the program was to address problems with substandard residential rental dwelling units by providing for periodic inspections to ensure such units comply with the requirements of the Uniform Statewide Building Code. On March 8, 2005, City Council approved a \$50 inspection fee to cover the cost of inspecting residential rental dwelling units. The Inspections Division is having difficulty collecting the inspections fee from some landlords. The proposed amendment to the City Code makes it an offense to rent a residential rental dwelling unit without paying the inspection fee and allows the Inspections Division to revoke a landlord's certificate of compliance if the landlord gives the City a bad check. The State Code allows a building code official to obtain an administrative inspection warrant to inspect a residential rental dwelling unit if the building code official is denied access to the dwelling unit. The proposed amendment to the City Code makes it clear that the local magistrate's office is authorized to issue such administrative inspection warrants.

PRIOR ACTION(S): The City's residential rental property inspection program was last amended on March 8, 2005.

FISCAL IMPACT: The proposed amendment will help the Inspections Division collect the \$50 inspection fee that was adopted by City Council on March 8, 2005.

CONTACT(S): Walter C. Erwin, 455-3973 and Robert Drane, 455-3899

ATTACHMENT(S): The proposed ordinance

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTIONS 11-167 AND 11-168 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTIONS RELATING TO THE INSPECTION OF RESIDENTIAL RENTAL DWELLING UNITS WITHIN THE CITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Sections 11-167 and 11-168 of the Code of the City of Lynchburg, 1981, be and the same are hereby amended and reenacted as follows:

Sec. 11-167. Inspection fees.

There shall be an inspection fee paid to cover the cost of the initial, follow-up, and periodic inspections of each residential rental dwelling unit located in those areas of the city covered by this article. For multi-family developments the inspections division shall not charge a fee for more than ten (10) residential rental dwelling units, unless violations of the building code are found affecting the safe, decent and sanitary living conditions for tenants of such multi-family development, the inspections division may inspect as many residential rental dwelling units as necessary to enforce the building code, in which case, the fee shall be based upon a charge per residential rental dwelling unit inspected. The inspection fees will be as established by city council from time to time by resolution and a copy of the schedule of fees will be kept in the office of the inspections division and shall be available for review upon request. No certificate of compliance shall be issued until all inspection fees have been paid and all violations have been corrected. Once a residential rental unit has been inspected it shall be a violation of this article for a property owner or managing agent to rent such residential rental unit without paying the inspection fees and obtaining a certificate of compliance. If the inspection fees are paid by check or draft which is subsequently returned for insufficient funds or because there is no account or the account has been closed, the certificate of compliance shall be revoked and it shall be a violation of this article for a property owner or managing agent to continue to rent the residential rental unit without paying the inspection fees and obtaining a new certificate of compliance.

Sec. 11-168. Entry.

As provided by Section 36-105.1:1 of the Code of Virginia, Ffor the purpose of enforcing the provisions of this division, the building maintenance official, or his duly authorized agent, shall have the right to inspect any residential rental dwelling unit within the designated areas identified in Section 11-163 of this division at any reasonable time. No inspection shall be conducted without the consent of the tenant, occupant, property owner or managing agent (if the property owner or managing agent have reserved a right of re-entry in order to inspect the premise) or pursuant to a duly issued administrative inspection warrant or as authorized by other lawful means. In the event the building maintenance official, or his duly authorized agents shall be denied access to a residential rental dwelling unit, by a tenant, occupant, property owner or managing agent of a residential dwelling unit, the building maintenance official, or his duly authorized agents he or she may apply for and obtain an administrative inspection warrant from a magistrate or a court of competent jurisdiction in order to gain access to the premises. It shall be a violation of this division for any owner, managing agent, tenant, occupant or other person, to deny the building maintenance official, or his duly authorized agent, access to any residential rental dwelling unit within the areas covered by this article after the building maintenance official, or his duly authorized agent have obtained an administrative inspection warrant from a magistrate or a court of competent jurisdiction for the inspection of such residential rental dwelling unit.

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council