// A regular meeting of the Council of the City of Lynchburg was held on the 12th day of January, 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, Perrow, Foster 6

Absent: Garrett 1

//Kay Frazier Director of Parks and Recreation provided an informational report requested by Council regarding the City administered Youth Football and Cheerleading Program. Ms. Frazier gave an overview of the program design, proposed budget and timelines for a Recreation Youth Football and Cheerleading League. Ms. Frazier stated that the Program goal is to offer a quality youth recreation football and cheerleading program. This Program will focus on skill development, good sportsmanship and positive coaching. Ms. Frazier stated that the Program would serve youth, ages 6-13, with the season running August through November. Ms. Frazier went on to say that to operate the Program they would need more than $80,000 in new funding next year if the City were to take over the Program. Ms. Frazier stated that the City provides no direct monetary support at the present time. Vice Mayor Dodson praised the job done by Hill City Football but felt like the program was on a downslide, that the number has declined tremendously as to the number of teams and that a disservice was being done to the elementary kids who want to play football. Vice Mayor Dodson further stated that if we could fund the initial $3,300.00 then he could come back in May and raise the $90,000 for the program. After further discussion it was decided that this item should be brought back to Council at the February 9 work session.

//Director of Public Works Dave Owen gave an overview of the December 2009 snow storm.

Mr. Owen stated that the overall responsibility is to remove snow and ice from city streets, sidewalks and parking lots in the most prompt and efficient manner. Mr. Owen explained that the snow removal budget for the last two years has been reduced by $100,000 and it would be necessary to tap into the reserve this year. Two years ago the snow removal budget was $351,000 but because of mild winters it has only cost $250,000 in expenses. Mr. Owen stated that the Public Works motto is "We plan for the worst and hope for the Best".

//City Manager Kimball Payne reviewed with Council options of the proposed procedures for the January 13 and 15 meetings relating to filling the vacancy on City Council. Mr. Payne outlined the options for Council:

- As previously directed by Council, nominations for the vacant position have closed and no new nominations will be considered.
- There will be no public comment during the meeting.
- The Mayor will read a list of the nominees and will acknowledge the receipt of written material from the nominees and their presence in Council's Chamber.
- Individual nominees will be given an opportunity to make a statement by one of the following methods:
    1. In alphabetical order, or
    2. As chosen by lot drawn by the Clerk of Council.

- Each nominee will be given up to five (5) minutes to speak. Each statement will be timed with the green light on for the first three (3) minutes, the yellow light on for the next two (2) minutes and the red light will come on after five (5) minutes have elapsed.
- Council may question nominees by one of the following methods:
    1. All of the nominees will make their statements followed by questions from Council to any or all of the nominees, or
    2. After each nominee speaks, Council will address questions to that nominee before the next nominee speaks. Nominally, this will take no more than thirty (30) minutes per nominee, including the nominee's statement.
- After all of the nominees who desire to speak have spoken and questions to the nominees have been addressed, the Mayor will ask Council members to consider and reflect upon what they have heard and to adjourn until 7:30 a.m., Friday, January 15th without further discussion.
- The Clerk of Council will prepare printed ballots with the names of the Council members and the nominees on them.
- After the meeting is called to order by the Mayor, each Council member will be given up to three (3) minutes (timed) to share his or her thoughts on the matter of filling the Council vacancy.
- After comments by Council, the Mayor will call upon the Clerk to distribute the ballots and for the members to vote.
- Marked ballots will be passed to the Clerk who will read the name of the Council member and the nominee for whom he or she has voted.
- Council will continue to vote until one nominee receives a majority of the votes. All nominees will remain on the ballot for subsequent votes.
- The nominee who receives a majority of the votes will fill the vacancy for a term to expire on June 30, 2010.

After Council discussed the proposed procedures, Council Member Helgeson made a suggestion to select the following procedures to follow for the January 13 and 15 meetings:

- The Clerk of Council will prepare printed ballots with the names of the Council members and the nominees on them.
- After the meeting is called to order by the Mayor, each Council member will be given up to three (3) minutes (timed) to share his or her thoughts on the matter of filling the Council vacancy.
- After comments by Council, the Mayor will call upon the Clerk to distribute the ballots and for the members to vote.
- Marked ballots will be passed to the Clerk who will read the name of the Council member and the nominee for whom he or she has voted.
- Council will continue to vote until one nominee receives a majority of the votes. Four (4) votes constitute a majority of Council.

- If subsequent votes are required, the individual receiving the lowest number of votes on the proceeding vote will be dropped from the ballot.
- The nominee who receives a majority of the votes (4) will fill the vacancy for a term to expire on June 30, 2010.

Council unanimously adopted the proposed procedures for the January 13 and 15 council meetings. A motion was made by Council Member Helgeson and seconded by Council Member Gillette; Council by the following recorded vote approved the proposed procedures:

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|---|---|
| Ayes: Dodson, Gillette, Helgeson, Johnson, Perrow, Foster | 6 |
| Noes: | 0 |
| Absent: Garrett | 1 |

In response to Council question, City Attorney Walter Erwin stated that a plurality vote is the largest number of votes cast for a candidate when 3 or more choices are possible; the candidate receiving the largest number of votes has a plurality. Under Robert's Rules of Order a plurality that is not a majority of the assembly does not elect anyone to office. The assembly continues to vote until one of the candidates receives a majority vote, which is more than half of votes from all the persons voting.

//During roll call and in response to Council Member Helgeson's inquiry, City Manager Payne stated the City has procedures in place regarding the rental inspection program. On Greenview Drive the speed limit was 45 mph with two lanes - now the speed limit is 35 mph with four lanes with the new road design. Council Member Helgeson would like to hear something in regard to the speed limit change. In response to Vice Mayor Dodson inquiry regarding the Tyreeanna 460 improvement, City Manager stated that he had sent a letter to Mr. Curry with Virginia Department of Transportation (VDOT) regarding Route 460/29 Safety Improvement Plan for crossover closures and the creation of limited access highway. In response to Vice Mayor Dodson's question, Mayor Foster stated that Council Member Garrett was in Richmond and would not be at the meeting.

// City Council recessed the meeting at 6:55 p.m.

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

// Mayor Foster and Vice Mayor Dodson presented a Proclamation for Big Read Lynchburg to Melissa Zadell, Vice President, Development with Amazement Square.

// Copies of the minutes of the December 8, 2009 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote approved the minutes as presented:

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| Ayes: Dodson, Gillette, Helgeson, Johnson, Perrow, Foster | 6 |
| Noes: | 0 |
| Absent: Garrett | 1 |

// In the matter of Commonwealth Attorney, Resolution #R-09-143 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $17,716, fully reimbursable, to fully fund the Victim Witness Program, laid over from the December 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

Absent: Garrett 1

// In the matter of Courts - General, Resolution #R-09-144 amending the FY 2010 General Fund budget and appropriating $22,058, fully reimbursable, to support information technology needs in the Office of the Circuit Court Clerk, laid over from the December 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

Absent: Garrett 1

// In the matter of Taxes, Resolution #R-09-145 amending the FY2010 General Fund budget and appropriating $10,571 to refund an overpayment of erroneously paid machinery and tools tax by Parker Hannifin Corp for the calendar years 2006, 2007 and 2008, laid over from the December 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

Absent: Garrett 1

// In the matter of Taxes, Resolution #R-09-146 amending the FY2010 General Fund budget and appropriating $32,621 to refund an overpayment of erroneously paid machinery and tools tax by Rock-Tenn Converting Company for the calendar years 2006, 2007 and 2008, laid over from the December 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

Absent: Garrett 1

// In the matter of Taxes, Resolution #R-09-147 amending the FY2010 General Fund budget and appropriating $39,710 to refund an overpayment of erroneously paid business license taxes by Watts Petroleum Corp for the calendar years 2006 and 2007, laid over from the December 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

Absent: Garrett 1

// In the matter of Taxes, Resolution #R-09-148 amending the FY2010 General Fund budget and appropriating $91,856 to refund an overpayment of erroneously paid business license taxes by Westminster Canterbury of Lynchburg, Inc. for the calendar years 2006, 2007, 2008 and 2009, laid over from the December 8, 2009 meeting, was again presented and read, and on motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote adopted the Resolution:

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| Ayes: Dodson, Gillette, Helgeson, Johnson, Perrow, Foster | 6 |
| Noes: | 0 |
| Absent: Garrett | 1 |

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #12 outlining the petition of Holy Cross Catholic School for a Conditional Use Permit (CUP) to allow the implementation of a consolidated sign plan in an R-4, Medium-High Density Residential District at 2125 Langhorne Road. City Planner Tom Martin provided a brief summary regarding the petition stating that the Planning Commission recommended approval of the CUP. Representative Mr. John Jones for Holy Cross Catholic School 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 Helgeson, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-10-001, as presented, granting the Conditional Use Permit:

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| Ayes: Dodson, Gillette, Helgeson, Johnson, Perrow, Foster | 6 |
| Noes: | 0 |
| Absent: Garrett | 1 |

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #13 outlining the petition of Lynchburg First Church of the Nazarene for a Conditional Use Permit (CUP) to allow the implementation of a consolidated sign plan in an R-3, Medium Density Two-Family Residential District at 1737 Wards Ferry Road. City Planner Tom Martin provided a brief summary regarding the petition stating that the Planning Commission recommended approval of the CUP. Representative Mr. Steven Willis lead pastor for Lynchburg First Church of the Nazarene 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 Helgeson, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-10-002, as presented, granting the Conditional Use Permit:

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| Ayes: Dodson, Gillette, Helgeson, Johnson, Perrow, Foster | 6 |
| Noes: | 0 |
| Absent: Garrett | 1 |

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #14 outlining the petition of Temple of Worship Ministries for a Conditional Use Permit (CUP) to allow the use of an existing church building as a child day care facility in an R-3, Medium Density Two-Family Residential District at 2409 Poplar Street. City Planner Tom Martin provided a brief summary regarding the petition stating that the Planning Commission recommended approval of the CUP. Representative Reverend Carrington Banks for Temple of Worship Ministries 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 Johnson, Council by the following recorded vote adopted Resolution #R-10-003, as presented, granting the Conditional Use Permit:

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| Ayes: Dodson, Gillette, Helgeson, Johnson, Perrow, Foster | 6 |
| Noes: | 0 |
| Absent: Garrett | 1 |

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #15 outlining the petition of Jennings Dorm, LLC for a Conditional Use Permit (CUP) to allow the use of the existing building and property as a 107 unit apartment complex with associated parking in a B-5, General Business District at 1300 Campbell Avenue. City Planner Tom Martin provided a brief summary regarding the petition stating that the Planning Commission recommended approval of the CUP. Representative Mr. Larry Cluff with Jennings Dorm, LLC 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 Johnson, Council by the following recorded vote adopted Resolution #R-10-004, as presented, granting the Conditional Use Permit:

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| Ayes: Dodson, Gillette, Helgeson, Johnson, Perrow, Foster | 6 |
| Noes: | 0 |
| Absent: Garrett | 1 |

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #16 outlining the petition of Adama Faroh, LLC for a Conditional Use Permit (CUP) to allow the renovation of an existing building for two apartments along with office uses in a B-1, Limited Business District at 802 Court Street. City Planner Tom Martin provided a brief summary regarding the petition stating that the Planning Commission recommended approval of the CUP. Mr. Gary Harvey with Craddock Cunningham Architectural Partners 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 Perrow, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-10-005, as presented, granting the Conditional Use Permit:

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| Ayes: Dodson, Gillette, Helgeson, Johnson, Perrow, Foster | 6 |
| Noes: | 0 |
| Absent: Garrett | 1 |

// In the matter of Schools - General, a public hearing was held regarding City Council Report #17 regarding amending the FY 2010 Adopted Budget and appropriating $5,351,040, with resources from the American Recovery and Reinvestment Act of 2009, to the Lynchburg City School's Operating and Grant Funds. Director of Financial Services Donna Witt provided a brief summary of the request. Ms. Witt explained that the City School budget was adopted with the City's budget and the American Recovery Act funds were not appropriated in the 2010 Adopted Budget. In order for the School to use the funds the funds would have to be appropriated first. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to Council question, Ms. Witt explained that these funds have to be appropriated before they can be spent. Chief Financial Officer with Lynchburg School Ms. Beverly Padgett stated that the School had to apply for these funds through the Virginia Department of Education and these funds are additional funds appropriated for specific purposes. On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-006, as presented, to amend the FY2010 School Adopted Budget and appropriating $5,351,040, with resources from the American Recovery and Reinvestment Act of 2009:

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

Noes: 0

Absent: Garrett 1

// In the matter of Parks and Recreation, Carlos A. Hutcherson, representing the Hill City Youth Football and Cheerleading Association, spoke before Council regarding a request to seek funds from the City to continue with the Program. The Hill City Youth Program is requesting from Council funds in the amount of $17,389 for years 2010 and 2011 which is only 20% of the startup funds for the Program and in 2012 the Program is requesting $9,000 and to make it a yearly request.

// On motion of Council Member Gillette, seconded by Council Member Johnson, 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, Historic Preservation Commission and Virginia's First Cities Policy Group, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended as permitted by Section 2.2-3711(A)(_), respectively, Code of Virginia (1950), as amended:

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

Noes: 0

Absent: Garrett 1

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

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

Noes: 0

Absent: Garrett 1

// In the matter of Appointment, and on nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote appointed Kay Butterfield, to serve on the Historic Preservation Commission to fill an unexpired term ending June 30, 2011:

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

Noes: 0

Absent: Garrett 1

// The meeting was adjourned at 9:05 P.M.

Interim Clerk of Council