// A regular meeting of the Council of the City of Lynchburg was held on the 9th day of January, 2018 at 4:00 P.M. in the Council Chamber, City Hall, Joan Foster, President, presiding. The following Members were present:

Present: MaryJane Dolan, Jeff S. Helgeson, J. Randy Nelson, Treney Tweedy, Sterling A. Wilder, Joan F. Foster 6

Absent: E. J. Turner Perrow 1

// Mayor Foster mentioned that the City of Lynchburg has received the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award for the Budget for the Fiscal Year Beginning July 1, 2017 which was presented to Donna Witt, Director of Financial Services and her Staff.

// Council Member Perrow arrived at 4:17 p.m. during this item.

// Director of Community Development Kent White provided an overview of short-term rental known as Airbnb. Mr. White presented the City's authority to manage short-term rentals (Airbnb) and determine any further action on our local authority to regulate the Airbnb.

Short-Term Rentals – Defined

- "Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy. Since 2016 Virginia has seen a 172% growth in listings for Airbnb.

Short-Term Rentals - Fairness

- Short-term rentals that operate as a business (i.e. bed and breakfast; hotels) are required to obtain a business license, remit the City's lodging tax, receive a building permit for improvements and are permitted by the Virginia Department of Health (lodging; food; or both) and subject to inspection.

Short-Term Rentals – State Code Regulations

- Local government may regulate the short-term rental of property through general land use and zoning authority.
- May establish a short-term rental registry.
- May charge a reasonable fee related to the actual cost of establishing/maintaining a registry.

- May include $500 per violation civil penalty for an operator who is required to register that is not registered.

- Operator may be prohibited from offering rental upon multiple violations of state and local ordinances on more than 3 occasions.

Short - Term Rentals – Current Policy

- Short-term rentals are permitted in business zoned districts “by right.”

- Occupancy standards apply for short-term rental uses in all residentially zoned districts; which stated no more than 3 unrelated people per dwelling unit; when two or more related people reside in a dwelling unit, only one additional unrelated person is permitted.

- Provided the occupancy standards are met, owner-occupied housing may be used as short-term rentals, provided the owner is present during the guests’ stay.

- Owners that wish to operate short-term rentals when they are not present must have a conditional use permit issued by Council.

- Community Development staff investigates “unpermitted” short-term rentals on a complaint basis.

- During the 2017 calendar year the City received 6 complaints, all but one of which came in late Spring.

- Zoning occupancy cases are often difficult to prove.

- If sufficient evidence exists that a short-term rental is operating illegally, staff pursues resolution through the zoning process.

Short-Term Rentals – Staff Resources

- Dependent upon whether Council wants staff to manage short-term rental as a tax issue, land use issue or both.

- How proactive local government is at collection, monitoring and enforcement impacts staffing needs.

Short-Term Rentals – Revenue Impact

- Based on the City's current 6.5% lodging tax, a conservative estimate of 200 short-term rental operators each renting for 60 days per year at a $50 average rate per night would generate about $65,000 in lodging tax revenue.

Mr. White went on to say, City property owners in residentially zoned areas are allowed to rent out their homes on a short-term basis without any additional permitting as long as occupancy standards are met and owners are present. These standards restrict short-term renters from renting a space to no more than three unrelated people, or if guests are related, only one additional unrelated person is allowed. If the renter will not be present on the site, a conditional use permit is required. Property owners in business-zoned district can rent their properties "by right" with no regulations. He further stated that violations of the zoning ordinance governing short-term rentals are investigated only when they are reported to the city. Proactive enforcement would take significant staff resources due to the difficulty of proving violations of the occupancy requirement. The General Assembly may revisit the short-term rental issue during their 2018 legislative session. He went on to say this presentation is to provide information on our current authority and staff's recommendation is to hold any action until after the 2018 General Assembly session. Mr. White mentioned the following alternatives for Council to consider:

1) Direct staff to prepare amendments to City Code to require the registration and remittance of lodging tax for short-term rentals.

2) Direct staff and Planning Commission to prepare Zoning amendments for short-term rentals.

3) Direct staff to prepare amendments to City Code to require the registration, remittance of lodging tax and zoning requirements for short-term rentals.

Council had the following concerns and questions regarding the City's authority to manage short-term rentals (Airbnb). Council Member Dolan mentioned what type of push back the City would receive from hotels that have to pay these taxes? Council Member Wilder mentioned his concern regarding the cost to monitor this. Council Member Helgeson commented that he believed the small number of residents doing short-term rentals and the low amount of complaints did not warrant increased regulation. He went on to say that of the roughly 25,000 residences in the City, currently less than 1 percent are offering a short term rental. There were only six complaints which is only 3 percent of the 1 percent so it's a tiny amount and the cost is going to far outweigh the standpoint of doing anything, especially since it's going to be so hard to prove. Council Member Perrow stated he agreed with Council Member Helgeson. He does not want to take any action on trying to regulate these rentals unless revenues from lodging taxes are decreasing or there are substantial complaints from neighbors. Council Member Nelson mentioned the

different modular and profits with the options that were presented and asked would it be possible to implement without hiring any additional staff members? Mr. White responded, after conservation with staff he does not believe the City could take any action toward further regulations of Airbnb's without additional employees. Vice Mayor Tweedy mentioned if regulating Airbnb is a signal to grow, what is the cost for and how fair is it to the business that is doing the proper regulations. Mayor Foster commented that she is still uncertain whether the City should change its policy, but wanted to make sure Staff gathered input from area hotels before making a decision. She also stated would like to have an update after the General Assembly session. After Council questions and concerns, Council reached a consensus to not take any action until after the conclusion of the 2018 General Assembly session in March in case State Code changes regarding local governments' authority to regulate short-term rentals.

// Deputy City Manager Charles Hartgrove addressed follow-up steps regarding the 2017 National Citizens Survey. In November 2017 Dr. Tim Miller, President of the National Research Council of the National Citizens Survey provided Council with the results of the survey. For the first time Council also heard from the Leadership Team (LT) regarding the work plan. The Leadership Team participated in a workshop with Dr. Miller to utilize the data from the 2017 National Citizens Survey. The Leadership Team was asked what words best describe the City of Lynchburg and answers included Affordable, Safe, Historic, Diverse, Close-Minded, Family-Oriented, Conservative, Evolving, River and Religious. Answers to what was unique about our City compared to other regional communities included College/Universities, History, River, Giving Community, Green Space/Trails and Isolated. Lastly, in the exercise they were also asked what survey results were expected and which ones surprised them based on their experience in managing each of their department's operations since the last survey in 2015.

Expected	Surprised
Safety	Economic Development
Transportation	Customer Service
Poverty	Bicycle Mobility
Parks and Recreation	Traffic Signal
Recycling	Snow Removal
Special Events	Fire Prevention
Parking	Infrastructure
	Customer Service
	Schools

The 2017 Benchmarked Service Ratings compared to 2015 Benchmarked Service Ratings consisted of the following:

- Quality of services rated higher in 2017 compared to 2015
- Community Characteristics rated higher in 2017 compared to 2015
- Resident Participation rated higher in 2017 compared to 2015

After the discussion the Leadership Team narrowed the focus to the following two areas.

Community Building

- Connect neighborhood teams across neighborhood boundaries
- Bridge competing data points
- Strategize ways to improve two-way communications
- Identify the City's partners and work with them to address issues (i.e. poverty, etc.)

Customer Service

- Define meaning and expectations depending on the service
- Develop City-wide customer service standards
- Establish focus groups to better understand citizen expectations
- Streamline processes for service delivery (LEAN Teams, Special Events and Trash/Recycling Teams)
- Utilize technology to improve customer experience and service delivery (Digital Cities Award and New City App)

The action plan for every department is to review the survey data, determine areas for improvement/enhancement and establish Action Plans to address those areas and connect them to the City Work Plan and Annual Budget. Moving forward the Leadership Team's next steps in the process are to highlight some preliminary plans from a couple of City departments (Parks and Recreation Department and Police Department).

Council Member Perrow left the meeting at 5:05 p.m.

// City Planner Tom Martin provided information to dissolve the Design Review Board (DRB) by not appointing members. Mr. Martin stated prior to the adoption of the new *Zoning Ordinance* on February 23, 2016, the Design Review Board (DRB) reviewed submittals for Planned Unit Developments (PUDs), Cluster Commercial Developments (CCDs), Traditional Neighborhood Developments (TNDs), and building modifications within the Downtown area. Reviews by the DRB were advisory only. The DRB

members consisted of the Planning Commission Chair, Historic Preservation Commission Chair, and two (2) other design professionals appointed by City Council. Mr. Martin went on to say upon rewrite of the *Zoning Ordinance*, all references to the DRB were removed. This was done in an effort to streamline the development review process by incorporating development standards. Since the DRB is no longer referenced in the *Zoning Ordinance,* there is no longer a need to appoint or reappoint members as the board was effectively dissolved on February 23, 2016. A motion was made by Council Member Nelson and seconded by Council Member Wilder to dissolve the Design Review Board. Council by the following recorded vote agreed to dissolve the Design Review Board and send letters of appreciation to members serving on that Board and thank them for their service:

Ayes: Dolan, Helgeson, Nelson, Tweedy, Wilder, Foster	6
Noes:	0
Absent: Perrow	1

// During roll call Council Member Wilder mentioned the service of the CAT team and the Employees Christmas Event along with the Riverside Park lights. He stated these were three great events.

// Council Member Helgeson asked why the Lynchburg Schools were closed that day (January 9, 2018)?

// Mayor Foster mentioned the wonderful lights that were at Riverside Park with the following announcements:

- Joint meeting with City Council and Economic Development Authority, Thursday, January 23, 2018 - Second Floor Training Room – 10:00 a.m. to 11:30 a.m.
- City Council Budget Retreat – Thursday, February 1, 2018 – Second Floor Training Room – 9:00 a.m. to 1:30 p.m.

// Council Member Perrow returned to the meeting at end of roll call.

// On motion of Council Member Perrow, seconded by Council Member Wilder, Council by the following recorded vote elected to hold a closed meeting for discussion and consideration of the City Manager's performance evaluation pursuant to Section 2.2-3711(A.)(1) of the Virginia Code:

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster	7
Noes:	0

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

// Council Member Helgeson 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 Wilder, and Council by the following recorded vote adopted the motion:

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster	7
Noes:	0

// City Council recessed the meeting at 5:30 p.m.

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

The following Members were present:

Present: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster	7
Absent:	0

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

// Copies of the minutes of the November 28, 2017 meeting, having been previously furnished Council, reading was dispensed with. Council Member Dolan asked that the November 28, 2017 minutes be voted on separately because she was not present at this meeting. On motion of Council Member Perrow, seconded by Council Member Wilder, Council by the following recorded vote approved the minutes as presented:

Ayes: Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster	6
Noes:	0
Abstain: Dolan	1

// Copies of the minutes of the December 12, 2017 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Perrow, seconded by Council Member Nelson, Council by the following recorded vote approved the minutes as presented:

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster	7
Noes:	0

// In the matter of Community Development, a public hearing was held regarding City Council Report #8 on the Community Development Block Grant (CDBG) and HOME Program goals for the Fiscal Year 2019 (Program Year 2018) Annual Plan. Grants Manager Melva Walker provided a summary of the request. The U. S. Department of Housing and Urban Development (HUD) requires state and local governments, which receive federal community development funds, to prepare a Consolidated Plan. The Consolidated Plan for Lynchburg was approved in July 2015 and covers the period from July 1, 2015 through June 30, 2020. This plan outlines the City's needs, goals, and objectives for community development (both housing and non-housing areas). HUD requires Community Development Block Grant (CDBG) and HOME Program entitlement communities to review these goals on an annual basis. City Council is seeking the input of citizens and other interested parties regarding the approved goals. 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-18-001, as presented, approving the Community Development Block Grant (CDBG) and HOME Program goals for the Fiscal Year 2019 (Program Year 2018) Annual Action Plan:

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster 7

Noes: 0

// In the matter of Community Development - Zoning, a public hearing was held regarding City Council Report #9 outlining the petition of Royal Oak Farm LLC, for a conditional use permit in an I-3, Heavy Industrial District, to allow the construction and operation of a recycling facility at 4220 Murray Place. City Planner Tom Martin provided an outline of the petition stating the petition is consistent with the *Zoning Ordinance* which permits various types of recycling facilities upon approval of a CUP in I-3, Heavy Industrial Districts. The petition is consistent with the *Comprehensive Plan 2013-2030's Future Land Use Map (FLUM)* which recommends an Employment 2 use for the area. Mr. Martin went on to say that the Planning Commission recommended approval. Mr. Ken Nowakowski with Hurt and Proffitt representing the petitioner asked Council to approve the petition. 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 Perrow, Council by the following recorded vote adopted Resolution #R-18-002, as presented, granting the Conditional Use Permit for Royal Oak Farm LLC, to allow the construction and operation of a recycling facility at 4220 Murray Place:

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster 7

Noes: 0

// In the matter of Community Development - Zoning Amendments, a public hearing was held regarding City Council Report #10 outlining the petition of Sandpiper Hospitality V LLC, to rezone two (2) tracts of approximately one and nine hundred fifty-eight thousandths (1.958) acres located at 310 and 312 Border Street from B-3C, Community Business District (Conditional) to B-3, Community Business District. City Planner Tom Martin provided an outline of the petition for Sandpiper Hospitality V LLC, stating the rezoning would remove existing proffers and facilitate the construction of a one hundred twenty-two (122) room hotel. The petition is consistent with the *Zoning Ordinance* which permits a hotel use in a B-3, Community Business District and the *Comprehensive Plan 2013 -2030's Future Land Use Map* (FLUM), which recommends an

Employment 2 use for the area. Mr. Martin went on to say that the Planning Commission recommended approval of the rezoning petition. Mr. Ned Sinnott of Sandpiper Hospitality spoke asking Council to approve the rezoning. 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 Perrow, Council by the following recorded vote adopted Ordinance #0-18-003, as presented, granting the petition of Sandpiper Hospitality V LLC, to rezone approximately one and nine hundred fifty-eight thousandths (1.958) acres located at 310 and 312 Border Street from B-3C, Community Business District (Conditional) to B-3, Community Business District to allow the construction of a hotel and associated parking:

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster 7

Noes: 0

// In the matter of City Council, George Kolar spoke before Council regarding City Council Report #11, concerning a request regarding Tangible Personal Property Tax. No action was taken by Council.

// In the matter of Commissioner of the Revenue, City Council Report #12 was considered. Commissioner of the Revenue Mitchell Nuckles provided a summary of the request to amend Section 36-126.6 and Section 36-126.39 which is outlined below:

Amend Section 36-126.6 to adhere to City Council directive pertaining to the minimum Business License fee of $30. City Council eliminated the Business License requirement for businesses with gross receipts of less than $10,001. This amendment will eliminate the credit on the next year Business License for any business with gross receipts less than $10,001.

Amend Section 36-126.39 to allow local ABC Licenses to be issued on a calendar year basis. Currently, the local ABC License is issued on a Fiscal Year basis. System changes now allow for the assessment on a Calendar Year basis just as the Business License tax is assessed.

On motion of Council Member Helgeson, seconded by Council Member Perrow, Council by the following recorded vote adopted Ordinance #0-17-004, as presented, to amend and reenact Sections 36-126.6 and 36-129.39 of the City Code relating to the filing requirements for Business Licenses:

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster 7

Noes: 0

// In the matter of City Code, City Council Report #13 was considered. City Assessor Jeff Bandy provided a summary of the request, to adopt Code amendments to provide tax incentives for in-fill development of

residential, commercial, multi-family (5 + units), or industrial buildings in the City's Rehabilitation and Conservation Districts, Redevelopment Areas, Arts & Cultural Districts. The Code of Virginia 58.1-3219.4 and 15.2-1129.1 allows real estate tax exemptions up to 50% of new construction costs for in-fill development in the oldest areas of the City. This tool would provide incentives for in-fill development to encourage additional housing, business services, employment opportunities and revitalization in older areas of the City. Staff proposes using a format identical to the recently adopted Rehabilitation Code for the time periods of exemption and also include the (3) year phase-out provision. This provides another tool to revitalize neighborhoods by helping owners to build equity in a new home and change the course of neighborhoods in a positive direction. The program may also entice businesses to relocate to these select areas, enhancing the quality of life of the residents through better services and potential employment opportunities within the neighborhood. On motion of Council Member Perrow, seconded by Council Member Wilder, Council by the following recorded vote adopted Ordinance #0-18-005, as presented, amending and reenact the City Code by adding a new section numbered Section 36-177.2, the new section provides for a partial real estate tax exemption for new structures in Redevelopment Areas, Conservation Areas, Rehabilitation Districts, and Arts and Cultural Districts:

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster	7
Noes:	0

// The meeting was adjourned at 8:15 P.M.

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Clerk of Council