

// 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

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Noes:

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// 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

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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

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Noes: Helgeson

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// 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
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Noes:	0
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// 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
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Noes:	0
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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
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Noes:	0
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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
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Noes:	0
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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
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Noes:	0
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// 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