



CITY COUNCIL

Tuesday, June 27, 2023 | 4:00 PM
Council Chamber- City Hall
900 Church Street
Lynchburg, VA 24504

WORK SESSION AGENDA

- I. **Welcome** *Stephanie T. Reed, Mayor*
- II. **Work Session Agenda Overview** *Wynter C. Benda, City Manager*
- III. **Work Session Agenda Items** *Wynter C. Benda, City Manager*
 - III.1. LYH Air Service Development Update
 - III.2. Summer Youth Activities
 - III.3. Mayor M.W. Thornhill Statue
 - III.4. ANCH LLC Franchise Ordinance
- IV. **Business Item Briefing(s)**
 - IV.5. Vacation of Easement for Public Right of Way on a Portion of Elm Street
 - IV.6. Organizational Meeting & Rules of Procedure
- V. **Roll Call**
- VI. **Closed Session**
 - VI.7. Consideration of a closed meeting to discuss the investment of public funds to assist in securing the expansion of a prospective or existing business where bargaining is involved, where if made public initially, the financial interest of the City would be adversely affected, pursuant to Sections 2.2-3711(A)(5) and 2.2-3711(A)(6) of the Code of Virginia, 1950, as amended.

AGENDA ITEM SUMMARY

MEETING DATE

June 27, 2023

PRESENTED BY

Andrew LaGala, Airport Director

AGENDA ITEM # III.1

LYH Air Service Development Update

RECOMMENDATION

SUMMARY

Update Council on the Airport's Air Service Development program. The update contains information on our air service prior to the pandemic, industry challenges during the pandemic and our updated plan moving forward out of the pandemic. It also touches on our USDOT Small Community Air Service Development Grant proposal and Airline planning meetings/targeted Air Service Development Consultant strategy.

PRIOR ACTION(S)

N/A

FISCAL IMPACT

N/A

CONTACT(S)

Andrew LaGala, Airport Director

ATTACHMENT(S)

1. Council work session ASD presentation 6-2023

REVIEWED BY



Andrew LaGala, Airport Director

Date: June 22, 2023



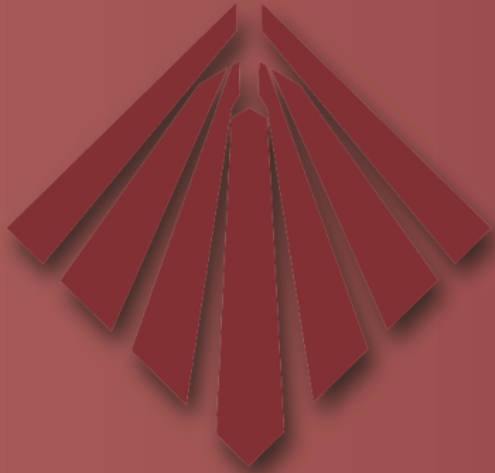
Greg Patrick, Deputy City Manager

Date: June 22, 2023

Alicia L. Finney

Date: June 22, 2023

Alicia Finney, Clerk of Council

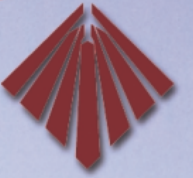


Lynchburg Regional Airport City Council ASD Update

June 27, 2023

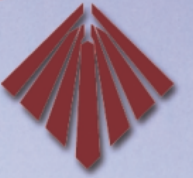


Lynchburg Regional Airport
Check ☒ Lynchburg First



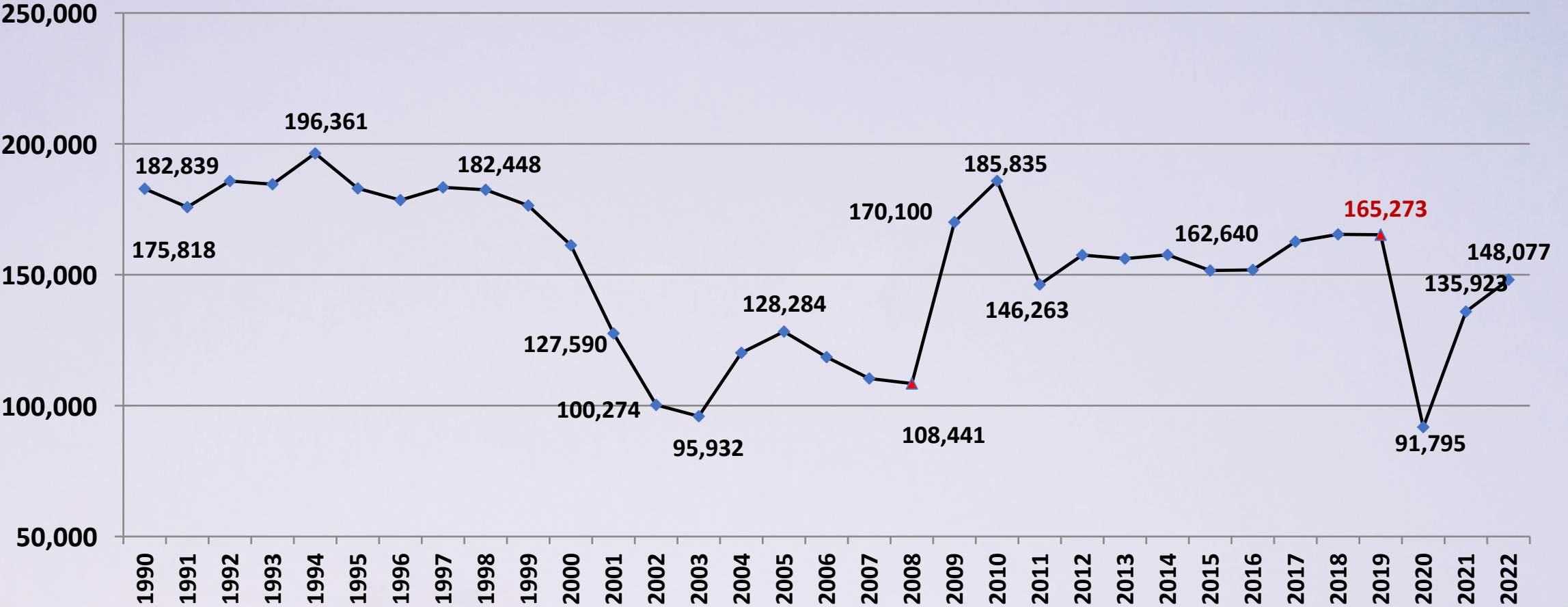
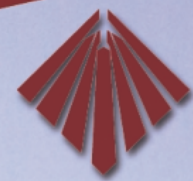
Overview

- COVID pandemic was the most far reaching threat in the history of the global airline industry
- Has changed the very structure of U.S. airline business models
- Aggravated an already growing shortage of airline pilots
- Major impact on commercial service airports...particularly smaller regional airports
- Bottom line: For airlines and airports alike, the pre-pandemic year 2019 established new operational, passenger traffic and financial performance baselines

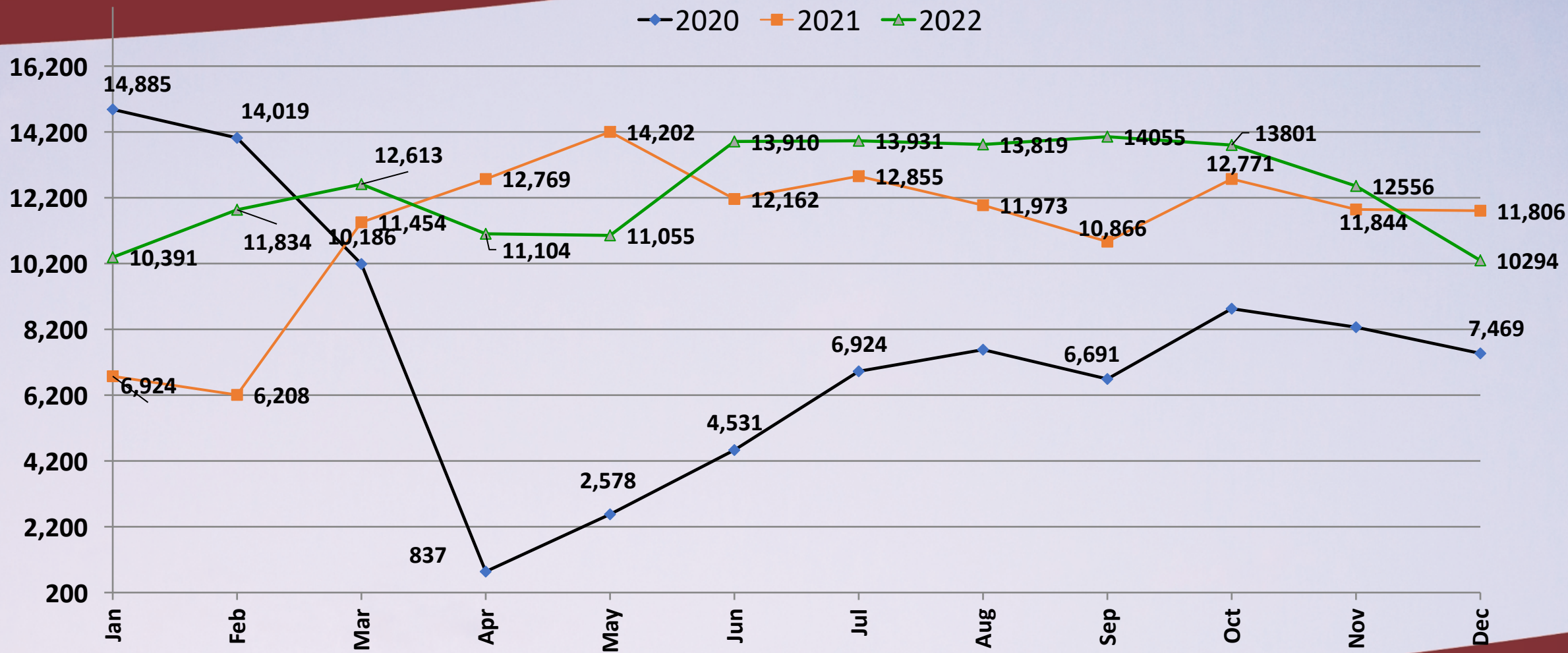


LYH Key Performance Metrics

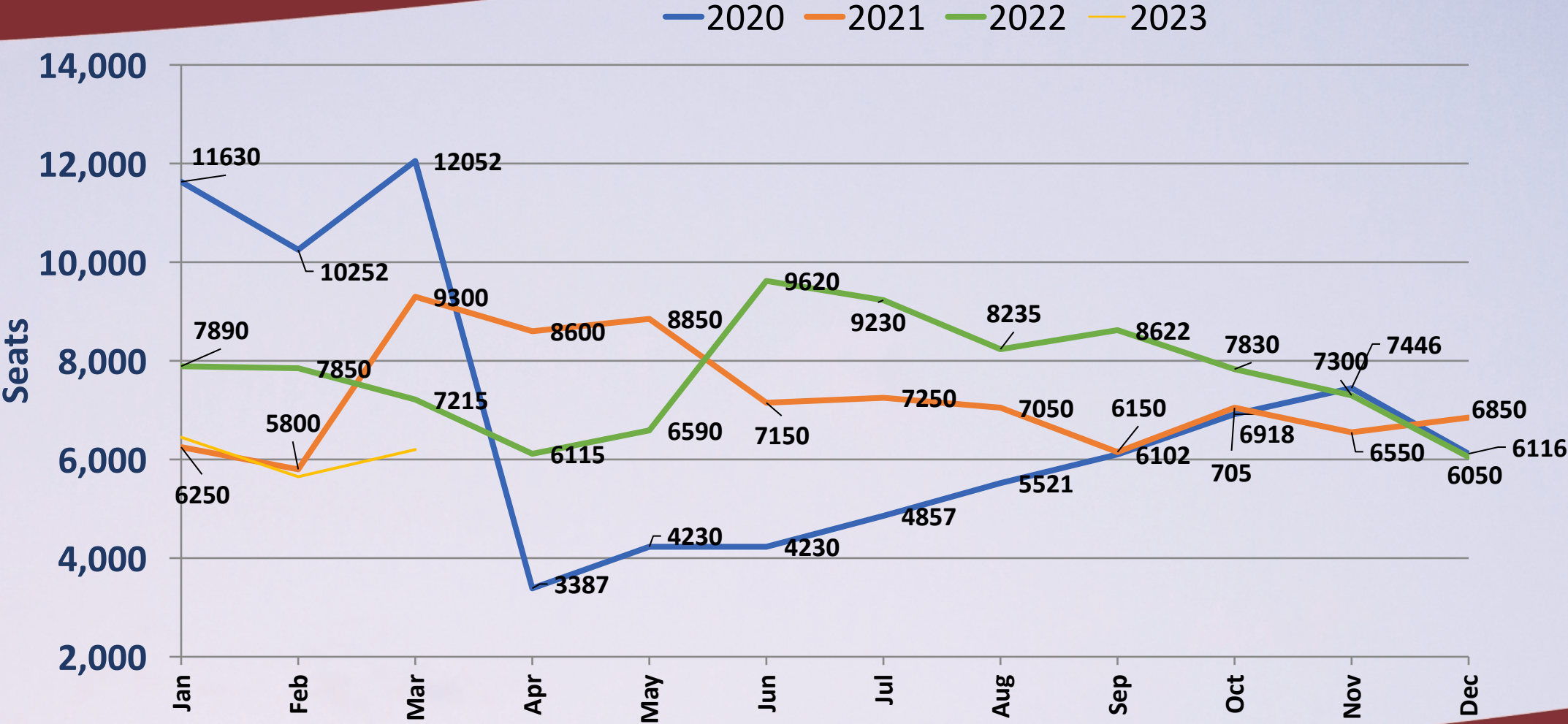
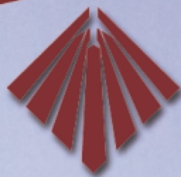
Historical Trends: Total Pax 1990-2022



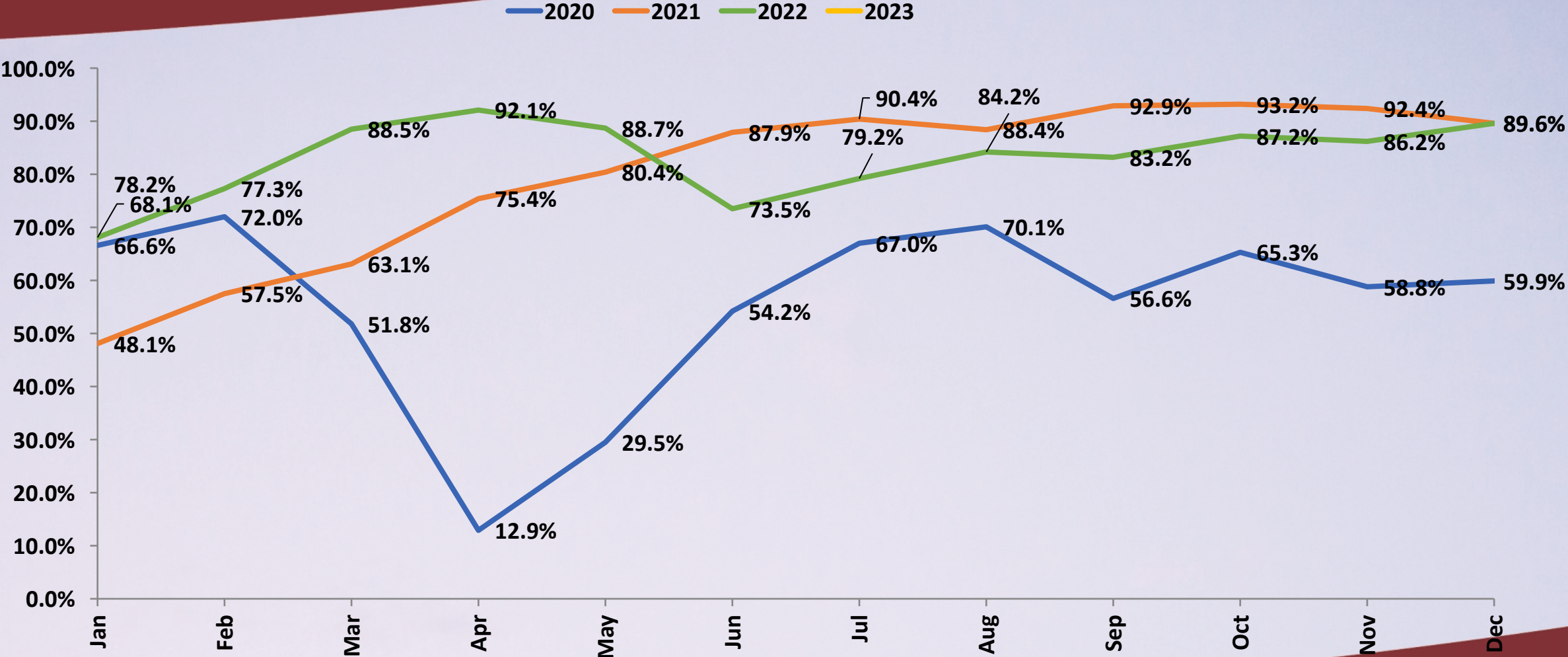
Comparison: Total Passengers by Month (CY 2020 to Dec 2022)



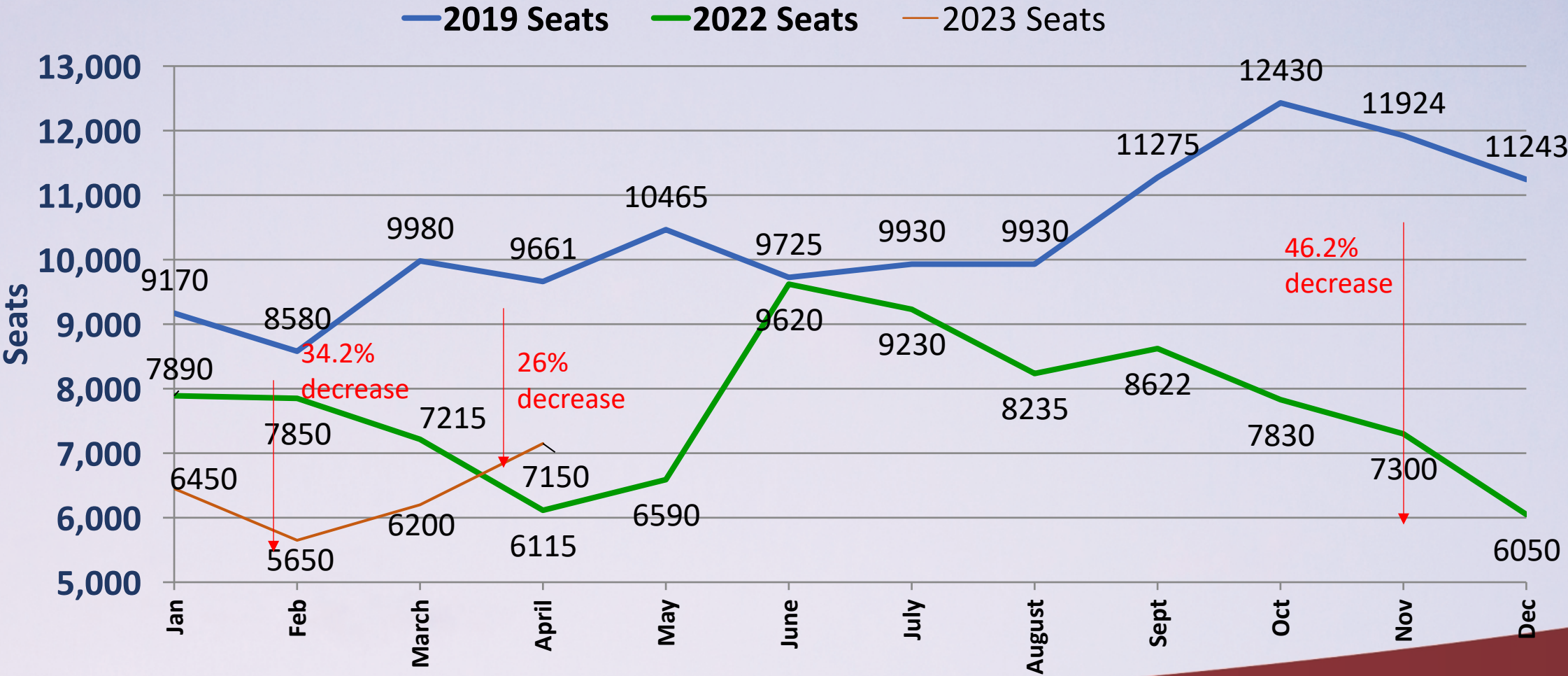
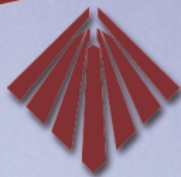
Comparison: Monthly Scheduled Seats (CY 2020 to Mar 2023)

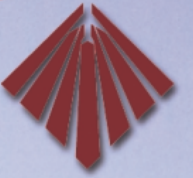


Comparison: Monthly Load Factors (CY 2020 to Jan 2023)



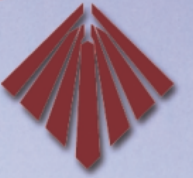
2019 Pre-Pandemic Seats: Comparison with 2022 and 2023





Current Air Service Profile

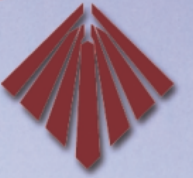
- Passenger traffic is about 85% of pre-pandemic levels...seats about 87%
- AA flight frequency returns to 6 daily departures to CLT in August (up from 4)
- Passenger demand remains strong
- Passenger loads (LF) at historically record levels
- Pandemic caused a major shift from business- to leisure-travel focus
- Prioritizing building back our AA scheduled flights and seat availability



Challenges to LYH Adding Service

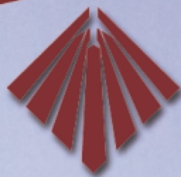
- Biggest post-pandemic challenge: Continuing airline pilot shortage
 - As travel demand exploded post-pandemic, not enough remaining pilots to fill cockpits
 - Majors have relied on regional airlines as pilot pipeline
 - Regional airlines have about 500 regional aircraft parked for lack of crews (AA 150)
 - Airlines aren't projecting recovery from shortage for 18-24 months

Latest shortage: Majors facing shortfall in new aircraft deliveries



Air Service Strategic Plan

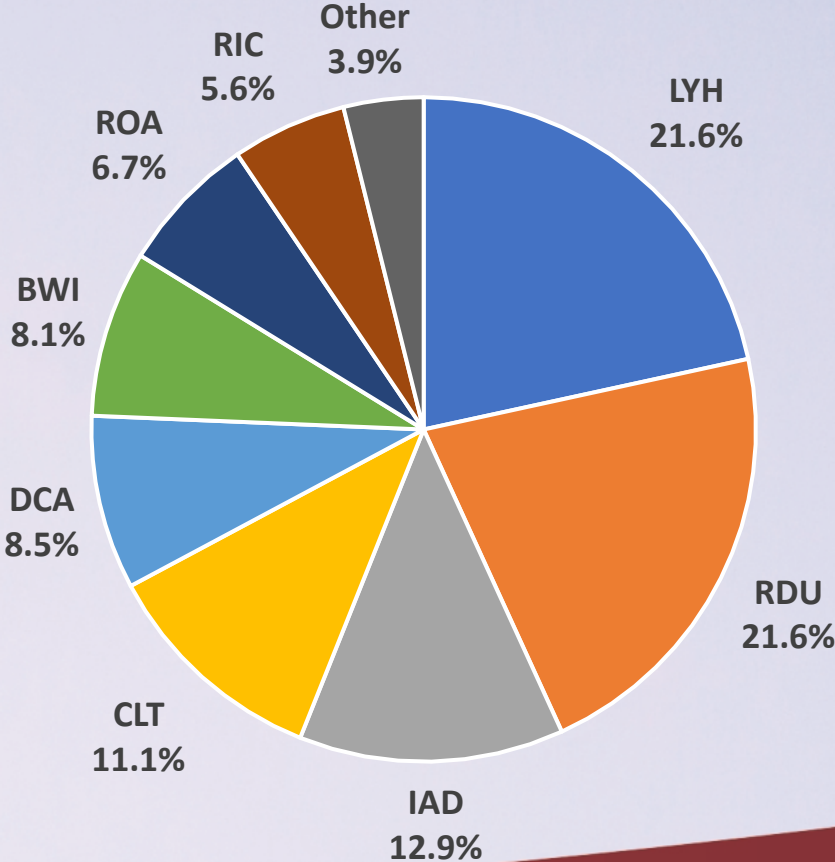
- Updated our Air Service Development Strategic Plan in late fall 2022
- Prioritizing efforts on 1) service from a major network, global legacy carrier and 2) potential new entrant (U)LCC carrier
- Emphasis on returning LYH AA service to pre-pandemic levels & QSI
- Identified 2 targeted opportunities with AA
 - Upgauged & greater frequency to CLT
 - New RJ service to AA's ORD hub
- Attend airline network planners conferences: Next airline meeting opportunity early August – Take-Off



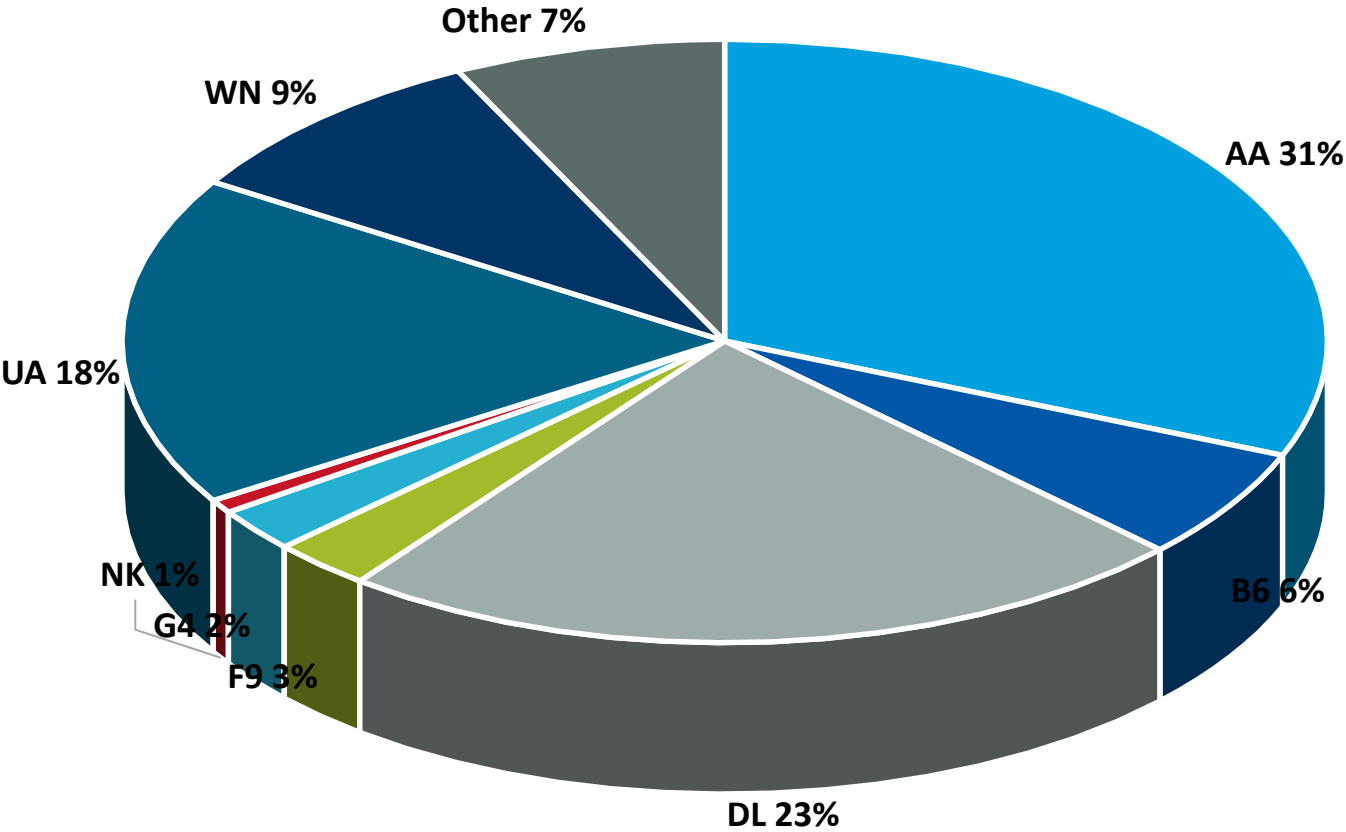
LYH Leakage Profile

- Passenger “leakage” represents number of local air travelers using other surrounding airports. Is an indicator of market potential
- LYH currently captures an estimated 22% of its catchment’s traffic
- RDU remains largest leakage airport at 22%
- LYH leaks nearly 30% of its traffic to the DC area airports (DCA, IAD, BWI)
- LYH currently generating 206 PDEW...the true market size is estimated at 954 PDEW

LYH 30-Mile Radius Catchment – Airport Utilized (YE4Q22)

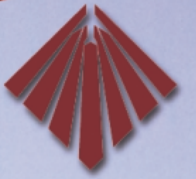


Diverting Passenger Airline Use



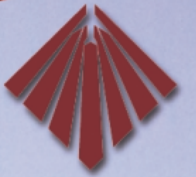
- When passengers divert from LYH, only 31% use AA.
- 23% of passengers fly DL.
- 18% fly UA.
- When passengers fly from RDU, RIC or ROA, they find lower fares on average.
- High % choose to fly non-stop

Origin Airport	CY 2022	
	Fare	AA Seat Share
RDU	\$187	30%
RIC	\$197	30%
ROA	\$254	40%
LYH	\$265	100%



2023 LYH SCASDP Grant Proposal

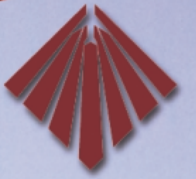
- SCASDP created by Congress in 2000...administered by U.S. DOT
- Provides temporary financial incentives to small communities to gain/improve air service
- Awards have ranged from \$20,000 to \$1.6 million
- Federal FY 2022 funding: \$15 million (nationwide)
- LYH has received 3 grants: 2002, 2006, 2011
- Airline payments to be structured as “revenue guarantee”... intended to establish a stream of supplemental revenue to assist becoming profitable and self-sufficient
- Also includes landing fee waivers and advertising support



2023 LYH SCASDP Grant Proposal

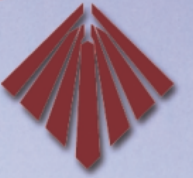
- LYH Grant Proposal Focus

- Aligns with airport's current Air Service Strategic Plan
- Prioritizes service from a major hub airline with an extensive domestic/global route system
- Emphasis on quality air service (QSI) by a “top three” network carrier offering close-by, frequent nonstop service to one of its major connecting hubs (omni-directional)
- Recognizes LYH's role as important contributor to regional economic growth/competitiveness



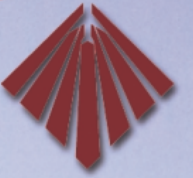
2023 LYH SCASDP Grant Proposal

- LYH Grant Goal
 - Targets LYH's incumbent carrier, AA, by providing financial incentives to:
 1. Upgauge, add frequencies and expand LYH seat capacity to return to pre-pandemic levels to CLT
 2. Pursue a new destination in the form of nonstop service to AA's ORD hub
 - Airline payments to be structured as "revenue guarantee"... intended to establish a stream of supplemental revenue to assist becoming profitable and self-sufficient
 - Also includes landing fee waivers and advertising support



Minimum Service Requirements

- Upgauged CLT Service
 - Total of 6 roundtrip jet departures daily, five (5) days per week
 - To include 3, dual-class aircraft able to accommodate at least 65 passengers
 - Must be operated for a period of 1 year
 - Equipment for the remaining 2 days of each week shall be at least 4 roundtrips, at least 50-seat RJs
 - Maximum amount of payment \$500,000 (\$300,000 from the grant)
- New Chicago O'Hare Service
 - Minimum 2 daily roundtrip RJ flights, 6 days per week
 - Configured with at least 50 seats
 - For a period of 1 year
 - Maximum amount of payment \$500,000 (300,000 from the grant)
 - Includes landing fee waiver for 1 year



Questions & Comments

AGENDA ITEM SUMMARY**MEETING DATE**

June 27, 2023

PRESENTED BY

Hollie Jennings, Diversity, Equity, & Inclusion Strategist, Gaynelle Hart, Director of Public Works, Alicia Finney, Clerk of Council

AGENDA ITEM # III.2

Summer Youth Activities

RECOMMENDATION

For information only.

SUMMARY

This agenda item provides an overview of summer programming for Lynchburg youth and other opportunities for youth engagement. Dr. Hollie Jennings will brief you on the Youth Summer Fun and Safety Guide received last month. This agenda item will also highlight two specific programs in which the City participates:

Beacon of Hope Interns

Gaynelle Hart, Director of Public Works, will provide an overview of the City's partnership with Beacon of Hope. In the summer of 2022, Lynchburg Beacon of Hope piloted a unique high school career exploration internship with 34 interns and 13 employers. The program targeted rising juniors and seniors at Heritage and E.C. Glass High Schools. This career internship offers our high school students an opportunity to experience career opportunities available in our region. The 2023 Beacon of Hope Internship summer program has grown to 83 students and 23 businesses. The program consists of job readiness, on-site placement and conclusion & reflection modules. The City has Beacon of Hope interns working in the Public Works Department, the Office of Economic Development (Museum) and the Fire Department. Staff will give a brief overview of the interns' experience with our City Departments.

Mayor's Youth Council

Alicia L. Finney, Clerk of Council will provide an overview of the Lynchburg Mayor's Youth Council. Made up of youth members from across the city, the Mayor's Youth Council is charged with investigating needs, problems, and issues affecting their peers. The group is heavily involved with the betterment of their community and identifies ways to contribute by completing community service projects. This year, the MYC raised over \$4,000 during a donation-led car wash event to be donated to Park View Community Mission's Food for Families program. Following the schedule of the school year, the MYC will be accepting applications this summer and will begin their work again in the fall.

PRIOR ACTION(S)

None

FISCAL IMPACT

None

CONTACT(S)

Hollie Jennings, Diversity, Equity, & Inclusion Strategist
Gaynelle Hart, Director of Public Works
Alicia Finney, Clerk of Council

ATTACHMENT(S)

1. Youth Presentation

REVIEWED BY



Greg Patrick, Deputy City Manager

Date: June 22, 2023



Alicia Finney, Clerk of Council

Date: June 22, 2023



YOUTH ACTIVITIES





YOUTH SUMMER FUN & SAFETY



SAFETY | EDUCATION | RECREATION | FOOD

Safety

- 24th District Court Service Unit
- Lynchburg Police Department

Education

- Lynchburg City Schools
- Lynchburg Parks and Recreation
- Lynchburg Water Resources
- Lynchburg Public Library

Recreation

- Lynchburg Parks and Recreation
- Lynchburg Public Library

Food

- Lynchburg City Schools & City of Lynchburg

<https://www.lynchburgva.gov/city-wide-curfew>



Food

Lynchburg City Schools

Superintendent: Dr. Crystal Edwards

Lynchburg City Schools is participating in the **Summer Food Service Program**. Meals will be provided to all children, on a first come, first serve basis, at the sites and times as follows. Meals must be eaten at the site location:

Bedford Hills Elementary School – 4330 Morningside Drive, Lynchburg, VA 24503
JUNE 13 – JULY 14: Tuesday– Friday, Breakfast: 8:30am – 8:45am Lunch: 12:00pm – 12:30pm

Biggers Park – 501 Fifth Street, Lynchburg, VA 24504
JUNE 5 – AUGUST 4: Monday – Friday, Lunch: 12:00pm – 12:30pm

Boys & Girls Club – 101 Madison Street, Lynchburg, VA 24504
JUNE 12 – AUGUST 4: Monday – Friday, Lunch: 12:00pm – 1:00pm Snack: 3:00pm– 4:00pm

College Hill Center – 811 Jackson Street, Lynchburg, VA 24501
JUNE 7 – AUGUST 4: Monday – Friday, Lunch: 11:00am – 1:00pm Snack: 2:00pm – 4:00pm

Daniels Hill Center – 317 Norwood Street, Lynchburg, VA 24504
JUNE 7 – AUGUST 4: Monday – Friday, Lunch: 11:00am – 1:00pm Snack: 2:00pm – 4:00pm

Diamond Hill Center – 1005 17th Street, Lynchburg, VA 24504
JUNE 7 – AUGUST 4: Monday – Friday, Lunch: 11:00am – 1:00pm Snack: 2:00pm – 4:00pm

Fairview Center – 3621 Campbell Avenue, Lynchburg, VA 24501
JUNE 7 – July 14: Monday – Friday, Lunch: 11:00am – 1:00pm Snack: 2:00pm – 4:00pm

Heart to Heart Ministry – 2211 Haden Street, Lynchburg, VA 24501
JUNE 5 – AUGUST 4: Monday–Friday, Breakfast: 7:30am–8:30am Lunch: 11:30am–12:30pm

Heritage High School – 3101 Wards Ferry Road, Lynchburg, VA 24502
JUNE 20 – JULY 21: Tuesday– Friday, Breakfast: 8:30am–9:00am Lunch: 12:00pm – 12:30pm

Lynchburg Public Library

Director: Beverly Blair

Clubs, Fun, and Play

Cookies and Canvas: Wednesday, June 7

Kids ages 6-8, registration required! Time: 2:00 PM – 4:00 PM

No-Bake Challenge: Saturdays, June 17 and July 15

Kids ages 6-8. Time: 3:30 PM – 4:30 PM

Dance Party: Saturday, June 24

Kids ages 3 and up joins us for freeform, directed dance, and movement. Time: 10:30 AM

Art Relay: Saturday, July 22

Kids ages 5-8 join us for mess fun; a variety of process art. Time 3:30 PM

Cooks and Books (Virtual Program): June 24 and July 22

12:00 PM on Facebook and YouTube

Tween and Teen Art Show for ages 9-17

Kickoff event is June 6 at 12:30 PM

Art must be submitted by July 15! Art will be exhibited in the Teen Department from July 24-August 5

Tween and Teen No-Bake Challenge for ages 9-14

Tuesdays, June 13 and July 11. Time: 3:30 PM – 4:30 PM

LEGO Club: Mondays, June 12-July 31, No Lego Club on June 19th (Library Closed)

Best for kids ages 6-8. There will be a weekly building challenge for kids who attend the program. Time: 10:00 AM – 2:00 PM



WATER RESOURCES – NATURE NOW CAMP



LYNCHBURG PUBLIC LIBRARY



PARKS AND RECREATION





BEACON OF HOPE INTERNSHIP

Work Session, June 27, 2023



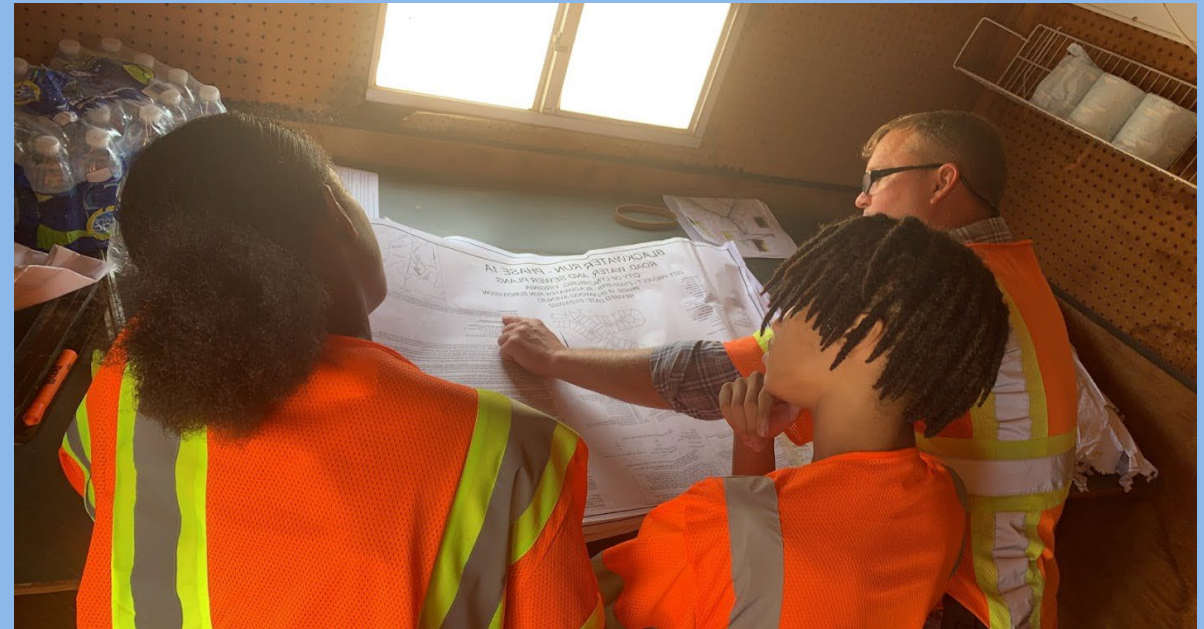
BEACON OF HOPE INTERNSHIP OVERVIEW

- High School Career Exploration Internship
- Rising Juniors and Seniors
- Twenty three companies and eighty seven student interns
- Students paid stipend
- Transportation provided by LCS



BEACON OF HOPE INTERNSHIP OVERVIEW

- Program Modules Include:
 - Job Readiness including job interviews
 - Hands-on Job Experience
 - Conclusion and Reflection



BENEFITS TO THE CITY

- Recruit for positions that don't require a college degree
- Exposure to hands-on work in mechanical and technical fields
- Exposure to public service careers
- Understand and appreciate City services
- Keep local talent employed in the City
- Support Lynchburg City Schools workplace readiness efforts



BUILDING MAINTENANCE - PLUMBING



REFUSE - KNUCKLEBOOM OPERATION



REFUSE - RESIDENTIAL TRASH COLLECTION



GROUNDS - PARK MAINTENANCE



CONSTRUCTION - CULVERT INSPECTION



06.21.2023 07:50



SUMMER 2022 INTERNS



FIRE DEPARTMENT INTERNS



FIRE DEPARTMENT INTERNS

- Assigned to Stations 1,3,6 and Fire Admin.
- Emergency calls- Engine and Ambulance
- Community Risk Reduction
- Fire Inspections
- Communications
- Training
- Data Analysis





MAYOR'S YOUTH COUNCIL

Tuesday, June 27, 2023



PURPOSE

- Serve as a liaison between the youth of our community and the Mayor/City Council
- Investigate needs, problems, and issues affecting youth of the city
- Serve as a forum through which their peers may express their ideas, needs, and suggestions
- Identifies and completes community service projects for the betterment of their community



MAYOR'S YOUTH COUNCIL

HOLIDAY GIFT EXCHANGE WITH THE LYNCHBURG GROUP HOME



MAYOR'S YOUTH COUNCIL

PARK VIEW COMMUNITY MISSION – FOOD FOR FAMILIES PROGRAM



MAYOR'S YOUTH COUNCIL

DONATION-LED CAR WASH



AGENDA ITEM SUMMARY

MEETING DATE

June 27, 2023

PRESENTED BY

Tom Martin, City Planner

AGENDA ITEM # III.3

Mayor M.W. Thornhill Statue

RECOMMENDATION

Hear a presentation on the installation of a statue of former Mayor M.W. "Teedy" Thornhill, Jr. in the 5th Street Roundabout.

SUMMARY

The 5th Street Master Plan was adopted by City Council on May 23, 2006. Renderings included in the plan suggested that the roundabout could contain a statue of an iconic person. The 5th Street Community Development Corporation (CDC) is the group that has served as advocates for the redevelopment of 5th Street since early 2000. The CDC conducted a charrette to garner ideas about a fixture for the roundabout and, after much discussion and community input, the group decided to honor Mayor M.W. "Teedy" Thornhill, Jr. with a statue. This decision was affirmed by its recommendation in the December 14, 2021 Report of the African American Cultural Committee.

M.W. Thornhill was first elected to the City Council in 1976 and became the first African American Mayor of Lynchburg in 1990. Mayor Thornhill was the president and owner of Community Funeral Home located on 5th Street and also served as the president of the Lynchburg Voter's League for over 40 Years.

A partnership between the City of Lynchburg, the 5th Street CDC, Wiley Wilson, Inc. and Hill Studio is bringing this exciting piece of public art honoring Mayor Thornhill to reality. The statue is currently being sculpted by Ed Walker with Carolina Bronze and construction of the pedestal and surrounding features has also started.

Representatives from the 5th Street CDC, City of Lynchburg and the community will visit the Carolina Bronze foundry in Seagrove, NC on Monday, July 3 to witness the casting of the statue. An unveiling ceremony will take place at the 5th Street roundabout on Saturday, August 19.

PRIOR ACTION(S)

N/A

FISCAL IMPACT

N/A

CONTACT(S)

Tom Martin, City Planner

ATTACHMENT(S)

1. MWT Presentation

REVIEWED BY



Kent White, Director of Community Development

Date: June 22, 2023



Mercedes Braun, Executive Assistant to the City Manager

Date: June 22, 2023



Wynter C. Benda, City Manager

Date: June 22, 2023



Alicia Finney, Clerk of Council

Date: June 22, 2023



MAYOR M.W. THORNHILL, JR STATUE

**Tom Martin, City Planner
Community Development**

June 27, 2023



FIFTH STREET MASTER PLAN

❖ Adopted May 23, 2006

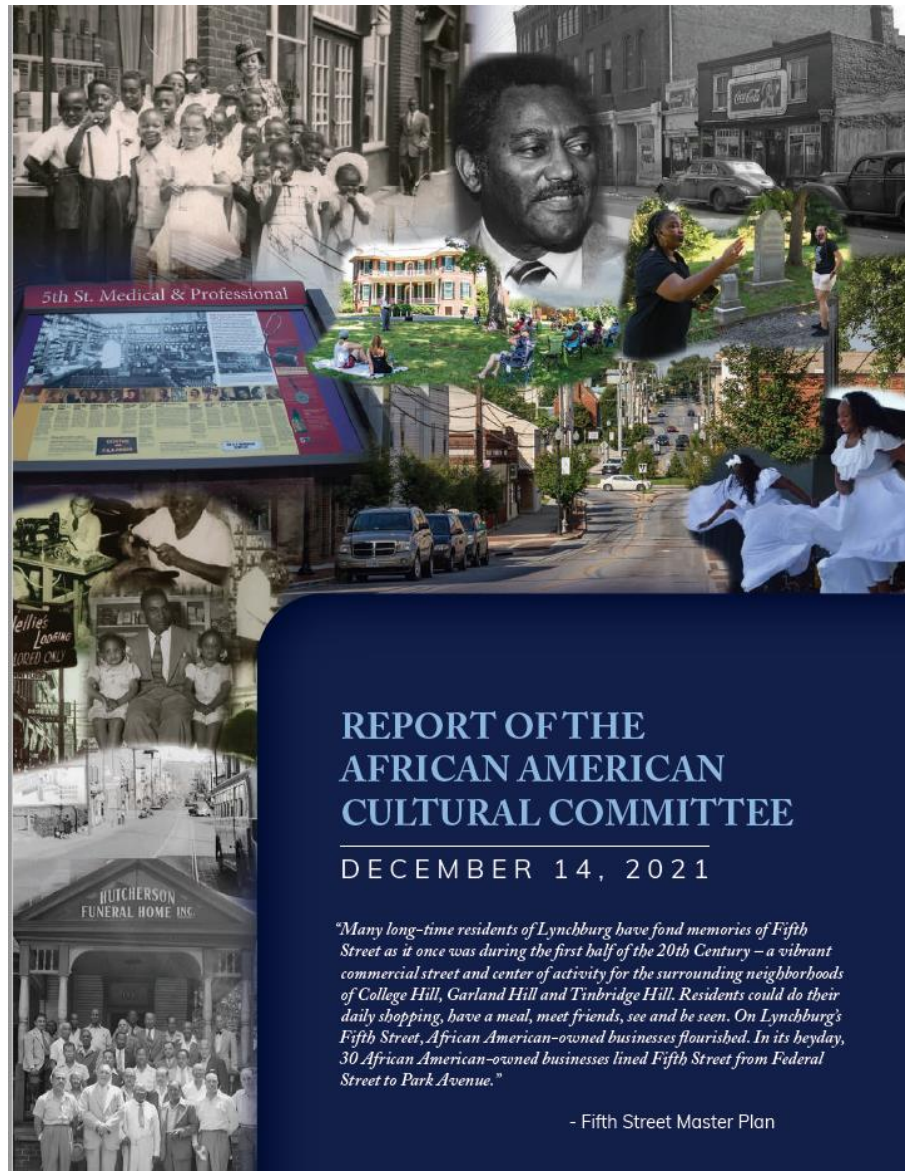


M.W. THORNHILL, JR.



- ❖ **Elected to City Council - 1976**
- ❖ **First African American Lynchburg Mayor - 1990**
- ❖ **President and Owner of Community Funeral Home**
- ❖ **President of Lynchburg Voter's League for over 40 Years**

MAYOR M.W. THORNHILL, JR.



REPORT OF THE AFRICAN AMERICAN CULTURAL COMMITTEE

DECEMBER 14, 2021

"Many long-time residents of Lynchburg have fond memories of Fifth Street as it once was during the first half of the 20th Century - a vibrant commercial street and center of activity for the surrounding neighborhoods of College Hill, Garland Hill and Tinbridge Hill. Residents could do their daily shopping, have a meal, meet friends, see and be seen. On Lynchburg's Fifth Street, African American-owned businesses flourished. In its heyday, 30 African American-owned businesses lined Fifth Street from Federal Street to Park Avenue."

- Fifth Street Master Plan



COMMUNITY PARTNERSHIP



Lynchburg
VIRGINIA



HILL
STUDIO

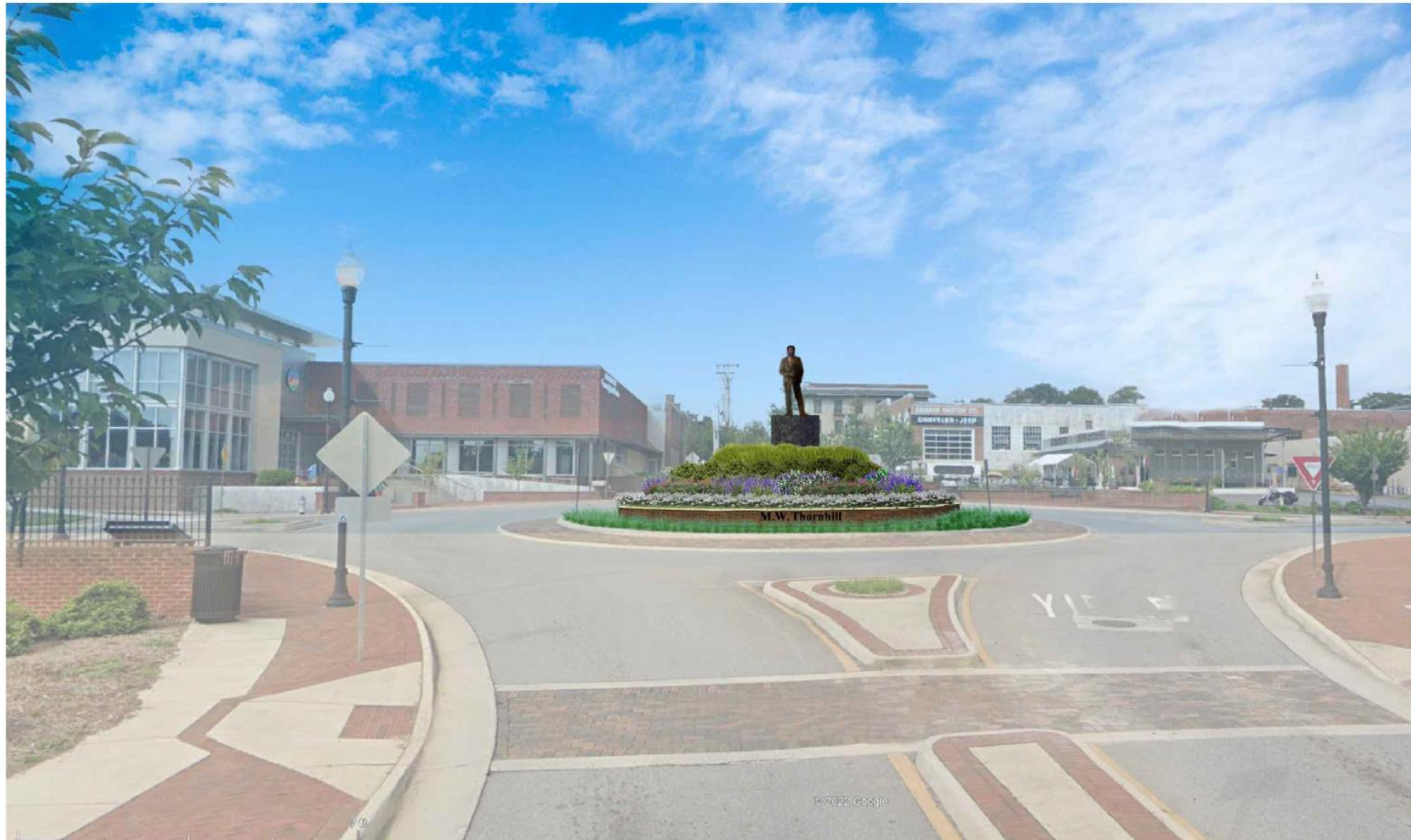


MAYOR M.W. THORNHILL, JR.

❖ Ed Walker, Carolina Bronze, Seagrove, NC



MAYOR M.W. THORNHILL, JR.



IMPORTANT DATES

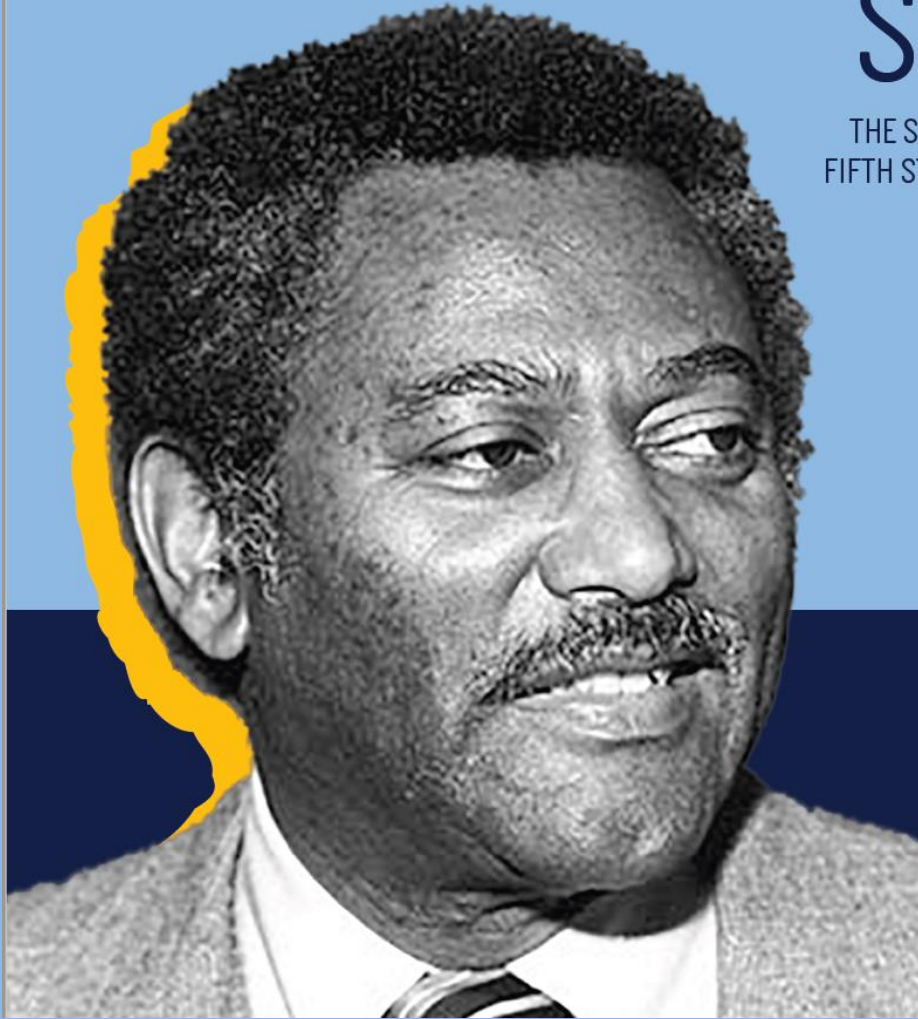
❖ July 3, 2023 – Visit to Carolina Bronze for Statue Casting



SAVE THE DATE

STATUE UNVEILING

THE STATUE IS BEING ERECTED IN PARTNERSHIP BETWEEN THE CITY OF LYNCHBURG, THE FIFTH STREET COMMUNITY DEVELOPMENT CORPORATION, WILEY|WILSON AND HILL STUDIO.



SATURDAY

AUGUST 19 AT 10:00AM

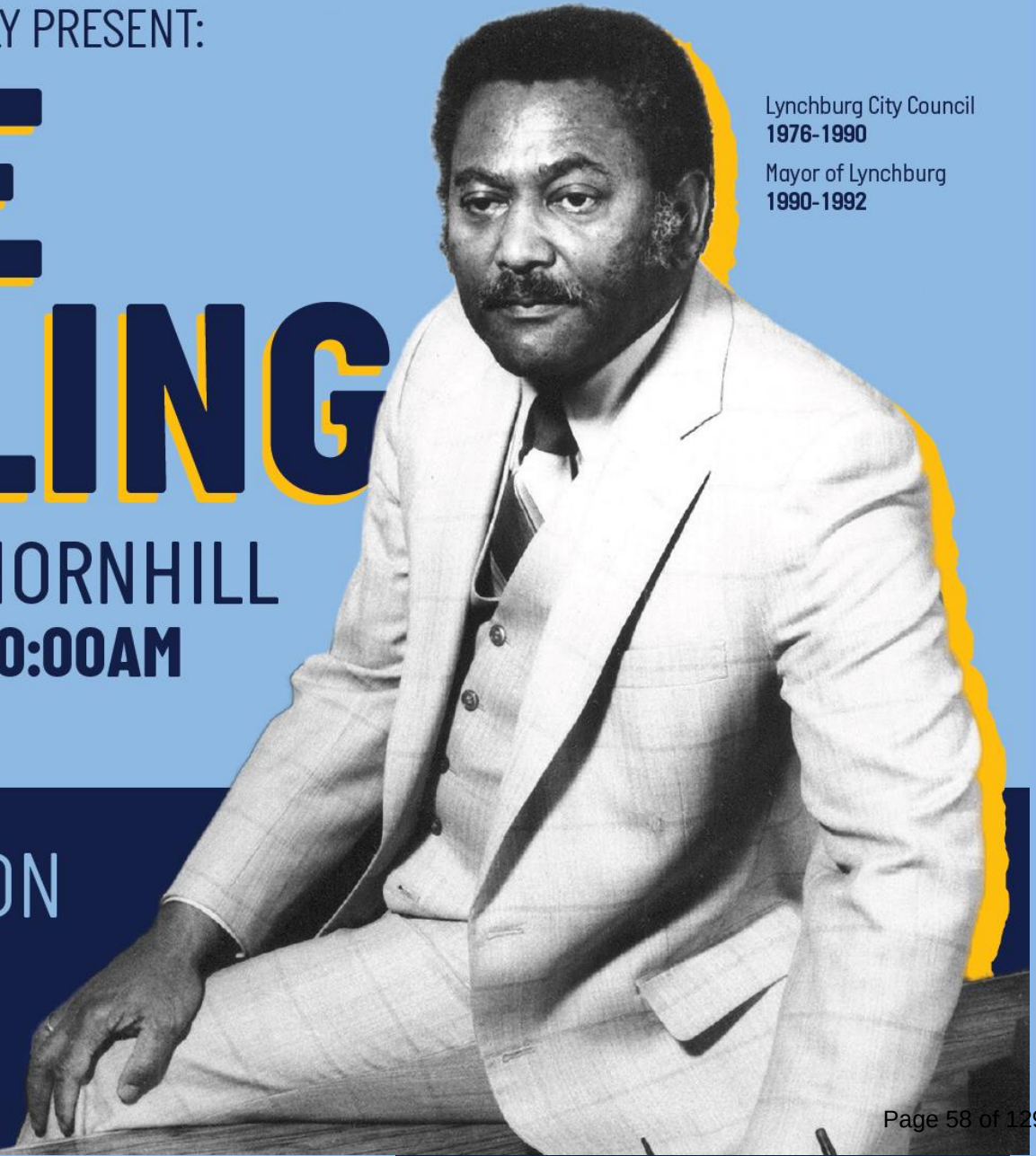
THE CITY OF LYNCHBURG AND THE FIFTH STREET COMMUNITY
DEVELOPMENT CORPORATION PROUDLY PRESENT:

STATUE UNVEILING

MAYOR M.W. "TEEDY" THORNHILL
SATURDAY, AUGUST 19 AT 10:00AM
FIFTH STREET ROUNDABOUT

FOR MORE INFORMATION
CALL: **434.455.3800**

Lynchburg City Council
1976-1990
Mayor of Lynchburg
1990-1992



DISCUSSION



AGENDA ITEM SUMMARY**MEETING DATE**

June 27, 2023

PRESENTED BY

Lee Newland, City Engineer

AGENDA ITEM # III.4

ANCH LLC Franchise Ordinance

RECOMMENDATION

This item is to receive bids for the Franchise Ordinance. A public hearing will be held at a regular meeting this evening. Council will then consider the Ordinance.

SUMMARY

ANCH LLC has requested a franchise from the City to allow use of the City's public rights-of-way to use, work upon, and/or maintain a wheelchair ramp and/or related facilities constructed and encroaching into the City's sidewalk in front of 2204 Bedford Avenue. Given the nature and the length of the grant requested, the City will need to advertise for bids, accept a bid, and hold a public hearing before voting on whether to adopt the proposed ordinance. The attached ordinance and map illustrate the applicable encroachment. The proposed franchise, if granted, will begin July 1, 2023, and expire June 30, 2062, and unless an alternative agreement is negotiated, continue month-to-month thereafter.

The following course of action is progressing in this circumstance:

May 23, 2023: Item was in front of Council at a BIB.

May 26, 2023 and June 2, 2023: Advertised for bids and a public hearing.

June 27, 2023: (1) During this work session of the City Council's meeting, the Clerk of Council shall publicly open and announce all bids received. The Mayor will then publicly ask if any other bids are to be submitted, and if none, a member of City Council will make a motion to accept the bid submitted and adopt the same by recorded vote. Note: If any additional bid(s) is received during the work session, then City Council should table this matter until the next regular meeting date so staff may review the subsequent bid(s) received.

(2) During the public hearing portion of the City Council's meeting, a public hearing on the successful bidder's franchise ordinance will be held. After the public hearing, a formal motion and vote on the adoption of the successful bidder's franchise ordinance should occur.

PRIOR ACTION(S)

BIB May 23, 2023.

FISCAL IMPACT

None

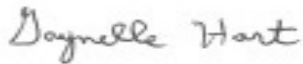
CONTACT(S)

Lee Newland, City Engineer
Gaynelle Hart, Director of Public Works

ATTACHMENT(S)

1. Proposed Encroachment Ordinance - ANCH LLC
2. Map for 2204 Bedford Ave
3. Picture 1 of Ramp
4. Picture 2 of Ramp

REVIEWED BY



Gaynelle Hart, Director of Public Works

Date: June 21, 2023



Greg Patrick, Deputy City Manager

Date: June 22, 2023



Alicia Finney, Clerk of Council

Date: June 22, 2023

AN ORDINANCE GRANTING A NON-EXCLUSIVE LIMITED FRANCHISE TO ANCH LLC TO PERMIT THE USE, MAINTENANCE, AND WORK UPON CERTAIN ENCROACHMENTS IN THE PUBLIC RIGHTS-OF-WAY OF THE CITY AT 2204 BEDFORD AVENUE, LYNCHBURG, VIRGINIA 24503

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

ARTICLE I. GRANT AND PURPOSE

Subject to the provisions, conditions, and restrictions hereafter set forth in this document, referred to as this "Franchise", the **CITY OF LYNCHBURG, VIRGINIA**, a municipal corporation, hereafter the "City", herein and hereby grants a non-exclusive limited franchise, right, privilege, easement, and authority to **ANCH LLC**, a Virginia limited liability company, hereafter the "Franchisee", to use, work upon, and/or maintain certain encroachments in the City's public rights-of-way on 2204 Bedford Avenue ("PROW"), hereafter collectively called the "Encroachments", in the City of Lynchburg, Virginia, as shown on a plat attached hereto to be recorded herewith, made by Nixon Land Surveying, L.L.C., dated February 17, 2023, entitled "PLAT SHOWING ENCROACHMENT AREA FOR RAMP ACCESS IN BEDFORD AVENUE FOR THE BENEFIT OF ANCH, LLC CITY OF LYNCHBURG, VIRGINIA", designated City File No. D-2440, with the Encroachments being bounded and described as follows, *to-wit*:

A wheelchair ramp and/or related facilities constructed and encroaching into the City's sidewalk in front of 2204 Bedford Avenue, Lynchburg, Virginia 24503 within the following metes and bounds: Beginning at a point in the southernmost corner of Tax Map No. 020-13-006, at its intersection with the easternmost corner of Tax Map No. 020-13-011 and the northern right-of-way line of Bedford Avenue; thence N 54° 31' 29" W 70.91 feet to the true point of beginning; thence S 36° 08' 13" W 2.38 feet to a point; thence N 53° 51' 47" W 15.70 feet to a point; thence S 36° 08' 13" W 1.00 feet to a point; thence N 53° 51' 47" W 5.00 feet to a point; thence N 36° 08' 13" E 1.00 feet to a point; thence N 53° 51' 47" W 2.30 feet to a point; thence N 36° 08' 13" E 2.11 feet to a point, said point being S 54° 31' 29" E 15.74 feet from an "X" in sidewalk and the easternmost corner of Tax Map No. 020-13-006; and thence S 54° 31' 29" E 23.00 feet to the true point of beginning, containing 56.63 square feet, more or less.

The sole purpose of this Franchise is to permit the Franchisee to use, work upon, and/or maintain the Encroachments exclusively shown on the above stated plat. This Franchise shall in no way be construed to permit the Franchisee to expand or extend the Encroachments or to create additional encroachments upon the City's property or PROW in any way unless a written amendment to this Franchise is completed. The Franchisee shall not become vested with any further rights beyond what is previously described due to the existence of this Franchise or the Encroachments.

ARTICLE II. TERM

Unless this Franchise is sooner terminated in accordance with the terms described herein, this

Franchise will be in effect for a term of thirty-nine (39) years, beginning on July 1, 2023, and ending June 30, 2062, at 11:59 p.m. This Franchise is intended to be a long-term arrangement, and at the expiration of the stated term, the City and the Franchisee will negotiate in good faith for a renewal of this Franchise under mutually acceptable conditions. At the end of the aforesaid term, unless a renewal of this Franchise has been negotiated, this Franchise shall continue as a month-to-month tenancy, subject to all terms and conditions contained in this Franchise. Such month-to-month tenancy shall continue until such time as the City gives the Franchisee thirty (30) days written notice of the termination of the month-to-month tenancy. In no event will this Franchise exceed a total period of forty (40) years without a formal renewal.

ARTICLE III. CONSTRUCTION, WORK, AND REPAIR

All work, maintenance, repair, improvements, and/or changes to the Encroachments shall be the Franchisee's sole responsibility. The City shall have no duty whatsoever to inform the Franchisee of any needed maintenance, work, repair, improvements, and/or changes to the Encroachments. Additionally, the Franchisee, at its sole expense and where required, shall obtain all necessary permits and/or approvals from all City, State, and Federal agencies. Additionally, the Franchisee shall perform such maintenance, work, repair, improvements, and/or changes in accordance with all reasonable and applicable workman-like standards as well as in accordance with any applicable City, State, and Federal regulations. In the event any maintenance, work, repair, improvements, and/or changes are required on the Encroachments, and such maintenance, work, repair, improvements, and/or changes materially interfere with the City's operations in any way, as determined in good faith by the City, then the Franchisee shall be solely responsible for the actual costs of such additional work that results from the interference by the Encroachments.

ARTICLE IV. MAINTENANCE, INSPECTION AND REPAIR

During the term of this Franchise, the City, its agents, and its employees shall have the right, but no obligation, to enter upon the Franchisee's property and inspect the Encroachments. The City will provide the Franchisee with reasonable notice of such entry and inspections, and if the City in its sole discretion determines it appropriate, the City, its employees, or its agents may take such actions as may be reasonably necessary to protect the City's property, PROW, and/or any related facilities from damage that has resulted or may result from any condition or circumstances imposed by the Encroachments. The Franchisee shall be solely liable for the costs actually incurred in connection with the same.

ARTICLE V. DAMAGE TO PROPERTY

Unless caused by the negligence or intentional misconduct of the City, the City shall in no way be liable for any damage to or loss of any of the Franchisee's buildings, facilities, property, or the Encroachments. It is expressly agreed and understood that the Encroachments encroach into the PROW and the City's property at the Franchisee's own risk. Further, the Franchisee shall be responsible for repairing or replacing any damages to the City's property, PROW, or the like that are caused by the acts or omissions of the Franchisee, its employees, or its agents due to the existence of the Encroachments.

ARTICLE VI. INDEMNIFICATION AND INSURANCE

INDEMNIFICATION. The Franchisee shall indemnify, hold harmless, and defend the City, its employees, officials, and agents, from and against any and all lawsuits, claims, causes of action, liabilities, demands, damages, disability, losses and expenses, of any nature whatsoever,

including reasonable attorneys' fees ("Liabilities"), resulting or in any manner arising out of injuries (including death) to any person or damage to or destruction of any property suffered as a result of (i) the Franchisee's actions/inactions and/or (ii) the existence of the Encroachments in the PROW, unless such Liabilities are a result of the negligence or intentional misconduct of the City. The City shall promptly notify the Franchisee of any Liabilities subject to indemnification and defense hereunder, and shall cooperate with all reasonable requests by the Franchisee for information, documents, testimony, or other assistance appropriate to a resolution of such Liabilities. The Franchisee shall have full responsibility for and control of any action or undertaking directed at the resolution of such Liabilities.

INSURANCE. During the term of this Franchise, the Franchisee shall obtain and maintain at its sole expense, with financially reputable insurers authorized to do business in the Commonwealth of Virginia, all the following minimum insurance coverage:

- (a) Commercial General Liability insurance for bodily injury, property damage, and all risk fire and casualty insurance coverage (multi-peril) in a limit of not less than USD\$1,000,000 (One Million Dollars) per occurrence and USD\$2,000,000 (Two Million Dollars) in the annual aggregate;
- (b) Automobile Liability insurance in a limit of not less than USD\$1,000,000 (One Million Dollars) per occurrence and USD\$2,000,000 (Two Million Dollars) in the annual aggregate; *and*
- (c) "All risk" property insurance covering not less than the full replacement costs of any damage the Franchisee, its employees, representatives, agents, or guests may cause to the City's property and/or PROW.

The Franchisee shall further deliver to the City a Certificate of Insurance, satisfactory in form and content to the City, evidencing that the above insurance is in full force and effect. The insurance required herein shall require that the Franchisee give the City thirty (30) days advance written notice of any cancellation, nonrenewal, or modification of coverage and a binder or certificate verifying new coverage in accordance with the requirements herein prior to any change, cancellation, or nonrenewal date. In the event of such cancellation or nonrenewal notice, the Franchisee shall pay all premiums for the renewal or replacement of the insurance required hereunder. The Franchisee shall, at least thirty (30) days prior to the expiration of the policies, furnish the City with renewals or binders for the policies, or the City may order the required insurance and charge the cost to the Franchisee. Any and all such insurance policies shall name the City, its employees, officials, and agents as ~~additionally~~ insured parties and shall include or be endorsed to include contractual liability.

The insurance required hereunder shall be primary, and any insurance or self-insurance maintained by the City shall be in excess of and shall not contribute with any insurance required of the Franchisee under this Franchise. Any deductibles or self-insured retentions applicable to the required coverage shall be paid by the Franchisee, and the City shall not be required to participate therewith. All rights of subrogation against the City, its employees, officials, and agents are hereby waived, and such waiver of subrogation rights shall be shown on the aforesaid Certificates of Insurance.

Nothing contained in this Franchise shall limit the Franchisee's liability to the City to the limits of the insurance certified or carried.

Notwithstanding any of the other provisions of this Franchise, the Franchisee's failure to

maintain the required insurance coverage throughout the term of this Franchise or the failure of the Franchisee to deliver a new and valid binder or certificate verifying such coverage is grounds for the immediate termination of this Franchise without prior notice.

The indemnification requirements described hereunder shall survive termination or expiration of this Franchise for a period of five (5) years beyond the same.

ARTICLE VII. COMPLIANCE WITH LAWS

The grant of this Franchise is subject to all ordinances, resolutions, and procedures of the City as the same now exist or may be hereafter adopted, amended, revised, or codified, in lawful exercise of any power granted to the City by the Virginia General Assembly or any other lawful body. The City agrees that, except in cases of emergency, it will give the Franchisee thirty (30) days advance written notice of all such rules and regulations adopted by the City before the Franchisee shall be required to comply therewith. In performing its responsibilities under this Franchise, the Franchisee will comply with all applicable State and Federal laws and regulations and all Federal, State and local laws, ordinances, rules, and regulations currently in force or subsequently adopted that may apply to its activities.

ARTICLE VIII. AMENDMENTS TO FRANCHISE

The City and the Franchisee may modify this Franchise from time to time; however, such modifications will be in writing and approved by the Lynchburg City Council.

ARTICLE IX. TERMINATION OF FRANCHISE

The City retains the right to withhold or withdraw any and all privileges granted under this Franchise and to terminate this Franchise at any time if the Franchisee fails to comply with any of the provisions of this Franchise. Exercise of this right by the City shall be in addition to and not in place of any other rights which the City has under the terms of this Franchise. Prior to exercising this right, the City Manager, or such other person or persons as the City Manager may from time to time designate, shall provide the Franchisee with written notice of the Franchisee's failure to comply with the terms of this Franchise or default. The Franchisee shall have thirty (30) days from the date of such notice to remedy any such default. The Franchisee may make a written request for a reasonable extension of the period in which it may remedy any such default to the City Manager, or such other person or persons as the City Manager may from time to time designate. Any such request by the Franchisee shall be in writing and must be made at least fifteen (15) days prior to the expiration of the initial thirty (30) day period stated previously. Any subsequent request shall be in writing and must be made prior to the expiration of any subsequent period.

If there are instituted by or against the Franchisee proceedings in bankruptcy or insolvency during the term of this Franchise, the City may terminate the same at any time thereafter. The exercise of this right by the City shall be in addition to and not in place of any other rights which the City has under the terms of this Franchise. Any successors, assignee or assignees, trustee, or receiver of the Franchisee resulting from proceedings in bankruptcy or under any insolvency law shall be subject to and bound by all of the provisions, terms, conditions, and limitations of this Franchise.

The City retains the right to withhold or withdraw any and all privileges under this Franchise and to terminate this Franchise at any time if there is a taking of the Franchisee's property by way of a court of competent jurisdiction. Exercise of this right by the City shall

be in addition to and not in place of any other rights which the City has under the terms of this Franchise.

ARTICLE X. NOTICES

Notices to the City and the Franchisee shall be sufficient if sent to the following persons and addresses or to such other persons and addresses as the City or the Franchisee may designate in writing from time to time.

Notices to the Franchisee shall be sufficient if sent by First Class Mail, addressed to:

ANCH LLC
ATTN: Member/Manager
2204 Bedford Avenue
Lynchburg, VA 24503

Notices to the City shall be sufficient if sent by First Class Mail, addressed to:

City of Lynchburg, Virginia
ATTN: City Manager
900 Church Street – 3rd Floor
Lynchburg, VA 24504

and

City of Lynchburg, Virginia
ATTN: City Engineer
900 Church Street – 2nd Floor
Lynchburg, VA 24504

ARTICLE XI. MISCELLANEOUS

- A. SUCCESSORS. This Franchise and the rights and responsibilities of the same shall run with the title to the land and shall be binding upon and inure to the benefit of the Franchisee, successor owners, and assigns of the Franchisee's property. Neither the City nor the Franchisee may assign this Franchise or any of the rights and/or responsibilities described herein without the written consent of the other, which will not be unreasonably withheld. Notwithstanding any other part of this Franchise, the City Manager, in his discretion, shall have the authority to permit such assignments on behalf of the City without the same being approved by the Lynchburg City Council.
- B. SEVERABILITY. In the event that any provision of this Franchise, or portion of the same, shall be construed to be invalid or unenforceable by a court of competent jurisdiction, then such provision or portion shall be stricken, and the remaining portions of this Franchise shall remain in full force and effect.
- C. GOVERNING LAW. This Franchise shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, and any legal proceedings related to the same shall be filed in the courts of the City of Lynchburg, Virginia and in no other forum.
- D. ENTIRE FRANCHISE. All provisions with respect to this Franchise are expressly

contained herein. No representative or agent of the City or the Franchisee has made any representation or promise with respect to this Franchise not contained herein.

- E. RESERVATION OF RIGHTS. It is distinctively understood that all privileges and uses of the City's property and PROW, except to the extent herein permitted to the Franchisee, are expressly reserved by the City to use at its discretion as the City deems advisable.
- F. REMEDIES NOT EXCLUSIVE. All rights and remedies described in this Franchise shall be cumulative and additional to all other rights and/or remedies available at law or in equity.
- G. BINDING EFFECT. This Franchise shall be binding and inure to the benefit of the City and the Franchisee, and their respective representatives, successors, and permissible assigns. Further, upon being admitted 'of record' in the Clerk's Office of the Circuit Court of the City of Lynchburg, Virginia, this Franchise shall constitute a covenant running with the land.
- H. MODIFICATION. This Franchise may be modified by the City and the Franchisee during its existence, but no modification shall be valid or enforceable unless made in writing and signed by both of the aforesaid entities. The Lynchburg City Council shall approve such modifications.
- I. INDEPENDENT ENTITIES. Nothing contained in this Franchise shall be construed as or deemed to make either the City or the Franchisee the agent, partner, or joint venture of the other, except as may otherwise be provided in this Franchise. Nothing contained in this Franchise shall give the Franchisee any authority to represent the City before any court or governmental or regulatory agency without the express prior written authorization of the City. Unless otherwise provided in this Franchise, neither the City nor the Franchisee shall be responsible or held liable for the acts or omissions of the other. Further, in performing any services or engaging in any actions pursuant to this Franchise, the Franchisee is and shall be acting as an independent contractor, responsible to all parties for its acts and omissions, and the City shall not be liable for the same.
- J. THIRD-PARTY RIGHTS. Nothing in this Franchise shall be deemed to create any rights to those who are not expressly made a party to this Franchise. The parties to this Franchise are the City and the Franchisee.
- K. COUNTERPARTS AND SIGNATURES. This Franchise may be executed in counterparts. Each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one document. Further, this Franchise may be executed and/or sealed electronically. An electronic signature and/or seal shall be equally as enforceable as an original signature or seal.
- L. HEADINGS. Marginal headings contained in this Franchise are for convenience only and shall not be considered to amplify, relate, modify, or otherwise affect any of the terms, provisions, or conditions of this Franchise.
- M. COVENANT OF NON-DISCRIMINATION. The Franchisee does hereby covenant that no person on the grounds of race, sex, color, national origin, or any other basis prohibited by Federal or Virginia law shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the operation of any of the facilities, buildings, or the like which may be connected to this Franchise. The Franchisee further covenants it will not discriminate against and will make all reasonable efforts to accommodate persons with disabilities as required by the

Americans with Disabilities Act.

ARTICLE XII. METHOD OF ACCEPTANCE

Any person, firm, corporation, or other entity bidding for this Franchise shall deposit with their bid a check in the amount of ONE HUNDRED AND 00/100 DOLLARS (\$100.00), payable as security to the City, and shall accept this Franchise in writing before or within thirty (30) days after its adoption by the Lynchburg City Council. Upon the failure of the successful bidder to accept the same as stated, the successful bidder shall forfeit its deposit to the City. The checks of all other bidders shall be returned upon the acceptance of a successful bid. The said deposit will be returned to the successful bidder upon the Franchise being accepted.

This Ordinance shall be and become effective as a Franchise and shall constitute a contract between the City and the Franchisee once adopted by the Lynchburg City Council and executed on behalf of the Franchisee by its duly authorized representative.

ARTICLE XIII. ADOPTION OF ORDINANCE

This Ordinance was duly adopted by the Council of the City of Lynchburg, Virginia on the _____ day of _____, 20_____, and shall be effective as of the 1st day of July, 2023.

Certified: _____
Clerk of Council

Approved as to Form:

City Attorney/Designee

ARTICLE XIV. ACCEPTANCE OF FRANCHISE

By joining in this Ordinance through signature of its duly authorized representative, the Franchisee does hereby accept the entirety of the same as of its adoption date.

ANCH LLC

(SEAL)

By:_____

Printed Name:_____

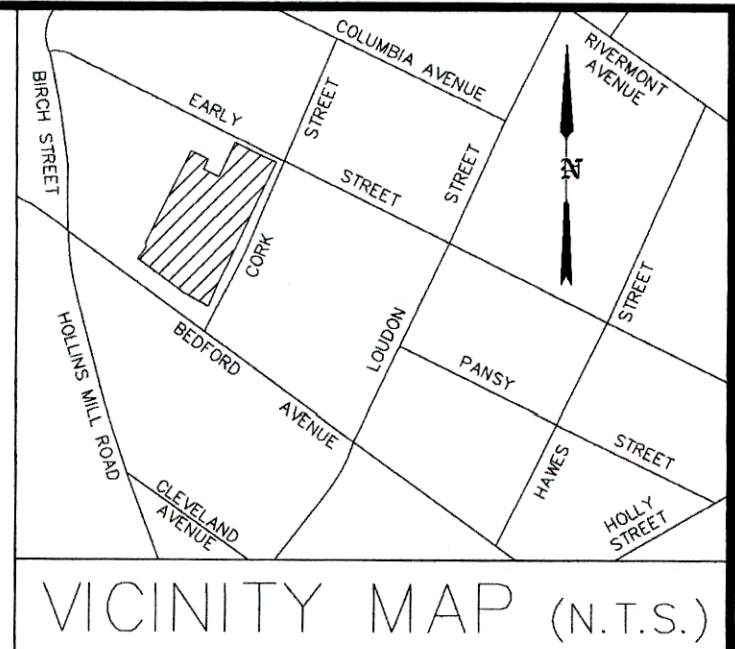
Its: Member / Managing Member (circle one)

ATTEST:

By:_____

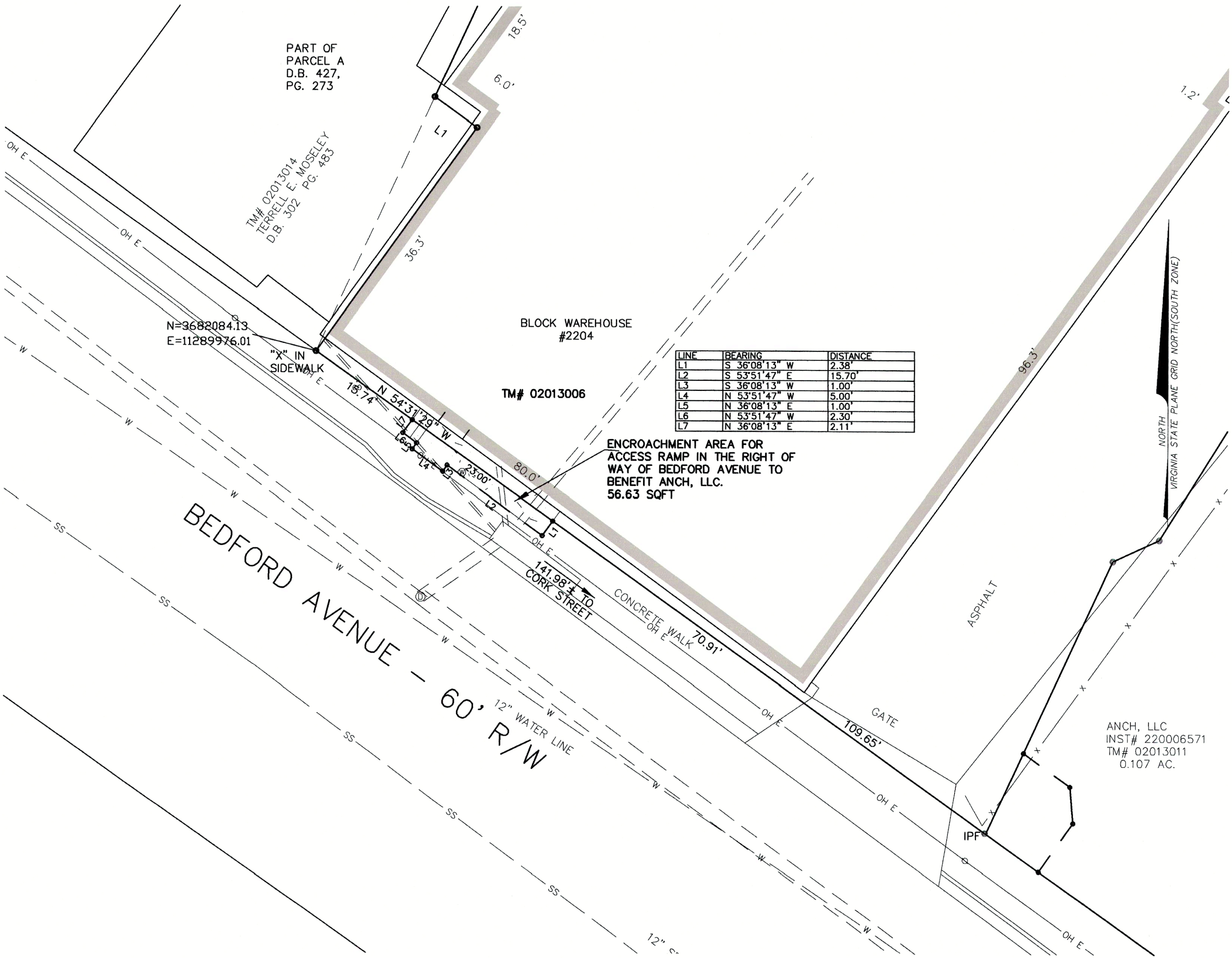
Printed Name:_____

Its:_____



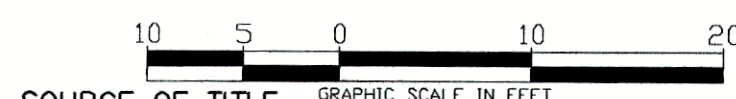
LEGEND

- IPF IRON PIN FOUND
- IPS IRON PIN SET
- ⊙ WELL
- ⊙ ELECTRIC POLE
- ⊙ GUY WIRE
- ⊙ TELEPHONE POLE
- ⊙ TELEPHONE PEDESTAL
- ⊙ CLEANOUT
- ⊙ WATER METER
- ⊙ WATER VALVE
- ⊙ STORM MANHOLE
- ⊙ SANITARY MANHOLE
- ⊙ FIRE HYDRANT
- ⊙ LIGHT POLE
- ⊙ EDGE OF PAVEMENT
- ⊙ EDGE OF GRAVEL
- ⊙ EDGE OF CONCRETE
- ⊙ CREEK
- ⊙ GAS VALVE
- ⊙ BENCHMARK
- ⊙ SIGN
- ⊙ GUARDRAIL
- ⊙ EDGE OF WOODS
- OH E — OVERHEAD ELECTRIC
- OH T — OVERHEAD TELEPHONE
- OH CTV — OVERHEAD CABLE TV
- UG CTV — UG CABLE TELEVISION
- UG E — UG ELECTRIC LINE
- UG FO — UG FIBER OPTIC LINE
- UG G — UG GAS LINE
- SS — UG SAN. SEWER LINE
- UG T — UG TELEPHONE LINE
- W — UG WATER LINE

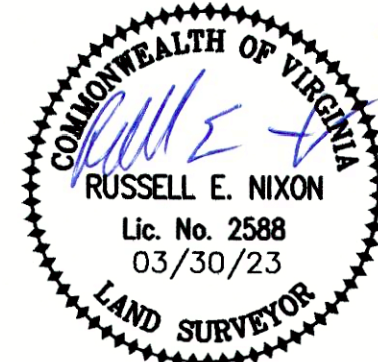


LINE	BEARING	DISTANCE
L1	S 36°08'13" W	2.38'
L2	S 53°51'47" E	15.70'
L3	S 36°08'13" W	1.00'
L4	N 53°51'47" W	5.00'
L5	N 36°08'13" E	1.00'
L6	N 53°51'47" W	2.30'
L7	N 36°08'13" E	2.11'

ENCROACHMENT AREA FOR
ACCESS RAMP IN THE RIGHT OF
WAY OF BEDFORD AVENUE TO
BENEFIT ANCH, LLC.
56.63 SQFT



SOURCE OF TITLE
TM# 02013006 & TM#02013005
ANCH, LLC
INST# 210010515
INST# 220001578
INST# 220002158
INST# 220002648
INST# 220003069
INST# 220004269
INST# 220006571



NLS
Nixon Land
Surveying, L.L.C.
1063C Airport Road
Lynchburg, VA 24502
Phone: (434) 237-3600
Fax: (434) 237-0699
Email: russ@nixonlsec.com
www.nixonlsec.com

SURVEYED FOR: JOHN FEES

CITY FILE NO. D-2440

PLAT SHOWING ENCROACHMENT AREA FOR
RAMP ACCESS IN
BEDFORD AVENUE
FOR THE BENEFIT OF ANCH, LLC
CITY OF LYNCHBURG, VIRGINIA

COMM. NO.: 2021308
SCALE: 1"=10'
SHEET: 1 OF 1
REVISED:
DR. BY: REN
CHK. BY: REN
DATE: 02/17/23
DRW. NME. ENCH

- NOTES:
1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES UPON THE PROPERTY.
 2. THIS PROPERTY IS NOT IN A FLOOD ZONE. THIS PROPERTY IS IN UNSHADED FLOOD ZONE X AS SCALED FROM F.E.M.A. FLOOD INSURANCE RATE MAP(S).
 3. THIS PLAT HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY DONE PER DATE OF THIS PLAT AND THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS EXCEPT AS SHOWN HEREON.
 4. THIS PROPERTY IS SERVED BY CITY OF LYNCHBURG SEWER AND WATER SYSTEMS.

REVISED 03/30/23 TO ADD CITY FILE NO TO PLAT
REVISED 03/27/23 AFTER CONSTRUCTION OF RAMP

DO NOT MOVE AN ANCIENT BOUNDARY STONE OR ENCROACH ON THE FIELDS OF THE FATHERLESS. PROVERBS 23:10 (NIV)





AGENDA ITEM SUMMARY

MEETING DATE

June 27, 2023

PRESENTED BY

Eve Mergenthaler, Planner I

AGENDA ITEM # IV.5

Vacation of Easement for Public Right of Way on a Portion of Elm Street

RECOMMENDATION

This item will appear for City Council vote on the July 11, 2023 Public Hearing Agenda. Approval of the vacation of easement for public right of way on a portion of Elm Street.

SUMMARY

Andy Maddox of Main, LLC is petitioning to vacate an easement for public right of way on a portion of Elm Street located between 1504 Elm Street, 1500 Main Street, and 1520 Main Street. The purpose of the petition is to allow the installation of parking to facilitate the continued expansion of The Wayne, which is a development that consists of condo units and amenities. The total area of the proposed easement vacation is approximately five hundred seventy-two thousandths (0.572) of an acre.

The area contains a paved road that serves the adjoining lots. If the petition is approved, access would continue through the establishment of several easements. A fifteen (15) foot wide public "Bluffwalk" pedestrian easement has been established on 1504 Elm Street and a twenty-four (24) foot wide public access easement has been established on 1500 Main Street. With these easements in place, the easement vacation would not impact vehicle or pedestrian access.

PRIOR ACTION(S)

June 7, 2023: The Technical Review Committee (TRC) reviewed the petition. Comments have been addressed.

FISCAL IMPACT

Based on the zoning of the adjacent lots and property frontage, the value of the property is anticipated to be approximately \$174,414.00 to \$249,160.00. The value of the property would be offset by the construction of the bluffwalk extension by the developer in the public easement.

CONTACT(S)

Eve Mergenthaler, Planner I
Tom Martin, City Planner
Susan Hartman - Senior Assistant City Attorney

ATTACHMENT(S)

1. Exhibit, Plat, Property Photo, Memo, Application, Adjoining Owners (2)

REVIEWED BY



Kent White, Director of Community Development

Date: June 22, 2023



Mercedes Braun, Executive Assistant to the City Manager

Date: June 22, 2023



Wynter C. Benda, City Manager

Date: June 22, 2023

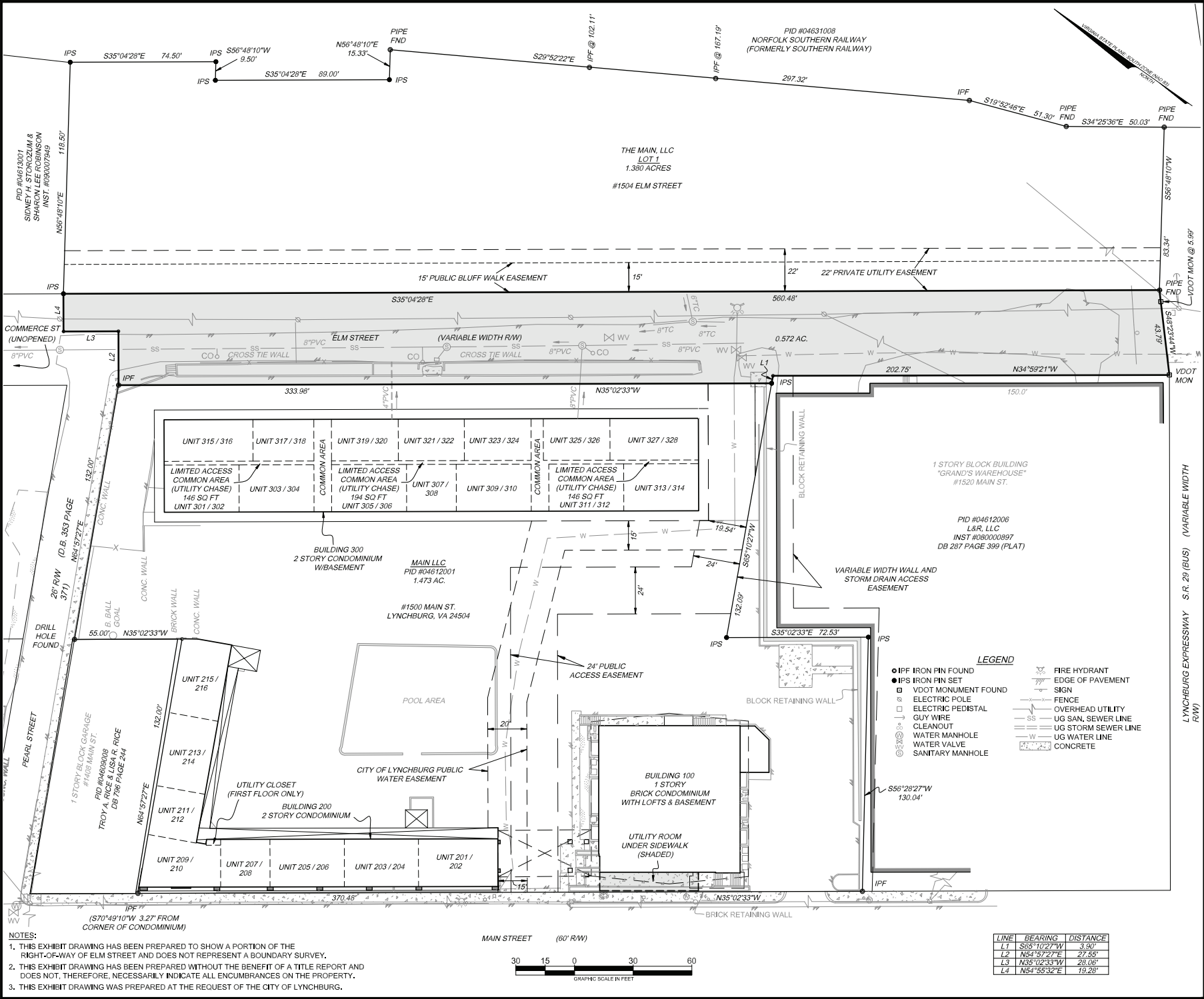


Alicia Finney, Clerk of Council

Date: June 22, 2023

THIS SHEET IS INTENDED TO BE REPRODUCED AT 18"X24". ANY REPRODUCTION OF THIS SHEET AT A DIFFERENT SIZE SHALL VOID THE ORIGINAL SCALE SHOWN ON THE SHEET.

May 02, 2023 - 1:12pm - C:\Users\jmm\OneDrive\Documents\Projects\2023\18000\18000.dwg

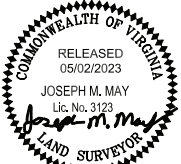


HURT & PROFFITT
INSPIRED / RESPONSIVE / TRUSTED


434.847.7798
2524 LANGHORNE ROAD
LYNCHBURG, VA. 24501
HANDP.COM
ENGINEERING • SURVEYING • LAND DEVELOPMENT
ENVIRONMENTAL
GEOTECHNICAL • CONSTRUCTION TESTING & INSPECTION • CULTURAL RESOURCES

EXHIBIT SHOWING
A PORTION OF
ELM STREET RIGHT-OF-WAY
CITY OF LYNCHBURG, VIRGINIA

PROJECT NO. 20201088
FILE NO. SL-15532
LAT. 37.40970°
LONG. -79.13749°
DATE: 04/20/2023
DRAWN BY: JMM
CHECKED BY: JMM


RELEASED
05/02/2023
JOSEPH M. MAY
Lic. No. 3123
LAND SURVEYOR

SHEET NO. 1 OF 1

REV.

- NOTES:
1. THIS PLAT HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY ON JUNE 2, 2021 AND REVISED JANUARY 20, 2023. THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS EXCEPT AS SHOWN.
 2. THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
 3. THE AREA SHOWN HEREON IS LOCATED IN FLOOD HAZARD ZONE 'X' AND IS NOT LOCATED WITHIN FLOOD HAZARD ZONE 'AE' FOR A 100 YEAR FLOOD AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AS SHOWN ON FEMA MAP #5100930042D DATED JUNE 3, 2008.
 4. UNDERGROUND UTILITIES SHOWN HEREON WERE MARKED BY VA 811. ALTHOUGH EVERY EFFORT WAS MADE TO ENSURE ACCURACY, IT SHALL BE THE RESPONSIBILITY OF THE OWNER/CONTRACTOR TO HAVE UNDERGROUND UTILITIES MARKED PRIOR TO LAND DISTURBANCE/EXCAVATION OF ANY KIND.
 5. ALL FUTURE UTILITIES WILL BE PLACED UNDERGROUND.
 6. PUBLIC WATER AND SEWER PROVIDED BY THE CITY OF LYNCHBURG.
 7. THE PROPERTY SHOWN HEREON IS ZONED B-4.
 8. THIS SURVEY WAS PREPARED AT THE REQUEST OF THE MAIN, LLC.

OWNERS ADDRESS
THE MAIN, LLC
1152 GABLES DR
FOREST, VA 24551

THE PLATTING OR DEDICATION OF THE PROPERTY SHOWN HEREON IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES IF ANY.

REPRESENTATIVE OF THE MAIN, LLC

DATE

COMMONWEALTH AT LARGE TO WIT:

STATE OF VIRGINIA

COUNTY/CITY OF

I, Alydia R Bryant, A NOTARY PUBLIC IN

AND FOR THE STATE AFORESAID, DO HEREBY CERTIFY THAT THE

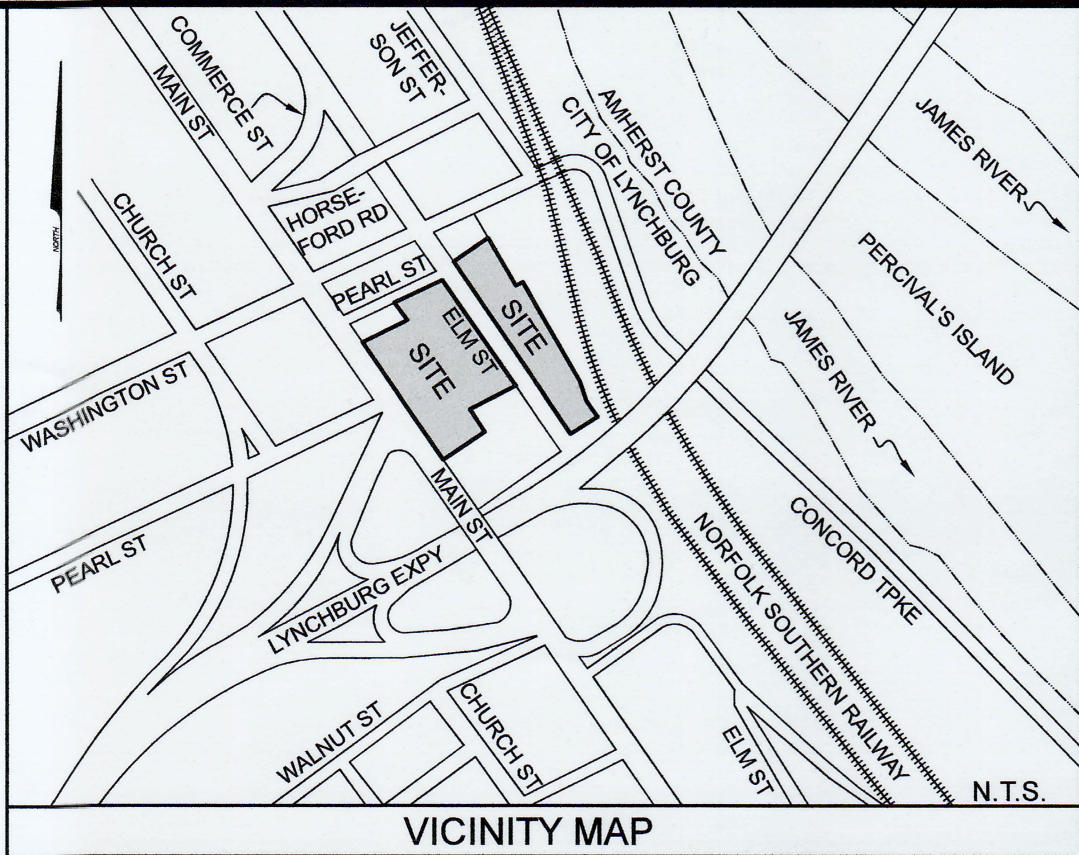
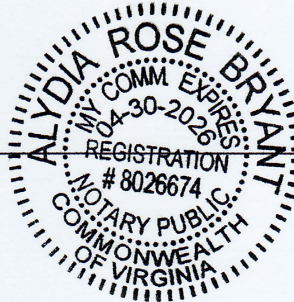
OWNERS/REPRESENTATIVES WHOSE NAMES ARE SIGNED HEREON HAVE

ACKNOWLEDGED THE SAME BEFORE ME THIS 14 DAY

OF April, 2023. MY COMMISSION

EXPIRES 04-30-2026.

NOTARY PUBLIC



HURT & PROFFITT

INSPIRED / RESPONSIVE / TRUSTED



HANDP.COM

LYNCHBURG, VA. 24501

434.847.7796

2524 LANGHORNE ROAD

ENGINEERING • SURVEYING • LAND DEVELOPMENT • ENVIRONMENTAL
GEOTECHNICAL • CONSTRUCTION TESTING & INSPECTION • CULTURAL RESOURCES

PLAT SHOWING
INTERIOR PROPERTY LINE VACATION FOR

THE MAIN, LLC
CITY OF LYNCHBURG, VIRGINIA

PLAT ACCEPTED:
R. Anochurn 6/2/23
CITY PLANNER DATE
A. Rose Bryant 6/2/23
CITY ENGINEER DATE

APPROVAL VOID IF NOT RECORDED

BY 12/2/2023

SOURCE OF TITLE: PID #04612001, 04613004, 04613006, 04613008, & 04613009
THE AREA SHOWN WAS ACQUIRED BY THE MAIN, LLC FROM SURESH PATEL & BHAMINI PATEL BY DEED DATED FEBRUARY 16, 2021 AS RECORDED IN INSTRUMENT #210001729 OF THE CIRCUIT COURT CLERK'S OFFICE OF THE CITY OF LYNCHBURG.

SOURCE OF TITLE: PID #04613005
THE AREA SHOWN WAS ACQUIRED BY THE MAIN, LLC FROM THE MAIN, LLC & ALFRED C. WRIGHT, ESTATE BY DEED DATED APRIL 27, 2022 AS RECORDED IN INSTRUMENT #220003292 OF THE CIRCUIT COURT CLERK'S OFFICE OF THE CITY OF LYNCHBURG.

SOURCE OF TITLE: PID #04613002
THE AREA SHOWN WAS ACQUIRED BY THE MAIN, LLC FROM MADDOX & SON CONSTRUCTION, INC. BY DEED DATED JUNE 9, 2022 AS RECORDED IN INSTRUMENT #220004682 OF THE CIRCUIT COURT CLERK'S OFFICE OF THE CITY OF LYNCHBURG.

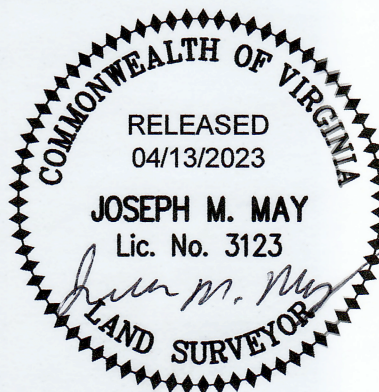
SOURCE OF TITLE: PID #04613003
THE AREA SHOWN WAS ACQUIRED BY THE MAIN, LLC FROM GREENSPACE OF VIRGINIA, L.L.C. BY DEED DATED JUNE 9, 2022 AS RECORDED IN INSTRUMENT #220004683 OF THE CIRCUIT COURT CLERK'S OFFICE OF THE CITY OF LYNCHBURG.

SUBJECT PLATS OF REFERENCE:

PLAT BY JAMES C. MAY AND ASSOCIATES, P.C. TITLED "COMPOSITE OFFICE PLAT SHOWING VACATION OF INTERIOR LOT LINES AND COMBINATION OF CERTAIN PARCELS OWNED BY SURESH PATEL AND BHAMINI PATEL, A.K.A. 1500 MAIN STREET DESCRIBED IN D.B. 993, PG. 106 & D.B. 359, PG. 179" AND DATED "DECEMBER 28, 2018". RECORDED IN INSTRUMENT #190000048 OF THE CIRCUIT COURT CLERK'S OFFICE OF THE CITY OF LYNCHBURG.

PLAT BY HURT & PROFFITT, INC. TITLED "PLAT SHOWING PROPERTY OF TEXINNS, INC." AND DATED "JUNE 5, 1990". RECORDED IN D.B. 772 PAGE 588 OF THE CIRCUIT COURT CLERK'S OFFICE OF THE CITY OF LYNCHBURG.

PROJECT NO.	20201088
FILE NO.	SL-15500
LAT.	37.40970°
LONG.	-79.13749°
DATE:	01/20/2023
DRAWN BY:	JMM
CHECKED BY:	JMM



SHEET NO.

REV.

1 OF 2



434.847.7796

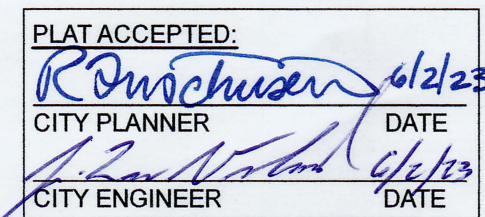
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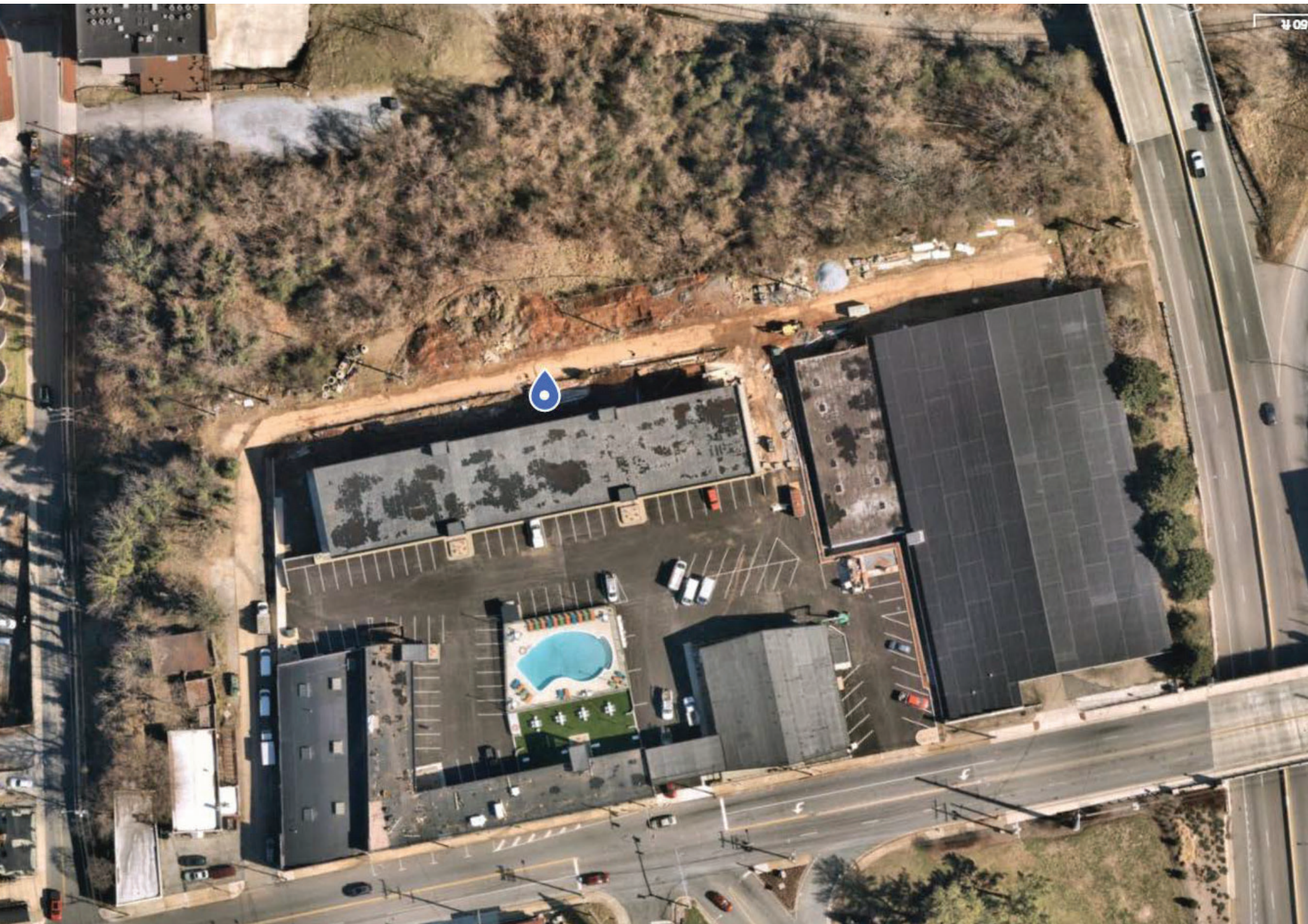
THE MAIN, LLC

A circular seal with a decorative border of small stars. The text "COMMONWEALTH OF VIRGINIA" is arched across the top. In the center, it reads "RELEASED" and "04/13/2023". Below that, "JOSEPH M. MAY" is printed, followed by "Lic. No. 3123". A handwritten signature is scrawled across the bottom half of the seal, and the words "LAND SURVEYOR" are arched across the bottom.

2 OF 2

2 OF 2







MEMORANDUM

The City Attorney's Office

To: Department of Community Development

From: Susan L. Hartman, Senior Assistant City Attorney

Subject: Vacation of Public Easement/Right of Public Passage
for Public Right of Way on Elm Street

Date: June 13, 2023

You inquire what ownership rights the City has over that certain portion of Elm Street in the City of Lynchburg, Virginia described as follows: being and lying between its intersection with an unopened portion of Commerce Street and Pearl Street to the west, the Lynchburg Expressway to the east and the boundary lines of 1504 Elm Street to the north and 1500 and 1520 Main Street to the south, hereafter referred to as “that certain portion of Elm Street”.

In 1796, John Lynch conveyed a portion of the land he owned to the Trustees of the Town of Lynchburg. That conveyance included fee simple title to the streets as well as the lots and other areas. However, the original conveyance to the Town of Lynchburg did not extend past Horsford Branch and did not include that certain portion of Elm Street (which was still a part of Campbell County at the time of the conveyance). Old maps of the area show that certain portion of Elm Street as having been annexed into the City in 1870. Our office located additional information indicating that Charles Williams secured permission from the Virginia General Assembly on February 3, 1818 to establish a warehouse just east of the Lynchburg town limits and later built a three-story brick bank on Main Street near 14th Street and a house for himself and other houses on Elm Street. These houses were demolished in 1961 to make way for a motel.

Further, on the said maps showing the 1870 annexation, there were lots set out on the north side of Elm Street overlooking the James River and there were conveyances in City records indicating the lots were conveyed by metes and bounds and *did not* show ownership to the centerline of Elm Street. Our office also located a book, entitled *Official Reports and Supplement to the Code for the City of Lynchburg for Fiscal Year Ending January 31, 1900*, in which the City Engineer at that time reported having “Stepping Rock on Hand” for repairs and improvement of Elm Avenue between Washington and Pearl Streets. Thus, it appears the City over a hundred years ago likely maintained and improved that certain portion of Elm Street.

Thus, this would at least indicate the City has had some right of use over that certain portion of Elm Street, but the extent of the same is not fully known.

According to the Report of the Attorney General, 340, 341 dated October 4, 1973, to the Hon. Joseph M. Kuczko, Commonwealth's Attorney of Wise County: "Title to streets and alleys vests in accordance with the law applicable at the time of recordation." The earliest known subdivision act, effective March 5, 1888 and before 1922, provided that the recordation of a subdivision plat created a public easement or right of public passage in the streets and alleys shown thereon while fee simple title remained with the subdivider. Further, please note if subdivisions are done improperly or do not lawfully exist, the common law provides that "[w]hen lands are laid off into lots, streets and alleys and a map or plat thereof is made and recorded, all lots sold and conveyed by reference thereunto, without reservation, carry with them as appurtenant thereto the right to the use of the easement in such streets and alleys *necessary* to the enjoyment and value of said lots." *Payne v. Godwin*, 147 Va. 1019, 1024 (1926) (citations omitted). This information is consistent with Chapter IX §§ 68-76 of the Charter of the City of Lynchburg, 1928, c. 343, as amended.

Our office has been unable to locate the original subdivider (or their successors, assigns, and/or heirs) of the applicable property to determine whether he conveyed property to the centerline of that certain portion of Elm Street as part of the subdivision. Every conveyance our office has found (going back to the early 1800's) shows specific lots laid out and conveyed by metes and bounds with only a reservation for the area of the street.

Therefore, after having reviewed deeds of record in both the City of Lynchburg and Campbell County as well as searching other documents, books, photographs, and maps, everything our office has found indicates that the City's only interest in that certain portion of Elm Street is likely a public easement or right of public passage with the fee simple title vested and remaining in its original creator, their successors, assigns, and/or heirs as at common law. For these reasons, the City may only vacate that which it can confirm it owns, which, in this situation, is a public easement or right of public passage.

Sincerely,



Susan L. Hartman, Esquire



The City of Lynchburg, Virginia

RIGHT-OF-WAY VACATION PACKET

Department of Community Development
City Hall, 900 Church Street
Lynchburg, Virginia 24504
PHONE • (434) 455-3900
FAX • (434) 845-7630

1. PETITIONER: The applicant is the: •Owner ☒ •Contract Purchaser: ☐ •Contract Leaseholder: ☐
Name: Main, LLC
Street: 1152 Gable City: Forest State: VA Zip: 24551
Telephone#: 434-385-6512 E-Mail: andy@maddoxandson.com
E-Signed: Andy Maddox (Petitioner) Date: 1/3/22

2. OWNER: (if different from petitioner; otherwise leave this section blank)
Name:
Street: City: State: Zip:
Telephone#: Email:
E-Signed: _____ (Owner) Date:

3. REPRESENTATIVE:
Name: Firm Name:
Street: City: State: Zip:
Telephone#: Email:

Application Submittal Requirements - Right-of-Way Vacation	
	One (1) original signed right-of-way vacation application, complete with metes and bounds description and any adjoining owner signatures.
	A title search or opinion from an attorney or title examiner determining ownership of the right-of-way after it is vacated. A copy of a sample opinion letter is included with the right-of-way vacation application.
	Copy of a sketch (or plat) showing the right-of-way to be vacated. Do not include other work (e.g. internal lot lines to be vacated) on submitted diagram.
	Photos of notification signs (if applicable)
	A check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by City Council (\$75)
	Electronic copy of all submittals. (Electronic copies may be submitted through eTrakit by contacting Eve Mergenthaler at 434-455-3917, by email at eve.mergenthaler@lynchburgva.gov . Please name the files in the following format: (YY-MM-DD_File name)

This following describes the materials needed and steps involved in a right-of-way (ROW) vacation. This process takes roughly 90-120 days from submittal until the decision to vacate is made.

1. Submit the required materials to the Department of Community Development, located at 900 Church Street (second floor):
 - a. One (1) original signed ROW vacation application, complete with metes and bounds description (usually provided by a surveyor) and any adjoining owner signatures.
 - i. Be aware that any disagreement by affected adjoining land owners may result in City Council denying the ROW vacation.
 - b. Electronic copy of a sketch (or plat) showing the ROW to be vacated.
 - c. Electronic copy of a title search or opinion from an attorney or title examiner determining ownership of the right-of-way after it is vacated. A copy of a sample opinion letter is included with the right-of-way vacation application.
 - i. In order for the ROW to be vacated by the City, the ownership of the ROW after it is vacated must first be determined. As a petitioner (or their representative) interested in having the City vacate ROW in order to serve the petitioner's interest, you will be required to provide this information.
 - ii. Past laws dictating how ROW was dedicated and annexation history of the ROW need to be taken into consideration during the research process. Here are some, but not all, things to consider when performing the title research:
 1. Was the property in question publicly dedicated?

APPLICATION FOR THE VACATION OF A
ELM STREET

Street/Alley/Right-of-way

LOCATED BETWEEN

Pearl Street and Dead End at Lynchburg Expressway

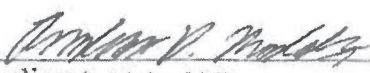
The undersigned applicant, Main, LLC (Andy Maddox)
pursuant to the provisions of Section 15.2-2006 of the Code of
Virginia, 1950, as amended, Sections 35-71 through 35-77 of the
Lynchburg City Code, 1981, as amended, and where applicable,
Section 15.2-2272(2) of the Code of Virginia, 1950, as amended,
respectfully makes application to the Lynchburg City Council for the
vacation of that certain _____ described as follows:

Vacate Elm Street for the private development use of
parking for future multifamily development.

The applicant further requests the Lynchburg City Council to hold a
public hearing on this application at its meeting to be held in the Council
Chamber, City Hall, 900 Church Street, Lynchburg, Virginia, on
March 8, 2022, at 7:30 p.m., or as soon thereafter as
the matter may be heard, and at the conclusion of which hearing to consider
whether or not to vacate the above described Elm Street.

The City does not guarantee that the adjoining property owners get title to any portions of a public street or alley that is vacated. When vacating public right of way the City is only giving up its interest in the public right of way. State law determines who gets title to the vacated right of way. Anyone who wishes to acquire an interest in the vacated right of way should consult with an attorney or title examiner.

Given under my hand this 3 day of January,
2022.


Applicant Main, LLC

1152 Gables Drive

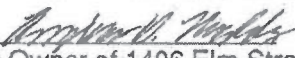
Forest, VA 24551

Address

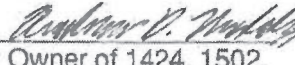
434-385-6513

Telephone Number

WE, THE ADJOINING PROPERTY OWNER(S), ARE IN AGREEMENT
TO THE VACATION OF THE ABOVE DESCRIBED PROPERTY.

Signed: 
Property Owner of 1406 Elm Street
Maddox & Son Construction, Inc

Signed: 
Property Owner of 1414 Elm Street
Greenspace of Virginia, LLC

Signed: 
Property Owner of 1424, 1502,
1506, 1512, and 1514 Elm Street
Main, LLC


Property Owner of 1500 Main Street
Main, LLC

Signed: 
Property Owner of 1520 Main Street
L&R, LLC, by David M. Somers, sole member and
manager of L&R, LLC

Adjoining owners to a portion of Elm Street located between 1504 Elm Street, 1500 & 1520 Main Street

Parcel ID	Address	Owner
04612023	1500 MAIN ST 301	CAMERON, NANCY J
04612019	1500 MAIN ST 213	CAREY, HEIDI M
04608005	1410 COMMERCE ST	CHADWICK, CHRISTOPHER J
04631021	1541 CONCORD TPKE	CITY OF LYNCHBURG
04609001	1400 MAIN ST	DIXON, CHRISTINE L
04609009	1404 MAIN ST	DIXON, CHRISTINE L
04612006	1520 MAIN ST	L&R LLC
04612027	1500 MAIN ST 305	LIONS DEN LLC
04608003	107 WASHINGTON ST	LYNCHBURG 101 LLC
04608004	1329 JEFFERSON ST	LYNCHBURG 101 LLC
04608002	18 HORSEFORD RD	LYNCHBURG 101 LLC
04608001	20 HORSEFORD RD	LYNCHBURG 101 LLC
04613004	1424 ELM ST	MAIN LLC
04612001	1500 MAIN ST	MAIN LLC
04612065	1500 MAIN ST 100.5	MAIN LLC
04612057	1500 MAIN ST 104	MAIN LLC
04612062	1500 MAIN ST 105	MAIN LLC
04612063	1500 MAIN ST 106	MAIN LLC
04612059	1500 MAIN ST 111	MAIN LLC
04612060	1500 MAIN ST 112	MAIN LLC
04612061	1500 MAIN ST 113	MAIN LLC
04612064	1500 MAIN ST 114	MAIN LLC
04612018	1500 MAIN ST 212	MAIN LLC
04612020	1500 MAIN ST 214	MAIN LLC
04612021	1500 MAIN ST 215	MAIN LLC
04612022	1500 MAIN ST 216	MAIN LLC
04612024	1500 MAIN ST 302	MAIN LLC
04612025	1500 MAIN ST 303	MAIN LLC
04612026	1500 MAIN ST 304	MAIN LLC
04612028	1500 MAIN ST 306	MAIN LLC
04612029	1500 MAIN ST 307	MAIN LLC
04612030	1500 MAIN ST 308	MAIN LLC
04612031	1500 MAIN ST 309	MAIN LLC
04612032	1500 MAIN ST 310	MAIN LLC
04612033	1500 MAIN ST 311	MAIN LLC
04612034	1500 MAIN ST 312	MAIN LLC
04612035	1500 MAIN ST 313	MAIN LLC
04612036	1500 MAIN ST 314	MAIN LLC
04612037	1500 MAIN ST 315	MAIN LLC
04612038	1500 MAIN ST 316	MAIN LLC
04612039	1500 MAIN ST 317	MAIN LLC
04612040	1500 MAIN ST 318	MAIN LLC
04612041	1500 MAIN ST 319	MAIN LLC
04612042	1500 MAIN ST 320	MAIN LLC
04612043	1500 MAIN ST 321	MAIN LLC
04612044	1500 MAIN ST 322	MAIN LLC

04612045	1500 MAIN ST 323	MAIN LLC
04612046	1500 MAIN ST 324	MAIN LLC
04612047	1500 MAIN ST 325	MAIN LLC
04612048	1500 MAIN ST 326	MAIN LLC
04612049	1500 MAIN ST 327	MAIN LLC
04612050	1500 MAIN ST 328	MAIN LLC
04613005	1502 ELM ST	MAIN LLC
04613006	1506 ELM ST	MAIN LLC
04613008	1512 ELM ST	MAIN LLC
04613009	1514 ELM ST	MAIN LLC
04614001	1606 MAIN ST	MYERS & RHODES EQUIPMENT CO INC
04631023	52 WASHINGTON ST	OLSEN, SVEN W & BENGT M
04609008	1408 MAIN ST	RICE, TROY A & LISA R
04631007	50 WASHINGTON ST	SABRINAS CASTLE LLC
04631008	1521 CONCORD TPKE	SOUTHERN RAILWAY
04613001	1402 ELM ST	STOROZUM, SIDNEY H &
04609002	1401 ELM ST	STOROZUM, SIDNEY H & SHARON L
04613002	1406 ELM ST	THE MAIN LLC
04613003	1414 ELM ST	THE MAIN LLC
04612055	1500 MAIN ST 103	U & ME BABY LLC
04607007	1411 COMMERCE ST	WOODALL, FAY M & LANG, EDITH L

AGENDA ITEM SUMMARY

MEETING DATE

June 27, 2023

PRESENTED BY

Alicia Finney, Clerk of Council, Matthew Freedman, City Attorney

AGENDA ITEM # IV.6

Organizational Meeting & Rules of Procedure

RECOMMENDATION

This item will appear before Council for vote during the July 11, 2023 City Council meeting. Adopt a resolution approving the City Council's Rules of Procedure which contain the City Council's schedule of regular meetings and work sessions for the upcoming year, as well as amendments brought forth by staff members.

SUMMARY

Section § 15.2-1416 of the Code of Virginia and Section § 2-6 of the City Council's Rules of Procedure provide that each year the local governing body shall prescribe by resolution the schedule of meeting dates, times, and places for the upcoming year. City Council's schedule of meetings and work sessions is set forth in its Rules of Procedure under Section § 2-1. Meetings shall be held in the City Council Chamber, on the first floor in City Hall, as follows: Second and fourth Tuesday of the month, at 4:00 p.m. and **7:00 p.m.** in City Hall, Council Chamber, **except for the month of March where the meetings will be held in City Hall, 2nd Floor Training Room.** There will be no regular meeting on the fourth Tuesdays during the months of July, August, and December. As such, City Council's Rules of Procedure should be readopted to confirm City Council's schedule of regular meetings and work sessions for the upcoming year.

Additionally, staff are proposing changes to the Rules of Procedure as outlined in "Option A" and "Option B".

PRIOR ACTION(S)

N/A

FISCAL IMPACT

N/A

CONTACT(S)

Alicia Finney, Clerk of Council
Matthew Freedman, City Attorney

ATTACHMENT(S)

1. 2024 Council Calendar
2. Proposed Amendments to RoP - Option A (Rev. 6-27-23)
3. Proposed Amendments to RoP - Option B (Rev. 6-27-23)

REVIEWED BY



Date: June 22, 2023

Alicia Finney, Clerk of Council

City Council Meetings 2024

www.lynchburgva.gov/city-council

Meets 2nd and 4th Tuesdays at 4:00 p.m. and **7:00 p.m.**

City Council Chamber*
City Hall, 900 Church Street

January 9, 23

February 13, 27

March 12, 26 *4:00 p.m. Work Session held in 2nd Floor Training Room

April 9, 23

May 14, 28

June 11, 25

July 9

August 13

September 10, 24

October 8, 22

November 12, 26

December 10

OPTION A

LYNCHBURG CITY COUNCIL RULES OF PROCEDURE

(Adopted September 23, 2008; Amended August 11, 2009, July 9, 2010, July 3, 2012, May 14, 2013, July 12, 2016, July 1, 2020, July 13, 2021, and July 26, 2022)

INTRODUCTION

These rules of procedure were designed and adopted for the benefit and convenience of the Lynchburg City Council (hereafter “the Council”). Their purpose is to help the Council conduct its affairs in a timely and efficient manner. They incorporate the general principles of parliamentary procedure found in *Robert's Rules of Order Newly Revised* and applicable Virginia laws. These rules of procedure do not create substantive rights for third parties or participants in proceedings before the Council. Further, the Council reserves the right to suspend or amend these rules of procedure whenever a majority of the Council decides to do so. When the Council's rules of procedure do not address a procedural issue, the Council may consider the most recent edition of *Robert's Rules of Order Newly Revised* for guidance. The failure of the Council to strictly comply with these rules of procedure shall not invalidate any action of the Council.

SECTION 1 -- PURPOSE AND BASIC PRINCIPLES

Section 1-1. Purpose of the Rules of Procedure

- A. To enable the Council to transact business fully, expeditiously, and efficiently while affording every opportunity to citizens to witness the operations of government;
- B. To protect the rights of each individual Councilmember;
- C. To preserve a spirit of cooperation among Councilmembers; *and*
- D. To determine the will of the Council on any matter.

Section 1-2. Basic Principles Underlying the Rules of Procedure

- A. The business of the Council should proceed in the most efficient manner possible;
- B. The Council's rules of procedure must be followed consistently;
- C. The Council's actions should be the result of a decision on the merits and not a manipulation of the procedural rules;
- D. Only one (1) subject may claim the attention of the Council at a time;
- E. Each item presented for consideration is entitled to full and free discussion;
- F. Every Councilmember shall have equal rights to participate and vote on all issues;

- G. Every Councilmember must have an equal opportunity to participate;
- H. The will of the majority must be carried out, and the rights of the minority must be preserved; *and*
- I. The Council must act as a body.

SECTION 2 -- MEETINGS

Section 2-1. When and Where Regular Meetings are to be Held

The time and place of regular meetings of the Council shall be established at each organizational meeting. Meetings shall be held in the City Hall, 900 Church Street, Lynchburg, VA 24504 Council Chamber, on the first floor, as follows:

Second and fourth Tuesday of the month, at 4:00 p.m.; except, there will be no regular meeting on the fourth Tuesdays during the months of July, August, and December. However, during the month of March, the Work Session portion of the Council's regular meetings will be held in the training room of the second floor of the City Hall, 900 Church Street, Lynchburg, VA 24504.

The Council may hold additional meetings at other locations and times, and may change the locations and times of its regular meetings as it deems appropriate to do so. Notice of such additional meetings or changes to the location or time of regular meetings shall be provided to the public and the press as required by the Code of Virginia. Additional meetings shall be referred to as "additional scheduled meetings" and shall be approved by the Council during a regular meeting.

Section 2-1.1 Continued Meetings

A regular meeting shall be continued to the immediately following Thursday of that week, or to the next regularly scheduled meeting, at the same time and place as the regular meeting if the Mayor, or Vice Mayor if the Mayor is unable to act, finds and declares that weather or other conditions are such that it is hazardous for the Councilmembers to attend the regular meeting. Such finding shall be communicated to the Councilmembers and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

Section 2-2. Special Meetings

The Council may hold such special meetings as it deems necessary at such times and places as it may find convenient; and it may adjourn from time to time. A special meeting of the Council shall be called pursuant to Sections 15.2-1417 and 2.2-3707(D) of the Code of Virginia, 1950, as amended.

A. Special meetings may be called by the Mayor, the City Manager, or any two (2) Councilmembers in writing to the Clerk of Council for the purpose stated in the notice of the special meeting. The Clerk of Council shall forthwith notify the Councilmembers of the time

and place designated and the purpose of the special meeting. Notice of the special meeting shall be provided to each Councilmember by written notice, telephone, or electronic means. The Clerk of Council will attempt to give each Councilmember at least twelve (12) hours' notice before the time scheduled for the special meeting, as provided by the Virginia Freedom of Information Act and the City's Charter, and that notice shall be "reasonable under the circumstances". In order to hold a special meeting, a majority of the Councilmembers who are physically present at the special meeting must agree that uncommon or unexpected conditions justify holding a special meeting without at least twelve (12) hours' notice, and the minutes of the special meeting must identify the uncommon or unexpected conditions that justify the holding of the special meeting.

B. Notice to the public of any special meeting shall be given contemporaneously with the notice provided to the Councilmembers, the City Attorney, and the City Manager.

Section 2-3. Legal Holiday

When a regular meeting falls on a legal holiday, the meeting shall be held on the following business day unless the meeting is cancelled by a majority of the Council.

Section 2-4. Adjourned or Recessed Meetings

A. A meeting of the Council is adjourned when the Council has finished its business and is bringing the meeting to a close, with the intention of holding another meeting at a later date. Generally, when a meeting of the Council is adjourned, the next meeting of the Council is preceded by opening ceremonies. A meeting of the Council is recessed when the Council takes a break between sittings, and after the recess business is resumed where it left off.

B. A properly called regular, additional scheduled, or special meeting may be recessed or adjourned to a time and place certain by a motion made and adopted by a majority of the Council in open session during the regular, additional scheduled, or special meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of such recessed or adjourned session of a properly called regular, additional scheduled, or special meeting.

Section 2-5. Cancellation or Rescheduling of Meetings

A regular meeting may be cancelled or rescheduled, in special circumstances and for the convenience of the Council, if the change would not impact an advertised public hearing or a scheduled public presentation. The Mayor and Vice Mayor shall agree to any such change and the Councilmembers shall be immediately notified of the change and the reason therefore. If any Councilmember objects, the regularly scheduled meeting shall proceed as originally planned. In the event that no Councilmember objects, the public and the media shall be notified promptly.

Section 2-6. Organizational Meeting

A. The first meeting in July of each year shall be known as the organizational meeting. The purpose of the organizational meeting shall be:

1. To establish the dates, times, and places for its regular meetings; *and*

2. Adopt its Rules of Procedure.

Section 2-7. Procedure for Election of Mayor and Vice Mayor

A. The first meeting in January of each year following a municipal election shall be reserved for the election of Mayor and Vice Mayor. The Clerk of Council shall preside during the meeting at which the Mayor is elected, pending the election of the Mayor. Following the election of the Mayor, he or she shall preside during the election of the Vice Mayor.

1. The presiding officer shall call for nominations from the membership of the Council.

2. Any Councilmember, after being recognized by the presiding officer, may place one (1) or more names in nomination and discuss his or her opinions on the qualifications of the nominees.

3. After all nominations have been made, the presiding officer shall close the nominating process and open the floor for discussion.

4. After discussion, the presiding officer shall call for the vote.

5. The Councilmembers shall vote by written ballot and the completed ballots shall immediately be passed to a City staff member designated by the Clerk of Council who shall collect the ballots, read them aloud, publicly announce how each Councilmember voted, and tally the respective votes.

6. Each Councilmember shall cast one (1) vote for any one (1) nominee.

7. In the case of a three-way race, the candidate receiving the least number of votes will be dropped from the slate of nominees, and another vote will be taken.

8. A majority of those voting shall be required to elect the Mayor or Vice Mayor.

B. The Mayor and Vice Mayor shall serve for a term of two (2) years, or until replaced.

Section 2-8. Seating Arrangement

The Mayor shall occupy the center seat on the dais with the Vice Mayor occupying the seat at his or her immediate right. The remaining Councilmembers shall determine their seating arrangement by seniority with the most senior Councilmember selecting his or her seat first and the remaining Councilmembers selecting their respective seats in seniority order based on years served on the Council. In the event that two (2) or more Councilmembers have equal seniority, the selection of seating for those Councilmembers shall be determined by chance.

SECTION 3 -- OFFICERS

Section 3-1. Mayor and Vice Mayor

The Mayor shall preside over all meetings of the Council. The Vice Mayor serves in the absence of the Mayor. In the absence from any meeting of both the Mayor and Vice Mayor, the Councilmembers present shall choose one of themselves as temporary presiding officer.

Section 3-2. Clerk of Council

The Clerk of Council shall be appointed by the Council. He or she shall prepare the agenda for the Council meetings, shall attend all of the Council meetings, and shall keep an accurate record of the Council's proceedings.

Section 3-3. Parliamentarian

The City Attorney shall serve as the Parliamentarian for the purpose of interpreting these rules of procedure and the Code of Virginia as may be directed by the presiding officer, or as required as a result of a point of order raised by one (1) or more of the Councilmembers. If the City Attorney is unavailable, then the City Manager shall serve as the Parliamentarian.

Section 3-4. Preservation of Order

A. At meetings of the Council, the presiding officer shall preserve order and decorum. The presiding officer shall have the following powers:

1. To rule motions in or out of order, including any motion not germane to the subject under discussion or patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, and to entertain and rule on objections from other Councilmembers on this ground;
3. To entertain and answer questions of parliamentary law or procedure;
4. To call a brief recess at any time; *and*
5. To adjourn in an emergency.

B. A decision by the presiding officer under any of the first three (3) powers listed above may be appealed to the Council upon motion of any Councilmember. Such a motion is in order immediately after a decision under those powers is announced and at no other time. The Councilmember making the motion need not be recognized by the presiding officer, the motion does not require a second, and the motion, if timely made, may not be ruled out of order. There are two (2) exceptions to this right of appeal.

C. The presiding officer may adjourn without the Council's vote or appeal in an emergency, and he or she may also call a brief recess without a vote at any time, when necessary to "clear the air" and thus reduce friction among the Councilmembers.

D. While a meeting of the Council is in session, all Councilmembers will treat one another with respect, courtesy, and exhibit appropriate decorum. Councilmembers shall not insult, demean, or belittle one another or City staff while a meeting of the Council is in session.

SECTION 4 -- AGENDA

Section 4-1. Preparation

A. The Clerk of Council shall prepare an agenda for the Council's regular meetings conforming to the order of business specified in Section 5-1 entitled "Order of Business".

B. Any Councilmember may request that items be placed on the agenda by contacting the Clerk of Council at least seven (7) days prior to the meeting for which the Councilmember wishes the item scheduled. The Clerk of Council shall place requested items on the agenda for the next regular meeting following the request. Unless directed otherwise by a majority of the Council, such items requested to be placed on the agenda shall first appear before the Council during the Council's Work Session for discussion.

C. All items which are requested to be placed on the agenda and which have not been submitted within the prescribed deadline shall be placed on the agenda for consideration at the following regular meeting.

D. Nothing herein prohibits the Council from adding items to the agenda, provided that such a request is in the form of a motion, and voted upon by a majority of the Council. Council members must use discretion in requesting the addition of items to an agenda. It is considered desirable to have items listed on a published agenda.

E. Unless required by law, no item will be scheduled for a public hearing unless by unanimous consent or the vote of a majority of the Council to hold a public hearing.

F. Any individual or group who wishes to address the Council during a regular meeting on any item of City business shall submit a written request to be on the agenda to the Clerk of Council by noon on the Friday preceding the regular meeting.

Section 4-3 4-2. Delivery of Agenda

The Council agenda packet shall be delivered to each Councilmember, the City Attorney, and the City Manager the Thursday prior to a regular meeting. Delivery by electronic means is the preferable method. The Public Comment Agenda Addendum will be posted after the Public Comment sign-up deadline.

Section 4-4 4-3. Public Access to Agenda Materials

The Clerk of Council shall post the Council agenda packet on the Internet for public information as promptly as possible. Copies of the Council agenda will also be available outside of City Council Chamber and at the Citizens First desk located on the first floor of City Hall for public inspection. Furthermore, paper copies of the Council agenda packet will be provided upon request in the Council/Manager Office.

SECTION 5 -- ORDER OF BUSINESS FOR COUNCIL MEETINGS

Section 5-1. Order of Business

A. At regular meetings of the Council, on the 2nd and 4th Tuesdays of the month, the order of business shall generally be as follows:

1. 4:00 p.m. Call to Order
2. Council Work Session (to conclude at 6:00 p.m.)
 - Staff Reports/Business Item Briefings
 - Roll Call
 - Closed Meeting (if necessary)
3. Recess
4. ~~7:30~~ 7:00 p.m. Call to Order
5. Invocation & Pledge of Allegiance
6. Special Recognitions by the Mayor or Council (if any)
7. Consent Agenda
8. Public Hearings
9. Public Comment (if requested)
10. General Business
11. Closed Meeting (if necessary)
12. Adjournment

B. The above order of business may be modified by the Clerk of Council to facilitate the business of the Council.

Section 5-1.1. Council Work Session

A. The Council Work Session shall be the designated time where City staff may introduce and present various matters affecting the City, its citizens, and/or the municipal corporation to the Council for review, discussion, questions, guidance, and consideration for a vote at a later date. The Council and City staff are encouraged to engage in discussion, ask questions, and the like during the Council Work Session.

B. Absent exigent circumstances as determined by a majority of the Council, no items will be positioned for a vote during the Council Work Session.

Section 5-1.2. Roll Call

A. Roll Call shall be the designated time where Councilmembers may individually and publicly speak to matters relevant to the City, its citizens, and/or the operations of the municipal corporation.

B. Debate shall not be permitted during Roll Call, however, upon the conclusion of all the Councilmembers' Roll Call item(s) presented, each Councilmember, where desired, may

respond to Roll Call item(s) presented, but such response shall in no event exceed a total time period of two (2) minutes.

Section 5-2. Consent Agenda

A. The Consent Agenda shall include, by way of illustration but not limitation, the following:

1. Approval of minutes.
2. Ordinances or resolutions that are routine.
3. Final/second readings of appropriations, ordinances, or resolutions which received unanimous approval upon introduction at a previous meeting.
4. Any item believed by the Clerk of Council to be routine and not controversial in nature.

B. The Consent Agenda shall be introduced by a motion "to approve", and shall be considered by the Council as a single item.

C. There may be a short discussion of Consent Agenda items to answer questions or clarify a matter. There shall be no lengthy debate or discussion of a Consent Agenda item.

D. Upon request of a Councilmember, an item shall be removed from the Consent Agenda. The item shall be considered separately after adoption of the Consent Agenda.

Section 5-3. Public Comment

A. Every petition, communication, or address to the Council shall be in respectful language and is encouraged to be in writing.

B. General rules regarding Public Comment are as follows:

1. Individuals or groups wishing to speak at a regular meeting shall submit a written request to the Clerk of Council by noon on the Friday prior to the regular meeting.
2. Public Comment shall be for the purpose of allowing members of the public to present any matter, which, in their opinion, deserves the attention of the Council. They shall not serve as a forum for debate with the Council.
3. Remarks shall be addressed directly to the Council and not to City staff, the audience, or the media.
4. The presiding officer shall open the Public Comment period.
5. Each speaker shall clearly state his or her name and locality of residence.

6. There shall be a time limit for each individual speaker of three (3) minutes.
7. A representative of a group may have up to five (5) minutes to make a presentation. The representative shall identify the group at the beginning of his or her comment period. A group may have no more than one (1) spokesperson. The term “group” shall mean organizations and entities (e.g. corporations, trusts, LLCs, religious entities, political parties, non-profits, charities, etc.) with more than one (1) person belonging thereto and serving in some official capacity therewith.
8. Speakers are not permitted to donate time to other speakers.
9. There shall be no comment during the Public Comment period on a matter for which a public hearing is scheduled during the same meeting.
10. There shall be no comment during the Public Comment period on a matter that has already been the subject of a previous public hearing where no final vote has been taken.
11. Any issue raised by the public which the Council wishes to consider may be put on the agenda for a future Council meeting by a majority vote.
12. Councilmembers shall not discuss issues raised by the public except by consent of a majority of the Councilmembers present.
13. Once the Council has heard a presentation from an individual or organization on a particular subject, the individual or organization may not make another presentation on the same subject within three (3) months of the first presentation, except by a majority vote of the Councilmembers present and voting.
14. The above rules notwithstanding, members of the public may present written comments to the Council or to individual Councilmembers at any time during the meeting. Such written comments shall be submitted through the Clerk of Council.

C. Other than as stipulated above or during public hearings, no person shall be permitted to address the Council orally, except by permission of the Council, and such permission shall not be granted unless with the consent of a majority of the Councilmembers present at such meeting.

D. No speaker's time shall be extended except by unanimous consent or a two-thirds (2/3) vote of the Councilmembers present.

E. Any person who desires to submit written statements for forwarding to the Council prior to a Council meeting must submit ten (10) copies to the Clerk of Council by 4:00 p.m. on the Thursday preceding the Council meeting.

Section 5-4. Prohibited Conduct

A. All persons appearing before the Council or in the Council Chamber while a meeting of the Council is in session will not be allowed to:

1. Campaign for public office;
2. Promote private business ventures;
3. Use profanity or vulgar language or gestures;
4. Use language which insults or demeans any person or which, when directed at a public official or employee, is not related to his or her official duties, however, citizens have the right to comment on the performance, conduct, and qualifications of public figures;
5. Make non-germane or frivolous statements;
6. Interrupt other speakers or engage in behavior that disrupts the meeting, including but not limited to, applause, cheers, jeers, etc.;
7. Engage in behavior that intimidates others; *or*
8. Address the Council on issues that do not concern the services, policies, affairs of the Council or the City, or that the Council or the City have no authority to change.

B. The presiding officer shall preserve order and decorum at the Council meetings. He or she may order the expulsion of any person for violation of these rules, disruptive behavior, or any words or action which incites violence or disorder, subject to appeal to the Council. Any person so expelled shall not be readmitted for the remainder of the meeting from which they were expelled. Any person who has been so expelled and who at a later meeting again engages in behavior justifying expulsion may also be barred from attendance at future Council meetings for a specified and reasonable period of time not to exceed six (6) months, or upon a still subsequent expulsion a period not to exceed one (1) year either by the presiding officer, subject to appeal to the Council, or by motion passed by the Council.

Section 5-5. Public Hearings

A. This section of the agenda shall be for public hearings as required by City, State, or Federal law, or as the Council may direct.

B. The presiding officer shall conduct all public hearings.

C. The order of public hearings shall be as follows:

1. The presiding officer shall open the public hearing.
2. Public hearings shall begin with a brief presentation from a staff member and/or representative from the cognizant board, authority, commission, or committee. The presentation shall summarize the facts about the issue and the staff recommendation. The Councilmembers may seek clarification during the presentation.
3. In land use cases (rezoning or conditional use permit) the applicant or his or her representative shall be the first speaker(s). There shall be a time limit of ten (10) minutes for the applicant(s) or his or her representative's presentation.

4. The presiding officer shall then solicit comments from the public, asking those in favor of the proposal to speak first, and then those opposed to the proposal. Each speaker must clearly state his or her name and locality of residence. There shall be a time limit of three (3) minutes for each individual speaker. If the speaker represents a group, there shall be a time limit of five (5) minutes. A speaker representing a group shall identify the group at the beginning of his or her remarks. A group may have no more than one spokesperson. The Council, by unanimous consent or by a two-thirds (2/3) vote of the members present, may allow any speaker to proceed past the time limit.
5. After public comments have been received, in a land use case, the applicant or the representative of the applicant, at his or her discretion, may respond with a rebuttal. There shall be a five (5) minute time limit for rebuttal.
6. Upon the conclusion of public comments, or the applicant's rebuttal in a land use case, the presiding officer shall close the public hearing.

D. Emails, letters, and other writings submitted to the Clerk of Council or Councilmembers to be included as part of a public hearing shall be provided to the Clerk of Council at least one (1) calendar day prior to the applicable public hearing date. Such emails, letters, and other writings need not be read publicly. If provided in accordance with the above, such emails, letters, and other writings shall be provided by the Clerk of Council to the Council prior to the public hearing for review. If a Councilmember desires such emails, letters, and other writings to be included as part of a public hearing, then such Councilmember shall announce the same during the public hearing and provide the applicable documents to the Clerk of Council to be included in the meeting minutes.

E. Voicemails submitted to the Clerk of Council to be included as part of a public hearing shall be publicly presented to the Council prior to the conclusion of the public hearing. Such voicemails shall be provided to the Clerk of Council at least one (1) calendar day prior to the public hearing date. Voicemails shall only be presented during a public hearing after all in-person speakers have had an opportunity to speak and all emails, letters, and other writings have been submitted.

~~D. E.~~ When a public hearing has been closed by the presiding officer, no further public comment shall be permitted. The Councilmembers, however, may direct questions to the applicant, the representative of the cognizant board, authority, commission, committee, to a speaker, or to a staff member for clarification prior to taking any vote, if a vote is in order.

~~E. G.~~ Following the close of the public hearing, the presiding officer may entertain a motion to dispose of the issue and the Council may debate the merits of the issue.

Section 5-6. General Business

This section of the agenda shall include items of a general nature to be considered by the Council. The last items on the agenda shall be adoption of appropriation resolutions introduced at a previous meeting which did not receive a unanimous vote upon introduction. After the presiding officer has stated the item for consideration, staff may be asked to provide a brief summary.

Section 5-7. Items Not on the Agenda

With the Council's consent, items may be added to the agenda to respond to situations and/or questions of a critical nature which have arisen after the deadline has passed for items to be placed on the agenda.

Section 5-8. Closed Meetings

A. Closed Meetings should only be used when the matter to be discussed is too sensitive for discussion in public and only as allowed by law.

B. No meeting shall become a Closed Meeting until the Council takes an affirmative recorded vote during the open meeting.

1. The motion shall state specifically the purpose or purposes which are the subject of the closed meeting and reasonably identify the substance of the matters to be discussed. The motion shall make specific reference to the applicable exemption(s) under the Virginia Freedom of Information Act, which authorizes the Closed Meeting.

2. The Councilmembers shall request the assistance of the City Attorney when making additions to the published Closed Meeting agenda.

C. No resolution, ordinance, rule, contract, regulation, or motion considered in a Closed Meeting shall become effective until the Council reconvenes in an open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion which shall have its substance reasonably identified in the open meeting.

D. At the conclusion of a Closed Meeting, the Council shall reconvene in open meeting immediately thereafter and shall cast a vote certifying that to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements were discussed; *and*
2. Only public business matters identified in the motion convening the Closed Meeting were heard, discussed, or considered.
3. Any member who believes that there was a departure from the above requirements shall so state prior to the presiding officer's call for the vote, indicating the substance of the departure that, in his or her judgment, has taken place.

E. The failure of the certification to receive the affirmative vote of the majority of the Councilmembers present during the Closed Meeting shall not affect the validity or confidentiality of the Closed Meeting with respect to matters considered therein in compliance with the Virginia Freedom of Information Act.

F. The Council may permit non-members to attend a Closed Meeting if their presence would reasonably aid the Council in its consideration of an issue. Individuals attending a Closed Meeting should respect the Council's decision that the subject matter is too sensitive for public discussion and should treat the Closed Meeting discussion as confidential.

SECTION 6 -- RULES OF PROCEDURE FOR COUNCIL MEETINGS

Section 6-1. Quorum

A. As provided by Section 15.2-1415 of the Code of Virginia, 1950, as amended, a majority of the Council must be present to conduct business. A quorum is a majority of the entire membership of the Council, including any vacant seats.

B. A quorum refers to the number of members present at a meeting, not the number of members voting on an issue. If no quorum is present or if a quorum is lost, the Council can only (i) adjourn, (ii) recess, or (iii) take steps to obtain a quorum.

C. If a quorum fails to attend any meeting, those attending may adjourn to such other time prior to the next regular meeting as they may determine and the Clerk of Council shall enter such adjournment in the minute book of the Council and shall notify absent members thereof in the same manner as required for special meetings.

D. If the Virginia Conflict of Interests Act prevents some of the members of the Council from participating in an item of business, Sections 2.2-3112 and 15.2-1415 of the Code of Virginia, 1950, as amended, provide that a majority of the remaining members of the Council shall constitute a quorum.

Section 6-2. Priority in Speaking on the Council

When two (2) or more members of the Council wish to speak at the same time, the presiding officer shall name the one to speak.

Section 6-3. Comments and Queries of Councilmembers

Councilmembers are to observe the following rules during the discussion of agenda items:

A. The presiding officer shall keep discussion germane to the subject. Points of clarification shall be limited to questions only. The presiding officer shall rule other comments out of order.

B. The Councilmembers may address questions to the City Manager or staff present at the meeting. Staff members should be at a microphone when answering Councilmembers' questions. All legal questions should be addressed to the City Attorney.

Section 6-4. Action by the Council

A. Items of business will be considered and dealt with one (1) at a time, and a new proposal may not be put forth until action on the preceding one has been concluded.

B. When a proposal is perfectly clear to all Councilmembers present, and the proposal will not obligate the Council in any manner nor finally decide an issue before the Council, action can be taken upon the unanimous consent of the Councilmembers present, without a motion

having been introduced. However, unless agreed to by unanimous consent, all proposed actions of the Council must be approved by vote under these rules. Silence, or the lack of spoken dissent, is taken as consent.

Section 6-5. Motions

- A. Informal discussion of a subject is permitted while no motion is pending.
- B. Any Councilmember, including the presiding officer, may make a motion.
- C. Councilmembers are required to obtain the floor before making motions or speaking, which they can do while seated.
- D. A Councilmember may make only one (1) motion at a time.
- E. Except for matters recommended by a committee of the Council, or as otherwise stipulated in these rules of procedure, all motions require a second and a motion dies for lack of a second.

Section 6-6. Substantive Motions

- A. A substantive motion is any motion that deals with the merits of an item of business and is within the Council's legal powers, duties and responsibilities.
- B. A substantive motion is out of order while another substantive motion is pending.

Section 6-7. Procedural Motions

A. Procedural motions are those motions that the Council may use to "act upon" a substantive motion by amending it, delaying consideration of it, and so forth. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

B. In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion requires the floor and a second, is debatable, may be amended, requires a majority of the votes cast, and a quorum being present for adoption. Procedural motions are listed below in their order of priority. If a procedural option is not listed below, then it is not available.

1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the Council which shall decide the matter by majority decision. Such an appeal is in order immediately after such a decision is announced and at no other time. The Councilmember making the motion need not be recognized by the presiding officer, the motion does not require a second, and the motion, if timely made, may not be ruled out of order.

2. To Adjourn. At a meeting of the Council, a motion to adjourn shall always be in order. The motion may be made only at the conclusion of action in a pending substantive matter; it may not interrupt deliberation of a pending matter. The motion is not debatable

and cannot be amended.

3. To Take a Brief Recess. This motion allows the Council to pause briefly in its proceedings. A motion to take a brief recess is in order at any time except when a motion to appeal a procedural ruling of the presiding officer or a motion to adjourn is pending.

4. To Suspend the Rules. The Council may suspend provisions of its rules of procedure. The Council may not, however, suspend any provisions of the rules of procedure that state requirements imposed by law on the Council. For adoption, a motion to suspend the rules requires unanimous consent or an affirmative vote of two-thirds (2/3) of the Councilmembers present.

5. To Defer Consideration. The Council may defer action on a substantive motion to a more convenient time. The Council may use the following motions to defer consideration of a substantive motion:

- (a) The motion to "lay on the table" is used to temporarily set aside an item of business to deal with a more urgent item. Once an item of business has been laid on the table, a motion to "take from the table" is needed to bring the item back before the public body for discussion.
- (b) The motion to "postpone" delays debate on an item of business so that it may be considered at a later date. An item of business may be "postponed definitely," when it is continued to a definite time or date or "postponed indefinitely" if no future time or date is specified in the motion. A matter that has been postponed to a certain time or day shall be brought up again automatically when that time arrives. When a matter has been postponed indefinitely it takes an affirmative vote of a majority of the Council to bring the matter back for further discussion.
- (c) Section 15.2-2286 of the Code of Virginia, 1950, as amended, requires that a zoning petition must be "acted upon" within a "reasonable time," not exceeding one (1) year. The Council may defer action on a zoning petition for consideration at a more convenient time. However, the Council may not dispose of a zoning petition with a motion to postpone indefinitely.

6. To Call the Question. The motion to call the question is not in order until every Councilmember has had an opportunity to speak once on an item of business and the deliberation by the Council on that item of business has exceeded thirty (30) minutes. The motion is not amendable or debatable.

7. To Amend. Any substantive motion properly on the floor may be amended. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a substitute motion. A motion may be amended no more than twice. Once a motion has been offered to the Council, it is up to the Council to decide whether or not it should be changed by

amendment. It is not necessary for the person making the original motion to approve of any proposed amendment to the motion.

8. Substitute Motion. A substitute motion shall be allowed to replace any motion properly on the floor. It shall have precedence over an existing motion and may be discussed prior to being voted on. If the substitute motion fails, the former motion can then be voted on. If the substitute motion passes, the substitute motion replaces the main motion and the new main motion will be considered and acted upon by the Council. No more than one (1) substitute motion may be made. If a substitute motion passes and replaces the main motion, no further substitute motions may be made.

9. Withdrawal of Motion. A motion may be withdrawn by the introducer at any time before it is amended or before the presiding officer puts the motion to a vote, whichever is first.

10. To Reconsider. The Council may vote to reconsider its action on a matter. A motion to reconsider must be made no later than the next succeeding regular meeting of the Council and can only be made by a Councilmember who voted with the prevailing side. In the event of a tie vote on the original motion any Councilmember may introduce a motion to reconsider. The motion cannot interrupt deliberation on a pending matter but is in order when action on a pending matter concludes. A motion to reconsider may not be used in a land use decision involving a rezoning or a conditional use permit.

11. To Prevent Reintroduction for Six (6) Months. The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote of the majority of the entire membership of the Council. If adopted, the restriction imposed by the motion remains in effect for six (6) months. As with every other procedural motion, the motion to prevent reintroduction may be dissolved by a motion to suspend the rules of procedure.

Section 6-8. Debate

A. The presiding officer shall state the motion and then open the floor to debate. The presiding officer shall preside over the debate according to the following general principles:

1. The maker of the motion is entitled to speak first;
2. A Councilmember who has not spoken on the issue shall be recognized before a Councilmember who has already spoken;
3. To the extent possible, the debate on the motion shall alternate between proponents and opponents of the measure;
4. A Councilmember may vote for or against his or her motion, but may not speak against his or her motion;
5. The presiding officer may participate in the debate prior to declaring the matter ready for a vote; *and*

6. Councilmembers shall not engage in electronic communications amongst themselves regarding a motion that is on the floor for debate.

Section 6-9. Duty to Vote

A. Each Councilmember who is present at a meeting shall be required to vote upon all issues presented for decision unless prohibited from doing so by the Virginia Conflict of Interests Act or unless excused from voting by the other Councilmembers. A Councilmember who wishes to be excused from voting shall state his or her reasons for abstaining and the presiding officer shall ask if any of the remaining members object. If there are any objections, the Council shall take a vote of the remaining members on the question of whether or not to allow the Councilmember to abstain from voting.

B. If there is an abstention, it shall be the responsibility of the Clerk of Council to note the abstention and the reason for abstaining for the record.

Section 6-10. Method of Voting

A. After debate, the presiding officer shall ensure that the motion is clear and call for the vote.

B. All questions submitted to the Council shall be determined by a majority vote of the members voting on any such question, unless otherwise required by special or general law. A majority is more than half.

C. An "affirmative vote" by a majority of the Council present is necessary to adopt a motion, and a tie vote means that the motion, resolution, or issue has been rejected. When a motion fails on a tie vote, the "noes" prevail.

D. In order for a motion in a zoning matter to be adopted, it must be approved by a majority of those voting.

E. All questions submitted to the Council for decision shall be decided by a vote of the Council utilizing the electronic voting board in the Council Chambers. In the event of a malfunction of the electronic voting board, or if the meeting is held in a space without such a device, the question shall be decided by an oral vote of "aye" or "nay". Any Councilmember may request a roll call vote. In any case, the presiding officer shall announce the results of the vote.

Section 6-11. Decisions on Points of Order

Any Councilmember may raise a point of order without being recognized by the presiding officer. The presiding officer shall refer any point of order to the Parliamentarian. The Parliamentarian shall advise the presiding officer who shall then make a ruling on the point of order. A Councilmember may appeal the ruling of the presiding officer to the Council which shall decide the matter by majority decision.

SECTION 7 -- BOARDS, AUTHORITIES, COMMISSIONS, AND COMMITTEES

Section 7-1. Appointments to Boards, Authorities, Commissions, and Committees

A. Members of boards, authorities, commissions, and committees shall be appointed by an affirmative vote of a majority of the Councilmembers to serve specified terms as may be deemed appropriate by the Council.

B. The Mayor shall make all appointments to, and select the chairs of, the Council's two standing committees, Finance and Physical Development. Substitutes or alternates may participate on such committees only if so authorized by the Mayor. Committee members for such committees will serve two-year terms.

C. Ad hoc committees, such as special task forces, may be created from time to time by the Council, for specific purposes, as determined by the Council.

Section 7-2. Standing Committees Roles and Guidelines

The roles of and the operating guidelines for the Finance and Physical Development committees shall be as adopted by a majority of the Council.

SECTION 8 -- GENERAL OPERATING POLICY

Section 8-1. Broadcasting Council Meetings

Regular meetings of the Council shall be broadcast live on the City Government Channel 15 and the Internet. Copies of the broadcast may be obtained by the public from the Department of Communications and Public Engagement at cost.

Section 8-2. Numbering and Indexing of Resolutions and Ordinances

It shall be the responsibility of the Clerk of Council to number and index all resolutions and ordinances adopted by the Council. The resolutions shall be numbered consecutively, and use the last two digits of the calendar year. For example: for the first resolution in January, 2008, the resolution number would be shown as: #R-08-01. Ordinances shall also be numbered consecutively.

Section 8-3. Minutes of the Council Meetings

The minutes of the Council's meetings shall reflect the official acts of the Council. They shall provide a summary of discussion and record of the Council's votes. Minutes shall be considered for approval within a reasonable time after the meeting they record.

Section 8-4. Amending the Rules of Procedure

These rules may be amended at any regular meeting, or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting. Adoption of an amendment to these rules shall require an affirmative vote of four (4) members of the Council.

Section 8-5. Special Rules of Procedure

The Council may adopt its own special rules of procedure to cover any situations that are not adequately addressed in these Rules of Procedure. Adoption of a special rule of procedure shall require an affirmative vote of a majority of a quorum of the Council.

AMENDMENTS:

August 11, 2009: the time of Council meetings was changed to the present schedule.

July 9, 2010: amended Section 6-7, B (8) to stipulate that if a substitute motion passes it becomes the main motion for consideration and action and there may be no additional substitute motions.

July 3, 2012, amended as follows:

- Introduction; added a process to consider when the Rules of Procedure do not address a procedural issue.
- Section 2-1; adjustments reflecting the practice of no longer distinguishing separate "work session" meetings. The work session will be recognized as a part of Council's regular meeting and that section will be separated from the rest of the meeting by a recess.
- Section 4-3 to 4-4; clarifying language reflecting that agendas are now prepared, delivered, and are available to the public electronically. Section 4-5 was deleted.
- Section 5-1; amended the order of business to reflect current practice.
- Section 5-3, B; added a restriction on speakers donating their time to other speakers.
- Section 6-8, A; added a restriction on electronic communication between Councilmembers regarding an item under debate.
- Section 6-10. D; clarification that action on a zoning matter requires a majority vote of those present for resolution.
- Section 7-1, C; acknowledgement of the Mayor's responsibility to appoint Councilmembers to the Audit Committee.

May 14, 2013: amended Sections 5-3 and 5-5 to eliminate the requirement that a speaker provide his or her physical address and replace it with the requirement that the speaker identify his or her locality of residence when speaking in a public meeting.

July 12, 2016: amended Section 7-1(C) to eliminate the provision providing for the appointment of Councilmembers to serve on the Audit Committee.

July 1, 2020: amended Section 2.2 to eliminate the provision requiring that twelve hours advance notice must be given in order to hold a special meeting.

July 13, 2021: amended Section 4-1(F) and Section 5-3(B)(1) changing deadline for public comment from noon on the Wednesday preceding the Council meeting to noon on the Friday preceding the Council meeting.

July 26, 2022, amended as follows:

- All non-consequential clerical revisions including grammatical and formatting changes; uniform language changes; and modernization of terminology changes, less the revision of replacing "must" with "should" under Section § 1-2.(B.).

- Section § 2-6.(A.) - hold an Organizational Meeting annually instead of biennially to align with State code Section § 15.2-1416
- Section § 2-7.(A.)(5.) - removal of “Deputy Clerk”; changed to “City staff member designated by the Clerk of Council”
- Section § 4-3. Delivery of Agenda - addition of language to address the delivery of the Public Comment Agenda Addendum
- Section § 2-7. Procedure for Election of Mayor and Vice Mayor – address moving the Mayor and Vice Mayor elections from July to January to align with municipal elections
- Section § 3-4. Preservation of Order; separated last sentence of subsection B to be a “C” so it can be used as needed by the Mayor/Vice Mayor
- Section § 3-4. Preservation of Order; created subsection “D” to address Councilmember decorum
- Section § 5-4. Prohibited Conduct; edited language in subsection A to apply to all persons speaking or in Council Chamber

OPTION B

LYNCHBURG CITY COUNCIL RULES OF PROCEDURE

(Adopted September 23, 2008; Amended August 11, 2009, July 9, 2010, July 3, 2012, May 14, 2013, July 12, 2016, July 1, 2020, July 13, 2021, and July 26, 2022)

INTRODUCTION

These rules of procedure were designed and adopted for the benefit and convenience of the Lynchburg City Council (hereafter “the Council”). Their purpose is to help the Council conduct its affairs in a timely and efficient manner. They incorporate the general principles of parliamentary procedure found in *Robert's Rules of Order Newly Revised* and applicable Virginia laws. These rules of procedure do not create substantive rights for third parties or participants in proceedings before the Council. Further, the Council reserves the right to suspend or amend these rules of procedure whenever a majority of the Council decides to do so. When the Council's rules of procedure do not address a procedural issue, the Council may consider the most recent edition of *Robert's Rules of Order Newly Revised* for guidance. The failure of the Council to strictly comply with these rules of procedure shall not invalidate any action of the Council.

SECTION 1 -- PURPOSE AND BASIC PRINCIPLES

Section 1-1. Purpose of the Rules of Procedure

- A. To enable the Council to transact business fully, expeditiously, and efficiently while affording every opportunity to citizens to witness the operations of government;
- B. To protect the rights of each individual Councilmember;
- C. To preserve a spirit of cooperation among Councilmembers; *and*
- D. To determine the will of the Council on any matter.

Section 1-2. Basic Principles Underlying the Rules of Procedure

- A. The business of the Council should proceed in the most efficient manner possible;
- B. The Council's rules of procedure must be followed consistently;
- C. The Council's actions should be the result of a decision on the merits and not a manipulation of the procedural rules;
- D. Only one (1) subject may claim the attention of the Council at a time;
- E. Each item presented for consideration is entitled to full and free discussion;
- F. Every Councilmember shall have equal rights to participate and vote on all issues;

- G. Every Councilmember must have an equal opportunity to participate;
- H. The will of the majority must be carried out, and the rights of the minority must be preserved; *and*
- I. The Council must act as a body.

SECTION 2 -- MEETINGS

Section 2-1. When and Where Regular Meetings are to be Held

The time and place of regular meetings of the Council shall be established at each organizational meeting. Meetings shall be held in the City Hall, 900 Church Street, Lynchburg, VA 24504 Council Chamber, on the first floor, as follows:

Second and fourth Tuesday of the month, at 4:00 p.m.; except, there will be no regular meeting on the fourth Tuesdays during the months of July, August, and December. However, during the month of March, the Work Session portion of the Council's regular meetings will be held in the training room of the second floor of the City Hall, 900 Church Street, Lynchburg, VA 24504.

The Council may hold additional meetings at other locations and times, and may change the locations and times of its regular meetings as it deems appropriate to do so. Notice of such additional meetings or changes to the location or time of regular meetings shall be provided to the public and the press as required by the Code of Virginia. Additional meetings shall be referred to as "additional scheduled meetings" and shall be approved by the Council during a regular meeting.

Section 2-1.1 Continued Meetings

A regular meeting shall be continued to the immediately following Thursday of that week, or to the next regularly scheduled meeting, at the same time and place as the regular meeting if the Mayor, or Vice Mayor if the Mayor is unable to act, finds and declares that weather or other conditions are such that it is hazardous for the Councilmembers to attend the regular meeting. Such finding shall be communicated to the Councilmembers and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

Section 2-2. Special Meetings

The Council may hold such special meetings as it deems necessary at such times and places as it may find convenient; and it may adjourn from time to time. A special meeting of the Council shall be called pursuant to Sections 15.2-1417 and 2.2-3707(D) of the Code of Virginia, 1950, as amended.

A. Special meetings may be called by the Mayor, the City Manager, or any two (2) Councilmembers in writing to the Clerk of Council for the purpose stated in the notice of the special meeting. The Clerk of Council shall forthwith notify the Councilmembers of the time

and place designated and the purpose of the special meeting. Notice of the special meeting shall be provided to each Councilmember by written notice, telephone, or electronic means. The Clerk of Council will attempt to give each Councilmember at least twelve (12) hours' notice before the time scheduled for the special meeting, as provided by the Virginia Freedom of Information Act and the City's Charter, and that notice shall be "reasonable under the circumstances". In order to hold a special meeting, a majority of the Councilmembers who are physically present at the special meeting must agree that uncommon or unexpected conditions justify holding a special meeting without at least twelve (12) hours' notice, and the minutes of the special meeting must identify the uncommon or unexpected conditions that justify the holding of the special meeting.

B. Notice to the public of any special meeting shall be given contemporaneously with the notice provided to the Councilmembers, the City Attorney, and the City Manager.

Section 2-3. Legal Holiday

When a regular meeting falls on a legal holiday, the meeting shall be held on the following business day unless the meeting is cancelled by a majority of the Council.

Section 2-4. Adjourned or Recessed Meetings

A. A meeting of the Council is adjourned when the Council has finished its business and is bringing the meeting to a close, with the intention of holding another meeting at a later date. Generally, when a meeting of the Council is adjourned, the next meeting of the Council is preceded by opening ceremonies. A meeting of the Council is recessed when the Council takes a break between sittings, and after the recess business is resumed where it left off.

B. A properly called regular, additional scheduled, or special meeting may be recessed or adjourned to a time and place certain by a motion made and adopted by a majority of the Council in open session during the regular, additional scheduled, or special meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of such recessed or adjourned session of a properly called regular, additional scheduled, or special meeting.

Section 2-5. Cancellation or Rescheduling of Meetings

A regular meeting may be cancelled or rescheduled, in special circumstances and for the convenience of the Council, if the change would not impact an advertised public hearing or a scheduled public presentation. The Mayor and Vice Mayor shall agree to any such change and the Councilmembers shall be immediately notified of the change and the reason therefore. If any Councilmember objects, the regularly scheduled meeting shall proceed as originally planned. In the event that no Councilmember objects, the public and the media shall be notified promptly.

Section 2-6. Organizational Meeting

A. The first meeting in July of each year shall be known as the organizational meeting. The purpose of the organizational meeting shall be:

1. To establish the dates, times, and places for its regular meetings; *and*

2. Adopt its Rules of Procedure.

Section 2-7. Procedure for Election of Mayor and Vice Mayor

A. The first meeting in January of each year following a municipal election shall be reserved for the election of Mayor and Vice Mayor. The Clerk of Council shall preside during the meeting at which the Mayor is elected, pending the election of the Mayor. Following the election of the Mayor, he or she shall preside during the election of the Vice Mayor.

1. The presiding officer shall call for nominations from the membership of the Council.

2. Any Councilmember, after being recognized by the presiding officer, may place one (1) or more names in nomination and discuss his or her opinions on the qualifications of the nominees.

3. After all nominations have been made, the presiding officer shall close the nominating process and open the floor for discussion.

4. After discussion, the presiding officer shall call for the vote.

5. The Councilmembers shall vote by written ballot and the completed ballots shall immediately be passed to a City staff member designated by the Clerk of Council who shall collect the ballots, read them aloud, publicly announce how each Councilmember voted, and tally the respective votes.

6. Each Councilmember shall cast one (1) vote for any one (1) nominee.

7. In the case of a three-way race, the candidate receiving the least number of votes will be dropped from the slate of nominees, and another vote will be taken.

8. A majority of those voting shall be required to elect the Mayor or Vice Mayor.

B. The Mayor and Vice Mayor shall serve for a term of two (2) years, or until replaced.

Section 2-8. Seating Arrangement

The Mayor shall occupy the center seat on the dais with the Vice Mayor occupying the seat at his or her immediate right. The remaining Councilmembers shall determine their seating arrangement by seniority with the most senior Councilmember selecting his or her seat first and the remaining Councilmembers selecting their respective seats in seniority order based on years served on the Council. In the event that two (2) or more Councilmembers have equal seniority, the selection of seating for those Councilmembers shall be determined by chance.

SECTION 3 -- OFFICERS

Section 3-1. Mayor and Vice Mayor

The Mayor shall preside over all meetings of the Council. The Vice Mayor serves in the absence of the Mayor. In the absence from any meeting of both the Mayor and Vice Mayor, the Councilmembers present shall choose one of themselves as temporary presiding officer.

Section 3-2. Clerk of Council

The Clerk of Council shall be appointed by the Council. He or she shall prepare the agenda for the Council meetings, shall attend all of the Council meetings, and shall keep an accurate record of the Council's proceedings.

Section 3-3. Parliamentarian

The City Attorney shall serve as the Parliamentarian for the purpose of interpreting these rules of procedure and the Code of Virginia as may be directed by the presiding officer, or as required as a result of a point of order raised by one (1) or more of the Councilmembers. If the City Attorney is unavailable, then the City Manager shall serve as the Parliamentarian.

Section 3-4. Preservation of Order

A. At meetings of the Council, the presiding officer shall preserve order and decorum. The presiding officer shall have the following powers:

1. To rule motions in or out of order, including any motion not germane to the subject under discussion or patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, and to entertain and rule on objections from other Councilmembers on this ground;
3. To entertain and answer questions of parliamentary law or procedure;
4. To call a brief recess at any time; *and*
5. To adjourn in an emergency.

B. A decision by the presiding officer under any of the first three (3) powers listed above may be appealed to the Council upon motion of any Councilmember. Such a motion is in order immediately after a decision under those powers is announced and at no other time. The Councilmember making the motion need not be recognized by the presiding officer, the motion does not require a second, and the motion, if timely made, may not be ruled out of order. There are two (2) exceptions to this right of appeal.

C. The presiding officer may adjourn without the Council's vote or appeal in an emergency, and he or she may also call a brief recess without a vote at any time, when necessary to "clear the air" and thus reduce friction among the Councilmembers.

D. While a meeting of the Council is in session, all Councilmembers will treat one another with respect, courtesy, and exhibit appropriate decorum. Councilmembers shall not insult, demean, or belittle one another or City staff while a meeting of the Council is in session.

SECTION 4 -- AGENDA

Section 4-1. Preparation

A. The Clerk of Council shall prepare an agenda for the Council's regular meetings conforming to the order of business specified in Section 5-1 entitled "Order of Business".

B. Any Councilmember may request that items be placed on the agenda by contacting the Clerk of Council at least seven (7) days prior to the meeting for which the Councilmember wishes the item scheduled. The Clerk of Council shall place requested items on the agenda for the next regular meeting following the request. Unless directed otherwise by a majority of the Council, such items requested to be placed on the agenda shall first appear before the Council during the Council's Work Session for discussion.

C. All items which are requested to be placed on the agenda and which have not been submitted within the prescribed deadline shall be placed on the agenda for consideration at the following regular meeting.

D. Nothing herein prohibits the Council from adding items to the agenda, provided that such a request is in the form of a motion, and voted upon by a majority of the Council. Council members must use discretion in requesting the addition of items to an agenda. It is considered desirable to have items listed on a published agenda.

E. Unless required by law, no item will be scheduled for a public hearing unless by unanimous consent or the vote of a majority of the Council to hold a public hearing.

F. Any individual or group who wishes to address the Council during a regular meeting on any item of City business shall submit a written request to be on the agenda to the Clerk of Council by noon on the Friday preceding the regular meeting.

Section 4-3 4-2. Delivery of Agenda

The Council agenda packet shall be delivered to each Councilmember, the City Attorney, and the City Manager the Thursday prior to a regular meeting. Delivery by electronic means is the preferable method. The Public Comment Agenda Addendum will be posted after the Public Comment sign-up deadline.

Section 4-4 4-3. Public Access to Agenda Materials

The Clerk of Council shall post the Council agenda packet on the Internet for public information as promptly as possible. Copies of the Council agenda will also be available outside of City Council Chamber and at the Citizens First desk located on the first floor of City Hall for public inspection. Furthermore, paper copies of the Council agenda packet will be provided upon request in the Council/Manager Office.

SECTION 5 -- ORDER OF BUSINESS FOR COUNCIL MEETINGS

Section 5-1. Order of Business

A. At regular meetings of the Council, on the 2nd and 4th Tuesdays of the month, the order of business shall generally be as follows:

1. 4:00 p.m. Call to Order
2. Council Work Session (to conclude at 6:00 p.m.)
 - Staff Reports/Business Item Briefings
 - Roll Call
 - Closed Meeting (if necessary)
3. Recess
4. ~~7:30~~ 7:00 p.m. Call to Order
5. Invocation & Pledge of Allegiance
6. Special Recognitions by the Mayor or Council (if any)
7. Consent Agenda
8. Public Hearings
9. Public Comment (if requested)
10. General Business
11. Closed Meeting (if necessary)
12. Adjournment

B. The above order of business may be modified by the Clerk of Council to facilitate the business of the Council.

Section 5-1.1. Council Work Session

A. The Council Work Session shall be the designated time where City staff may introduce and present various matters affecting the City, its citizens, and/or the municipal corporation to the Council for review, discussion, questions, guidance, and consideration for a vote at a later date. The Council and City staff are encouraged to engage in discussion, ask questions, and the like during the Council Work Session.

B. Absent exigent circumstances as determined by a majority of the Council, no items will be positioned for a vote during the Council Work Session.

Section 5-1.2. Roll Call

A. Roll Call shall be the designated time where Councilmembers may individually and publicly speak to matters relevant to the City, its citizens, and/or the operations of the municipal corporation.

B. Debate shall not be permitted during Roll Call, however, upon the conclusion of all the Councilmembers' Roll Call item(s) presented, each Councilmember, where desired, may

respond to Roll Call item(s) presented, but such response shall in no event exceed a total time period of two (2) minutes.

Section 5-2. Consent Agenda

A. The Consent Agenda shall include, by way of illustration but not limitation, the following:

1. Approval of minutes.
2. Ordinances or resolutions that are routine.
3. Final/second readings of appropriations, ordinances, or resolutions which received unanimous approval upon introduction at a previous meeting.
4. Any item believed by the Clerk of Council to be routine and not controversial in nature.

B. The Consent Agenda shall be introduced by a motion "to approve", and shall be considered by the Council as a single item.

C. There may be a short discussion of Consent Agenda items to answer questions or clarify a matter. There shall be no lengthy debate or discussion of a Consent Agenda item.

D. Upon request of a Councilmember, an item shall be removed from the Consent Agenda. The item shall be considered separately after adoption of the Consent Agenda.

Section 5-3. Public Comment

A. Every petition, communication, or address to the Council shall be in respectful language and is encouraged to be in writing.

B. General rules regarding Public Comment are as follows:

1. Individuals or groups wishing to speak at a regular meeting shall submit a written request to the Clerk of Council by noon on the Friday prior to the regular meeting.
2. Public Comment shall be for the purpose of allowing members of the public to present any matter, which, in their opinion, deserves the attention of the Council. They shall not serve as a forum for debate with the Council.
3. Remarks shall be addressed directly to the Council and not to City staff, the audience, or the media.
4. The presiding officer shall open the Public Comment period.
5. Each speaker shall clearly state his or her name and locality of residence.

6. There shall be a time limit for each individual speaker of three (3) minutes.
7. A representative of a group may have up to five (5) minutes to make a presentation. The representative shall identify the group at the beginning of his or her comment period. A group may have no more than one (1) spokesperson. The term “group” shall mean organizations and entities (e.g. corporations, trusts, LLCs, religious entities, political parties, non-profits, charities, etc.) with more than one (1) person belonging thereto and serving in some official capacity therewith.
8. Speakers are not permitted to donate time to other speakers.
9. There shall be no comment during the Public Comment period on a matter for which a public hearing is scheduled during the same meeting.
10. There shall be no comment during the Public Comment period on a matter that has already been the subject of a previous public hearing where no final vote has been taken.
11. Any issue raised by the public which the Council wishes to consider may be put on the agenda for a future Council meeting by a majority vote.
12. Councilmembers shall not discuss issues raised by the public except by consent of a majority of the Councilmembers present.
13. Once the Council has heard a presentation from an individual or organization on a particular subject, the individual or organization may not make another presentation on the same subject within three (3) months of the first presentation, except by a majority vote of the Councilmembers present and voting.
14. The above rules notwithstanding, members of the public may present written comments to the Council or to individual Councilmembers at any time during the meeting. Such written comments shall be submitted through the Clerk of Council.

C. Other than as stipulated above or during public hearings, no person shall be permitted to address the Council orally, except by permission of the Council, and such permission shall not be granted unless with the consent of a majority of the Councilmembers present at such meeting.

D. No speaker's time shall be extended except by unanimous consent or a two-thirds (2/3) vote of the Councilmembers present.

E. Any person who desires to submit written statements for forwarding to the Council prior to a Council meeting must submit ten (10) copies to the Clerk of Council by 4:00 p.m. on the Thursday preceding the Council meeting.

Section 5-4. Prohibited Conduct

A. All persons appearing before the Council or in the Council Chamber while a meeting of the Council is in session will not be allowed to:

1. Campaign for public office;
2. Promote private business ventures;
3. Use profanity or vulgar language or gestures;
4. Use language which insults or demeans any person or which, when directed at a public official or employee, is not related to his or her official duties, however, citizens have the right to comment on the performance, conduct, and qualifications of public figures;
5. Make non-germane or frivolous statements;
6. Interrupt other speakers or engage in behavior that disrupts the meeting, including but not limited to, applause, cheers, jeers, etc.;
7. Engage in behavior that intimidates others; *or*
8. Address the Council on issues that do not concern the services, policies, affairs of the Council or the City, or that the Council or the City have no authority to change.

B. The presiding officer shall preserve order and decorum at the Council meetings. He or she may order the expulsion of any person for violation of these rules, disruptive behavior, or any words or action which incites violence or disorder, subject to appeal to the Council. Any person so expelled shall not be readmitted for the remainder of the meeting from which they were expelled. Any person who has been so expelled and who at a later meeting again engages in behavior justifying expulsion may also be barred from attendance at future Council meetings for a specified and reasonable period of time not to exceed six (6) months, or upon a still subsequent expulsion a period not to exceed one (1) year either by the presiding officer, subject to appeal to the Council, or by motion passed by the Council.

Section 5-5. Public Hearings

- A. This section of the agenda shall be for public hearings as required by City, State, or Federal law, or as the Council may direct.
- B. The presiding officer shall conduct all public hearings.
- C. The order of public hearings shall be as follows:
 1. The presiding officer shall open the public hearing.
 2. Public hearings shall begin with a brief presentation from a staff member and/or representative from the cognizant board, authority, commission, or committee. The presentation shall summarize the facts about the issue and the staff recommendation. The Councilmembers may seek clarification during the presentation.
 3. In land use cases (rezoning or conditional use permit) the applicant or his or her representative shall be the first speaker(s). There shall be a time limit of ten (10) minutes for the applicant(s) or his or her representative's presentation.

4. The presiding officer shall then solicit comments from the public, asking those in favor of the proposal to speak first, and then those opposed to the proposal. Each speaker must clearly state his or her name and locality of residence. There shall be a time limit of three (3) minutes for each individual speaker. If the speaker represents a group, there shall be a time limit of five (5) minutes. A speaker representing a group shall identify the group at the beginning of his or her remarks. A group may have no more than one spokesperson. The Council, by unanimous consent or by a two-thirds (2/3) vote of the members present, may allow any speaker to proceed past the time limit.
5. After public comments have been received, in a land use case, the applicant or the representative of the applicant, at his or her discretion, may respond with a rebuttal. There shall be a five (5) minute time limit for rebuttal.
6. Upon the conclusion of public comments, or the applicant's rebuttal in a land use case, the presiding officer shall close the public hearing.

D. Emails, letters, and other writings submitted to the Clerk of Council or Councilmembers prior to a public hearing need not be included in the minutes of a public hearing under Virginia law.

E. Voicemails submitted to the Clerk of Council or Councilmembers prior to a public hearing need not be included in the minutes of a public hearing under Virginia law.

~~D. F.~~ When a public hearing has been closed by the presiding officer, no further public comment shall be permitted. The Councilmembers, however, may direct questions to the applicant, the representative of the cognizant board, authority, commission, committee, to a speaker, or to a staff member for clarification prior to taking any vote, if a vote is in order.

~~E. G.~~ Following the close of the public hearing, the presiding officer may entertain a motion to dispose of the issue and the Council may debate the merits of the issue.

Section 5-6. General Business

This section of the agenda shall include items of a general nature to be considered by the Council. The last items on the agenda shall be adoption of appropriation resolutions introduced at a previous meeting which did not receive a unanimous vote upon introduction. After the presiding officer has stated the item for consideration, staff may be asked to provide a brief summary.

Section 5-7. Items Not on the Agenda

With the Council's consent, items may be added to the agenda to respond to situations and/or questions of a critical nature which have arisen after the deadline has passed for items to be placed on the agenda.

Section 5-8. Closed Meetings

A. Closed Meetings should only be used when the matter to be discussed is too sensitive for discussion in public and only as allowed by law.

B. No meeting shall become a Closed Meeting until the Council takes an affirmative recorded vote during the open meeting.

1. The motion shall state specifically the purpose or purposes which are the subject of the closed meeting and reasonably identify the substance of the matters to be discussed. The motion shall make specific reference to the applicable exemption(s) under the Virginia Freedom of Information Act, which authorizes the Closed Meeting.
2. The Councilmembers shall request the assistance of the City Attorney when making additions to the published Closed Meeting agenda.

C. No resolution, ordinance, rule, contract, regulation, or motion considered in a Closed Meeting shall become effective until the Council reconvenes in an open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion which shall have its substance reasonably identified in the open meeting.

D. At the conclusion of a Closed Meeting, the Council shall reconvene in open meeting immediately thereafter and shall cast a vote certifying that to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements were discussed; *and*
2. Only public business matters identified in the motion convening the Closed Meeting were heard, discussed, or considered.
3. Any member who believes that there was a departure from the above requirements shall so state prior to the presiding officer's call for the vote, indicating the substance of the departure that, in his or her judgment, has taken place.

E. The failure of the certification to receive the affirmative vote of the majority of the Councilmembers present during the Closed Meeting shall not affect the validity or confidentiality of the Closed Meeting with respect to matters considered therein in compliance with the Virginia Freedom of Information Act.

F. The Council may permit non-members to attend a Closed Meeting if their presence would reasonably aid the Council in its consideration of an issue. Individuals attending a Closed Meeting should respect the Council's decision that the subject matter is too sensitive for public discussion and should treat the Closed Meeting discussion as confidential.

SECTION 6 -- RULES OF PROCEDURE FOR COUNCIL MEETINGS

Section 6-1. Quorum

A. As provided by Section 15.2-1415 of the Code of Virginia, 1950, as amended, a majority of the Council must be present to conduct business. A quorum is a majority of the entire membership of the Council, including any vacant seats.

B. A quorum refers to the number of members present at a meeting, not the number of

members voting on an issue. If no quorum is present or if a quorum is lost, the Council can only (i) adjourn, (ii) recess, or (iii) take steps to obtain a quorum.

C. If a quorum fails to attend any meeting, those attending may adjourn to such other time prior to the next regular meeting as they may determine and the Clerk of Council shall enter such adjournment in the minute book of the Council and shall notify absent members thereof in the same manner as required for special meetings.

D. If the Virginia Conflict of Interests Act prevents some of the members of the Council from participating in an item of business, Sections 2.2-3112 and 15.2-1415 of the Code of Virginia, 1950, as amended, provide that a majority of the remaining members of the Council shall constitute a quorum.

Section 6-2. Priority in Speaking on the Council

When two (2) or more members of the Council wish to speak at the same time, the presiding officer shall name the one to speak.

Section 6-3. Comments and Queries of Councilmembers

Councilmembers are to observe the following rules during the discussion of agenda items:

A. The presiding officer shall keep discussion germane to the subject. Points of clarification shall be limited to questions only. The presiding officer shall rule other comments out of order.

B. The Councilmembers may address questions to the City Manager or staff present at the meeting. Staff members should be at a microphone when answering Councilmembers' questions. All legal questions should be addressed to the City Attorney.

Section 6-4. Action by the Council

A. Items of business will be considered and dealt with one (1) at a time, and a new proposal may not be put forth until action on the preceding one has been concluded.

B. When a proposal is perfectly clear to all Councilmembers present, and the proposal will not obligate the Council in any manner nor finally decide an issue before the Council, action can be taken upon the unanimous consent of the Councilmembers present, without a motion having been introduced. However, unless agreed to by unanimous consent, all proposed actions of the Council must be approved by vote under these rules. Silence, or the lack of spoken dissent, is taken as consent.

Section 6-5. Motions

A. Informal discussion of a subject is permitted while no motion is pending.

B. Any Councilmember, including the presiding officer, may make a motion.

C. Councilmembers are required to obtain the floor before making motions or speaking, which they can do while seated.

D. A Councilmember may make only one (1) motion at a time.

E. Except for matters recommended by a committee of the Council, or as otherwise stipulated in these rules of procedure, all motions require a second and a motion dies for lack of a second.

Section 6-6. Substantive Motions

A. A substantive motion is any motion that deals with the merits of an item of business and is within the Council's legal powers, duties and responsibilities.

B. A substantive motion is out of order while another substantive motion is pending.

Section 6-7. Procedural Motions

A. Procedural motions are those motions that the Council may use to "act upon" a substantive motion by amending it, delaying consideration of it, and so forth. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

B. In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion requires the floor and a second, is debatable, may be amended, requires a majority of the votes cast, and a quorum being present for adoption. Procedural motions are listed below in their order of priority. If a procedural option is not listed below, then it is not available.

1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the Council which shall decide the matter by majority decision. Such an appeal is in order immediately after such a decision is announced and at no other time. The Councilmember making the motion need not be recognized by the presiding officer, the motion does not require a second, and the motion, if timely made, may not be ruled out of order.

2. To Adjourn. At a meeting of the Council, a motion to adjourn shall always be in order. The motion may be made only at the conclusion of action in a pending substantive matter; it may not interrupt deliberation of a pending matter. The motion is not debatable and cannot be amended.

3. To Take a Brief Recess. This motion allows the Council to pause briefly in its proceedings. A motion to take a brief recess is in order at any time except when a motion to appeal a procedural ruling of the presiding officer or a motion to adjourn is pending.

4. To Suspend the Rules. The Council may suspend provisions of its rules of procedure. The Council may not, however, suspend any provisions of the rules of procedure that state requirements imposed by law on the Council. For adoption, a motion to suspend the rules requires unanimous consent or an affirmative vote of two-thirds (2/3) of the

Councilmembers present.

5. To Defer Consideration. The Council may defer action on a substantive motion to a more convenient time. The Council may use the following motions to defer consideration of a substantive motion:

- (a) The motion to "lay on the table" is used to temporarily set aside an item of business to deal with a more urgent item. Once an item of business has been laid on the table, a motion to "take from the table" is needed to bring the item back before the public body for discussion.
- (b) The motion to "postpone" delays debate on an item of business so that it may be considered at a later date. An item of business may be "postponed definitely," when it is continued to a definite time or date or "postponed indefinitely" if no future time or date is specified in the motion. A matter that has been postponed to a certain time or day shall be brought up again automatically when that time arrives. When a matter has been postponed indefinitely it takes an affirmative vote of a majority of the Council to bring the matter back for further discussion.
- (c) Section 15.2-2286 of the Code of Virginia, 1950, as amended, requires that a zoning petition must be "acted upon" within a "reasonable time," not exceeding one (1) year. The Council may defer action on a zoning petition for consideration at a more convenient time. However, the Council may not dispose of a zoning petition with a motion to postpone indefinitely.

6. To Call the Question. The motion to call the question is not in order until every Councilmember has had an opportunity to speak once on an item of business and the deliberation by the Council on that item of business has exceeded thirty (30) minutes. The motion is not amendable or debatable.

7. To Amend. Any substantive motion properly on the floor may be amended. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a substitute motion. A motion may be amended no more than twice. Once a motion has been offered to the Council, it is up to the Council to decide whether or not it should be changed by amendment. It is not necessary for the person making the original motion to approve of any proposed amendment to the motion.

8. Substitute Motion. A substitute motion shall be allowed to replace any motion properly on the floor. It shall have precedence over an existing motion and may be discussed prior to being voted on. If the substitute motion fails, the former motion can then be voted on. If the substitute motion passes, the substitute motion replaces the main motion and the new main motion will be considered and acted upon by the Council. No more than one (1) substitute motion may be made. If a substitute motion passes and replaces the main motion, no further substitute motions may be made.

9. Withdrawal of Motion. A motion may be withdrawn by the introducer at any time before it is amended or before the presiding officer puts the motion to a vote, whichever is first.

10. To Reconsider. The Council may vote to reconsider its action on a matter. A motion to reconsider must be made no later than the next succeeding regular meeting of the Council and can only be made by a Councilmember who voted with the prevailing side. In the event of a tie vote on the original motion any Councilmember may introduce a motion to reconsider. The motion cannot interrupt deliberation on a pending matter but is in order when action on a pending matter concludes. A motion to reconsider may not be used in a land use decision involving a rezoning or a conditional use permit.

11. To Prevent Reintroduction for Six (6) Months. The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote of the majority of the entire membership of the Council. If adopted, the restriction imposed by the motion remains in effect for six (6) months. As with every other procedural motion, the motion to prevent reintroduction may be dissolved by a motion to suspend the rules of procedure.

Section 6-8. Debate

A. The presiding officer shall state the motion and then open the floor to debate. The presiding officer shall preside over the debate according to the following general principles:

1. The maker of the motion is entitled to speak first;
2. A Councilmember who has not spoken on the issue shall be recognized before a Councilmember who has already spoken;
3. To the extent possible, the debate on the motion shall alternate between proponents and opponents of the measure;
4. A Councilmember may vote for or against his or her motion, but may not speak against his or her motion;
5. The presiding officer may participate in the debate prior to declaring the matter ready for a vote; *and*
6. Councilmembers shall not engage in electronic communications amongst themselves regarding a motion that is on the floor for debate.

Section 6-9. Duty to Vote

A. Each Councilmember who is present at a meeting shall be required to vote upon all issues presented for decision unless prohibited from doing so by the Virginia Conflict of Interests Act or unless excused from voting by the other Councilmembers. A Councilmember who wishes to be excused from voting shall state his or her reasons for abstaining and the presiding officer shall ask if any of the remaining members object. If there are any objections, the Council shall take a vote of the remaining members on the question of whether or not to allow the Councilmember to abstain from voting.

B. If there is an abstention, it shall be the responsibility of the Clerk of Council to note the abstention and the reason for abstaining for the record.

Section 6-10. Method of Voting

A. After debate, the presiding officer shall ensure that the motion is clear and call for the vote.

B. All questions submitted to the Council shall be determined by a majority vote of the members voting on any such question, unless otherwise required by special or general law. A majority is more than half.

C. An "affirmative vote" by a majority of the Council present is necessary to adopt a motion, and a tie vote means that the motion, resolution, or issue has been rejected. When a motion fails on a tie vote, the "noes" prevail.

D. In order for a motion in a zoning matter to be adopted, it must be approved by a majority of those voting.

E. All questions submitted to the Council for decision shall be decided by a vote of the Council utilizing the electronic voting board in the Council Chambers. In the event of a malfunction of the electronic voting board, or if the meeting is held in a space without such a device, the question shall be decided by an oral vote of "aye" or "nay". Any Councilmember may request a roll call vote. In any case, the presiding officer shall announce the results of the vote.

Section 6-11. Decisions on Points of Order

Any Councilmember may raise a point of order without being recognized by the presiding officer. The presiding officer shall refer any point of order to the Parliamentarian. The Parliamentarian shall advise the presiding officer who shall then make a ruling on the point of order. A Councilmember may appeal the ruling of the presiding officer to the Council which shall decide the matter by majority decision.

SECTION 7 -- BOARDS, AUTHORITIES, COMMISSIONS, AND COMMITTEES

Section 7-1. Appointments to Boards, Authorities, Commissions, and Committees

A. Members of boards, authorities, commissions, and committees shall be appointed by an affirmative vote of a majority of the Councilmembers to serve specified terms as may be deemed appropriate by the Council.

B. The Mayor shall make all appointments to, and select the chairs of, the Council's two standing committees, Finance and Physical Development. Substitutes or alternates may participate on such committees only if so authorized by the Mayor. Committee members for such committees will serve two-year terms.

C. Ad hoc committees, such as special task forces, may be created from time to time by the Council, for specific purposes, as determined by the Council.

Section 7-2. Standing Committees Roles and Guidelines

The roles of and the operating guidelines for the Finance and Physical Development committees shall be as adopted by a majority of the Council.

SECTION 8 -- GENERAL OPERATING POLICY

Section 8-1. Broadcasting Council Meetings

Regular meetings of the Council shall be broadcast live on the City Government Channel 15 and the Internet. Copies of the broadcast may be obtained by the public from the Department of Communications and Public Engagement at cost.

Section 8-2. Numbering and Indexing of Resolutions and Ordinances

It shall be the responsibility of the Clerk of Council to number and index all resolutions and ordinances adopted by the Council. The resolutions shall be numbered consecutively, and use the last two digits of the calendar year. For example: for the first resolution in January, 2008, the resolution number would be shown as: #R-08-01. Ordinances shall also be numbered consecutively.

Section 8-3. Minutes of the Council Meetings

The minutes of the Council's meetings shall reflect the official acts of the Council. They shall provide a summary of discussion and record of the Council's votes. Minutes shall be considered for approval within a reasonable time after the meeting they record.

Section 8-4. Amending the Rules of Procedure

These rules may be amended at any regular meeting, or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting. Adoption of an amendment to these rules shall require an affirmative vote of four (4) members of the Council.

Section 8-5. Special Rules of Procedure

The Council may adopt its own special rules of procedure to cover any situations that are not adequately addressed in these Rules of Procedure. Adoption of a special rule of procedure shall require an affirmative vote of a majority of a quorum of the Council.

AMENDMENTS:

August 11, 2009: the time of Council meetings was changed to the present schedule.

July 9, 2010: amended Section 6-7, B (8) to stipulate that if a substitute motion passes it becomes the main motion for consideration and action and there may be no additional substitute motions.

July 3, 2012, amended as follows:

- Introduction; added a process to consider when the Rules of Procedure do not address a procedural issue.
- Section 2-1; adjustments reflecting the practice of no longer distinguishing separate "work session" meetings. The work session will be recognized as a part of Council's regular meeting and that section will be separated from the rest of the meeting by a recess.
- Section 4-3 to 4-4; clarifying language reflecting that agendas are now prepared, delivered, and are available to the public electronically. Section 4-5 was deleted.
- Section 5-1; amended the order of business to reflect current practice.
- Section 5-3, B; added a restriction on speakers donating their time to other speakers.
- Section 6-8, A; added a restriction on electronic communication between Councilmembers regarding an item under debate.
- Section 6-10. D; clarification that action on a zoning matter requires a majority vote of those present for resolution.
- Section 7-1, C; acknowledgement of the Mayor's responsibility to appoint Councilmembers to the Audit Committee.

May 14, 2013: amended Sections 5-3 and 5-5 to eliminate the requirement that a speaker provide his or her physical address and replace it with the requirement that the speaker identify his or her locality of residence when speaking in a public meeting.

July 12, 2016: amended Section 7-1(C) to eliminate the provision providing for the appointment of Councilmembers to serve on the Audit Committee.

July 1, 2020: amended Section 2.2 to eliminate the provision requiring that twelve hours advance notice must be given in order to hold a special meeting.

July 13, 2021: amended Section 4-1(F) and Section 5-3(B)(1) changing deadline for public comment from noon on the Wednesday preceding the Council meeting to noon on the Friday preceding the Council meeting.

July 26, 2022, amended as follows:

- All non-consequential clerical revisions including grammatical and formatting changes; uniform language changes; and modernization of terminology changes, less the revision of replacing "must" with "should" under Section § 1-2.(B.).

- Section § 2-6.(A.) - hold an Organizational Meeting annually instead of biennially to align with State code Section § 15.2-1416
- Section § 2-7.(A.)(5.) - removal of “Deputy Clerk”; changed to “City staff member designated by the Clerk of Council”
- Section § 4-3. Delivery of Agenda - addition of language to address the delivery of the Public Comment Agenda Addendum
- Section § 2-7. Procedure for Election of Mayor and Vice Mayor – address moving the Mayor and Vice Mayor elections from July to January to align with municipal elections
- Section § 3-4. Preservation of Order; separated last sentence of subsection B to be a “C” so it can be used as needed by the Mayor/Vice Mayor
- Section § 3-4. Preservation of Order; created subsection “D” to address Councilmember decorum
- Section § 5-4. Prohibited Conduct; edited language in subsection A to apply to all persons speaking or in Council Chamber