// A regular meeting of the Council of the City of Lynchburg was held on the 10th day of October, 2023, at 4:00 p.m. in the Council Chamber, City Hall, Stephanie Dolan, President, presiding. The following Members were present:

Present: Stephanie Reed, Martin Misjuns, Jeff Helgeson, Larry Taylor, MaryJane Dolan, Sterling A. Wilder, Chris Faraldi 7

Absent: 0

// In the matter of Finance, Agenda Item #1, the Council received a presentation on Non-Profit Organizations Funding Processes from Chief Financial Officer Ms. Donna Witt.

Councilmember Helgeson clarified that the funding level to external services providers was not mandated although the services were mandated. Ms. Witt replied that the amount was not mandated, and the organizations typically provided the City with a budget request. Councilmember Helgeson asked if there was still a contribution to the Humane Society, noting that the City made a significant contribution for the animal shelter. Ms. Witt responded that there was an agreement with the Humane Society, and state code required that there be a service for animals collected by the animal warden, specifically for dogs. She said that the Humane Society provided a larger scope of services for City residents.

Councilmember Misjuns asked under which category the Downtown Lynchburg Association (DLA) fell. Ms. Witt responded that they only provided funding to the DLA in FY 23, where Council appropriated $55,000 to fund specific events. Councilmember Misjuns clarified that the executive director of the DLA was paid as a City employee. Ms. Witt replied that was correct, and the position was budgeted for under Community Development. Mr. Benda explained that when the original agreement was written, there was the expectation the City would fund the position, and it had done so since its inception. Councilmember Misjuns asked how that type of contribution to a non-profit organization would be categorized. Ms. Witt replied that since the executive director was a City employee, the City did not provide any more specific funding other than for the staffing to operate the organization. She said that the funding category would be “other.” Councilmember Misjuns suggested that the funding for the position should be specifically noted in the budget.

// In the matter of Public Works, Agenda Item #2, the Council received a presentation on a Review of the Hazardous Materials Disposal Program from Director of Public Works Ms. Gaynelle Hart. Public Works currently offers household hazardous waste and electronics recycling three times per year in April, June and October. The City hires a contractor to properly handle and dispose of hazardous waste as the facility is not permitted or adequate and the employees are not trained to handle hazardous waste. Electronics recycling is also offered, which can be handled by City employees. There is a contract with an electronics waste company for disposal.

Councilmember Helgeson asked whether it was feasible for the City to offer more household hazardous waste collection days. Ms. Hart replied that they had investigated the option, but the current facilities were not sufficient, and she had not researched what it would take to permit and store the waste. Councilmember Helgeson noted that the contractor did not immediately collect the waste, and he asked whether the collection window could be expanded past the current four-hour window. Ms. Hart said they could consider the suggestion, but it would require additional staff and training. She said that it would require vastly different operation procedures, research, and potentially additional permitting. She explained that the contractor sent employees to handle the waste collection on collection days, so they could request that the company extend its hours of operation, but it would be an additional cost. Councilmember Helgeson said that residents were experiencing difficulty making the collection times, and the City should not encourage people to store household hazardous waste for long periods, so the City should offer flexibility in the collection times for residents.

Councilmember Misjuns asked what the primary type of waste was that was collected. Ms. Hart replied that motor oil and non-latex paint were the two most common items people brought for collection. She explained that they did not accept latex paint. Councilmember Misjuns asked whether they could expand collection for the most commonly collected items. He asked whether there were specific hazard certifications. Ms. Hart replied that they were required to have HAZWOPER certification, and there may be additional requirements. She suggested that the City could investigate potential local-business partnerships to handle waste collection.

Vice Mayor Faraldi said that since other businesses already collected oil and other hazardous waste, the City should consider not expanding collection operations. Ms. Hart noted that some businesses charged a collection fee, and she would look into partnering with local businesses.

Councilmember Dolan clarified that the City did not charge for the household hazardous waste collection. Ms. Hart replied that it was included in the trash fee and City taxes. Councilmember Dolan requested that staff provide what the estimated increased cost would be to the taxpayer to expand collection times.

Councilmember Helgeson said that expanding hazardous waste collection times would make it less likely for residents to dispose of the waste with the regular trash collection, which would improve worker safety.

Councilmember Wilder asked how regular waste collection was reviewed to ensure hazardous waste was not included. Ms. Hart replied that the accountability process allowed workers to remove the hazardous waste and return it to the resident, or they could refuse collection and leave a violation notice. She said that the discretion was with the collection driver. Councilmember Wilder asked if Public Works had received many requests for additional disposal days. Ms. Hart said the office had not received many requests.

// In the matter of Public Schools, Agenda Item #3, the Council considered opening and receiving a bid regarding Appalachian Power Company Easement at 3525 John Capron Road. Clerk of Council Ms. Alicia L. Finney stated that as a result of advertisement on September 14 and September 22, one bid had been received on October 4 from Appalachian Power Company. Ms. Finney read the bid into the record. There were no additional bids, and Mayor Reed declared the bidding closed.

Councilmember Wilder motioned, seconded by Councilmember Taylor, to accept the sole bid from Appalachian Power Company.

With no further discussion from the Council, the following vote was recorded:

Ayes: Reed, Misjuns, Helgeson, Dolan, Taylor, Wilder, Faraldi	7
Noes:	0

Mayor Reed stated that a public hearing would be conducted at the 7:30 p.m. meeting regarding the adoption of an ordinance granting the easement to the successful bidder.

// In the matter of Finance, Agenda Item #4, Council was briefed on the 12th Street Stabilization Update and Funding by Chief Financial Officer Ms. Donna Witt. Mayor Reed stated that the item would appear before Council for action at the 7:30 p.m. meeting under General Business. At the September 26, 2023 meeting, City Council selected Option 2 - Pinned Mesh with Shotcrete Rough Finish ($2,455,000) for 12th Street Stabilization and also requested a cost for adding color tint. Staff will present the cost estimate to add color tint ($179,000) to the project scope and provide available funding options for the total project cost (up to $2,634,000).

Councilmember Helgeson said that they should not utilize the reserve for contingencies because it would need to be replenished, and it was at the discretion of the finance committee on how to utilize the fund. He asked whether funding allocated for the CIP could be used, or if the funding could be financed since the project was intended for long-term benefits. Ms. Witt replied that a line of credit could be used, but it would pull funding from other projects, and they would have to pay interest until it was permanently financed.

Councilmember Wilder asked what staff's recommended option was. Ms. Witt said she recommended either option. She said she would prefer to fund it using the unassigned fund balance.

Councilmember Dolan asked why they were not using VDOT funding. Ms. Witt responded that they could use VDOT funds, but they had other uses for it, as well.

// In the matter of Roll Call, Councilmember Wilder announced that EC Glass was holding a Pink Dinner, and he wanted to thank Kay Vaughan for raising funds for breast cancer awareness and scholarships. He thanked the EC Glass football team for hosting the dinner and the Pink Game, noting that the event would honor Don Giles, who died from cancer. He stated that the Desmond Doss recognition was being held at Monument Terrace. He said that the Lighthouse Community was hosting a virtual community land trust awareness program. He said that community land trusts were alternative resources to obtain homeownership in the community. Councilmember Helgeson announced that the Liberty Women's Field Hockey upset the number one ranked team in the country, UNC, during double-overtime. He said that it was neat to watch the game winning goal. He said that in regard to a public hearing on harmful regulations, it was important to hear from citizens regarding taxes. He said they should look at ways to incentivize businesses and identify harmful regulations. He said that the sidewalk to nowhere ordinance should be addressed. He suggested that the Council should hold a public hearing to receive feedback from developers and businesses regarding what was preventing investment in the City. Councilmember Misjuns said that he had read the emails from Mr. Freedman and acknowledged that state law prevented them from establishing terms for Council appointees. He said that it would require a change in the City's charter and legislative action from the GA. He said that he would like the City to consider a policy to deliberate compensation for employees in a public meeting. He said that discussions about spending tax revenue should be done in public. Councilmember Taylor said that a customer of his announced that they would be installing a small grocery store in Downtown Lynchburg in the former location of the antique automotive showroom. He said that if the business were successful, they would build a larger grocery store. He said that the City should support the business. Vice Mayor Faraldi announced that it was recently Manufacturing Day, and he had a chance to celebrate manufacturers with the state delegation and business leaders. He said that the manufacturing community was profoundly impactful on the local economy. He said that he attended Day at the Point, and he commended the City Museum and the EDA for hosting the event. He reiterated that Desmond Doss Day was being held on Thursday, to recognize his impact on the City and the county. Mayor Reed announced that the previous Sunday was the Vice Mayor's birthday, and she wished him a happy birthday. She stated that the 49th Moore and Giles Virginia 4-miler and 10-miler races were held, and she congratulated the organizers and participants. She said that more than 3,100 registered participants from 33 states participated in the race, and the event was supported by more than 900 volunteers. She thanked Moore and Giles, Bank of the James, Centra, along with 26 corporate sponsors and 22 corporate teams. She said that 52 elite runners, representing five countries, participated in the event, including special guest Olympian Marathon Runner Jared Ward, who was promoting air travel with the Lynchburg Regional Airport. She said that the women's course record was broken for the third time in four years. She said that the 50th Anniversary event would be held on September 28, 2024. She announced that it was national fire prevention week from October 8 through October 14, and the theme of the year was cooking safety. She said that every year, cooking fires were the leading cause of home fires and fire injuries in the US, and this year, there had been 33 house fires in the City caused by unattended cooking. She said that the Fire Department urged every citizen to take precautions to prevent a cooking fire. She announced from the EDA that the Governor had announced a $500 thousand grant from the Mixed Use on Mainstreet program to the EDA for the redevelopment of 400 12th Street. She said the funds would support the developer, AC Capital LLC, to transform the former A&P Grocery Store at 400 12th Street into a commercial and residential space. She said that the project was currently under construction, and it served as a prime example of a public-private partnership to redevelop and reuse space in the historic downtown area. She highlighted the contributions of the City's Fleet Services Department.

// On the motion of Councilmember Misjuns, seconded by Councilmember Wilder, Council elected by the following recorded vote to hold a closed meeting to discuss the investment of public funds to assist in securing the expansion of a prospective 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.

With no further discussion from the Council, the following vote was recorded:

Ayes: Reed, Misjuns, Helgeson, Dolan, Taylor, Wilder, Faraldi	7
Noes:	0

// The meeting was reopened to the public.

// Councilmember Helgeson made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2 3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The motion was seconded by Councilmember Wilder, and Council, by the following recorded vote, adopted the motion:

Ayes: Reed, Misjuns, Helgeson, Dolan, Taylor, Wilder, Faraldi	7
Noes:	0

// The meeting was recessed at 5:00pm

// City Council reconvened the meeting at 7:30 p.m. The following members were present:

Present: Stephanie Reed, Chris Faraldi, MaryJane Dolan, Jeff Helgeson, Martin Misjuns, Larry Taylor, Sterling A. Wilder

Absent:

// Councilmember Taylor gave the invocation, followed by the Pledge of Allegiance.

// In the matter of Recognitions, Mayor Reed gave a Proclamation recognizing the Schewel Bridge Renaming. The Schewel family accepted the Proclamation.

// In the matter of Recognitions, Mayor Reed gave a Proclamation recognizing the Downtown 2040 Master Plan Award. Tom Martin, Rachel Frischeisen, David Hill, Biff Johnson, and Ashley Kershner accepted the award.

// In the matter of Recognitions, Mayor Reed gave a Proclamation recognizing October as Domestic Violence Awareness Month. Amy MacGyver from the YWCA accepted the Proclamation and made remarks. She asked the public to remember that wherever they went, there were people around them who were experiencing domestic violence, and the numbers reported were lower than the actual cases due to the potential negative repercussions. She said that the public should be vocally opposed to violence and know the available resources.

// In the matter of Recognitions, Mayor Reed gave a Proclamation recognizing the Sons of the American Revolution (SAR) Public Service and Heroism Awards. Chapter President Mark Day accepted the Proclamation and called forward Battalion Chief David Jackson, Master Firefighter Cole Freedman, Captain Jennifer Collins, Paramedic Jeffery Grant, Firefighter Justin David, and Police Officer Charlene Kirkland to accept their Public Service Awards. He called forward Officer Jay Foster to accept the Heroism Award.

// In the matter of the Consent Agenda, Agenda Item 5, the City Council 2023 meeting minutes from the January 4, 2023 Mayoral Election Meeting, April 4, 2023 Budget Public Hearing Meeting, April 11, 2023 City Council Meeting, April 18, 2023 Budget Work Session Meeting, April 25, 2023 City Council Meeting, May 2, 2023 Budget Work Session Meeting, May 9, 2023 City Council Meeting, May 23, 2023 City Council Meeting, June 13, 2023 City Council Meeting, July 11, 2023 City Council Meeting, August 8, 2023 Joint Work Session LCS/City Council Meeting August 15, 2023 Special Called Meeting August 22, 2023

Special Called Meeting, which were previously furnished to the Council, and on motion of Councilmember Dolan, seconded by Councilmember Misjuns, the following vote was recorded:

Ayes: Wilder, Dolan, Helgeson, Reed, Faraldi, Taylor, Misjuns	7
Noes:	0

// Councilmember Misjuns motioned, seconded by Councilmember Helgeson, to amend the agenda to include the Resolution to Promote Merit, Excellence, and Opportunity as Item #1 under General Business, because the matter had not yet been addressed by City Council. He said that it was prudent to address the item which had been introduced at a previous meeting. Councilmember Helgeson said that he understood that the item should be addressed imminently but also that it may not be timely to address it on tonight's agenda. He asked to make a friendly amendment to Councilmember Misjuns' motion to bring it up at the Council's next work session rather than looking at it tonight. Councilmember Misjuns agreed to the amendment.

Mayor Reed stated that the matter had already been addressed by Council in the form of Councilmember Taylor's roll call items in which staff explained that the City already used processes of the merit, excellence, and opportunity. Councilmember Misjuns said that the item had not been sufficiently addressed as an agenda item and thus warranted further discussion with staff in a work session.

Mayor Reed called the vote, and the following vote was recorded:

Ayes: Helgeson, Taylor, Misjuns	3
Noes: Wilder, Dolan, Reed, Faraldi	4

// In the matter of Historic Preservation Commission, Agenda Item #6, a public hearing was held and Council considered adopting Resolution #R-23-083 to either uphold or reverse the decision of the Historic Preservation Commission (HPC) to deny a Certificate of Appropriateness (COA) at 713 Pearl Street. Council was last briefed on this item at the September 26, 2023 City Council work session Business Item Briefing. Eve Mergenthaler, Planner I, gave a brief summary of the item to Council. She introduced Shanda Horner, Historic Preservation Commission Chair, to review the HPC decision. Stephen Milacci of Upkeep Homes, LLC is appealing the decision of the HPC to deny a COA request to replace wood windows with smaller vinyl windows wrapped in aluminum, replace the front door, replace elements of the front porch, and replace the rear deck at 713 Pearl Street. The work was completed after a stop work order (SWO) was posted on the property and without approval from the HPC. The HPC reviewed the "after-the-fact" petition on June 26, 2023, and found that the replacement work was not consistent with the Lynchburg Historic Districts Residential Design Review Guidelines Section VII. Guidelines for Rehabilitation and Restoration (25) Windows, (7) Doors, (15) Porch Columns and Railings, and (6) Decks; the style of the house; or the surrounding historic district. The City's Zoning Ordinance, Section 35.2-13.11, Appeals to City Council, states: "On any such appeal, the final decision of the HPC ... shall be stayed pending the outcome of the appeal to City Council, except that the filing of such appeal shall not stay the decision of the HPC if such decision denies the right to raze or demolish a historic landmark, building or structure. The City Council shall conduct a full and impartial public hearing on the matter and apply the same criteria as the HPC before rendering any decision. The City Council may affirm, reverse or modify the decision of the HPC, in whole or in part. The decision of City Council, subject to the provisions of section 35.2- 13.12, shall be final. If approved, a certificate of appropriateness, signed by the clerk of the City Council, shall be issued to the applicant."

At the September 26, 2023 City Council meeting, there were questions regarding previous modifications to the home's exterior. The roof was originally slate. The Board of Historic and Architectural Review (the prior name for the HPC) approved the previous owner's request to replace the slate with asphalt shingles in 1982. The siding on the house was originally clapboard. There is no record of when the siding was changed to asbestos, but it is likely that it was replaced prior to the Historic District's creation in 1978.

Mayor Reed asked if the petitioner had a presentation. Stephen Milacci addressed Council. He said that he would like to address the illegality of removing the notice, and clarified that he did not remove the notice until they had filed for the appeal. He asked for forgiveness regarding having taken these actions without prior approval. He requested Council to overturn the decision of the HPC, which would approve the 15 new windows, new front door, front porch railing, and back porch deck railing.

Mayor Reed asked if any members of the public wished to speak in favor of the item. Hearing none, she asked if there were any members of the public who wished to speak against the item.

Catherine Mosely Brown, Executive Director of the Lynchburg Historical Foundation, addressed the Council in support of the HPC decision. She said that she contacted seven cities and towns with historic districts, from Charleston, South Carolina to Searsport, Maine, and all had ordinances and regulations governing historic restoration, but none of them allowed vinyl windows or changes to the façade unless it could be proven that such alterations took the house back to its original state.

Priscilla Harlan, President of the Diamond Hill Historical Society, stated that she lived 1421 Harrison Street in Lynchburg. The property at 713 Pearl Street was on the corner of Grace and Pearl and was one of the gateways to the Diamond Hill Historic District. Not adhering to the historic restrictions had diminished the historic character of this house. She stated her support of the HPC and urged Council to support the HPC in order to protect the City's investment in historic structures.

Julie Neighbors stated that she and her husband had lived at 602 Washington Street just shy of 50 years. She said that she and other neighbors researched all of the homes in the area with the aim to protect and restore the historical integrity of their neighborhood. She said that she saw Mr. Milacci this summer and explained that the changes to the windows must be approved by HPC prior to putting them back. She stated her support for the decision made by HPC.

Russ Lescault said that he resided at 1500 Madison Street. He explained that the home at 713 Pearl Street was built in 1885 and had large windows to let in light due to lack of electricity, and the petitioner had replaced those with much shorter ones, as well as replacing the original front porch boards and removing latticework and window trimming, and it no longer looked like a historical house built in 1885.

Pamela Fitz asked if the petitioner was setting precedent by making the decision to replace the windows outside of what was allowed in the ordinance. She said that she was concerned that if they did not uphold the rule, people would take more advantage of it. She said that the petitioner was in the business of restoring houses, so she questioned if he did not know the rules or was just trying to save money.

Randy Woods said that he resided at 101 Washington Street in the Diamond Hill Historic District. He said that he chose to live in a historic district in which repairs to homes had specific regulations. Mr. Milacci had the same choice for purchasing his home in the historic district, and he also chose to ignore the advice of his neighbors, the secretary of the HPC, and requested the denial in order to appeal it before Council. He stated his support for the decision of the HPC.

Ray Fitz stated that he resided at 601 Washington Street. He said that he had 26 windows on the front of his home and every single one of them was built to code. He said that he had replaced 12 windows so far in his house and no one had come around to request vinyl windows.

Jennifer Tanner stated that she resided at 501 Washington Street. She was a 4th generation Floridian, and during the COVID-19 pandemic, she and her husband decided to buy their historic home in Lynchburg. As a nationally and state-registered historic landmark, the Diamond Hill area was meant to have protections, and she requested Council to protect the community's rights to have these historic properties preserved.

Andrea Hurt stated that she lived on Washington Street. She said that houses in Diamond Hill were being greatly restored and the area was attracting interest from outside neighborhoods. She emphasized the need for accountability in all levels of government, and requested the Council to uphold the HPC decision.

A citizen who did not state his name said that his mother had saved 1301, 1317, 1319, 611, and 613 Washington Street from being torn down. The Historical Society wanted to tear them down to be used as green space and because some of the residents in the neighborhood were concerned about Black people moving in and did not want to share the street parking. He restored the structures from the foundation to the rafters so they would be in a good position to sell it.

Mayor Reed asked the Clerk if there were any voicemails. Ms. Alicia L. Finney, Clerk of Council, stated that there were three voicemails that she would play into the record.

Dennis Newton's voicemail message stated that he lived at 505 Washington Street. He stated his support of the Historic Preservation Commission denial of the alterations made at 713 Pearl Street. He relied on the HPC and historic zoning to protect his investment in his home, and the alterations at 713 Pearl Street were noticeably inappropriate.

Cordelia Chandler's voicemail message stated that she had lived at 505 Washington Street for over 20 years. She emphasized that the window alterations made at 713 Pearl Street were obviously not in keeping with the historic nature of the house and historic district, and they devalued the financial and historic value of the entire district.

Chris Tanner's voicemail message stated that she requested the ordinance supporting the HPC to be upheld in regard to preserving their historic districts. She said that residents bought properties there because they knew there would be regulations and ordinances put in place that would guide their neighbors in what they could and could not do with a historic home.

Mayor Reed closed the public hearing. She asked if the petitioner had a rebuttal. Mr. Milacci stated that he understood that he had made a bad decision, and all he could do was ask for forgiveness. He acknowledged that he had upset the neighbors, and that was not his intent at all. He agreed that by making these decisions, there was precedent, and his case was that there was precedent that this had been allowed in the past. He said that he was not opposed to working with City Council and the HPC to come to a solution. He clarified that the guidance was that vinyl windows were generally discouraged, but not that they were not allowed.

Councilmember Misjuns noted that one of the images provided showed a real estate sign. He asked if the home was under contract at this time. Mr. Milacci replied that yes, there was a closing date set, and clarified that once he sold the home, it was no longer his responsibility. Councilmember Misjuns asked when the closing date was. Mr. Milacci answered that the closing date was October 27. Councilmember Misjuns motioned to table the decision until the next City Council meeting, October 24, to give the petitioner and HPC an opportunity to come up with a compromise. He said that the petitioner should be given the opportunity to compromise with the HPC and neighbors before the property was sold to a new owner.

Councilmember Helgeson agreed that it was acceptable to table the item, as Council had previously tabled items related to housing so that the community could work toward improvement prior to a final decision.

Councilmember Taylor noted that he could provide historic windows to Mr. Milacci for potential use.

Councilmember Wilder stated that he did not support the motion because the petitioner had already had enough time to make the corrections, and the decision of the HPC should stand. Then, the petitioner could have the opportunity to make the corrections as necessary. Mr. Milacci said that he had not taken action because there was no approval at this point, so he was following the process until it was approved, at which point he would go back and appeal it.

Councilmember Dolan asked what the point of a Historic Preservation Commission was if the Council were not going to go by their guidelines. She stated that she could not support the motion as the petitioner had continued the work after he had been told to stop, and the work done was inappropriate for the historic district.

Mayor Reed asked if Ms. Mergenthaler could provide a timeline of City actions for this process. Ms. Mergenthaler provided the timeline from the staff report. Mayor Reed asked when the windows were replaced. Ms. Mergenthaler said that it was unclear when exactly they were replaced, but staff was notified on June 6, 2023. Mayor Reed said that she agreed with Councilmember Dolan that the petitioner had at least 5 months to correct these issues, which should have been plenty of time. She stated her support of the HPC decision.

Councilmember Helgeson noted that one of the HPC members abstained from the decision to deny the COA, however they had participated in the discussion prior to the vote. He asked if this was a normal procedure for the HPC. Ms. Mergenthaler replied that normally the Commissioners did not abstain, but in this case, the Commissioner did not want to vote one way or another on the matter as it was grouped altogether. Councilmember Helgeson stressed the importance of allowing the opportunity to improve the neighborhood, which could be achieved with extending the discussion until the next Council meeting.

Mayor Reed called the vote to table the item, and the following vote was recorded:

Ayes: Helgeson, Taylor, Misjuns	3
Noes: Wilder, Dolan, Reed, Faraldi	4

Councilmember Misjuns requested City Manager Benda to bring forward information regarding the historic preservation guidelines in order to see if improvements could be made in order to encourage people to work on these historic properties in the City and increase their value. He said that he would not be voting in favor of the resolution.

Councilmember Helgeson stated that the time since June was an inadequate amount of time to replace all the windows in a historic home. He said that he could not support the resolution because the HPC denial was too drastic a measure without giving extra time for a solution to be found.

Mayor Reed called the vote, and the following vote was recorded:

Ayes: Wilder, Dolan, Reed, Faraldi, Taylor 5

Noes: Helgeson, Misjuns 2

// In the matter of Planning, Agenda Item #7, a public hearing was held and Council considered adopting Resolution #R-23-084 granting a Conditional Use Permit (CUP) to allow the use of existing structures at 333, 335, & 337 College Street as office uses associated with the University of Lynchburg. Senior Planner Rachel Frischeisen gave a summary of the item to Council. The University of Lynchburg is petitioning for a CUP at 333, 335, & 337 College Street to allow the use of existing structures as office uses associated with the University in an R-2, Low-Medium Density Residential district. College and university uses are permitted in this zoning district upon approval of a CUP by City Council.

The Comprehensive Plan 2013-2030 recommends a Low-Density Residential use for the subject properties. Public and private institutional uses compatible in scale with single-family homes may be included in these areas. The properties have been used for student housing since 1989. The Planning Commission recommended approval (5-0 with two abstentions; Perault and Rogers) of the CUP petition on September 13, 2023.

Michael Vaughn, Assistant Vice President for Auxiliary Services at the University of Lynchburg, addressed Council. He said that these three homes were to be updated and renovated into office space. The homes were currently underutilized spaces for the University that they wanted to recapture as well as create more housing for students across the road.

There was no one to speak in favor or opposition, either by phone, email, or in-person, so the public hearing was closed and the matter rested with Council.

Vice Mayor Faraldi motioned, seconded by Councilmember Misjuns, to approve the Resolution. With no discussion from Council, the following vote was recorded:

Ayes: Wilder, Dolan, Helgeson, Reed, Faraldi, Taylor, Misjuns 7

Noes: 0

// In the matter of Planning, Agenda Item #8, a public hearing was held and Council considered adopting #R-23-085 granting a Conditional use Permit (CUP) to allow the use of an existing structure at 504 Westwood Avenue as a laundry facility for students at the University of Lynchburg. Senior Planner Rachel Frischeisen provided a summary of the item to Council. The University of Lynchburg is petitioning for a CUP at 504 Westwood Avenue to allow the use of an existing structure as a laundry facility for students in an R-4, High Density Residential district. College and university uses are permitted in this zoning district upon approval of a CUP by City Council. The Comprehensive Plan 2013-2030 recommends a Low-Density Residential use for the subject properties. Public and private institutional uses compatible in scale with single-family homes may be included in these areas. The property has been used for student housing since 2001. The Planning Commission recommended approval (5-0 with 2 abstentions; Perault and Rogers) of the CUP petition.

Michael Vaughn, Assistant Vice President of Auxiliary Services for the University of Lynchburg, stated that this property was going to be repurposed as part of their process with their laundry vendor to create a centralized facility near a hub of student housing. The proposal would not change the exterior of the house except for some safety and security measures such as lighting and security cameras.

There was no one to speak in favor or opposition, either by phone, email, or in-person, so the public hearing was closed and the matter rested with Council.

Vice Mayor Faraldi motioned, seconded by Councilmember Misjuns, to approve the Resolution. With no discussion from Council, the following vote was recorded:

Ayes: Wilder, Dolan, Helgeson, Reed, Faraldi, Taylor, Misjuns	7
Noes:	0

// In the matter of Planning, Agenda Item #9, a public hearing was held and Council considered adopting Resolution #R-23-086 granting a Conditional Use Permit (CUP) to allow for the construction of forty-four townhomes to be located at 532 and 536 Leesville Road. Senior Planner Rachel Frischeisen provided a summary of the item to Council. Sundance Design & Build, LLC is petitioning for a CUP at 532 and 536 Leesville Road to allow the construction of forty-four (44) townhomes in a R-3, Medium Density Residential District. Townhome developments are permitted in this zoning district upon approval of a CUP from City Council.

The Comprehensive Plan 2013-2030 Future Land Use Map (FLUM) recommends a Medium Density Residential use for the area. These areas are characterized by small-lot single-household detached housing, duplexes, and townhouses at densities up to twelve (12) units per acre. The project would also contain sixteen (16) duplex units which are permitted by-right for a total of sixty (60) units, which is below the density recommended by the Future Land Use Map (FLUM).

After the Planning Commission meeting, staff received an email from a neighboring property owner with a concern regarding the petitioner's right to use and improve the 20' roadway between 532 and 536 Leesville Road. This is a private matter that will have to be resolved prior to site plan approval. Staff recommends adding a condition to address this as written in the resolution. The Planning Commission recommended approval (7-0) of the CUP petition with condition #1 on September 13, 2023.

Mr. Bryce Harker, Managing Member of Sundance Design Build, addressed Council. He stated that in granting the Conditional Use Permit, the impact on density was minimal, the land use was consistent with the FLUM, consistent with adjacent properties, consistent with business and commercial use on Timberlake Road, dense apartments to their west, and following suit with the Conditional Use Permit to the south and southwest. Regarding the 20-foot roadway mentioned by City staff, the matter was private and would not affect their intent to develop.

Candice Rodriguez stated her support of the project and noted how much better the lot looked now that it had been cleaned up. She said that the net impact of the additional 12 units allowed by the CUP was minimal and it was appropriately contextualized by the surrounding area.

With no further speakers and no voicemails to play into the record, Mayor Reed closed the public hearing and the matter rested with Council.

Councilmember Helgeson stated his support for the CUP, especially as compared to the process of rezoning. He asked if condition #2 could be addressed regarding the 20-foot roadway. Doyle Allen answered that staff recommended the condition be added, and the Planning Commission did not put that in there, however they did approve of it. Councilmember Helgeson asked if the condition affected the unsolved issue of the ownership of the roadway. Mr. Allen said that the ownership of the 20-foot strip of roadway was in question, but they had the right to use it. Councilmember Helgeson asked if the condition was acceptable. Mr. Allen said that it was acceptable.

Councilmember Helgeson motioned, seconded by Councilmember Dolan, to approve the Resolution. With no discussion from Council, the following vote was recorded:

Ayes: Wilder, Dolan, Helgeson, Reed, Faraldi, Taylor, Misjuns 7

Noes: 0

// In the matter Planning, Agenda Item #10, a public hearing was held and Council considered adopting a resolution denying a Conditional Use Permit and a resolution denying an amendment of the Future Land Use Map (FLUM) that would allow the construction of nineteen (19) apartments to be located at 3146 and 3150 Wards Ferry Road. Senior Planner Rachel Frischeisen gave a summary of the item to Council. Timberlake Investments, LLC is petitioning for a CUP at 3146 and 3150 Wards Ferry Road to allow the construction of nineteen (19) apartments in a B-1, Limited Business district. Apartments are permitted in this zoning district upon approval of a CUP from City Council. The petitioner had originally requested twenty-four (24) apartments but has since reduced the request to nineteen (19) units, following the Planning Commission meeting. The Comprehensive Plan 2013-2030 recommends a Neighborhood Commercial use for the subject properties. The petition proposes to amend the Future Land Use Map (FLUM) to Medium Density Residential. Medium Density Residential areas are characterized by small-lot single family detached housing, duplexes and townhomes at densities up to twelve (12) units per acre. The property consists of one and six hundred twelve thousandths (1.612) acres, which would support nineteen (19) units under a Medium Density land use. However, the proposed apartments are not in keeping with single-household, duplex, or townhome uses recommended in a Medium Density area. The Planning Commission recommended denial (7-0) of the CUP and FLUM amendment petitions (for 24 units) on August 23, 2023.

Norm Walton, Perkins & Orrison, stated that he and Mr. Tom DeWitt were representing the developers. He said that they had reduced the number of units proposed to the Planning Commission, noting that his firm had made an error in calculating the density in the FLUM. It was now adjusted down to medium density at 19 units. He said that the project proposed seemed to fit with the mixture of units in the surrounding area. He reviewed the traffic data regarding the trips per unit associated with the apartments versus other mixed-use developments, and noted that the apartment complex was one of the lowest trip generating developments that could be used for this development.

Mr. John DeWitt, with Dewitt Real Estate and Timberlake Investments partner, stated that this specific property had been handled by numerous agents over the years as the B-1 zoning seemed to be a barrier to development. He noted that while many developments along Wards Ferry Road were to up-zone for multi-family use, this request was to down-zone from business to residential, so it was a reasonable request. He said that he disagreed that the apartments did not fit in the zone as they were multi-household structures. He noted that this was not a complete rezoning and was a CUP request.

There was no one to speak in favor or opposition, either by phone or in-person, so the public hearing was closed and the matter rested with Council.

Vice Mayor Faraldi asked if there was information pertaining to the 2-acre minimum for townhomes on the lot, and the actions taken by the applicant to achieve that 2 acres. Ms. Frischeisen answered that the concept plan had changed since it went before the City's Technical Review Committee in May, which originally showed 26 townhomes and proposed vacating right-of-way and removing the existing City stormwater pond and converting that into a shared facility. She said that it was included in the CTRC's comments that the comingling of public and private stormwater would not be allowed, and if right-of-way vacation were needed for the project, the application of materials should be submitted so that the right-of-way vacation could run concurrently with this project and be before Council at the same time. The plan was then revised and submitted in July showing that the petition had changed from townhomes to apartments, and laid within the property such that the right-of-way vacation was no longer necessary and stormwater would be handled on-site. Vice Mayor Faraldi asked what the desire was for segregating public and private water. Ms. Frischeisen said that she did not have time to confer with Water Resources about the matter, so she was unsure if that was a case-by-case determination or a blanket policy. Vice Mayor Faraldi said that it did not seem fair that the amended proposal was again rejected by staff after it had been changed per the CTRC's comments. Ms. Frischeisen said that TRC was relaying the requirements, and if apartments were what they arrived at, it was done of their own volition, and whether the petition was for apartments or townhomes, it would not change staff's recommendation because the main concern was the residential units on Wards Ferry Road and the difficult ingress and egress of that section of Wards Ferry and Timberlake. Vice Mayor Faraldi said that he needed more information regarding the conversations regarding the stormwater component. Assistant City Manager Kent White stated that it was a legal issue regarding discharging private stormwater into a public facility and was based on a prior legal opinion. Mr. Walton indicated on an aerial map where the stormwater pond was located. He said that the legal issues regarding the combination of public and private stormwater became too complex, so they amended the application to its current state. Vice Mayor Faraldi asked if they could have granted right-of-way to the applicant to create their own separate pond. Mr. Walton said that it became a permitting issue with moving the ponds to allow enough room.

City Manager Benda said that he could provide more information in the Council memos ahead of their next meeting to help understand this specific item.

Vice Mayor Faraldi motioned to continue this item to the next City Council work session on October 24, 2023. Mayor Reed indicated that there was consensus from Council to move forward.

// In the matter of Schools, Agenda Item #11, a public hearing was held and Council considered adopting Ordinance #O-23-087 authorizing an easement and right of way to Appalachian Power Company at 3525 John Capron Road to provide electric service to the Lynchburg City Schools electric bus charging stations and other related uses. Deputy Superintendent Dr. Reid A. Wodicka gave a summary of the item to Council. The City, Lynchburg City Schools, and Appalachian Power Company have worked together, to propose for City Council's review and consideration, a proposed right of way and easement to Appalachian Power Company on property owned by the City; more specifically 3525 John Capron Road, Lynchburg, VA 24501 (Tax Map No(s) 11501003). The substance of such right of way and easement is shown in the attached documents. The purpose of such right of way and easement is for an electric power line or lines, and communication lines, in, on, under, along, through, over, and across the aforesaid property in relation to providing electric service to the Lynchburg City Schools electric bus charging stations and other related uses. Given the nature and the length of the easement sought, the City advertised for bids, and where appropriate, a bid was accepted, and a public hearing must be held before the easement is granted. The attached proposed ordinance, deed, and exhibit illustrate the proposed easement. The proposed easement, if granted, will expire October 10, 2063, given the requirements of Va Code Sec(s). 15.2-2100 et seq.

There was no one to speak in favor or opposition, either by phone, or in-person, so the public hearing was closed and the matter rested with Council.

Councilmember Wilder motioned, seconded by Councilmember Misjuns, to approve the Resolution. Councilmember Misjuns noted the advantages of having electric vehicles due to the terrain of the City. With no further discussion from Council, the following vote was recorded:

Ayes: Wilder, Dolan, Helgeson, Reed, Taylor, Misjuns	6
Noes: Faraldi	1

// In the matter of Public Comment, Agenda Item #20, Citizen Hadley Jones spoke regarding the proposed closure of TC Miller. She said she was in 3rd grade and attended TC Miller Elementary School. She requested that the City vote no so they do not close her school.

// In the matter of Public Comment, Agenda Item #12, Citizen Kimberly Dyke-Harsley, speaking on behalf of the Dearington Neighborhood Association, spoke regarding a concern about the Dearington Neighborhood. She emphasized the need for traffic calming measures on Page Street. She said that private businesses should be regulated by the City if they provided a public service, such as taxi services, which had fares defined in City code, and she encouraged the continuation of that practice.

// In the matter of Public Comment, Agenda Item #13, Citizen Carly Sheaffer, speaking on behalf of the TC Miller PTO, spoke regarding the proposed closure of TC Miller. She requested that the City deny the funds for the School Board's Scenario 3, noting that 70% of the community supported Scenario 1, and nearly 2,000 people had signed a petition to keep the schools open. She said that struggling schools destabilized communities, and closing schools was not the answer.

// In the matter of Public Comment, Agenda Item #14, Citizen Nettie Webb spoke regarding the proposed closure of TC Miller. She urged the Council to deny the School Board's request for Scenario 3. She spoke about the need for diversity and equity in the school system, explaining that Dearington and TC Miller were turned into magnet programs for innovation to provide programs for otherwise disadvantaged students.

// In the matter of Public Comment, Agenda Item #15, Citizen Abby Skinner spoke regarding the proposed closure of TC Miller. She requested that the Council deny approval of the funds for the School Board's Scenario 3 proposal. She explained that 33% of families in the City chose private education over public, and a way to address enrollment issues would be to expand enrollment and offer more class options. She requested that the School Board consider other options.

// In the matter of Public Comment, Agenda Item #16, Citizen Ben Larkins spoke regarding the closure of City schools. He said that investing in City schools by keeping them open, maintained, and improved should be the top priority.

// In the matter of Public Comment, Agenda Item #17, Citizen Casey Eccles spoke regarding the proposed closure of TC Miller. She urged the Council to deny the $15 million request from the School Board. She expressed concerns about the plan to rezone students twice.

// In the matter of Public Comment, Agenda Item #18, Citizen Rebecca Griffin who previously signed up to speak withdrew her request.

// In the matter of Public Comment, Agenda Item #19, Citizen Karla Jones, speaking on behalf of Save Our Schools, spoke regarding the proposed closure of TC Miller and Sandusky. She requested that the City deny the School Board's request for $15 million to renovate Bass Elementary. She said that solar PPAs, public transportation, and administrative restructuring could help alleviate funding issues.

// In the matter of Public Comment, Agenda Item #21, Citizen Gary Taylor, speaking on behalf of Citizens for a Better Lynchburg, spoke regarding Lynchburg city schools, politically motivated facilities debacle, what has been learned and how to better manage phase two from public relations standpoint to have better informed parents, media, politicians, and the vast amount of misinformation that was allowed and given platform to divide for "clicks". He stated that the first request was for councilmember Misjuns and councilmember Helgeson to resign immediately. He said the second request was for the LRCC to surrender its charter to the Young Republicans, supported by the Youngkin Administration. He said the third request was for FJ Jalil to resign immediately or be removed for cause. He said the fourth request was for Congressman Bob Good to resign. He said that the public was waiting for a public apology from councilmember Helgeson to the Mayor for his misogynistic remarks on a hot microphone. He said that schools needed to be closed, and the City handled the situation effectively.

// In the matter of Public Comment, Agenda Item #22, Citizen Carlina Muglia spoke regarding proposed City school closures. She said that better communication would have included expanded accessibility to School Board meetings. She said clear next steps should be provided about what would happen for students. She said that a clear reason for the decision should be provided. She said that leadership from the School Board had been lacking, and she encouraged the Council to deny the School Board's request.

// In the matter of Public Comment, Agenda Item #23, Citizen Bryant Kemper spoke regarding the difficulty for people with felony convictions to obtain housing. He said he was a disabled veteran, and he was homeless only because he had a felony. He said that discriminating policies and practices were used against people with felonies in housing. He said that a person with a felony did not lose their equal opportunity and protection under the 14th Amendment or under Fair Housing. He said he wanted to bring awareness to the issue.

// In the matter of Public Comment, Agenda Item #24, Citizen Lynne Forth spoke regarding solutions for City schools and small class sizes. She requested that the Council deny the $15 million request from the School Board. She said that the operational cost savings from closing the schools would not close the cost deficit.

// In the matter of Public Comment, Agenda Item #25, Citizen Micah DeVries spoke regarding the proposed closure of TC Miller and Sandusky. She said that the consultant who recommended the closure of TC Miller, Dominion Seven, was an architectural firm with no expertise in school operations. She said that the proposed plan was to expand Bass to accommodate the innovation program. She requested that the Council deny the request from the School Board to renovate Bass Elementary.

// In the matter of Public Comment, Agenda Item #26, Citizen Eric Proebsting spoke regarding the proposed closure of TC Miller. He said that he was opposed to the closure of TC Miller and Sandusky Elementary. He requested the Council to deny the School Board's request for $15 million. He said that the closures would harm the community for years to come.

// In the matter of Public Comment, Agenda Item #27, Citizen J. Salmon, speaking on behalf of Unified Potential Inc, spoke regarding transportation. He expressed concerns that his firm was excluded from negotiations and development of a micro transit plan for the City. He expressed concerns about the regulations around service providers and the bidding process for transportation services in the City.

// In the matter of Public Comment, Agenda Item #28, Citizen Paul Begley spoke regarding impacts on future generations. He encouraged the councilmembers to attend the town halls held by the School Board.

// In the matter of Legislative Agenda, Agenda Item #29, Council considered approving the 2024 Legislative Agenda for the City of Lynchburg. Assistant to the City Manager Ms. Mercedes Braun provided a summary of the request. The Legislative Agenda is a culmination of requests from staff and Council based on the needs of the city. There are three primary areas - Education, Public Safety and Economic Strength – along with a miscellaneous section. At Council's direction, the document has been updated based on feedback received to date and is being presented for approval.

Mayor Reed stated that there were three amendments before the Council, and she requested to address each amendment separately prior to discussing the entire legislative agenda.

Vice Mayor Faraldi motioned, seconded by Mayor Reed, to adopt the first amendment to the legislative agenda to add language supporting an elected school board.

Councilmember Dolan asked what the intent of the amendment was. Vice Mayor Faraldi explained that there was an attempt last year to pass legislation to make it easier for localities with an appointed school board to put the matter to a referendum with a vote rather than a petition. He said that both attempts last year were voted down in the state senate.

Councilmember Helgeson said he did not support the amendment.

With no further discussion from the Council, the following vote was recorded:

Ayes: Reed, Taylor, Wilder, Faraldi	4
Noes: Misjuns, Helgeson, Dolan	3

Councilmember Wilder stated that he voted incorrectly. He said he did not support elected school boards, but he would leave the vote as it stood.

Councilmember Misjuns motioned, seconded by Councilmember Dolan, to approve the second amendment to the legislative agenda related to driving under the influence of marijuana. Councilmember Misjuns said that there should be a traffic offense similar to DUIs but for marijuana. Councilmember Dolan stated that they needed to invest in finding a way to determine intoxication levels.

With no further discussion from the Council, the following vote was recorded:

Ayes: Reed, Misjuns, Helgeson, Dolan, Taylor, Wilder, Faraldi	7
Noes:	0

Councilmember Misjuns, motioned by Councilmember Helgeson, to deny the third amendment to the legislative agenda related to increasing the age threshold from 14 to 17 years old regarding child access to a loaded, unsecured firearm. Councilmember Misjuns said that he expected his children to know how to use firearms responsibly by the time they were 14, at which point his sons would be expected to defend his house if he was not present.

Councilmember Dolan stated that the amendment was intended to target parents who recklessly left firearms loaded and unattended where children could access them. She said that in 2022, guns were the number one cause of death for children.

With no further discussion from the Council, the following vote for denial was recorded:

Ayes: Reed, Misjuns, Helgeson, Taylor, Faraldi 5

Noes: Wilder, Dolan 2

Councilmember Helgeson motioned, seconded by Vice Mayor Faraldi, to amend the legislative agenda to include allowing party affiliation on ballots for local elections. Vice Mayor Faraldi stated that the amendment would help communicate how candidates were nominated.

Councilmember Misjuns motioned to amend the motion to include pairing party registration with voter registration. Vice Mayor Faraldi said he would have to withdraw his second if the amended motion was deemed friendly. He said that the locality should not get into the issue of party registration. Councilmember Helgeson said that they were two separate issues.

With no further discussion from the Council, the following vote was recorded on the original motion:

Ayes: Reed, Misjuns, Helgeson, Taylor, Faraldi 5

Noes: Dolan, Wilder 2

Vice Mayor Faraldi motioned, seconded by Councilmember Dolan, to amend the legislative agenda to strike the first request under other priorities, the change in FOIA exemption. Vice Mayor Faraldi said that elected officials should not be granted additional benefits beyond the law.

Councilmember Misjuns said that greater document access would enable the Council to better manage the government. He said that they should have access to exit interview data to make better decisions on how to address staffing shortages in the police department.

Mayor Reed stated that the discussion was inappropriate while officers were present in the room.

Councilmember Misjuns called a point of order, stating that Mayor Reed violated the rules of procedure by being demeaning to him. Mayor Reed overruled the point of order. Councilmember Misjuns appealed the decision. Mr. Freedman explained that the Council could vote to overturn the Mayor's decision, but in his interpretation as the parliamentarian, the language did not violate the rules because the Mayor made her opinion known and continued on.

Councilmember Misjuns withdrew his appeal.

With no further discussion from the Council, the following vote was recorded on the motion to strike the language from the legislative agenda:

Ayes: Reed, Dolan, Wilder, Taylor, Faraldi	5
Noes: Helgeson, Misjuns	2

Vice Mayor Faraldi moved, seconded by Councilmember Helgeson, to table consideration until the next meeting. There was a consensus from Council to table the item and no vote was cast.

// In the matter of Finance, Agenda Item #30, Council considered introducing Resolution #R-23-088 to amend the FY 2024 General Fund budget and appropriate up to $2,634,000 for 12th Street Stabilization. Chief Financial Officer Ms. Donna Witt provided a summary of the request. At the September 26, 2023 meeting, City Council selected Option 2 - Pinned Mesh with Shotcrete Rough Finish ($2,455,000) for 12th Street Stabilization and also requested a cost for adding color tint. At the October 10, 2023 work session, staff presented the cost estimate to add color tint ($179,000) to the project scope and provided available funding options for the total project cost (up to $2,634,000).

Councilmember Helgeson moved, seconded by Councilmember Dolan, to approve funding option 2.

With no further discussion from the Council, the following vote was recorded:

Ayes: Reed, Misjuns, Helgeson, Dolan, Taylor, Wilder	6
Noes: Faraldi	1

// In the matter of Budget, Agenda Item #31, Council held a second reading and considered adopting Resolutions #R-23-075 and #R-23-076 approving the FY 2023 Fourth Quarter and FY 2024 First Quarter Adjustments. Chief Financial Officer Ms. Donna Witt provided a summary of the request. The General, Children’s Services Act (CSA), and Fleet Services Funds are amended to reflect the FY 2023 Fourth Quarter Adjustments. The General, City/Federal/State Aid, Forfeited Assets, Children’s Services Act (CSA), Home Investment Partnerships Program (HOME), Regional Juvenile Detention Center, Technology, Airport, Fleet Services as well as the City Capital Projects, Schools Capital Projects, and Airport Capital/Grant Projects Funds are amended to reflect the FY 2024 First Quarter Adjustments.

Councilmember Helgeson moved, seconded by Councilmember, to adopt the Resolutions #R-23-075 and #R-23-076.

With no further discussion from the Council, the following vote was recorded:

Ayes: Reed, Misjuns, Helgeson, Dolan, Taylor, Wilder 6

Noes: Faraldi 1

// The meeting adjourned at 11:46 p.m.

Clerk of Council