

June 1, 2020

// A special meeting of the Council of the City of Lynchburg was held on the 1st day of June, 2020 at 4:00 p.m. in the Council Chamber, City Hall, Treney Tweedy, President, presiding. The following members were present:

Present: Mary Jane Dolan, J. Randy Nelson, E. J. Turner Perrow, Sterling A. Wilder, Beau Wright

(by telephone), Treney Tweedy 6

Absent: Jeff Helgeson 1

// The special meeting was called to order. Councilmember Perrow noted that Councilmember Helgeson expressed that this meeting is in violation of our rules of procedure. Councilmember Perrow made a motion to suspend the rules of procedure, specifically 2.2b which regards the 12-hour notification. His motion is to temporarily suspend those rules until this meeting is adjourned. Councilmember Nelson seconded the motion. Councilmember Perrow noted that Councilmember Helgeson is right in that we need to follow our rules of procedure. Council's rules of procedure allow them to suspend them. He thinks this is obviously a case when that should be done. Councilmember Nelson commented that due to expediency, advance notice that is normally required cannot be complied with and for the sake of the City's safety and welfare he thinks Council needs to move forward. The motion passed by the following vote:

Ayes: Dolan, Nelson, Perrow, Tweedy, Wilder 5

Noes: 0

Absent: Helgeson, Wright (joined later by telephone) 2

Mayor Tweedy noted that according to a recently adopted ordinance, Council needs to vote for Councilmember Wright to be included in the meeting via phone call. Councilmember Wilder made a motion to include him, which was seconded by Councilmember Perrow. Mr. Walter Erwin noted that Council amended its rules of procedure recently with the adoption of an ordinance to allow members to participate electronically, if the other councilmembers feel it is appropriate. The motion passed by the following vote:

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Ayes: Dolan, Nelson, Perrow, Tweedy, Wilder 5

Noes: 0

Absent: Helgeson, Wright (joined later by telephone) 2

Councilmember Nelson noted that if Councilmember Helgeson has contacted the clerk by phone, he would move that he also be included. The motion was seconded by Councilmember Perrow and passed by the following vote:

Ayes: Dolan, Nelson, Perrow, Tweedy, Wilder 5

Noes: 0

Absent: Helgeson, Wright (joined later by telephone) 2

The Clerk of Council reached Councilmember Wright by telephone and he was added to the meeting.

Ms. Svrcek noted these are indeed extraordinary times and she thanked them for juggling their schedules to deal with this emergency measure. They are being asked to amend and reenact the Code of the City of Lynchburg, 1981, by adding thereto a new section, 27-29 relating to the declaration of curfews in times of emergency. She would also like Council to approve and affirm a local declaration of emergency.

Mr. Erwin explained the state code gives the City Manager the authority to take certain actions during the declaration of an emergency. The section of the state code dealing with a local emergency does not provide for any penalties for violating those directives. That is unlike the directives the governor can issue during a state of emergency where they can be made a misdemeanor offense. The local ordinance they are being asked to adopt today would allow for a citizen to be charged with a misdemeanor offense in the event that the City Manager enacts a curfew. There have been concerns over the past few days that there might be activity that gets out of hand. For the protection of the City, the Police Department has recommended that we impose a curfew. There needs to be an ordinance on the books in order to be able to do so.

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Councilmember Perrow asked for the ordinance to be amended to allow for gender neutral references (the City Manager, or their designee, as opposed to his designee). Councilmember Perrow has a concern with the increase of executive authority across the Commonwealth and across the nation. In this case, it is an appointed official and not an elected official. We need to be careful about the significant authority this gives the City Manager. He thinks this ordinance is important and would move to adopt the ordinance with the provision of a sunset clause of August 31, 2020. He would like Council to discuss it again at a regular meeting and understand the implications and make an informed decision. At this point though, it is important to put it in place.

Councilmember Nelson would second the motion if it were to have a sunset clause. As this is a heavy responsibility, its creation and continuation should ultimately be the responsibility of the city's elected officials and automatically expire unless expressly extended by City Council. He feels the reasons given at the press conference today compel this ordinance to move forward. Councilmember Wilder and Vice Mayor Dolan were in agreement with the sunset clause. Councilmember Wright noted that he had not had a chance to read the ordinance and did not think it was appropriate for him to vote on it. Councilmembers were in consensus to allow Councilmember Wright to vote in abstention for the reason he stated. Councilmember Wright noted he would abstain and expressed that he trusts them all very much.

Councilmember Wilder is glad they are taking some action and being cautious ahead of anything that might happen in our community. The motion to pass the curfew ordinance passed by the following vote:

Ayes: Dolan, Nelson, Perrow, Tweedy, Wilder	5
Noes:	0
Absent: Helgeson	1
Abstentions: Wright	1

Ms. Svrcek explained that she signed a declaration of emergency on June 1, 2020 and needs to add to it: "I request Council confirm this action June 1, 2020."

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Councilmember Perrow made a motion to adopt the declaration of a local emergency ordinance as amended. It was seconded by Councilmember Wilder. Councilmember Perrow thanked the City Manager for her diligence and work. He thinks this is the right thing to do. He hopes people can have a calming presence. He hopes the Mayor's words at the press conference today were inspirational to many. He hopes this emergency will cease very shortly. Councilmember Wilder thanked all the City staff that had to work through all hours of the night. We will be stronger as a community because of these situations and we will rise above this. We need to know that we are better than this and we need to do our part to protect our citizens. We need to move the dialogue forward to make sure all voices are heard and there is some action taken following it. Councilmember Wright noted that he would abstain, as he has not seen the ordinance, but is grateful for all of them being there and affording him the opportunity to join by telephone.

The motion passed by the following vote:

Ayes: Dolan, Nelson, Perrow, Tweedy, Wilder	5
Noes:	0
Absent: Helgeson	1
Abstentions: Wright	1

Ms. Svrcek noted that this will be communicated to the public as soon as possible after consultation with the Public Information Officer at the Police Department. Councilmember Nelson noted that at the press conference it was stated that tonight's curfew would be voluntary. He asked the City Attorney if this can be imposed on our citizens with such short notice. Mr. Erwin thinks that legally it can be imposed but citizens could be confused because they thought it was voluntary. It might be difficult to make any conviction of violating the ordinance stick because people could legitimately claim that they were given inconsistent information. Ms. Svrcek said it would be her recommendation to make tonight's curfew voluntary and each day is going to stand on its own. Councilmember Nelson noted he appreciates the integrity of all our first responders and if there is a difficult situation tonight, he believes it will be very well handled.

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// The meeting was adjourned at 4:30 p.m.

Clerk of Council

These meeting minutes were recorded and transcribed by Robin Craig while serving as the Clerk of Council; however, due to her unavailability, they were not signed or certified by Mrs. Craig.

Interim Clerk of Council