

October 25, 2022

// A regular meeting of the Council of the City of Lynchburg was held on the 25th day of October 2022, at 4:00 p.m. in Council Chamber, City Hall, Beau Wright, Vice President, presiding. The following Members were present:

Present: Beau Wright, Chris Faraldi, Jeff Helgeson, J. Randy Nelson, Treney Tweedy, Sterling A.

Wilder 6

Absent: MaryJane Dolan 1

// In the matter of Economic Development, Agenda Item #1a, City Council received a briefing on the Hill City Bikes, LLC d/b/a Bikes Unlimited request for a lease of City-owned property at 1100 Jefferson Street. This item will appear before City Council for action on October 25, 2022. Ms. Marjette Upshur, Director of the Office of Economic Development and Tourism, gave a summary of the item to Council. Hill City Bikes, LLC d/b/a Bikes Unlimited, located at 1312 Jefferson Street, has requested to lease a portion of the City Owned Property at 1100 Jefferson Street. They plan to expand their existing business to include a food and beverage component named "OH! 4" and to create a more engaging and safe space on the City Owned Property surrounding their property. They plan to invest \$100,000 into building a family-friendly space and project \$250,000 annually in net new revenue. A five-year lease with the opportunity to renew has been drafted by the City Attorney. Hill City Bikes, LLC agrees to pay \$100 per month in rent. All maintenance shall be the responsibility of the lessor. Any work performed on the property must meet the City's requirements and be permitted accordingly. There is a statutory requirement for a public hearing prior to leasing City property.

Councilmember Nelson asked what improvements were contemplated for placement in the space as part of the lease. Ms. Upshur answered that it would probably be some fencing. Councilmember Nelson said that he knew there were restrictions of what could be put in the floodplain. Ms. Upshur said that Community Development and Water Resources staff had looked at exactly what could be installed in that area. Councilmember Nelson asked if whatever would be installed could be easily removed in the event of a flood; Ms. Upshur said yes.

// In the matter of Engineering, Agenda Item #1b, City Council received a briefing on the support of Campbell County SMARTSCALE Application in Lynchburg. This item will appear before City Council for action on October 25, 2022. Ms. Gaynelle Hart, Director of Public Works, gave a summary of the item to

Council. VDOT has required and Campbell County have requested the City of Lynchburg to support their participation in a SMARTSCALE Application to construct improvements to Candler's Mountain Road from Campbell County into the City of Lynchburg. These improvements would add a right turn lane at Liberty View Lane. This would extend into the City along Candler's Mountain Road. The Campbell County Board of Supervisors approved their resolution in July. If the application is successful and the funding awarded, design would begin in August 2025.

Councilmember Wilder asked if Campbell County's submission of a SMARTSCALE project affected Lynchburg City's requests for SMARTSCALE projects. Ms. Hart said that was correct, this should not affect anything related to Lynchburg's SMARTSCALE projects.

// In the matter of the Police Department, Agenda Item #1c, City Council received a briefing on the Prohibiting the Feeding of Deer Ordinance. This item will appear before City Council for action on November 1, 2022. Mr. Ryan Ball, Chief Animal Warden, gave a summary of the item to Council. Colleagues with the Virginia Department of Wildlife Resources (DWR) connected with City staff concerning the extensive number of calls received pertaining to intentional and unintentional feeding of white-tail deer in the City. Written warnings and citizen complaints have increased significantly for both local animal wardens and DWR officers. Residents are actively purchasing feed for deer, which is laid out for consumption and/or placed into feeding dispensers. The practice of feeding deer in residential neighborhoods has been shown to correlate with increased traffic accidents, property damage, and introduction of other animals, including bear, in search of food. Also, DWR advised that concentrating white-tail deer over an anthropomorphic centralized food source potentially will increase the transmission rate of zoonotic disease (e.g., alpha gal, Lyme disease, rocky mountain spotted fever, etc.) that often cause life altering long-term health issues. Through subsequent meetings and dialogue between DWR, the City Attorney, Chief Animal Warden, Public Works, Parks and Recreation, and City Management, the attached proposed ordinance was developed to address the noted concerns.

Councilmember Faraldi asked if bow hunting was allowed in the City. Mr. Ball said that residents must abide by state laws and obtain a permit through the Lynchburg Police Department, and they tried to work with landowners of small parcels to get adjacent neighbor approval to hunt in the area. He noted that the main complaint about deer was that they damaged property. Councilmember Faraldi asked if

peer localities had a year-long ban or just during hunting season. Mr. Ball said that approximately 30 out of 300 had a year-round ban, and those were mainly smaller urban localities. Councilmember Faraldi asked what education had been done to notify the public that they should not be doing this. Mr. Ball said that they had done a few social media posts about feeding deer throughout the year, and Animal Control and DWR tried to educate with every in-person call. Councilmember Faraldi said that he was unsure of what his action on this item would be because the education of the public should be considered before implementing a fined punishment.

Councilmember Tweedy asked how they proved people were feeding deer. Mr. Ball said that residents would often state it to the officers responding to calls. Some people had large bird feeders outside of their homes and would explain that they were for deer or other animals, and part of the code said that if someone were putting an abundance of food out and it was attracting deer to that location, after a warning they could be fined. Councilmember Tweedy asked if there was another way to lessen the deer population other than hunting them, such as feeding them. Mr. Ball said no, he had not seen any research related to methods other than culling and restricting feeding.

Mr. Matthew Overstreet, Region II Wildlife Manager, Virginia Department of Wildlife Resources, stated that the answer to the question of feeding them as an alternative to reduce the population was no. He said that it unfortunately augmented the population and increased their number by providing an anthropogenic food source, concentrating the deer into a locality, increasing the potential for disease, and therefore creating negative consequences for human health and safety. Councilmember Tweedy said that her question was if there was a food source that would decrease the population of the deer. Mr. ?? said no. He said that there had been studies to see if contraceptives could be given to deer, but it had shown to be a failure, and the only proven mechanism for reduction or maintenance of population was through a hunting effort, with archery being most preferable in cities for safety reasons. Councilmember Tweedy asked if there was no poison to kill the deer. Mr. Overstreet said that the problem with poison was that there would be non-target species impacted.

Councilmember Wilder said that it may be challenging to enforce this policy, and it may be more beneficial with an educational campaign to explain why people should not feed the deer. Mr. Ball said that the Department of Wildlife Resources did have a campaign that they could enhance and implement in

Lynchburg. The civil fines did not necessarily have to be implemented for every case so long as complaints did not continue. Education was of most importance, and this policy was meant to keep the City as safe as possible. Councilmember Wilder said that information could be included along with residents' water bills so that they could be more educated about not feeding the deer. Mr. Ball said that he could work with City management to implement that.

Councilmember Nelson asked how it was proven that the intent to attract deer was present rather than inadvertent feeding from compost piles or landscaping. Mr. Ball said that it depended on the situation and the abundance. When people were consistently feeding the deer, there were often multiple complaints lodged against them, and that was used when determining the intent of the case. City Attorney Matthew Freedman clarified that this policy was not restricting residential plantings that may be attractive to deer, but appeared that there would be some sort of intent to actually feed a deer in order for the ordinance to apply. He said that an example would be if someone discarded something in the compost, then law enforcement warned it was attracting deer but they continued to add to the compost the same things the deer would eat. Councilmember Nelson said that there was no doubt that the nuisances created by the deer were huge, and he agreed with Councilmember Wilder that the public should be educated on some of the innocuous activities that had negative consequences.

Councilmember Helgeson said that he did not think that this was ready to vote on for November 1. He understood the problems caused by the deer but this was not the solution because there would be much speculation about the intent, while hunting the deer was a much more direct and effective effort. Very few localities in Virginia imposed fines for this behavior, so it would likely be best to educate the public on the reasons why they should not feed the deer. He said he was not inclined to vote on the ordinance as presented. Mr. ?? said that the intent was focused on individuals putting out 50-pound sacks of corn rather than a bird feeder or squirrel feeder. In the Code of Virginia, there was a current law in which someone could be fined for intentionally feeding animals that caused damage to neighbors' property, and penalties could be given for that. Hunting on a property where the individual next door had a 50-pound sack of corn on the ground became a violation of state law because they were hunting over bait, so they were technically not allowed to hunt on these properties at this point in time. The intent of this code was to mitigate damages to other persons property, reduce human conflict, and reduce human

health and safety concerns caused by deer in addition to allowing people the opportunity to still hunt their properties in the City without risk of being ticketed for hunting over bait.

Councilmember Faraldi said that if the intent were to stop the damage, the neighbor that was feeding the deer should be found liable for the damage the deer did to the neighbor's property. Mr. Freedman said that as Mr. Overstreet had noted, there was an administrative code section that spoke to the unauthorized feeding of deer that applied during a specific time of the year, which was the hunting season of deer. He said that the code may be more palatable to City Council if they tried to mirror at least one component of it. He said that the administrative code made not of an upon-written notification by department personnel, no person shall continue to place or distribute any food, salt, mineral, or similar substances. The proposed ordinance was based on a model ordinance from the Department of Wildlife Resources, but they did not necessarily have to have it verbatim. He asked if it would be more palatable for the written warning to be given before someone was given a civil penalty before they violated the ordinance.

Councilmember Tweedy asked if they had had teams of bow hunters in the City before, and if they could try to do that again. Mr. Ball said that yes, that City program was paused at the end of 2020 due to budgetary restrictions and Covid-19-related issues. The program had existed for 25 years but had not been in effect since then. Councilmember Tweedy asked if it was effective. Mr. Ball said that it was unclear. They would kill anywhere from 300 to 400 deer per year on a schedule of hunting 2 days per week, with 2 people in a vehicle. The liabilities to employ two part-time people could be large because of the use of high-powered rifles in neighborhoods, and the program could drain money from the Police Department's budget quickly due to overtime hours. Councilmember Tweedy asked if 300 to 400 deer were culled each year under that plan. Mr. Ball said yes. Councilmember Tweedy asked if \$50 was a steep enough fine. Mr. Freedman said that \$50 was the limit that could be imposed.

Councilmember Nelson said that Mr. Freedman's suggestion was a good solution in that the receipt of a warning letter would be strong and compelling evidence to prove intent to violate the law, and he would like to proceed with that option.

Vice Mayor Wright asked if Mr. Freedman could prepare that text for the next meeting; Mr. Freedman said yes.

October 25, 2022

// In the matter of Business License Tax, Agenda Item #1d, City Council received a briefing on the elimination of business license tax for businesses with gross receipts of less than \$50,000. This item will appear before City Council for action on December 13, 2022. Mr. Mitchell Nuckles, Commissioner of the Revenue, gave a summary of the item to Council. In response to a request made by Council Member Helgeson, the Commissioner of the Revenue and City Staff will provide information related to the elimination of Business License tax for businesses with gross receipts less than \$50,000 for the preceding calendar year. Currently, any business or profession whose gross receipts, wholesale, purchases, or commission sales for the preceding calendar year are between \$10,001 and \$50,000 pay an annual license tax of \$30. Any business or profession whose gross receipts, wholesale, purchases, or commission sales for the preceding calendar year are \$10,000 or less is not subject to the business and professional licensing requirements. A total of 510 businesses reported gross receipts in the range of \$10,001 - \$50,000 for calendar year 2021, with gross receipts totaling \$15,384,958. The 2022 Business License Tax due from these businesses totaled \$15,417, and the Business Personal Property (BPP) totaled \$19,833, for total revenues of \$35,250 from this range. Revising the current ordinance to eliminate Business License Tax for this group would reduce revenues by approximately \$35,250.

Councilmember Helgeson said that he was prepared to vote on the item when it came before the Council. He motioned, seconded by Councilmember Faraldi, to adopt Option C, setting the cap at \$150,000 or less.

Vice Mayor Wright asked if the City Manager could explain why the item was scheduled to come before Council for a vote on December 13, 2022. Mr. Benda replied that the Mayor wanted to be present for the contemplation of taxpayer resources and that date was the nearest available on the calendar.

Councilmember Helgeson asked how many businesses were at the second level. Mr. Nuckles answered that there are 340. Councilmember Helgeson asked how many were at the last level. Mr. Nuckles answered that there are 183, with a total of 1,033. Councilmember Helgeson asked if those businesses would be eliminated from the business license tax requirement beginning next year. Mr. Nuckles said yes.

Mr. Freedman asked if there was a motion currently on the table to adopt Option C. Councilmember Helgeson said that yes, Option C was his motion.

Councilmember Wilder asked if the notices were sent in January. Mr. Nuckles said that the business personal property forms were mailed in the first week of January, and the business license application was mailed the first week in March. The business equipment was due back before February 15 because of the twice-per-year billing and bills had to go out in April. Councilmember Wilder asked how much processing time was needed to change the system. Mr. Nuckles said that the change required to eliminate the gross receipts tax up to those levels would be very minimal.

Vice Mayor Wright asked if Council held for this vote to allow the Mayor to participate until December 13 would have an operational impact to make this effective if Council adopted it. Mr. Nuckles said that as it was currently written, it would not go into effect January of 2023 but in January of 2024 so that there were no impacts on the FY23 budget which had already been set. Councilmember Wilder asked if this would go into effect in 2024. Mr. Nuckles confirmed as it was written, it would go into effect in January of 2024. Mr. Benda said that he would propose that when they adopted an option that it be positioned for 2024 because the revenues were already assumed in the adopted FY23 budget. Mr. Nuckles said that if it were 2024, it would have no impact on January 1, 2023. Vice Mayor Wright said that he was supportive of providing tax relief, but opposed making a motion in order to give the opportunity for the Mayor to participate. He asked if Mr. Benda could explain what he would recommend in terms of the amount. Mr. Benda said that he had offered an incremental approach to include Option A in order to encompass what was necessary for small businesses and for administrative operations. Option B was another relief component that would be an opportunity for impact and relief to the Commissioner by way of percentage. He said that he would caution on choosing C before stepping into that further because the percentages went up more starkly than from \$0 to \$100,000.

Councilmember Faraldi said that whether or not a Councilmember's absence should be considered as reason to delay a vote had been opined at the previous meeting, and he hoped that the Vice Mayor would be fair in deciding to wait or not to wait when taking a vote. He said that he was prepared to move forward with this vote.

Vice Mayor Wright said that he would not be supporting this particular motion due to the reason he stated earlier. The Rules of Procedure did not currently permit Councilmembers to participate electronically.

Councilmember Helgeson said that when previously discussing this item with the Finance Committee, it was not under the assumption that it would begin in 2024, but should begin January 1, 2023 so that the notices were not sent out. He asked if notices would continue to be sent throughout March of next year and the policy would not take effect until the following year. Mr. Nuckles said that that was the way he understood it. Councilmember Helgeson said that this should begin in 2023 because they now had the ability to enact something to provide relief to businesses. Mr. Benda said that it was correct that Councilmember Helgeson had proposed the ordinance to be current, but he had proposed that the options be considered for FY24, however the options could also be considered for 2023. Mr. Freedman asked if there was consensus from Council to change that original motion to clarify the ordinance to affect in January 2023. Vice Mayor Wright said that the Council indicated consensus that the change to the motion was acceptable.

Councilmember Wilder asked if Option B was recommended by the City Manager. Mr. Benda said that he was paying attention to the resources they had and the expenses they had to perform the day-to-day functions. He said that what he supported was an incremental approach that would allow him to understand the impact and the requirements of the Commissioner of the Revenue Office to support those options. Options A and B were supported but Option C was cautioned against due to the larger increases.

Councilmember Nelson asked if the \$50,000 increments had relation to how the Commissioner would handle the work. He asked if a compromise such as \$130,000 would create an issue by not being on a \$50,000 margin. Mr. Nuckles said no, assuming it was kept at the current limit. Councilmember Nelson asked if it would not impose any clerical or calculating hardship to his Office to pick a point less than \$150,000 but over \$100,000. Mr. Nuckles said that was correct.

Councilmember Helgeson said that this amount would be \$0.03% of the \$43M surplus.

Councilmember Wilder made a substitute motion, seconded by Councilmember Tweedy, to approve Option B for \$100,000 in 2023.

Councilmember Wilder said that the impact of this should be measured incrementally in order for better preparation.

Councilmember Tweedy said that she supported giving back to small businesses and agreed with the City Manager that they should assess this alongside the budget.

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

Ayes: Nelson, Tweedy, Wilder	3
Noes: Wright, Helgeson, Faraldi	3
Absent: Dolan	1

Vice Mayor Wright said that the substitute motion failed and the main motion was back on the floor.

Councilmember Helgeson said that all businesses had been struggling, and they should alleviate their burden as much as possible in monetary and administrative ways.

Councilmember Tweedy asked if the electronic participation of the meetings could be discussed by Council at a future date. Mr. Freedman said that if the City Council wanted to look into electronic participation, there was authority that could allow for it under certain guidelines, and he would gladly review it, but texting Councilmembers from a different location would likely not be permissible because the Clerk had to take minutes of the discussion as it related to it, and it would have to be public in some way so the public could observe the conversation. Any type of electronic participation authorized would have to be visible and subject to be put into the minutes in some fashion.

With no further discussion from Council, the following vote was recorded to approve Ordinance #O-23-065:

Ayes: Nelson, Tweedy, Helgeson, Wilder, Faraldi	5
Noes: Wright	1
Absent: Dolan	1

// In the matter of the Airport, Agenda Item #1e, City Council received a briefing on the supplemental lease amendment no. 10 with the General Services Administration. This item will appear before City Council for action on November 1, 2022. Mr. Cedric Simon, Assistant Airport Director, gave a summary of the item to Council. The GSA has requested that Supplemental Lease Amendment No. 10 to the lease number GS-03B-03314 be added to (i) incorporate one (1) five (5) year, one (1) year firm, renewal option as well as an additional five (5) year renewal option, (ii) memorialize the paint and carpet refresh of the

premises, and (iii) incorporate FAR 52.204-25 (AUG2020). This lease amendment is for office space at the Lynchburg Regional Airport for Transportation Security (TSA) personnel assigned to the airport. This lease amendment with renewal option would be at an annual fixed commitment with an annualized 3% rate increase already built into the rent structure.

// In the matter of Planning, Agenda Item #1f, City Council received a briefing on the rezoning of R-1 Low Density Residential to R-4C High Density Residential at 102 Garden's Way. This item will appear before City Council for action on November 1, 2022. Ms. Rachel Frischeisen, Planner II, gave a summary of the item to Council. Candlewood, LLC is petitioning to rezone one and twenty-nine hundredths (1.29) acres located at 102 Gardens Way from R-1, Low Density Residential District to R-4C, High Density Residential District (Conditional). The rezoning would allow the construction of six (6) townhomes with associated access and utilities. On October 12, 2022, the Planning Commission recommended Approval (3-1, with 2 members absent, Light and Bowden and 1 vacancy) of the rezoning petition. The Planning Division recommended approval of the rezoning petition.

Councilmember Faraldi said that as he understood, this was the only space left that served as green space for the neighborhood, and conservation was important to keep in mind when developing property.

Councilmember Helgeson asked how many houses could be built on the 1.3 acres. Ms. Frischeisen said that R-1 allowed for 2.9 units per acre, so for 1.3 acres it would be about 3.74 units. Councilmember Helgeson asked how many apartments would be built under this rezoning. Ms. Frischeisen said that the petitioner proffered that the site would be built in substantial compliance with the comprehensive plan, with a maximum amount of 6 units. R-4 allowed up to 7 units per acre, but with the proffered density, six units divided by the 1.3 was about 6 units per acre. Councilmember Helgeson said that this would allow for double the units available by right, which set a precedent and affected the neighboring properties.

Councilmember Wilder asked if the units were townhomes or apartments. Ms. Frischeisen said that there were six townhomes, but would have to clarify whether they were for sale or would be retaining ownership. Councilmember Wilder asked how many units could be built on the property by right. Ms. Frischeisen said that R-1 zoning allowed for 3.74 units by right, so rounding down it would be 3 units.

// In the matter of Planning, Agenda Item #1g, City Council received a briefing on the Conditional Use Permit (CUP) for Providence Church at 108 Melinda Drive. This item will appear before City Council for action on November 1, 2022. Ms. Rachel Frischeisen, Planner II, gave a summary of the item to Council. Providence Church is petitioning for a CUP at 108 Melinda Drive to allow the construction of a new five (500) seat sanctuary in an R-4, High Density Residential District. The subject property is zoned B-3C, Community Business District (Conditional) near the corner of Melinda Drive and Wards Ferry Road, with the remainder zoned R-4, High Density Residential District. The proposed sanctuary would be located in the R-4, High Density Residential portion of the property. Churches and their associated uses are permitted in the R-4, High Density Residential District upon approval of a Conditional Use Permit (CUP) from City Council. On September 28, 2022, the Planning Commission recommended Approval (5-0, with 1 member absent, Light and 1 vacancy) of the CUP Petition. The Planning Division recommended approval of the CUP petition.

Councilmember Helgeson said that he had attended the church and given them money but was not a member. Mr. Freedman said that if a rezoning or CUP were affecting a large group as a whole and he had no financial interest in the entity, he could participate.

// In the matter of Planning, Agenda Item #1h, City Council received a briefing on the 1114 Old Graves Mill Rezoning. This item will appear before City Council for action on November 1, 2022. Ms. Rachel Frischeisen, Planner II, gave a summary of the item to Council. ZZ & ZZ, LLC is petitioning to rezone approximately eleven and ninety-three hundredths (11.93) acres located at 1114, 1126 & 1168 Old Graves Mill Road from R-2, Low-Medium Density Residential District to R-4C, High Density Residential District (Conditional). The rezoning would allow the construction of one hundred sixty-nine (169) apartments, twenty-nine (29) condominiums, office, club house, pool, and two hundred sixty-two (262) parking spaces. On October 12, 2022, The Planning Commission recommended Approval (3-1, with 2 members absent, Light and Bowden and 1 vacancy) of the FLUM amendment and of the rezoning petition. The Planning Division recommended approval of the petitions with the addition of proffers.

Councilmember Faraldi said that he had worked with the developer on this proposal, and he acknowledged the need for affordable housing in Lynchburg. He said that he could not support this item because of the multiple other large development going into the area and the related concerns of the

residents. He reiterated that there still must be creation of affordable housing, but could not support this proposal.

Councilmember Tweedy said that much of the development in this specific part of the City was due to universities' fast growth. There should be discussion on how they restricted development in these neighborhoods to the type of owner-occupied dwellings they wanted to see and regulate the creation of apartments. Mr. Benda said that it was on the table for town and gown to talk to the different colleges and universities, including Liberty University. The regulation of land would be presented in terms of zoning overlays after staff analysis and compilation of data. The Council could decide on how to invest in incentives for affordable housing such as a Housing Trust Fund.

Councilmember Helgeson said that the comprehensive plan indicated the future land use map's designations. For people who wanted to change it, it was incumbent upon them to ask for the change and not incumbent upon the City to offer. There were benefits to colleges providing housing for students in regard to the property values of the neighborhoods. He said that he was not supportive of this proposal due to the fast-paced development of the area.

Councilmember Wilder asked how many units could be built on the property by right. Ms. Frischeisen answered that under the current R-2 zoning, the property could have approximately 52 units. Councilmember Wilder asked if some were apartments and some were condominiums. Ms. Frischeisen said yes.

Councilmember Faraldi said that if this proposal were located somewhere else, he would be more amenable to it, but there were things that made it difficult for this specific location.

Vice Mayor Wright asked City Attorney Mr. Matthew Freedman to describe the considerations they were permitted to take into account per state code when evaluating zoning proposals. Mr. Freedman said that the state code provided general parameters for governing bodies to consider as it related to making zoning decisions, and could involve essentially the health, safety, and general welfare of the community. There was also a code section that enumerated factors that lead to that general idea, including environmental safety, traffic safety, and making available affordable housing in communities.

// In the matter of Planning, Item #1i, City Council received a briefing on the 2025 Lakeside Drive Rezoning. This item will appear before City Council for action on November 1, 2022. Ms. Rachel

Frischeisen, Planner II, gave a summary of the item to Council. Joel Sutton, of Sutton Landscaping, is petitioning to rezone approximately four hundred seventy-seven thousandths (0.477) of an acre located at 2025 Lakeside Drive from B-1, Limited Business District to B-5C, General Business District (Conditional). The rezoning would allow the use of the existing building as a landscaping services office and on-site parking of commercial vehicles. On October 12, 2022, the Planning Commission recommended Approval (4-0), with 2 members absent, Light and Bowden and 1 vacancy) of the rezoning petition. The Planning Division recommended approval of the rezoning petition.

Councilmember Helgeson said that this was going to B-1 to B-5, so he assumed there were a lot of conditions to account for the dramatic change. Ms. Frischeisen said that the conditions submitted were that the outdoor storage would be limited to the parking of the commercial vehicles, and staff felt they had come to a good compromise between this parcel and the B-5 parcel next to it.

Vice Mayor Wright asked if there were any concerns about the shared driveway from the occupants of the homes. Ms. Frischeisen said that it was her understanding that the representative of Accupoint had been in conversations with the next-door neighbors about the shared access, and no comments or questions had been received prior to or at the Planning Commission meeting.

Councilmember Helgeson said that he would prefer there be an answer rather than a non-answer.

City Manager Benda asked if it was amenable for Council to go through roll call and the closed session and position the *CSO 52 Tunnel Project* and the *2023 Legislative Agenda* items for the beginning of the next meeting. Vice Mayor Wright said there was consensus from the Council to proceed in that order.

// In the matter of Roll Call, Agenda Item #4, Councilmember Helgeson said that he was able to tailgate at Liberty University on Saturday for the football game. He said that Dr. Falwell a long time ago talked about and prayed over the ground, saying he wanted this school that did not have a football team to be a world-class university for evangelical Christians like BYU is for Mormons and Notre Dame is for Roman Catholics. He said that to have them play at home with a record crowd, bringing lots of tourism taxes to the City, was fantastic. He said that the win was fantastic, and they tailgated even after the game. He said that the spirit on the mountain there was really exciting, because lots of the kids there now did not know

anything about Dr. Falwell, but fortunately they brought old videos and seeing the change in growth was hard to fathom. He congratulated Liberty University.

Councilmember Wilder said that the firefighters' graduation, promotion, and retirement ceremony took place yesterday. He said that one of the deputy fire chiefs had moved from Harrisonburg to Lynchburg, and was an example of how increasing the salaries drew in new residents from outside the City. He said that he wanted to give thanks to all the non-profits in the community, including the YWCA celebrating 110 years in service. He said that these organizations were part of what made Lynchburg so great and special to live in because of their care of those less fortunate. He said that he was thankful for all the great partnerships they had in their community that continued to do great things.

Vice Mayor Wright congratulated E.C. Glass High School on their game against Jefferson Forest. He said that as the News & Advance stated, it was a blowout at 55-6, and also happened to be the annual pink game that raised awareness for breast cancer and to support the awareness garden. He commended the organizers and the players. He announced that there had been a change to the legislative dinner, and he knew that the City Manager and City Clerk had been working through those changes.

City Manager Mr. Wynter C. Benda said that on Tuesday, November 15, the local delegation had something with the state Assembly, and due to conflict, the most amenable time would be Monday, November 14, at the same location of University of Lynchburg's Drysdale Student Center. He thanked the Council for their flexibility so they would have everyone on the best day possible.

// On motion of Councilmember Wilder, seconded by Councilmember Tweedy, Council, by the following recorded vote, elected to hold a closed meeting to discuss the settlement of a pending lawsuit against a City employee pursuant to §§ 2.2-3711(7) and 2.2-3711(8) of the Code of Virginia, 1950, as amended, and: to discuss the appointments to the following Boards and Commissions: Transit Company Board of Directors, Parking Authority, Historic Preservation Commission, Lynchburg Redevelopment and Housing Authority, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended.

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

Ayes: Wright, Helgeson, Nelson, Tweedy, Wilder, Faraldi 6

Noes: 0

Absent: Dolan

1

// 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: Wright, Helgeson, Nelson, Tweedy, Wilder, Faraldi 6

Noes: 0

Absent: Dolan 1

// On motion of Councilmember Helgeson, seconded by Councilmember Wilder, Council by the following recorded vote appointed the following members to the respective boards and commissions:

Transit Company Board of Directors: Holly Trent for a new term expiring October 31, 2025; Ben Blanks for a new term expiring October 31, 2025; Charles Spence for a new term expiring October 31, 2025.

Lynchburg Parking Authority: James Mundy for a new term expiring October 31, 2027; Thorne McCraw and Ivajean "Tobi" Jaeger were asked to holdover their positions.

Historic Preservation Commission: William Watson for an unexpired term ending June 30, 2023.

Lynchburg Redevelopment and Housing Authority: Marc Schewel for an unexpired term ending September 30, 2024.

Ayes: Wright, Helgeson, Nelson, Tweedy, Wilder, Faraldi

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October 25, 2022

Noes: 0

Absent: Dolan 1

// The meeting was recessed at 6:00 p.m.

// A regular meeting of the Council of the City of Lynchburg was held on the 25th day of October, 2022, at 7:30 p.m. in the Council Chamber, City Hall, Beau Wright, Vice President, presiding. The following Members were present:

Present: Beau Wright, Jeff Helgeson, J. Randy Nelson, Treney Tweedy, Sterling A. Wilder, Chris

Faraldi 6

Absent: MaryJane Dolan 1

// Councilmember Tweedy led the invocation, followed by the Pledge of Allegiance.

// Vice Mayor Wright welcomed the Mayor's Youth Council members present at the meeting, Mary Place from New Covenant and Hannah Page from E. C. Glass. He stated that there was consideration of a closed session at the end of this meeting to discuss the investment of public funds by the City and EDA for a building in downtown Lynchburg. Mr. Benda said that the timeliness of the item had to do with the turnaround time for the issue.

// In the matter of the Consent Agenda, Agenda Item A, copies of the minutes of the March 29, 2022 Council meeting have been previously furnished to Council, and on motion of Councilmember Wilder, seconded by Councilmember Nelson, Council by the following recorded vote approved the minutes as presented:

Ayes: Wright, Helgeson, Nelson, Tweedy, Wilder, Faraldi 6

Noes: 0

Absent: Dolan 1

// In the matter of the Consent Agenda, Agenda Item B, copies of the minutes of the March 31, 2022 Council meeting have been previously furnished to Council, and on motion of Councilmember Wilder, seconded by Councilmember Nelson, Council by the following recorded vote approved the minutes as presented:

Ayes: Wright, Helgeson, Nelson, Tweedy, Wilder, Faraldi 6

Noes: 0

Absent: Dolan

1

// In the matter of the Consent Agenda, Agenda Item C, copies of the minutes of the April 5, 2022 Council meeting have been previously furnished to Council, and on motion of Councilmember Wilder, seconded by Councilmember Nelson, Council by the following recorded vote approved the minutes as presented:

Ayes: Wright, Helgeson, Nelson, Tweedy, Wilder, Faraldi

6

Noes:

0

Absent: Dolan

1

// In the matter of Agenda Item #6, a public hearing was held and Council considered adopting Resolution #R-22-066 authorizing a lease agreement with Hill City Bikes, LLC. d/b/a Bikes Unlimited. Ms. Marjette Upshur, Director of the Office of Economic Development and Tourism, gave a summary of the item to Council. Hill City Bikes, LLC d/b/a Bikes Unlimited, located at 1312 Jefferson Street, has requested to lease a portion of the City Owned Property at 1100 Jefferson Street. They plan to expand their existing business to include a food and beverage component named "OH! 4" and to create a more engaging and safe space on the City Owned Property surrounding their property. They plan to invest \$100,000 into building a family-friendly space and project \$250,000 annually in net new revenue. A five-year lease with the opportunity to renew has been drafted by the City Attorney. Hill City Bikes, LLC agrees to pay \$100 per month in rent. All maintenance shall be the responsibility of the lessor. Any work performed on the property must meet the City's requirements and be permitted accordingly. There is a statutory requirement for a public hearing prior to leasing City property.

Timothy Santiago stated that he was a resident of Lynchburg, Virginia. He stated that he recognized what Bikes Unlimited had done to engage cyclists in their neighborhoods, and he had heard good things about their service to the community. He said that allowing the lease enabled more investment into the economy from the business, and he encouraged any Councilmembers to defer to the Councilmember whose ward the business resided in, who was Councilmember Wilder.

Vice Mayor Wright closed the public hearing and the matter rested with Council.

Councilmember Nelson asked what the estimated revenues to the City was as a result of the increased operations. Ms. Upshur answered that the estimated revenue to the City for \$250,000 of

increase in food and beverage, it would be \$16,000 on the meals tax and \$2,500 on sales tax.

Councilmember Nelson asked if that was per year. Ms. Upshur said yes.

Councilmember Nelson made a motion, seconded by Councilmember Wilder, to approve the Resolution #R-22-066. With no discussion from Council, the following vote was recorded:

Ayes: Wright, Helgeson, Nelson, Tweedy, Wilder, Faraldi	6
Noes:	0
Absent: Dolan	1

// In the matter of Agenda Item #7, the Council considered adopting a Resolution #R-22-067 approving the College Park Master Plan as part of the City's Comprehensive Plan 2013 – 2030. Ms. Susannah Smith, Project Manager, gave a summary of the item to Council. The College Park Master Plan serves as a roadmap to connect people, water, and community in the College Park neighborhood. Working with the consultant firm Skeo Solutions, the plan uses a Walkable Watershed approach to craft recommendations for passive recreation, improved pedestrian connectivity to the neighborhood and integrated sustainable practices for handling water flow to reduce flooding and improve water quality. Recommendations also include the provision for learning opportunities that serve to enhance the ecology and natural beauty of the park. This plan is a product of input received from neighborhood residents, citizen members, University of Lynchburg, and City of Lynchburg staff. A Public Open House was held at College Park in Fall 2021 and a survey questionnaire was distributed to the neighborhood by City staff and University of Lynchburg students. On October 12, 2022, the Planning Commission recommended adoption (4-0), with 2 members absent, Bowden and Light and 1 vacancy) of the College Park Master Plan.

Ms. Beth White stated that she was a resident of Oak Ridge Boulevard, where she had lived for 28 years and had become very familiar with this particular area. She said that this was a needed improvement to the park, which had become an unkempt eyesore over the past two decades, and it would be nice to be able to return to a local neighborhood park.

Mr. Timothy Santiago stated that he was a resident of Lynchburg, Virginia. He said that he agreed that the park was an eyesore, where there sometimes was three or four weeks of trash built up there. He noted that the park was in Councilmember Faraldi's Ward and that City Council should vote along with

him because his constituents were the most affected. He said the inaction of the City was sign that they had forgotten about the park, but there was no reason for the City or its residents to suffer for it.

Vice Mayor Wright closed the public hearing and the matter rested with Council.

Councilmember Faraldi motioned, seconded Councilmember Nelson, to approve the Resolution #R-22-067. With no further discussion, the following vote was recorded:

Ayes: Wright, Helgeson, Tweedy, Wilder, Faraldi	6
Noes:	0
Absent: Dolan	1

// In the matter of Engineering, Agenda Item #8, Council considered adopting Resolution #R-22-068 supporting Campbell County's participation in a Smart Scale application to fund a project partially within the city on Candler's Mountain Road right turn lane at Liberty View Lane. City Council was previously briefed on this item during the October 25, 2022 work session. VDOT has required and Campbell County has requested the City of Lynchburg to support their participation in a SMARTSCALE Application to construct improvements to Candler's Mountain Road from Campbell County into the City of Lynchburg. These improvements would add a right turn lane at Liberty View Lane. This would extend into the City along Candler's Mountain Road. The Campbell County Board of Supervisors approved their resolution in July. If the application is successful and the funding awarded, design would begin in August 2025.

Councilmember Faraldi motioned, seconded by Councilmember Helgeson, to approve the Resolution #R-22-068. With no further discussion from Council, the following vote was recorded:

Ayes: Wright, Helgeson, Nelson, Tweedy, Wilder, Faraldi	6
Noes:	0
Absent: Dolan	1

// In the matter of the Police Department, Agenda Item #9, Council conducted its first reading of Resolution #R-22-069 amending the FY 2023 City/Federal/State Aid Fund budget and appropriating \$42,448 to purchase law enforcement equipment for the Lynchburg Police Department and technology equipment for the Lynchburg Sheriff's Office and the Office of the Commonwealth's Attorney. Chief Ryan Zuidema gave a summary of the item to Council. The Police Department applies annually for the Justice Assistance Grant through the Office of Justice Programs. For the 2022 Edward Byrne Memorial Justice

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Assistance Grant, the City was awarded \$42,448. The Lynchburg Police Department will use this funding to purchase eight protective helmets (\$5,354) for drone team members and 23 tactical headsets for crisis negotiators and drone team members (\$25,010) to ensure safe and effective communication during critical incidents. The Lynchburg Police Department will also purchase a ballistic blanket (\$2,559) with a blanket stand and carry bag (\$977). The Lynchburg Sheriff's Office will use funds to purchase an ID data card system (\$4,235) to increase the security of employee identification. The Office of the Commonwealth's Attorney will use the funds to purchase two desktop computers and two double-sided printers (\$4,313) for use by the newly hired investigator and body worn camera assistant. The total equipment cost of \$42,448 is fully reimbursable by the grant. No local matching funds are required.

At its October 25, 2022 meeting, the Finance Committee recommended approval. As Chair of that committee, Councilmember Helgeson brought the committee's recommendation for approval forward as a motion. No second was required, and Council, by the following recorded vote approved the motion:

Ayes: Wright, Nelson, Tweedy, Helgeson, Wilder, Faraldi	6
Noes:	0
Absent: Dolan	1

// In the matter of the Police Department, Agenda Item #10, Council conducted its first reading of Resolution #R-22-070 amending the FY 2023 City/Federal/State Aid Fund budget and appropriating \$59,676 to purchase 69 replacement ballistic vests for law enforcement officers. Chief Ryan Zuidema gave a summary of the item to Council. The Police Department applies annually for the Bulletproof Vest Partnership through the Office of Justice Programs. For the 2022 Police Bulletproof Vest Partnership, the City was awarded funding that covers the cost of replacement ballistic vests for both the Lynchburg Police Department and the Lynchburg Sheriff's Office. The vests provide protection to officers in the line of duty and the life of the vest is five years from the manufacturing date. The total replacement cost for 69 vests is \$59,676. The grant requires a 50% local match; these funds are available in the FY 2023 General Fund Police (\$26,863) and Sheriff's Office (\$2,975) operating budgets.

At its October 25, 2022 meeting, the Finance Committee recommended approval. As Chair of that committee, Councilmember Helgeson brought the committee's recommendation for approval

forward as a motion. No second was required, and Council, by the following recorded vote approved the motion:

Ayes: Wright, Nelson, Tweedy, Helgeson, Wilder, Faraldi	6
Noes:	0
Absent: Dolan	1

// In the matter of the Police Department, Agenda Item #11, Council conducted its first reading of Resolution #R-22-071 amending the FY 2023 City/Federal/State Aid Fund budget and appropriating \$50,160 to facilitate selective enforcement activities, equipment, and training. Chief Ryan Zuidema gave a summary of the item to Council. The Department of Motor Vehicles (DMV) Highway Safety Program has awarded the City \$33,440 for selective DUI activities, alcohol testing equipment, and annual DMV grant-related training. The grant excludes reimbursement of Medicare and Social Security benefit costs associated with the allotted overtime; however, funding of \$2,368 is available for transfer from the FY 2023 General Fund Police Department budget to cover this expense. The grant agreement includes an in-kind match of \$14,352 in police equipment and services from the department's fuel and vehicle maintenance services budget.

At its October 25, 2022 meeting, the Finance Committee recommended approval. As Chair of that committee, Councilmember Helgeson brought the committee's recommendation for approval forward as a motion. No second was required, and Council, by the following recorded vote approved the motion:

Ayes: Wright, Nelson, Tweedy, Helgeson, Wilder, Faraldi	6
Noes:	0
Absent: Dolan	1

// In the matter of the Police Department, Agenda Item #12, Council conducted its first reading of Resolution #R-22-072 amending the FY 2023 City/Federal/State Aid Fund budget and appropriating \$46,125 to facilitate speed enforcement activities. Chief Ryan Zuidema gave a brief summary of the item to Council. The Department of Motor Vehicles Highway Safety Program has awarded the City \$30,750 for speed enforcement activities. The grant excludes reimbursement of Medicare and Social Security benefit costs associated with the allotted overtime; however, funding of \$2,353 is available for transfer from the

FY 2023 Police Department General Fund budget to cover this expense. The grant agreement includes an in-kind match of \$13,022 in police equipment and services from the department's fuel and vehicle maintenance services budget.

At its October 25, 2022 meeting, the Finance Committee recommended approval. As Chair of that committee, Councilmember Helgeson brought the committee's recommendation for approval forward as a motion. No second was required, and Council, by the following recorded vote approved the motion:

Ayes: Wright, Nelson, Tweedy, Helgeson, Wilder, Faraldi	6
Noes:	0
Absent: Dolan	1

// On motion of Councilmember Wilder, seconded by Councilmember Nelson, Council considered a closed session to discuss the investment of public funds by the City and the Economic Development Authority for a building in downtown Lynchburg, Virginia, where competition is involved and if made public at this time would adversely affect the bargaining position of either or both public bodies pursuant to Section 2.2-3.711(A)(6) of the Code of Virginia, 1950, as amended.

With no further discussion, the following vote was recorded:

Ayes: Wright, Nelson, Tweedy, Helgeson, Wilder, Faraldi	6
Noes:	0
Absent: Dolan	1

// The meeting was reopened to the public.

// Councilmember Wilder 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

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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 Nelson, and Council, by the following recorded vote, adopted the motion:

Ayes: Wright, Helgeson, Nelson, Tweedy, Wilder, Faraldi	6
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Noes:	0
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Absent: Dolan	1
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// The meeting adjourned at 8:44 p.m.

Clerk of Council