// A regular meeting of the Council of the City of Lynchburg was held on the 1st day of November 2022, at 4:00 p.m. in Council Chamber, City Hall, Beau Wright, Vice President, presiding. The following Members were present:

Present: Beau Wright, J. Randy Nelson, Jeff Helgeson, Treney Tweedy, Sterling A. Wilder, Chris Faraldi 6

Absent: MaryJane Dolan 1

// In the matter of Water Resources, Agenda Item #1, Mr. Tim Mitchell, Director of Water Resources, presented to Council an overview of the Combined Sewer Overflow (CSO) 52 Tunnel Project. The City of Lynchburg is under a 2015 State Water Control Board – Consent Special Order to implement a plan to control combined sewage overflow discharges into the James River and its tributaries. Since the beginning of the City's CSO program in the 1980's the City has eliminated 115 of 132 overflow points and reduced total overflow volume by 93%. To date, over $307 million have been spent on the program. CSO 52 is the mostly costly and complex remaining project of the CSO program. The fiscal impact is $70,000,000, including design and construction. The City has been awarded $50 million in ARPA funds to be utilized for the CSO program.

Vice Mayor Wright asked if there were other CSO locations that needed to be closed. Mr. Mitchell clarified that the CSO 52 tunnel project would address most of the overflows that would occur at that point, but the overflow point would still remain in case of extreme weather events. Vice Mayor Wright asked if all CSO work was encompassed in the $86 million or if that was only funding for CSO 52. Mr. Mitchell stated that that was the amount they must do in order to be in compliance with their consent order, and once the CSO 52 and other three projects were completed, they would have to complete a monitoring period to prove they had done enough to end the program. Vice Mayor Wright asked if Mr. Mitchell could address development within the sewer shed. Mr. Mitchell said that there were overflow events along the sewer shed within as little as a six-month storm event, and there were specific orders from the Department of Environmental Quality to address that problem through the CSO program, but based on their analysis, they would still have a lot of overflows along the trail. He said that at any point in time, DEQ could come in and say that because they were overflowing manholes along the trail, they could allow no new connections to the sewer line until they had a plan to address that problem. There was opportunity to do a project in conjunction with the CSO program to utilize received funding to address the development issues. Vice Mayor Wright asked if it should be taken into account with large developments. Mr. Mitchell said that it was not at this point, but could change if DEQ became involved in that aspect of their operations. Vice Mayor Wright asked if they had a history of doing that. Mr. Mitchell said that there had not been a lot of development moratoriums with DEQ as long as the localities were taking reasonable efforts to address the issues, but there could be fines and other penalties associated with it if they did not address it as well.

Councilmember Nelson asked if it was likely that the standards and criteria of the EPA and DEQ would change. Mr. Mitchell said that based on his work with the DEQ, there may be additional controls at the other overflow points, but with the CSO 52 project, they would be doing better than the agreement in the consent order. If they did not do the project with the tunnel, it was likely that they did not have the capacity for future development. Councilmember Nelson asked if it was correct that in an illustration in the report there was a dam constructed at the lower end of the tunnel that inhibited free flow into the body of water except when there was a major flood. Mr. Mitchell said that was correct, and there were multiple types of overflow systems in the City that varied in their complexity. Councilmember Nelson asked for clarification that there were risers and overflow pipes rather than dams in the tunnel as marked in the illustration. Mr. Mitchell said that was correct. The tunnel would be 70 to 100 feet below the surface of the ground, and in order to get the water out of the tunnel, they would have to pump it back into the sewer system after a rain event to be sent back to the water treatment plant to be treated. Councilmember Nelson asked where the tunnel-boring machine would be left after the project was completed. Mr. Mitchell said that it would potentially be left in the ground at the CSO 52 overflow point, near Hollins Mill. Councilmember Nelson asked if the boring machine was necessary to construct the connection tunnel to the treatment plant, or if a large tunnel was not necessary to complete that flow of stormwater. Mr. Mitchell stated that the tunnel would end at US Pipe, and there would be a pump station constructed to pump the water back into the sewer system once the rainfall event had passed.

Councilmember Tweedy asked if they had secured the $75M. Mr. Mitchell said that there was one other step in the process to secure that funding, but they did have $75M available. Councilmember Tweedy asked where the additional $11M would come from. Mr. Mitchell said that the bulk of the $75M would go toward the tunnel project, and the other three projects were not on a specific timeline, so they would look at their capital projects submittal each year to see if they had enough capacity to borrow for that additional $11M. With the CSO consent order, they had certain financial criteria they had to meet, and there may be enough debt capacity to borrow the additional $11M. Mr. Benda stated that the timing of the state budget had been later than normal, and they had received $25M more from the state to help with this project, which must be accepted by February. There would be a provision to accept those resources from the state at one of the Council's upcoming meetings.

// In the matter of Economic Development, Agenda Item #2, Council heard from County staff regarding upcoming community events through the holiday season. Ms. Marjette Upshur, Director of the Office of Economic Development & Tourism, gave a brief summary to Council. Special events, whether offered by the City of Lynchburg, businesses, or nonprofit partners, contribute to community pride and quality of place, and help drive spending in our City. The Office of Economic Development & Tourism will distribute a roundup of events planned throughout the City through the end of 2022.

Councilmember Wilder stated that he knew that many of Lynchburg's holiday events drew attendees from all across the country.

Councilmember Helgeson said that a discouraged business owner called him yesterday because economic development had not been focusing on job losses. He asked what was being done to attract companies and promote the economy.

Councilmember Wilder stated that when a company recently left the community, the City Council received a report about what was being done to attract more companies, keep companies in Lynchburg, as well as efforts in workforce development. City Manager Mr. Wynter C. Benda stated that staff could bring forward more information regarding what was being done in terms of workforce and economic development.

// In the matter of City Council, Agenda Item #3, City Manager Wynter C. Benda briefed the City Council on the City of Lynchburg's draft 2023 Legislative Agenda. Each year, the City Manager works with the City department heads, City appointees, Constitutional Officers and their staff and others on what topics, focus areas and/or potential bills/resolutions are important to City of Lynchburg that will first be presented to City Council and later adopted by them as the City's "legislative package" so as to position it well for the impending Virginia General Assembly Session. The key principals are 911 Reclassification, Emergency Custody Orders (ECOs) and Temporary Detention Orders (TDOs), and Swatting. Lynchburg City Police Chief Ryan Zuidema stated that the goal of this legislation was to force the state to put some type of structure in place to allow someone other than a law enforcement officer to sit with that patient while under an ECO as well as sitting with that patient to transport them to other localities around the state for treatment.

Councilmember Wilder asked if there had been any movement on the legislative items from last year. Chief Zuidema stated that Senator Newman had pushed several bills forward that increased funding to localities, but that funding had not been sufficient. He clarified that funding was less of an issue than the design of the system. Mr. Benda stated that the Senators had been very supportive, and to the degree that they could create something particular as a solution for Lynchburg, that helped Senator Newman in his efforts at the state level.

Councilmember Faraldi stated that there needed to be a specific place for people experiencing mental health issues to go, and that was something being explored with some of the funds secured by Senator Newman.

Councilmember Tweedy asked why the state was not able to be more responsive to this issue, and if it was a problem across the state with other officers in localities. Police Chief Ryan Zuidema stated that in his discussions with other police chiefs around the Commonwealth, they were seeing the same challenges they were in Lynchburg. He stated that it required a massive overhaul of the mental health system in which the state provided infrastructure and investment to get things done, and there had not been enough momentum behind it to fund that overhaul.

Councilmember Helgeson stated that the security guards should be at the hospitals, such as transferring people to the jail authority.

Chief Zuidema clarified that swatting was when someone communicated a false threat or false emergency. The goal of the swatting legislation was to solidify the law and give additional options, because in some cases the law had not kept up with the technology, and the issue could be a serious resource drain.

Councilmember Tweedy asked if Council could provide any resources to Chief Zuidema to address the recent uptick in gun crimes and robberies. Chief Zuidema stated that the biggest struggle faced by the police was getting cooperation from witnesses and victims, and he encouraged victims to report information anonymously so that the police can solve the crime without identifying the individual or forcing them to appear in court to testify.

Councilmember Faraldi stated that he would be interested in adding some language within the top guiding principles to increase the funding from the state to the Commonwealth Attorney's Office without the locality having to pitch in. He stated that with increased state funding for teachers without a local match should be considered as well. He stated that there was currently language in the guidelines for unfunded mandates, and he would be interested in including that in the top priorities.

Vice Mayor Wright asked how Council feedback should be given to staff. Mr. Benda stated that on Monday, November 14, they were scheduled to meet with the local delegation, so that would be an appropriate time to respond, and December 13 was positioned as a potential date for a Council vote. He stated that he was always open to feedback or input from the Board on the materials provided, and opportunity for public feedback on the legislative agenda would be made available on the Lynchburg City website.

Councilmember Helgeson stated that focusing on a few priorities rather than a long list may serve the City better in achieving the legislative goals. Mr. Benda stated that the three key principles were meant to serve as a focus, and the Council was welcome to choose only a few guidelines as major priorities if they identified them as such.

// In the matter of Economic Development, Agenda Item #4a, Council received an update from staff on a proposed new ordinance to allow filming on public property. This Item will appear for the City Council vote on the December 13 General Business Agenda. Ms. Anna Bentson, Assistant Director of Economic Development, gave a brief summary to Council. The Office of Economic Development & Tourism (OEDT) encourages filming in the City of Lynchburg to drive economic development, tourism and publicity for the City. Staff works with those wishing to film on City property through an application process and coordinates and shares information with any impacted departments including Police, Risk Management, Fire, Parks & Recreation, Community Development and Public Works. A certificate of liability insurance, listing the City as additional insured, is required for all wishing to film on public property. The City Attorney recommended that an ordinance be in place to outline the process.

Councilmember Helgeson stated that he would rather see the Economic Development & Tourism Office focus on job creation rather than creation of Ordinances. He stated that people could already film, and this was creating a more bureaucratic process.

Councilmember Faraldi asked what the origin of this item was. Ms. Bentson answered that they had a process in place for filming to make sure that people were using parks or sidewalks in accordance with other uses, and the City Attorney asked that this be memorialized as an ordinance to support that process. Mr. Freedman, City Attorney, stated that there had been an informal process in which Economic Development had issued permits and permissions to keep track of and ensure the safety of public property in the City. As a part of that process, insurance certificates were required, namely to ensure that if there was damage to property or injuries that the individuals responsible had insurance to cover the actions they were responsible for. He stated that a citizen brought forth the fact that there was not an objective way for the City to determine if someone wanted to film their family at a park, so under the City's power to police its property and ensure the safety of the community, this was a resolution that he and other departments worked on to have an objective, outlines process to account for applicable exceptions while ensuring the safety of public property and encouraging filming. Councilmember Faraldi asked if he would be required to abide by this ordinance if he filmed a political advertisement in a public park and then shared the advertisement video on Facebook. He asked what the point of this ordinance was if there was no fee or mandate behind it, because there was no way to administratively enforce it. He stated that the language of the ordinance could be interpreted as being subjective and in conflict with other City actions. He stated that this was a good step in the right direction, but they may not be meeting the right intent of what they should do. Mr. Freedman stated that regarding the idea of filming being subject to a permit for an individual in the road who wanted to engage for non-commercial reasons, that was excluded from the definition of filming, which was shown in the ordinance. He stated that in his estimation, the idea was to ensure that individuals' First Amendment rights would allow them to engage in personal activities that were not subject to the ordinance. He stated that regarding penalties, if they wanted to enforce this on someone, they could enforce the provision in the City Code that speaks specifically to when provisions of penalties were not provided for in an ordinance, there was a specific ordinance that spoke to what penalty would be imposed. He stated that the goal of this ordinance was to solidify the current process and in no way was anyone to be punished in the City, but would allow citizens to understand what was expected and needed from them in terms of filming on the City's property. Councilmember Faraldi stated that he broadly agreed, but the challenge was that if he filmed on public property and then turned that into some form of marketable, tangible product, there was a commercial aspect to it. He stated that it was listed that drones could not be used, and it was not clear if that only applied to drones on public space, and fireworks were also prohibited. He stated that he agreed with the sentiment but they should be intentional in the wording.

Vice Mayor Wright stated that by being so prescriptive, it might raise challenges for people. He asked how the ordinance would be enforced and to what extent. Mr. Freedman stated that these were all current requirements the City required in order to film in the City, so they were not arbitrarily created. If this was something that City Council wished to pursue, there was a way to allow for discretion from the Economic Development Office, subject to the appeal of the City Manager. These were informal requirements from the Economic Development Office that were made enforceable by the ordinance. Vice Mayor Wright stated that he agreed that discretion would be useful.

Councilmember Helgeson stated that the ordinance seemed to seek out new problems, and he would prefer the encouragement of filming in the City without bureaucratic involvement.

City Attorney Mr. Matthew Freedman stated that if this item came back before City Council, it was including the clause for allowing discretion for exceptions by the Director of Economic Development subject to the appeal of the City Manager. Vice Mayor Wright stated that his recommendation to counsel would be to take the feedback received this evening and bring it back to Council at a later date.

// In the matter of Planning, Agenda Item #4b, Council received a briefing on the petition to rezone 3300 Carroll Avenue from I-2, Light Industrial District to B-5, General Business District. This item will appear for City Council vote on the December 13, 2022 Public Hearing agenda. Ms. Rachel Frischeisen, Planner II, gave a brief summary to Council. Grace Orthodox Presbyterian Church is petitioning to rezone approximately ninety-seven hundredths (0.97) of an acre located at 3300 Carroll Avenue from I-2, Light Industrial District to B-5, General Business District. The rezoning would bring the existing church into conformity with the zoning ordinance and allow expansion. The church has been in operation since at least 1955 and is currently considered a legal nonconforming use in the I-2, Light Industrial District. On October 26, 2022, the Planning Commission recommended approval (6-0) (with 1 vacancy) of the rezoning petition, and the Planning Division recommended approval of the petition.

Councilmember Helgeson asked if there were any unintended consequences that the church building may experience if they rezoned from I-2 to B-5. Ms. Frischeisen answered that rezoning was necessary to allow for the expansion on the property because it currently was a nonconforming use and could not be expanded otherwise.

// In the matter of Roll Call, Agenda Item #5, Councilmember Wilder congratulated the One Community One Voice and the Police CAT Team for staying out in the rain to pass out candy to children, and it was wonderful to see their community working together to better their community. He stated that the CAT Team has been very active with One Community One Voice, and the Police and Fire Departments have been coming out monthly. He stated that they talked about the two shootings that occurred this week and how to work together to address the situations of violence and shootings. He stated that churches, synagogues, the faith community, parents, and witnesses all have to work together to solve the community-wide problem. He recommended becoming mentors to children in their community through Big Brothers, Jubilee, Boys & Girls Club, and other various places where people could give back. He announced that this Wednesday, at Starr Hill Brewery from 4 p.m. to 9 p.m. there will be the sign-up for the Mustaches for Kids event, which raises funds for children in the community. He stated that it would be great to have City staff participation in the event, which had over 100 men who grew mustaches in 30 days, and usually raised about $300,000 in that time. He said that it is a great show of how people cared for children in the City. He announced that Friday will be the Pancake Jamboree, which is held by another great organization, The Exchange Club, giving back to the community.

Councilmember Helgeson stated that the news is heartbreaking in its coverage of crime and shootings in the area. He stated that looking at the coverage of Birchwood Apartments, they could see the little numbers, which probably meant 41 empty casings. He stated that looking at the James Crossing shooting, and Cabell Street last night, and then listening to the single woman interviewed on the news breaks his heart. He stated that she said that she did not want her kids going outside without an adult. He said that there are some rotten things from the national malarkey that has happened, and it was coming here. He stated that it broke his heart, and he hoped that they would not force single women protecting their kids to pay the highest fee in the state for a concealed weapon permit to defend themselves and their family. He stated that he would like to see something done about the sidewalks to nowhere. He said that when a church has to divert $100,000 to build a sidewalk, he would rather have it go to the building. He stated that he understood the purpose of it, but was interested in discussing if there was an ability to figure out something different.

Councilmember Tweedy asked if the City Attorney could give information related to personal conflict in lobbying for varying policies and regulations by Councilmembers. She said that she did not know what that may be, but if there was any type of regulation or legislation about that, she would like to see it.

Councilmember Nelson stated that City Council has many responsibilities, but crafting the annual budget is arguably the most important of its duties. He stated that City Council traditionally started formulating its annual budget each February, when local elections were held in May and newly-elected Councilmembers took office in July, at a time when Council's summer agenda was light and the budgeting process was many months away. He stated that because local elections are now held in November, newly-elected Councilmembers will resume their respective offices in January, thereby immediately placing weighty budgeting responsibilities on non-incumbent Councilmembers who may have little or no practical experience on City Council. He stated that that is one of the many reasons why he opposed the Virginia General Assembly's ill-conceived mandate to move all local elections to coincide with the November General Election. He stated that because he did not seek reelection to City Council, next Tuesday's election will determine the successor to his vacated seat on this dais. He said that he wants that successor, whoever it is, to be oriented and qualified as soon as possible to undertake the responsibilities of this office, and not delay that process until January 2023, which would be on the eve of City Council's 2023 budgeting process. He stated that orientation to the duties of service on this Council is neither quick nor easy, and he believes that the orderly, non-contentious, courteous, and respectful transfer of political office from one elected officeholder to the next is essential to ensure the survival of the nation's constitutional system of representative democracy. He stated that likewise, as an old coach, he often uses sports analogies to illustrate a point. He stated that in that context, he views Lynchburg as his team and their team, and he views himself as a player on their City's team. He stated that as a team player, he feels an obligation to whoever took his position on their team to be as well-prepared as possible to confront their team's challenges before the tough competition of the 2023 budgeting season began in February, because their team's success may depend on it. He stated that if his position on City Council is vacated next week, City Council could call a special meeting to expeditiously appoint one of the newly-elected, non-incumbent victors in that election to fill that vacancy, at a time after Lynchburg voters had made their choice, but well before the budgeting season begins next year. He said therefore, he announced his resignation from Lynchburg City Council to be effective at noon, Monday, November 7, 2022, and he urged City Council to thereafter hold a special meeting to appoint one of next Tuesday's non-incumbent election victors to fill that vacancy, enjoy a smoother orientation, and gain a little more experience in this office before Council's budgeting process begins. He stated that accordingly, tonight will be the last time that he will sit on the dais, and perhaps the last time he will be with any of them in these Council chambers. He said that he offers each of them his sincerest gratitude for the efforts and sacrifices, the time and talent, of all City employees and administrators had given to him and his citizens during his four terms in office on City Council. He stated that said that as he vacated his seat, he repeated the words he expressed in 2010, when he first announced his candidacy of election to occupy this seat. He said "I do not do this because it is easy, I do not do this because it is profitable, I do not do this because it is convenient. I do it because it is right and virtuous to put the needs and interests of all of the people of Lynchburg first." He gave thanks to everyone and said that he had and will continue to cherish the privilege and honor to serve on this Council, and to have promoted the diverse interests of everyone in the City. He stated that in pursuit of inclusive ideas, outcomes, and representative democracy, he urged all of them and their successors to embrace the virtues of unbiased, courteous, and nonpartisan public service on this Council and throughout this community. He stated that he prayed that all City Council members, both present and future, will collaborate, cooperate, and be willing to accept compromise when crafting solutions to their City's challenges.

Vice Mayor Wright thanked Councilmember Nelson for over 12 years of principled, committed service to the community. He said that he hoped they would have the opportunity to thank

Councilmember Nelson wholesomely as a Council and community at a date not too distant in the future. He stated that it was telling of Councilmember Nelson's service on this body that another former member, Councilmember Turner Perrow, had joined them this evening, and he thanked Mr. Perrow for being present as well.

Councilmember Faraldi stated that his heart was full yet empty. He said that no words could adequately summarize the respect, appreciation, and gratitude that he and so many others had for Councilmember Nelson and the service he had offered the City of Lynchburg. He said that in ways, this moment was the culmination of a lifetime of service to the City and all that it stands for. He stated that there would be some who would praise Councilmember Nelson for leaving this dais, but he would not be one. He stated that the friendship and camaraderie they had fostered during the last 2.5 years had led him directly to realize the great loss that this government and the community would feel by his leaving Council. He said that on any issue, they may arrive at different conclusions, yet that never once had forced them from being neighbors, colleagues, and friends, nor would he ever expect it to. He said that this was what makes Councilmember Nelson a treasure to cherish. He said that while one may disagree with any of Councilmember Nelson's stances, comments, or proposals, they find themselves walking together as fellow citizens. He said that it cannot be denied the example Councilmember Nelson had set forth to all of them, constantly being true to himself and the principles that guided him. He said that in the charged, modern-day political environment, they should all strive to be more like Councilmember Nelson. He said that his tender resolve, humble spirit, and gentlemanly zeal were attributed to what he only remotely wished to obtain or emulate. He said that Councilmember Nelson was the consummate gentleman, and he prayed to the Almighty that he may fracturally present himself in that manner. He said that he had often said to both him in private and to others publicly that Councilmember Nelson was a picture of what he strived daily to be as a Councilmember, albeit with a slightly different voting record. He said that though he may not realize it, he was his mentor, his confidant, and most importantly, a dear friend. He said that he knew he still planned on calling Councilmember Nelson for his wise counsel and attentive ear for those times when he might not know how to move forward or to take a step backward, because he knew that there was no more honorable or faithful representative to the people of Lynchburg. He said that out of his love for Lynchburg's citizens, Councilmember Nelson's prudent word will still influence his own ear and the City for years to come. Councilmember Faraldi read from Philippians I. He said that in Christ, and in sincere gratitude, he thanked Councilmember Nelson.

// The meeting was recessed at 5:40 p.m.

// A regular meeting of the Council of the City of Lynchburg was held on the 1st day of November, 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 Wilder gave the invocation, followed by the Pledge of Allegiance.

// In the matter of Recognitions, Vice Mayor Wright, joined by members of the American Red Cross, recognized city employee Ashton Allen for rendering lifesaving first aid at Miller Park pool.

// In the matter of Recognitions, Vice Mayor Wright recognized the International Economic Development Council's Gold Award.

// In the matter of the Consent Agenda, Agenda Item A, Council conducted a second reading and adopted 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. On motion of Councilmember Nelson, seconded by Councilmember Wilder, Council by the following recorded vote approved the adoption:

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

// In the matter of the Consent Agenda, Agenda Item B, Council conducted a second reading and adopted 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. On motion of Councilmember Nelson, seconded by Councilmember Wilder, Council by the following recorded vote approved the adoption:

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

Noes: 0

Absent: Dolan 1

// In the matter of the Consent Agenda, Agenda Item C, Council conducted a second reading and adopted 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. On motion of Councilmember Nelson, seconded by Councilmember Wilder, Council by the following recorded vote approved the adoption:

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

Noes: 0

Absent: Dolan 1

// In the matter of the Consent Agenda, Agenda Item D, Council conducted a second reading and adopted Resolution #R-22-072 amending the FY 2023 City/Federal/State Aid Fund budget and appropriating $46,125 to facilitate speed enforcement activities. On motion of Councilmember Nelson, seconded by Councilmember Wilder, Council by the following recorded vote approved the adoption:

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

Noes: 0

Absent: Dolan 1

// In the matter of the Airport, Agenda Item #6, a public hearing was held and Council considered a resolution [later adopted on December 13, 2022] to authorize a Supplemental Lease Agreement between the City of Lynchburg and General Services Administration (GSA/TSA) and authorize the City Manager to execute the same. Council was previously briefed on this item at the October 25, 2022 work session. Mr. Andrew La Gala, Airport Director, gave a brief 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. The first five (5) years of the extended lease would be at an annual lease rate of $79,960.62 and the renewal option would be at an annual lease rate of $92,696.28. This includes an annualized 3% rate increase over a period of the term of the lease agreement.

Citizen Timothy Santiago spoke in opposition of the resolution, stating that the annualized 3% rate increase was not keeping up with inflation so that the City got what it deserved.

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

Councilmember Helgeson made a motion, seconded by Councilmember Wilder, to adopt the Supplemental Lease Amendment No. 10 with General Services Administration (GSA).

Councilmember Helgeson asked if Mr. LaGala could address the issue of inflation in regard to this agreement. Mr. LaGala stated that to remain consistent with all federal grant assurances and other agreements, they determined that 3% was the average of the Consumer Price Index over the past 15 years, and GSA was agreeable to it.

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 Planning, Agenda Item #7, a public hearing was held and Council considered adopting an ordinance approving the petition of Candlewood, LLC to rezone 102 Gardens Way from R-1, Low Density Residential District to R-4C, High Density Residential District (Conditional). Council was previously briefed on this item at the October 25, 2022 work session. Ms. Rachel Frischeisen, Planer II, gave a brief summary of the item to Council. Candlewood, LLC is petitioning to rezone one and twenty-nine hundredths (1.29) acres located at102 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, and the Planning Division recommended approval of the rezoning petition.

Mr. Jamey White, of White Engineering and Design, stated he was representing the petitioner, and addressed the Council. He stated that this proposal was for an expansion of an existing patio home and for creation of six identical patio homes to what was already in the neighborhood, with access from Candlewood Court. He stated that there was available water and sewer access, and the units would be for-sale and part of the same Homeowners' Association as the rest of the Candlewood Court development.

Citizen Timothy Santiago spoke in opposition to the proposed rezoning due to traffic concerns from the crowded development, and asked the Council not to approve the proposal on the grounds that they needed to look at their infrastructure first before allowing more development.

Mr. White stated that he appreciated the comment, and they all knew that some areas, especially in Timberlake Road area were busy. However, what was proposed was meeting the requirements or suggestions of the Future Land Use Map (FLUM) and would have less traffic impacts than an apartment complex.

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

Councilmember Faraldi asked if the road for access would be a privately maintained street. Mr. White answered that the new road coming in was private. He stated that the amount of development in the area could not support more, and for that reason he motioned, seconded by Councilmember Helgeson, to deny the petition.

Councilmember Helgeson stated that a drastic change from R-1 to R-4 zoning would signal to other adjacent properties that rezoning to higher density was acceptable, which could degrade the area, and he would be voting against the petition.

Councilmember Wilder asked how many townhomes could be built by right on the property. Ms. Frischeisen replied that townhomes were not allowed in the R-1 zoning district, but the property could have three single family homes by right.

Councilmember Tweedy noted that City Council has the power to give direction as to what development should be in the area by amending the FLUM, by incentivizing certain development initiatives, and putting a moratorium on development. Mr. Benda stated that they had not yet talked to the colleges in depth, but as part of the comprehensive plan, housing was in the RFP and would be a part of their future discussions. He said he could provide further information regarding the number of pending development projects.

Mr. Freedman clarified that each zoning decision was independent of itself. Councilmember Nelson stated that the level of development was appealing, but in weighing the alternative considerations, he believed the issue of green space should not be ignored, and changing this zoning would eliminate the buffer between the commercial development on Timberlake and the residential.

Councilmember Wilder asked if the Planning Commission had discussed the zoning moving from R-1 to R-4. Ms. Frischeisen said not specifically. Councilmember Nelson noted that two members of the Planning Commission were absent at the vote. Councilmember Wilder stated that the City Council had to give direction to guide the development, as well as discuss student housing with the colleges in the City.

Vice Mayor Wright asked staff if anyone had interest in developing single family homes on this lot. City Planner Mr. Tom Martin replied no, not that he’s aware of. Vice Mayor Wright asked if the proffer that limited the development to six units would stay with the property. Ms. Frischeisen said that was correct, the proffers were part of the zoning permanently until someone else rezoned it to amend a proffer or go to a different zoning district. Vice Mayor Wright asked if the Planning Division had ascertained that traffic would not be of severe issue. Ms. Frischeisen said that was correct, the City Traffic Engineer did not require a traffic study for a development of this size. Vice Mayor Wright stated that he was supportive of the petition, but understood the concerns that members had.

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

Ayes: Nelson, Tweedy, Helgeson, Faraldi	4
Noes: Wright, Wilder	2
Absent: Dolan	1

// In the matter of Planning, Agenda Item #8, a public hearing was held and Council considered adopting Resolution #R-22-073 approving the Conditional Use Permit (CUP) to allow the construction of a new five hundred (500) seat sanctuary in an R-4, High Density Residential District. Council was previously briefed on this item at the October 25, 2022 work session. Ms. Rachel Frischeisen, Planner II, gave a brief 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 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, and the Planning Division recommended approval of the CUP petition.

Ms. Amy Seipp, Partner at Accupoint Surveying & Design, stated she was representing the church, and presented to Council.

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.

Councilmember Helgeson motioned, seconded by Vice Mayor Wright, to approve the Resolution #R-22-073. He stated that he hoped the church would not have to build the required sidewalk because it did not had connecting ends.

Councilmember Faraldi asked why the sidewalk was required. Ms. Frischeisen stated that when the zoning ordinance was amended in 2016, they initially required sidewalks with all site plans, and in 2017, Council directed staff to proceed with amendments to the sidewalk ordinance in order to allow flexibility with requiring sidewalks across street frontage for all new development and requiring sidewalks along primary and secondary frontages. When the redevelopment of an existing site reached a certain threshold of disturbance or improvements, they would have to put in a sidewalk. Councilmember Faraldi asked if stormwater drainage would be provided with the construction of the sidewalk. M. Frischeisen said no. Councilmember Faraldi said that he was inclined to not support the application due to the unnecessary requirement of the sidewalk. Vice Mayor Wright asked if it was correct that the City ordinance required the development carry the sidewalk. Ms. Frischeisen said yes, in the code it was left up to the Zoning Administrator. Vice Mayor Wright asked if the Zoning Administrator determined that this application was not exempt from providing the sidewalk. Ms. Seipp stated that by formula, the property did not meet the threshold for exemption of providing the sidewalk.

Councilmember Helgeson asked if he could amend the motion to approve the petition without requiring the sidewalk ordinance. Mr. Freedman replied that because it was the determination of the Zoning Administrator, he would not be comfortable answering without speaking to the Zoning Administrator. Mr. Tom Martin, City Planner, stated that regardless of whether or not Council decided to adopt the CUP tonight, the petitioner was required to put the sidewalk in. If Council wanted to revisit sidewalk discussions, they would have to collectively as a body direct staff to advertise that for public hearings. Councilmember Helgeson said that he would approve of amending the zoning ordinance. Mr. Martin said that it was a matter of how they infilled the infrastructure across the City.

Councilmember Nelson asked if the ordinance were modified in some way, was there a feature or fact about the subject property that they could find justifying some exemption for sidewalk installation in light of all the benefits that sidewalks brought to the community. Ms. Frischeisen said that such a change would likely have to be influenced by traffic count.

Vice Mayor Wright called for the vote. With no further discussion from Council, the following vote was recorded:

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

// Mr. Benda stated that the applicant of Agenda Item #9 was unable to attend tonight's meeting due to illness and had asked for the item to be continued to a future meeting.

Vice Mayor Wright asked the City Attorney if a vote from Council was needed to continue the item to a future meeting. Mr. Freedman stated that the Council's vote would be whether to table the matter indefinitely at this point, and then Council could bring it up again later on.

Councilmember Faraldi stated that residents were attending the meeting to address this matter, and there had been ample opportunity to hear from the developer and Community Development, so he would like this item to move forward accordingly.

Councilmember Nelson stated that this was an issue that was someone debated and contentious, and for the petitioner not to have their spokesman present to respond to any criticisms or to provide insights was not the proper way to make decisions on their City's business. He stated that he would be in favor of passing it over until they had all the resources and voices in the room to address all the questions from Council. He motioned, seconded by Councilmember Wilder, to table the item.

Councilmember Faraldi stated that it was unfortunate that the petitioner's representative was ill, but they had ample opportunity to discuss the matter with the City staff and Planning Commission, and it was incumbent upon Council to prioritize the citizens who wished to speak to this matter at tonight's meeting. He proposed the public hearing be held tonight to hear from the public and kept open. He stated that he would be voting against the motion.

Councilmember Helgeson asked if the developer was present for the meeting. Mr. Benda answered that the developer was present, but the representative in charge of the presentation was not. Councilmember Helgeson stated that he would be voting against the motion to table the item, because it was unfair to those neighbors who showed up to speak.

Vice Mayor Wright asked the City Attorney if the item was tabled indefinitely that it would need to go through the process of a public hearing advertisement and hearing per state code. Mr. Freedman stated that was correct. Council could pose the question to Planning staff if it would be feasible to have all the advertisements and postings completed by December, they could table it to a date certain in December.

Councilmember Nelson asked Mr. Freedman if they could bifurcate the public hearing and hear from those who had something to say tonight. Mr. Freedman stated that they could, but they would not close the public hearing, and would keep it open until the next meeting in December. Councilmember Nelson amended his motion, seconded by Councilmember Wilder, to proceed with the public hearing and keep the public hearing open to the December 13, 2022 meeting.

Councilmember Faraldi asked if it was a feasible option to hold the public hearing open until the date of December 13, 2022; Mr. Benda answered yes.

Councilmember Nelson asked Mr. Freedman if further advertisement was necessary if the public hearing was continued; Mr. Freedman answered no.

Vice Mayor Wright called the vote. The following vote was recorded:

Ayes: Nelson, Tweedy, Wright, Wilder	4
Noes: Helgeson, Faraldi	2

Absent: Dolan 1

In the matter of Planning, Agenda Item #9, a public hearing was held and Council considered approval of a petition to amend the Future Land Use Map (FLUM) from Medium Density Residential to High Density Residential and to rezone 1114, 1126 & 1168 Old Graves Mill Road from R-2, Low-Medium Density Residential District to R-4C, High Density Residential District (Conditional). Council was previously briefed on this item at the October 25, 2022 work session. Ms. Rachel Frischeisen, Planner II, gave a brief 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, and the Planning Division recommended approval of the petitions with the addition of proffers.

Vice Mayor Wright opened the public hearing.

Mr. Jason Brown stated that he was a Principal with ZZ & ZZ, LLC, and addressed Council. He noted that there were only so many spaces to provide the needed affordable housing in the City, and this proposal would provide homeownership options to renters.

Citizen Letitia Lowery stated that she was a resident of Ward II, and that she was not for or against the development, but was concerned about how a large development such as the proposed would impact the schools, which could not infrastructurally support this unless they worked to build schools and developments together.

Citizen Timothy Santiago addressed the Council and spoke in opposition of the project because of the traffic congestion issues that would be worsened, and it should be considered that no further development should take place until they confirmed the roads could handle the growth and subsequent traffic.

Citizen Albert Billingsley stated that he represented the Windsor Hills Neighborhood Association, and spoke in opposition of the project due to the Association's concerns with how many developers chose to build apartments, the lack of single-level housing, and road congestion. He requested the Council give consideration to the neighborhood residents who had to deal with this every day.

Citizen Chris Mitchell stated that she was a resident of Windsor Hills and spoke in opposition of the project due to the high number of apartments in the area and the traffic concerns on Old Grave Mills Road. She requested Council consider limiting the type of development as well as promoting availability of green space.

Clerk of Council Ms. Alicia L. Finney read Charles Gammon's email into the record in opposition of the petition.

Ms. Finney read Michael Hall's email into the record in opposition of the petition.

Ms. Finney previously received a letter from Citizen Albert Billingsley to read into the record, however, since he was able to attend the meeting in person, she stated that she would not be reading his statement into the record.

Ms. Finney read Jay Martin's email into the record in support of the petition.

Ms. Finney read a form email into the record in opposition of the petition, sent in by Cassandra Taylor, Brian Zubroski, Letitia Lowery, George Harton, Dennis Toothman, Loretta Doty, John Ritchey, Kathy Germeroth, Keith Ballengee, Angelia Colinger, and Lorraine.

Vice Mayor Wright stated that the public hearing would be continued to the December 13, 2022 meeting of the Lynchburg City Council.

// In the matter of Planning, Agenda Item #10, a public hearing was held and Council considered adopting Ordinance #O-22-074 approving the petition of Joel Sutton, Sutton Landscaping to rezone 2025 Lakeside Drive from B-1, Limited Business District to B-5C, General Business District (Conditional). Council was previously briefed on this item at the October 25, 2022 work session. Ms. Rachel Frischeisen, Planner II, gave a brief 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, and the Planning Division recommended approval of the rezoning petition.

Ms. Amy Seipp, Partner at Accupoint Surveying & Design, stated that she was representing the Mr. Sutton, and presented to Council.

Citizen Timothy Santiago addressed the Council and spoke in favor of the petition because the renovation of the property would raise property values.

Seeing no further speakers, Vice Mayor Wright closed the public hearing and the matter rested with Council.

Councilmember Helgeson asked if the proffers limited the use of the B-5 zoning to only include allowance of parking pickup trucks and trailers, and the other B-1 uses would remain. Ms. Frischeisen said that was correct.

Councilmember Nelson motioned, seconded by Councilmember Faraldi, to approve the Ordinance #O-22-074.

With no further discussion, the following vote was recorded:

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

// In the matter of Public Comment, the Council heard from a Citizen Timothy Santiago, resident of Ward II, addressed the Council regarding the Rules of Procedure Rule 6.9a, the duty to vote. He stated that the only time a Councilmember should abstain from a vote is when there is a conflict of interest.

//Councilmember Tweedy requested that City staff discuss the development in different areas of town and the pending development projects.

Councilmember Nelson stated that it had been a pleasure working with everyone, with staff, and engaging with the citizens and all the businesses in the City. He said he would not trade his almost-13 years on Council for anything.

// The meeting adjourned at 9:40 p.m.

Clerk of Council