

June 28, 2022

// A regular meeting of the Council of the City of Lynchburg was held on the 28th day of June, 2022, at 4:00 P.M. in the Council Chamber, City Hall, MaryJane Dolan, President, presiding. The following Members were present:

Present: MaryJane Dolan, Jeff Helgeson, J. Randy Nelson, Treney Tweedy, Sterling A. Wilder,	
Chris Faraldi	6
Absent: Beau Wright	1

// City Manager Wynter Benda announced that Assistant City Manager John Hughes had recently earned a Doctor of Philosophy, so his title would now reflect that association. He announced that Alec Brebner had been hired as Executive Director at Central Virginia Planning District Commission.

// In the matter of Redistricting, Agenda Item #1, Council continued a discussion on redistricting. Mr. Tom Martin, City Planner, gave a brief overview of the item to the Council. This was the monthly work session for redistricting, which was required to be done by state and local governments based on the results of the 2020 Census. City Council would select Scenario A, B, or D forward and precinct boundaries for public hearing on July 26, 2022. At the May 24, 2022 Work Session, City Council directed staff to redraw precinct boundaries based upon the minimal impact necessary to voters for Scenarios A, B & D. Precinct boundaries have been redrawn for each scenario and meet the requirements of State Code for ward, precinct, and polling places. He stated that in Scenario A, there would be 788 voters with a change in polling place, in Scenario B, there would be 1,359 voters with a change in voting place, and in Scenario D, there would be 3,983 voters with a change in voting place. He said that also in Scenario D, there would be 5,986 voters who experienced a change in ward but not in polling place, for a total change affecting 9,969 voters. He stated that for Liberty University, there was a request to move the polling place from the Vines Center to the Montview Alumni Ballroom for Scenarios A, B, and D, which would affect 2,145 voters in Ward III, Precinct 2. He said that in Scenario A, the Change Area 1 was the area from Old Forest Road to Lakeside Drive, which would shift from Ward IV, Precinct 4, to Ward II, Precinct 1, and voters would begin voting at St. Paul's Episcopal Church. Change Area 2 was currently in Ward IV, Precinct 3, and was proposed to go to Ward II, Precinct 2, which had a polling place of Robert S. Payne. Change Area 3, the Fort Avenue to Oakley Avenue area had the largest shift in voters over to Robert S. Payne. Change Area 4 had no population in the area but was suggested as a change because of mapping issues. He

said that under Scenario A, the people who would remain in Ward III, Precinct 1, could continue to vote at Lynchburg Public Library, or they could vote at a new polling place, West Lynchburg Baptist Church, or it could be combined at Sheffield. He indicated the resulting shifts in the wards resulting in these changes. He said that Scenario B also shifted population into Ward II and out of Wards III and IV. He said that in this scenario, Change Area 1 shifted from north of Ivy Creek, currently in Ward IV, Precinct 4, to Ward I, Precinct 5, and voters currently voting at Linkhorne Middle School would begin voting at First Christian Church. Change Area 2 had Ward III, Precinct 1, where voters currently voted at the library and would move to Robert S. Payne. He indicated the shifts in the ward boundaries resulting from the population changes. He said that Scenario D divided the City more into quadrants, meeting the populations for each wards, but with more change areas involved. Change Area 1 contained the area north of Ivy Creek that would begin voting at First Christian Church, changing from Ward IV to Ward 1. Change Area 2 was currently in Ward IV and would become part of Ward I, but polling places would not be changed. Change Area 3, north of Lakeside Drive, was part of Ward I, and would still be in Ward I but would have a change in polling place from Heritage Baptist Church to Linkhorne Middle School. Change Area 4 was the area south of Lakeside Drive, currently in Ward I and would change to Ward IV, with the polling place remaining at Heritage Baptist Church. Change Area 5 was in Ward IV and would go to Ward II, becoming part of a new precinct, Ward II, Precinct 5, along with Area 6 and 7, that would vote at the Lynchburg Public Library. Area 8 was a triangular piece, and in this scenario, Area 9 was the polling place for Ward III, Precinct 1 would have to go to Lynchburg Baptist Church or be combined with Sheffield. He indicated the changes in boundaries resulting from the ward shifts. He reiterated that staff requested decision for the scenario, the polling place for Ward III, Precinct 1, and consideration of the request for Liberty University to move the polling place for Ward III, Precinct 2.

Councilmember Helgeson said that after discussing Scenario D, there was more disruption to voters than initially anticipated, and he preferred a scenario with less impact such as Scenario A, which only moved about 800 voters and allowed the polling place to remain at the library.

Councilmember Nelson asked if affected voters and least changes for voters were somewhat synonymous with maintaining closer to the status quo. Mr. Martin said that he was unsure if it was the least change, but it was a change that citizens would be notified, whether it was a change of ward or

polling place. Councilmember Nelson asked if A and B had the least changes and D had greater changes. Mr. Martin said that from the numbers, yes. Councilmember Nelson said that three of the principles opposing gerrymandering were to ensure that districts were compact, cohesive, and contiguous. The three scenarios presented had the least compactness, contiguity, and cohesiveness in Scenarios A and B, but Scenario D complied with those standards in a strict way so that there was no gerrymandering. It would be beneficial to make a change in 2022 that was sustainable through 2040 than to make a massive change in 2031, and this would allow their citizens to adjust to what would become a much more established landscape that could persevere and be sustainable. He said that changing the status quo was not concerning if there was just reason to do so, and Scenario D gave them a concise, anti-gerrymandered approach. He stated that he approved for Ward III, Precinct 1 to move to West Lynchburg Baptist Church.

Councilmember Faraldi asked if there was a definition as to what clearly defined and observable boundaries were. City Attorney Mr. Matthew Freedman said that it was statutorily defined in the State Code, and typically referred to boundaries in the real world such as roadways, bodies of water, and railroads, and was specifically contemplated in State Code §24.2. Councilmember Faraldi asked if defining a residential neighborhood between one of those roads counted, meaning any road dividing one set of houses from another. Mr. Feedman said that as long as the boundaries followed the road, it would be acceptable. Councilmember Faraldi asked for clarification that a townhome community could be divided in such a way. Mr. Feedman said that under the definition of observable boundary, yes, but depending on the motive behind the change, there may be other issues, such if there were other issues that created dilution of a minority group of voters or changed a majority/minority vote in a particular ward. He said that Council could consider keeping neighborhoods together and cohesive as described by Councilmember Nelson, but in discussion of clearly observable boundaries, the idea did not necessarily look at a neighborhood but at physical things to follow on a map. Councilmember Faraldi said that in his understanding of the materials, splitting a neighborhood would not be justified. He clarified that his question pertained to Scenarios A and B, which maintained a split of a townhome community currently divided by Wards IV and I, on Devonshire Road. He said that this split affected the ability for the neighborhood to be represented effectively. He stated that he agreed with Councilmember Nelson in that

Scenarios A and B maintained the status quo, which was not appropriate for this process, and the right thing to do was to follow Scenario D, bring together the neighborhoods, and use the boundaries in the proper way. He said that the goal was that for people who had a new precinct should be counted as an impact, change, or adjustment, but moving from one precinct or ward to another was not considered a change, because there was not a physical change but a change in district, and the state did not consider that a change in their creation of districting maps. He asked if the change in the Liberty University polling place was included in the numbers for impacts. Mr. Martin answered that no, they were not included in the previously listed numbers, because they came in very late and it was equal across all three scenarios. Councilmember Faraldi said that a change associated with a number should be considered with this definition change. Mr. Martin said that yes, and the number of voters affected had been shared with Council.

Councilmember Tweedy said that Scenario D was disrupting, conflicting, and confusing. She said that she agreed with Councilmember Helgeson about selection of Scenario A, which was the least disruptive to voters. She motioned, seconded by Councilmember Helgeson, to approve Scenario A, allowing Liberty University to switch their polling places from the Vines Center to the Montview Ballroom, and keeping the library polling place for Ward III, Precinct 1. Councilmember Helgeson said that with the exponential growth in Lynchburg, it was the Council's duty to decide how to fulfill the comprehensive plan, and Scenario A would be the easiest option to achieve their goals.

Councilmember Wilder asked if any additional comments had been received. Mr. Martin said that about 100 more comments had been received since April, and it was essentially the same information as had been stated before. Councilmember Wilder asked if Scenarios A and B were considered to be gerrymandered. Mr. Martin said that he would leave that to Council to decide. Councilmember Wilder said that he could approve of Scenario A.

Councilmember Helgeson clarified that there was a scenario that added a precinct in Scenario D. Mr. Martin said that yes, Scenario D added a precinct.

Councilmember Faraldi asked how or who was disenfranchised by Scenario D. Councilmember Tweedy said that there was potential of 9,000 voters who would be moved around the City and affected as Scenario D was implemented. Councilmember Faraldi said that if they were going to make a decision

about redistricting using a word such as impact, there was question about if there should be a definition as to what impact was. Councilmember Tweedy asked if it was legally required there be a definition of impact. Councilmember Faraldi said that there was not, but if they did not have a definition, they were making a decision on an idea that may include different understanding among the members of the Council and community, and potentially could lead to issues if they were not codified in what was understood to be the impact by an associated vote. Councilmember Tweedy asked Mr. Freedman if Scenarios A, B, and D kept the Council in legal compliance with the task of this decision. Mr. Freedman said yes, they stayed within the mathematical limits and preserved the minority/majority district of Ward II, which was of paramount importance, and as far as the precincts and polling places, they adhered to the standard requirements that should be considered in the redistricting process. Councilmember Faraldi asked staff if there was any guidance in the packet information for redistricting procedures as to whether or not impact was used as a justification for changing a district. Mr. Martin said that he was not aware, and the scenarios were based on numbers that the City Attorney had referenced. Councilmember Faraldi asked if Mr. Martin was not aware that there was any in there regarding that. Mr. Martin said no. Councilmember Faraldi said that if that could be provided, it would be helpful. Ms. Christine Gibbons answered that she did not know if there was a definition of impact, but what had been seen in her office and with the Redistricting Committee with Scenario A and B, with the voters being moved who used to vote at the public library being moved to R. S. Payne, and being moved to St. Paul's, there would be additional people voting there, bringing up the total number of voters to over 4,500 for both of those, and they were both currently around 3,500. R. S. Payne was already impacted because there were many people who voted there in person, and it was a small area, and often the line was out of the door. Councilmember Faraldi said that there was no justification for impact making a decision on redistricting, but they could consider impact in their discussions. He said that impact should be defined if the City Council was to make a decision behind it and vote accordingly. He asked if Mr. Martin could share some of the recent information from the public survey. Mr. Martin answered that out of 251 responses, which still considered Scenario C, 43% preferred Scenario D. Councilmember Faraldi asked how many people listed Scenario D as their second choice. Mr. Martin answered that it was 29%. Councilmember Faraldi reiterated that about 70% of people selected Scenario D as their first or second choice. Mr. Martin said

yes. He said that the other question, which was if it was important that wards were compact, 165 out of 251, or 68% of people said yes, and if it was important for wards to keep neighborhoods together, 180 people or 81% said yes, if it was important for people to remain in the same ward they were in now, 29% said yes, 32% said no, and 39% were indifferent. He said that when asked to indicate what ward they were in, only 94 people responded out of 251. Councilmember Faraldi said that the survey indicated why Scenario D was the best option for the city.

Councilmember Nelson said that Scenario D disenfranchised voters by moving them all over the City. He stated that disenfranchisement included barriers put up that hindered a person's ability to reach the polls, confusing information that suggested wrong directions, voting days, or candidates, but simply having someone travel from a point to a new point was not disenfranchisement. He stated that Scenario D promoted and enhanced the convenience of more voters to vote in their City than either A or B, with wards that were compact, cohesive, and contiguous, and as such, moved voters closer to the precincts in which they would cast their votes rather than distanced through a circuitous route in which a ward extended from Boonsboro to Maple Hill.

Councilmember Helgeson said that they had already held the public hearing from Scenario D, and after this public hearing, they would decide and vote. He said that because both had been properly vetted and advertised with public hearings, they could discuss this on July 26, 2022 as to what option was best. Mr. Freedman said that they would have to have another public hearing in Scenario D in its entirety, because when there were changes in precincts or polling places, it must be readvertised.

Councilmember Faraldi made a substitute motion, seconded by Councilmember Nelson, to hold a public hearing on July 26, 2022, for Scenarios A and D as currently presented, incorporating the Liberty University precinct.

Councilmember Helgeson asked if the public hearing was necessary when Scenario D had already had its public hearing. Mr. Martin stated that only the ward boundaries were under consideration during that public hearing, and the new polling places and precincts required a new public hearing. Mr. Freedman clarified that the public hearing for both scenarios required the boundary changes and related ordinances to be drafted for each. Councilmember Helgeson asked if that information was prepared. Mr. Martin answered that the maps were prepared, but the ordinances were not, as it required a lot of staff

time to create the descriptions for the ward boundaries and precinct boundaries within the wards.

Councilmember asked what the timeframe was to create this information. Mr. Martin said that it would take multiple days. Councilmember Helgeson said that he approved of having another public hearing, but not if it required staff work for an option that had no future or had already been fully addressed.

Councilmember Tweedy asked if not everyone submitted their ward for the survey. Mr. Martin said that was correct. Councilmember Tweedy asked if that was not required on the survey. Mr. Martin said that it was a question on the survey but was not required. Councilmember Tweedy asked if the incomplete surveys were statistically sound based on the questions. Mr. Martin said that the survey gave Council a general idea of how 251 people thought, which was a very small percentage of 79,000 people. Councilmember Tweedy stated that roughly half of those people did not state what ward they lived in. Mr. Martin stated that statistically, he was unsure if they could use the results of the survey to support A, B, or D.

Councilmember Helgeson asked how long it took to get the ballots when deciding between Scenarios A and D and if staff was preparing for either option. General Registrar Ms. Christine Gibbons stated that she would be participating in training through the state so that they could discuss the new changes in the law regarding that each precinct would have to have their own distinct ballot so that the results for early voting and voting by mail could be aggregated by the precinct. She stated that there would be continued training in July and August that would give more information as to what that looked like, but they did look at the numbers for past elections, which was broken down by precinct, and she usually brought those scenarios and estimates to the Council in August, because they had to have them ready by the beginning of September so that they could mail out over 2,000 ballots. Councilmember Helgeson asked if Ms. Gibbons would be preparing any differently, so having both options would not be negative. Ms. Gibbons said no. She stated that the Commissioner of Elections contacted the City, asking what the status was of the local redistricting. She stated that the state was paying for notices to be sent to all voters state-wide, given in the budget from the General Assembly, and the deadline for everything to be done was September 1.

Mayor Dolan called the vote to consider the substitute motion.

Ayes: Nelson, Tweedy, Helgeson, Dolan, Faraldi

5

June 28, 2022

Noes: Wilder 1

Absent: Wright 1

Mayor Dolan called the vote to approve the substitute motion.

Ayes: Nelson, Tweedy, Helgeson, Dolan, Faraldi 5

Noes: Wilder 1

Absent: Wright 1

// In the matter of Planning, Agenda Item #2a, Council received a briefing on the rezoning of R-3, Medium Density Residential to R-4, High Density Residential at 2237 Rivermont Avenue. Mayor Dolan stated that this item will appear for City Council vote on the July 26, 2022 public hearing agenda. Ms. Rachel Frischeisen, Planner II, gave an overview of the item to Council. Brian Feedman, M.D. is petitioning to rezone 2237 Rivermont Avenue from R-3, Medium Density Residential District to R-4, High Density Residential District. The property is currently a nonconforming use with seven (7) apartments. On May 25, 2022, the Planning Commission recommended denial (5-0), with 1 member absent, Marion, and 1 vacancy, of the rezoning petition. The Planning Division recommended denial of the rezoning petition.

// In the matter of Planning, Agenda Item #2b, Council received a briefing on the Rezoning of B-1, Limited Business District to R-3, Medium Density Residential District; Future Land Use Map Amendment, Community Commercial to Medium Density Residential, at 620 Leesville Road. Mayor Dolan stated that this item will appear for City Council vote on the July 26, 2022 public hearing agenda. Ms. Rachel Frischeisen, Planner II, gave a brief overview of the item to Council. KAL Holdings is petitioning to amend the Future Land Use Map (FLUM) from Community Commercial to Medium Density Residential and to rezone approximately one (1) acre from B-1, Limited Business District to R-3, Medium Density Residential District at 620 Leesville Road. If approved the property would be developed as four (4) duplexes. On June 8, 2022, the Planning Commission recommended approval (5-0), with 1 member absent, Light, and 1 vacancy, of the FLUM Amendment and rezoning petition. The Planning Division recommended approval of the FLUM Amendment and rezoning petition.

// In the matter of Roll Call, Agenda Item #6, Councilmember Helgeson stated that the June 22, 2022 TRC meeting included a piece of property in Cornerstone that Council had denied for apartments and had now been approved and recommended for a tiny hotel, with no comment from the Zoning Administrator.

He said that they denied the residential use because of the potential as a business, but typically hotels had 100 rooms. He said that he wanted to know why it had not come back to Council who had just recently looked at that property and voted down, and why it came back through TRC without comments and as an anomaly as it was. He said that normally there were provisions, conditions, and other items related to retail developments.

Councilmember Wilder stated that the Oak Tree Cemetery had a great event for Juneteenth, and he wanted to commend the staff for that. He stated that Parks and Recreation was also doing Hill City Hoops during the month of July so their children had activities during the summertime. He said that he also appreciated the extended hours at the pool and having events at the basketball arena.

Councilmember Faraldi said that he recently met with the Wyndhurst HOA on Paulette Circle, who had a variety of concerns, one being that they wanted a no U-turn sign put in, and second that they had a tree keeper who was unable to tend to the trees, so the trees were overgrown. He said that they had hoped to have those two items addressed if possible. He requested that at the next scheduled meeting, City Council consider a vote on a resolution speaking to their joint support of the rights of all residents to safely protest, speak, and assemble, a document encouraging peaceful political and civic engagement for anyone seeking to participate, and finally that expresses their unified condemnation and total admonishment of the destructive actions, vandalism, intimidation, and potential violence perpetrated against the Blue Ridge Pregnancy Center on June 25, 2022.

City Manager Benda said that there was opportunity for Council to continue their work session on redistricting for the remainder of the time allotted. He stated that there were closed session items on the formal docket for later, and there was time left to have City staff engage Council until 6 p.m.

Mayor Dolan asked if one item could be addressed during closed session now and the other during the later closed session. City Manager Benda said that was acceptable. Mayor Dolan asked if there were any objections from Council and heard none.

// On motion of Councilmember Helgeson, seconded by Councilmember Wilder, Council, by the following recorded vote, elected to hold a closed meeting to discuss the pending City's Region 2000 Services Authority lawsuit and surrounding circumstances pursuant to §2.2-3711(7) and §2.2-3711(8) of the Code of Virginia, as amended.

June 28, 2022

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

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

Noes:

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

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

Noes: 0

Absent: Wright 1

// The meeting was recessed at 5:39 p.m.

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

Present: MaryJane Dolan, Jeff S. Helgeson, J. Randy Nelson, Treney Tweedy, Sterling A.

Wilder, Chris Faraldi 6

Absent: Beau Wright 1

Councilmember Faraldi gave the Invocation, followed by the Pledge of Allegiance.

June 28, 2022

// In the matter of Community Development, Agenda Item #4, a public hearing was held and Council considered adopting a Resolution #R-22-041 approving the FY 2023 Annual Action Plan for the Community Development Block Grant (CDBG) and HOME Program. Ms. Melva Walker, Grants Manager, gave a summary of the item to Council. The Department of Housing and Urban Development (HUD) requires local governments, which receive federal Community Planning and Development (CPD) formula block grant funds, to prepare an Annual Action Plan as a component of the approved 2020-2024 Five-Year Consolidated Plan. The Plan outlines the City's needs, goals, and objectives for community development (both housing and non-housing areas). The Plan has been prepared and is comprised of the required components, including the CDBG and HOME projects that will be implemented during the program year to address the identified needs and objectives. On May 21, a public notice was published in The News and Advance stating that a draft of the proposed Program Year 2022 (FY 2023) Annual Action Plan was available for public review for a 30-day comment period and that City Council would be conducting a public hearing on June 28 to receive public comments regarding the Program Year 2022 (FY 2023) Annual Action Plan. The advertisement for the Annual Action Plan included the projects recommended by City Council at the March 22 meeting. Notably, the neighborhood projects approved for implementation included Jefferson Park improvements, Timber Ridge Hill Pedestrian improvements, housing rehabilitations within the Diamond Hill and Dearington neighborhoods, and the development of affordable rental and home-ownership housing units. City staff has not yet received any public comments regarding the draft Plan. City Council and citizen comments received at the public hearing regarding the contents of the Annual Action Plan will be incorporated into the final document and submitted to HUD for approval.

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 Wilder made a motion, seconded by Councilmember Nelson, to approve the Resolution #R-22-041 approving the FY 2023 Annual Action Plan for the Community Development Block Grant (CDBG) and HOME Program.

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

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

6

June 28, 2022

Noes: 0

Absent: Wright 1

// In the matter of Planning, Agenda Item #5, a public hearing was held and Council considered adopting a Resolution #R-22-042 approving the CUP to allow the construction of a lighted sports complex at Liberty Christian Academy. Ms. Rachel Frischeisen, Planner II, provided a brief summary to Council. Liberty University, Inc. has submitted a CUP petition to allow the construction of a four thousand, one hundred twenty-one (4,121) lighted multi-sport athletic complex at 1120 Hershey-Esbensshade Drive in an IN-2, Institutional 2 District. Ingress / Egress improvements to support the facility are proposed at 701 Mountain View Road. On March 14, 2017, Council approved a CUP petition to allow a larger, six thousand (6,000) seat facility; however, the CUP has since expired. City Council previously was briefed on this item at the June 7, 2022 work session, and on May 11, 2022, the Planning Commission recommended approval (5-0) with 1 vacancy and 1 member absent, Johnson, of the CUP petition. The Planning Division recommended approval of the CUP petition.

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 made a motion to adopt the Resolution #R-22-042, approving the CUP to allow the construction of a lighted sports complex at Liberty Christian Academy, seconded by Councilmember Wilder. Councilmember Helgeson asked why this item was brought back before the Council. Ms. Frischeisen said that CUPs were valid in the case of an institution for 36 months, and this was to essentially renew that CUP. Councilmember Helgeson asked if a CUP was still required under the IN-2. Ms. Frischeisen said yes, an arena was one of the only uses that was not by-right in an institutional district. Councilmember Helgeson clarified that while he taught at Liberty University and was affiliated with a group, there was no conflict in his objectivity of interest in that this was a different institution. Ms. Frischeisen clarified that this was a project for LCA, a high school, but was on property belonging to Liberty University.

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

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

Noes: 0

Absent: Wright

1

// In the matter of planning, Agenda Item #6, a public hearing was held and Council considered adopting a Resolution #R-22-043 approving the CUP to allow the expansion of Spring Hill Cemetery located at 1550 James Street. Ms. Frischeisen gave a brief summary of the item to Council. Spring Hill Cemetery Association has submitted a CUP petition proposing the expansion of the existing cemetery. The expansion would include enlargement of the existing columbarium, new columbarium walls, a cremation garden, new burial plots and a new vehicular egress to Stadium Road. The property is zoned R-3, Medium-Density Residential District which allows cemeteries upon approval of a CUP by City Council. On May 11, 2022, the Planning Commission recommended approval (4-0), with 1 vacancy and 2 members absent, Bowden, Johnson, of the CUP petition. The Planning Division recommended approval of the CUP petition.

Mayor Dolan opened the floor to receive input from citizens. Mr. Eames Power, Secretary-Treasurer of the Spring Hill Cemetery Association said that he represented their nonprofit organization to request approval of the petition for the Conditional Use Permit for expansion of their burial space within the existing cemetery. He explained that the proposed work was in the southeastern portion of the existing cemetery and would include modeling and expansion of the existing columbarium, creation of a new columbarium with interment garden, and creation of additional grave space for traditional interments. There would be two new drives created, with one leading to Stadium Road and the other leading to James Street, and these two drives would be gates at the public street and were to be opened as exit drives at other funerals that occurred in this area of the cemetery. He said that the cemetery had continuously served the needs of the Lynchburg community since its first burial in 1855, and they currently had over 15,700 interments in the cemetery. He said that it was the Association's intention to remain an active cemetery and continue their tradition and history of service to Lynchburg families into the next century, and the petition today was part of their plan to meet those needs. A letter addressed to City Council in support of the proposal and previously furnished to the Clerk of Council by the surrounding neighbors of the property was read into the record.

A letter addressed to City Council in support of the proposal, previously furnished to the Clerk of Council by the surrounding neighbors of the property was read into the record. (Kathy Thompson, 1609

Shaffer St.; Annette Burford, 1611 Shaffer St.; Latrinda Burford, 1611 Shaffer St.; Luther Richards, 1611 Shaffer St.; Amber Jennings, 1660 Callaham St.; James Stewart, 1540 Gordon St.; Ronnie Mayberry, 1604 Callaham St.; Wilbert Ward, 1802 Shaffer St.; Carolyn Williams, 1802 Shaffer St.; Mary Mayberry, 1604 Callaham St.; Alan Brooks, 1590 Blackburn St.; Kennth McCormick, 1500 Blackburn St.; Nancy McCormick, 1500 Blackburn St.)

There was no one else 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 Faraldi motioned, seconded by Councilmember Wilder, to adopt the Resolution #R-22-043 approving the CUP to allow the expansion of Spring Hill Cemetery located at 1550 James Street. Councilmember Wilder asked if it was a conflict of interest if he owned a plot in the cemetery. Mr. Freedman said that he believed he could so long as he announced that he was a member of the group of owners of plots there and could participate impartially.

Councilmember Helgeson said that he understood the necessity for the cemetery to expand physically to continue their work in the community. He stated that he still regretted his vote to close the public street in the cemetery, and although some community members approved of the closure, many citizens were surprised afterwards that their local road was closed to them with a fence and no explanation. He said that he would like to see a condition within the CUP that opened Rives Street to the public. He stated that he could not support the CUP without thinking of the citizens that he represented in that area and his responsibility for the closure of that street.

Councilmember Nelson said that it was unfortunate that no members of Council were aware that there were notice issues that resulted in close neighbors being unaware that the public street would be closed until after the fact, and they then came to Council with valid points that Council could not control at that point because the street had already been vacated. He stated that it was improper for the City to impose an expectation of proffers being made by the applicant, because proffers and concessions had to be unilaterally initiated by the applicant and not based on coercion or pressure from the City to do something or refrain from doing something. He clarified that they could not even talk about it from a legal perspective. City Attorney Mr. Matthew Freedman said that was correct, and the conditions must be reasonably related to the use. He said that the City Manager and he could not find how they were related,

so unless the applicant was willing to voluntarily consent to do that, there would be no way to forcefully impose it on them to grant the permit. Councilmember Helgeson said that it was not a proffer, but a condition on the Conditional Use Permit. Councilmember Nelson said that he could understand that. He said that the City still should not be putting pressure on someone to do something in exchange for approval from Council. He said that on its own merits, this was a viable Conditional Use Permit because it was internal to the existing property of the cemetery, and there would be additional access, which should minimize traffic congestion during events.

Councilmember Tweedy stated that she supported the Resolution and appreciated their long-term plan and development.

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

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

// In the matter of Planning, Agenda Item #7, a public hearing was held and Council considered adopting Resolution #R-22-044 approving the CUP to allow the construction of a gymnasium and classroom addition at New Vistas Schools located at 520 Eldon Street. Ms. Frischeisen gave a brief summary of the item to Council. New Vistas School is petitioning for a CUP at 520 Eldon Street to allow the construction of a six thousand two hundred sixty-two (6,262) square foot building to be used as a gymnasium and classroom space in an R-3, Medium-Density Residential District. There was no proposed increase in student enrollment. On April 27, 2022, the Planning Commission recommended approval of the CUP Petition. The Planning Division recommended approval of the CUP Petition.

Mayor Dolan opened the floor to receive citizen input. Ms. Laurie England, head of the New Vistas School, addressed the Council. She said that the school was a nonprofit that served over 600 children in the area who had attention and learning issues, and this new building would enhance their curriculum specifically with the addition of two new science labs, an art room, and the half-court gymnasium.

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.

June 28, 2022

Councilmember Helgeson motioned, seconded by Councilmember Faraldi, to approve the Resolution #R-22-044 approving the CUP to allow the construction of a gymnasium and classroom addition at New Vistas School located at 520 Eldon Street.

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

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

Noes: 0

Absent: Wright 1

// In the matter of Public Comment, Citizen Timothy Santiago addressed the Council to state that the matter he had wished to address to Council had been handled appropriately so he had no further remarks.

// In the matter of City Code, Council considered adopting Ordinance #O-22-045 approving City Code amendments for derelict buildings. Council received a brief summary of the item from Community Development Director Mr. Kent White. At the May 24, 2022 City Council meeting, code changes were adopted to address demolition of buildings and clutter, and at the same meeting, Council requested staff bring back the proposed derelict building ordinance with updates to the appeal process. Ordinance A provides the owner of a derelict building with the option to appeal the decision of the City Manager to the circuit court. Ordinance B provides the owner of a derelict building with the option to appeal the decision of the City Manager to City Council.

Councilmember Helgeson motioned, seconded by Councilmember Wilder, to adopt Ordinance B. Councilmember Helgeson said that he approved of having the City Council be the body of appeal in order to remain apprised of all issues that were had with their own processes and received feedback as elected officials. Councilmember Wilder said that he appreciated having an ordinance to fine-tune the process.

Councilmember Nelson asked City Attorney Mr. Matthew Freedman if the applicant disagreed with City Council under Ordinance B, the ordinance allowed an appeal to circuit court from the City Council's decision. Mr. Freedman answered that it did not provide for it, but if someone were aggrieved and had a due process or takings argument, they would still have the right to go to court over it, irrespective of what appeal process there was in the City. He said that there were benefits of either ordinance, and the benefit of Ordinance B was that City Council was overseeing the administrative

decision made by the manager or staff. He said that the circuit court process outlined in Ordinance A could be done anyway if they had a claim. Councilmember Nelson said that he wanted to confirm that they could not cut off due process to the judiciary. He said that for that reason, he was not inclined to let this Council be an extra step in that process, because if the applicant was truly aggrieved, then the circuit court should be vested at that earlier stage in the process.

Councilmember Tweedy said that she would be in support of going to the circuit court first but appreciated the toolkit for their residents who had invested in their property. She said that it would be more beneficial to have the process be done through the courts in order to be more impartial.

Councilmember Faraldi said that he was more supportive of Ordinance A. At the local level, they should be mindful of the separation of powers, and he would rather dissociate the Council from deciding which property goes and which stayed.

Councilmember Helgeson clarified that the matter could still go to circuit court. He said that their form of local government had a leader who was elected by Council, and if there was a problem with the staff process, the elected officials would hear about it at some point in the future and be able to take some form of action.

Mayor Dolan said that she would support Ordinance A to have the matter heard first by the circuit court.

Councilmember Faraldi made a substitute motion, seconded by Councilmember Nelson, to consider Ordinance A.

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

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

Mayor Dolan called the vote for the motion to approve Ordinance A.

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

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

// In the matter of City Council, Agenda Item #9, Council had a discussion about amending the City Council's Rules of Procedure to align Mayor and Vice Mayor elections with general elections.

Councilmember Faraldi stated that under Section 4-1(B) of City Council's Rules of Procedure and pursuant to Section 15.2-1400 of the Code of Virginia, 1950, as amended, City Council should consider amending its Rules of Procedure to move its Mayor and Vice-Mayor elections from July to January. Should City Council wish to pursue this amendment, City staff will include it as an amendment when City Council's Rules of Procedure are presented for re-adoption in July 2022.

Councilmember Wilder said that it made sense to make such a change.

Councilmember Faraldi asked when this would be considered. City Attorney Mr. Matthew Freedman answered that staff would prepare a resolution for July 26, 2022. He said that Council had also requested some other changes related to the Rules of Procedure, so that would be brought forward as well to Council. Councilmember Faraldi asked if there was an issue if the rules expired. Mr. Freedman said no, because Virginia recognized the holdover rule, which permitted the mayor to serve as long as necessary until the next mayor was appointed.

Council reached a consensus and directed staff to bring this back for a vote at the July meeting.

// In the matter of the Budget, Item #10, Council considered adopting Resolution #R-22-040 amending the FY 2023 General Fund budget and appropriating funds for the purpose of extending the living wage increase for all part-time and hourly employees and to enhance funds available to impact compression.

Councilmember Wilder motioned, seconded by Councilmember Nelson, to adopt Resolution #R-22-040 amending the FY 2023 General Fund budget and appropriating funds for the purpose of extending the living wage increase for all part-time and hourly employees and to enhance funds available to impact compression.

Councilmember Helgeson said that he would be voting against this motion because of the tax increases and budget surpluses that had been incurred, and this item for part-time and hourly employees should have been included. He said that this money should be returned to the taxpayers.

Councilmember Tweedy said that she would be supporting this item in order to adequately address the equitable pay and compression issues that were occurring along with growth and

development in the City. She stated that it was important to provide wages that kept hourly and part-time staff in place and supported the needs of those citizens.

Councilmember Faraldi asked if there could be information provided regarding the allocations for funding for each department. Ms. Donna Witt answered that it would be based on years of service for each staff member. Councilmember Faraldi asked if that was in every department. Ms. Witt stated that it would be in every department and based on staff. Councilmember Faraldi said that an individual had emailed him some information related to their experience with compression in their own City department job, which they had worked at for a substantial number of years, and the lack of traction for proposals to alleviate compression ultimately had led them to question their value as a City employee. He asked if full-time staff with significant service in every department would receive an increase in pay. City Manager Benda said that they would, and that information had been provided to Council. He said that the percentage in the budget had not been projected until the very end and was part of the 5% that went unspent last year, so the request was made in order to meet Council's desire to ensure employees were adequately compensated. He said that the implementation of this raise included a 3% general wage increase, and depending on years of service, the compression component in the budget. Councilmember Faraldi said that there was a tax burden in the budget that he had advocated against, and he still recommended there be an offset to the tax raise from the last year. He said that the dollars from certain revenues that did not see a statistical adjustment or equalization, he wanted to ensure that people who had served the City for a long time were able to see the City as a place where they were invested in for the services they offered to the community. He stated that he would continue his support for this measure.

Councilmember Helgeson said that there were spending proposals in the budget that made it more difficult for small businesses to stay afloat. He said that raising these wages to a living wage would force small businesses to compete with those wages.

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

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

June 28, 2022

// On motion of Councilmember Helgeson, seconded by Councilmember Wilder, Council, by the following recorded vote, elected to hold a closed meeting for to consider appointments to the following boards and commissions: Board of Zoning Appeals, Central Virginia Community College Board, City Employee Appeals Board, Economic Development Authority, Historic Preservation Commission, Martin Luther King, Jr./Lynchburg Community Council, Museum Advisory Board, Region 2000 Services Authority, Youth Services Citizens Board, Airport Commission, Planning Commission, Social Services Advisory Board, Transit Company Board of Directors, and Lynchburg Emergency Planning Committee pursuant to Section 2.2-3711(A)(1.) of the Code of Virginia.

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

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

Absent: Wright

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:

Board of Zoning Appeals: City Council recommends the reappointments of William Flint, Dennis Melancon, and Donald Doeblor for new 5-year terms ending June 30, 2027.

Central Virginia Community College Board: Justin Hensley to a new 4-year term expiring June 30, 2026.

City Employee Appeals Board: Deborah Power to a new 3-year term expiring June 30, 2025; reappointment of Kraig Cole to a new 3-year term expiring June 30, 2025;

Economic Development Authority: Craig Pettitt to a new 4-year term expiring June 30, 2026; R. Sackett Wood to a new 4-year term expiring June 30, 2026.

Historic Preservation Commission: Reappointment of Tracey Langseth to a new 3-year term expiring June 30, 2025; reappointment of Shanda Horner to a new 3-year term expiring June 30, 2025.

Martin Luther King, Jr./Lynchburg Community Council: Dr. Owen Cardwell to a new 3-year term expiring June 30, 2025; Dr. Brenda Farmer to an unexpired term ending June 30, 2024; Dale Reed to an unexpired term ending June 30, 2024.

Museum Advisory Board: Mark Poole to a new 3-year term expiring June 30, 2025; reappointment of Douglas Lee to a new 3-year term expiring June 30, 2025; Joseph Scott to a new 3-year term expiring June 30, 2025; Clifton Potter to a new 3-year term expiring June 30, 2025; Marjorie Freeman to a new 3-year term expiring June 30, 2025; Cynthia Fein to a new 3-year term expiring June 30, 2025.

Region 2000 Services Authority: Acting Deputy City Manager Kent White

Youth Services Citizens Board: no appointments were made during this time.

Lynchburg Regional Airport Commission: City Manager Wynter C. Benda for an indefinite term; Dan Deter for a new 3-year term expiring December 31, 2024.

Planning Commission: no appointments were made at this time.

Social Services Advisory Board: Katheryne Goodman to an unexpired term expiring September 30, 2025.

Greater Lynchburg Transit Company Board of Directors: Acting Deputy City Manager Kent White

Lynchburg Emergency Planning Committee: Councilmember Chris Faraldi for a new 6-year term ending June 28, 2028.

June 28, 2022

Ayes: Dolan, Helgeson, Nelson, Tweedy, Wilder, Faraldi	6
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Noes:	0
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Absent: Wright	1
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// The meeting adjourned at 9:03 p.m.

Clerk of Council