// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of December, 2009, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Absent: 0

// Mr. Chris Banta with Brown, Edwards & Company, the City's external auditor, presented a brief overview regarding the City's Comprehensive Annual Financial Report (CAFR) for fiscal year ending June 30, 2009. Mr. Banta concluded his presentation by stating that the few audit findings have been addressed by management. City Manager Kimball Payne explained that the Schools have returned $291,000 to the Fund Balance in response to last year's audit finding regarding over expenditure of funds and that staff will be coming back to Council early next year with a recommendation regarding use of these funds. In response to Council questioning, Mr. Banta noted that they have seen some significant improvements in the Schools internal controls.

// City Manager Kimball Payne stated that staff is now in the process of preparing the FY 2011 Budget and is seeking guidance from City Council regarding issues, concerns, or initiatives that are related to the preparation of the FY 2011 Budget. Mr. Payne explained that in anticipation of significant budget cuts from the State and with the uncertain economy, City departments have been asked to prepare a budget request that is less than their FY 2010 adopted budget. Mr. Payne then provided a brief summary regarding the Citizen and Employee Budget Engagement Sessions and the potential impacts of the 90% Budget Scenarios developed by City Departments. Parks and Recreation Department Director Kay Frazier provided an overview regarding immediate changes in the structure and delivery of services in the Parks & Recreation Department. Mr. Payne explained that he would like City Council to start budget deliberations in January in order to give staff guidance regarding the preparation of the Proposed FY 2011 Budget, and that staff needs to better understand Council's position regarding the following questions considered important to the preparation of the proposed budget:

1. What are Council's priorities with regard to services provided to citizens?
2. As cuts are considered, is anything untouchable?
3. What services, programs, or activities can be stopped?
4. Are there any new initiatives that Council would like to consider?
5. What are Council's thoughts on actions to increase revenues (taxes, fees, policy changes)?
6. What are Council's Capital Improvement Program priorities?

Following discussion, City Council agreed that instead of scheduling several budget work sessions in January that it would be better to schedule a one day budget retreat and selected the date of Saturday, February 6, 2010, from 9:00 a.m. to 5:00 p.m.

// Deputy City Manager Bonnie Svrcek stated that City Council at its last meeting requested some additional information regarding the reallocation of $17,507 from the General Fund Juvenile Detention

Center per diem to the Shelter Plus Care grant to provide interim financial assistance and services to ten households. Ms. Svrcek explained that information from the Lynchburg Neighborhood Development Foundation (LNDF) has been forwarded to Council and that LNDF has been able to raise an additional $3,591 to help fill the $17,507 gap in funding for the grant. Ms. Svrcek also noted that LNDF has approached both landlords of the households served as well as area churches to raise funds to reduce the amount of funding needed from the City to support rent payments through March 2010 and that LNDF is confident that at least one-half of the total funds needed through March, or $8,754, can be raised, thus reducing the request for reallocation from the City. LNDF Program Manager Denise Crews responded to Council questions regarding the history of the Shelter Plus Care grant and the four month funding gap, explaining that there are currently ten households receiving this assistance. Council Member Helgeson argued that the additional funds should be treated as a benevolent, discretionary contribution to a charitable organization. In response to Council questioning, City Attorney Walter Erwin stated that since there is a contract between the parties, the funding would not be a charitable contribution that would require five affirmative votes. Council Members Helgeson and Perrow were totally opposed to the use of local tax dollars to supplant federal grant funds and encouraged LNDF to continue to raise the needed funds from private sources. Council Member Garrett stated that he still had some questions that needed to be answered before he could support this request. Several Council Members commented that they would support this request due to the contractual agreement between the City, LNDF and Miriam's House, and that all share the blame for the deficit. Council Member Gillette stated that the only way that he would support the request would be if the amount is deducted from next year's $25,000 contribution to LNDF. Vice Mayor Dodson made a motion, seconded by Council Member Johnson, to approve the reallocation of $13,916 from the Juvenile Detention Home per diem to the Shelter Plus Care grant to provide interim financial assistance and services to ten households. Council Member Helgeson made a substitute motion, seconded by Council Member Perrow, to treat the $13,916 funding as a benevolent, discretionary contribution to a charitable organization, which would require five votes for approval. Following a lengthy discussion, a majority of Council Members agreed to end the debate and called for the question. The vote was called on the substitute motion and Council by the following recorded vote defeated the substitute motion:

Ayes: Garrett, Helgeson, Perrow	3
Noes: Dodson, Gillette, Johnson, Foster	4

Prior to voting on the original motion, Council Member Gillette stated that it should be the responsibility of LNDF to raise these funds and offered a friendly amendment to the original motion to approve the allocation of $13,916 on the condition that LNDF would only be eligible for a maximum of $10,000 as a contribution in next year's budget. Vice Mayor Dodson accepted the friendly amendment, and Council by the following recorded vote adopted Resolution #R-09-142, as amended, to approve the reallocation of $13,916 from the General Fund Juvenile Detention Center per diem to the Shelter Plus Care grant to provide interim financial assistance and services to ten households on the condition that LNDF would only be eligible for a maximum of $10,000 as a contribution in next year's budget:

Ayes: Dodson, Gillette, Johnson, Foster	4
Noes: Garrett, Helgeson, Perrow	3

// Due to time constraints, City Council agreed to postpone Agenda Item #4 and roll call to later in the evening following Agenda Item #20.

// City Council recessed the meeting at 7:42 p.m.

// City Council reconvened the meeting at 7:48 p.m. Council Member Perrow gave the Invocation, followed by the Pledge of Allegiance.

// Mayor Foster recognized Natasha Chowdry, a member of the Mayor's Youth Council.

// Mayor Foster and Council Member Helgeson presented a Certificates of Recognition to Liberty University and Lynchburg College Cross Country athletes Sam Chelanga and Ricky Flynn.

// Copies of the minutes of the November 24, 2009 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

// In the matter of Commonwealth Attorney, Resolution #R-09-137 amending the FY 2010 General Fund Budget and appropriating $66,755 from the General Fund Reserve for Contingencies to partially restore funding cut by the State for the Commonwealth Attorney's Office, laid over from the November 24, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

// In the matter of Property, Resolution #R-09-138 authorizing the sale of approximately 0.08 acre of surplus property on Breezewood Drive to Mr. Alvin Mayberry, laid over from the November 24, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

// In the matter of Central VA Mental Health, City Council received the list of candidates interested in serving on the Central Virginia Community Services Board.

// In the matter of Commonwealth Attorney, City Council Report #10 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-143, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $17,716, fully reimbursable, to fully fund the Victim Witness Program:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

// In the matter of Courts - General, City Council Report #11 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-144, as presented, amending the FY 2010 General Fund budget and appropriating $22,058, fully reimbursable, to support information technology needs in the Office of the Circuit Court Clerk:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Taxes, City Council Report #12 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-145, as presented, amending the FY2010 General Fund budget and appropriating $10,571 to refund an overpayment of erroneously paid machinery and tools tax by Parker Hannifin Corp for the calendar years 2006, 2007 and 2008:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Taxes, City Council Report #13 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-146, as presented, amending the FY2010 General Fund budget and appropriating $32,621 to refund an overpayment of erroneously paid machinery and tools tax by Rock-Tenn Converting Company for the calendar years 2006, 2007 and 2008:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Taxes, City Council Report #14 was considered. On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-147, as presented, amending the FY2010 General Fund budget and appropriating $39,710 to refund an overpayment of erroneously paid business license taxes by Watts Petroleum Corp for the calendar years 2006 and 2007:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Taxes, City Council Report #15 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-148, as presented, amending the FY2010 General Fund budget and appropriating $91,856 to refund an overpayment of erroneously paid business license taxes by Westminster Canterbury of Lynchburg, Inc. for the calendar years 2006, 2007, 2008 and 2009:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Economic Development - General, a public hearing was held regarding a proposal to amend the boundaries of Enterprise Zone #2 to encompass the area as delineated and as described on a map entitled “City of Lynchburg, Virginia, Enterprise Zone #2 Amendments”. City Manager Kimball Payne stated that for sometime there has been an interest in amending the boundaries of Enterprise Zone #2 to take in more of Odd Fellows Road and Mayflower Drive area, and in particular, many of the large manufacturing businesses in the area. Mr. Payne explained that because of the limit on the size of the enterprise zone, taking in new areas requires that the zone designation be lifted from other areas where it is of little utility and that the areas proposed for deletion from the zone are primarily residential where zone designation provides no benefit. Mr. Payne went on to say that although the benefits of enterprise zone designation have changed over the years, two primary benefits remain -- job creation and capital improvement grants. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to questioning, Economic Development Director Marjette Upshur stated that the changes to the boundaries are contingent upon approval by the Commonwealth of Virginia, Department of Housing and Community Development. On motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-09-149, as presented, amending the boundaries of Enterprise Zone #2 to encompass the area as delineated and as described on a map entitled “City of Lynchburg, Virginia, Enterprise Zone #2 Amendments”:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of City Council, Mr. Nels Erickson, Chairman, Citizens for a Clean Lynchburg (CCL), presented an overview regarding CCL activities during the past year and their plans for next year.

// Mayor Foster announced that Agenda Item #18 has been removed from the agenda.

// In the matter of Parks & Recreation - General, City Council Report #19 regarding naming the new addition at the Yoder Center the “Aubrey Barbour Education Center” and naming the existing park the “Aubrey Barbour Park” was considered. Parks and Recreation Director Kay Frazier provided a brief summary regarding the request. Jane White with the Friends of Tinbridge Hill spoke in support of the request. Council Member Helgeson stated that even though he can support this request, he would like for City Council to revisit the policy for the naming of City-owned properties, facilities, streets and structures at a future work session. On motion of Council Member Johnson, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-09-150, as presented, naming the new addition at the Yoder Center the “Aubrey Barbour Education Center” and naming the existing park the “Aubrey Barbour Park”:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Property, City Council Report #20 regarding a request to approve an option with Landmark Assets Services, Inc., to purchase the former Armstrong School property on Monsview Place was considered. City Manager Kimball Payne stated that Landmark Assets has again offered to purchase the former Armstrong School and adjoining property for $500,000 with the intent to develop 60 affordable housing units under the Low Income Housing Tax Credit program through the Virginia Housing and Development Authority. Mr. Payne explained that they have agreed that the City would retain ownership of the athletic fields and would have continued access to the school gym. Mr. Payne went on to say that Landmark has applied for a rezoning of the property to enhance its score for the tax credits and that the

Planning Commission will hear the rezoning request on January 13, 2010, and Council is scheduled to hear the request on February 9, and that a public meeting to explain and discuss the development proposal is being planned for later this month. Mr. Payne stated that Council will still have the ability to decline to sell the property after the required public hearing and that Council is under no obligation to approve the rezoning request. Several Council Members commented that this would be an excellent reuse of a structure that is currently not being used. Council Member Helgeson stated that he still had some concerns regarding the project. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote authorized the City Manager to engage in negotiations with Landmark Assets Services, Inc. for an option to purchase the former Armstrong School property on Monsview Place:

Ayes: Dodson, Garrett, Gillette, Johnson, Perrow, Foster 6

Noes: Helgeson 1

// Mayor Foster stated that she requested that the discussion regarding filling the impending vacancy on Council be placed on today's agenda for further discussion. Mayor Foster made a motion that City Council call a special meeting on January 13, 2010, at 5:30 p.m., to discuss candidates for the vacancy and that all proceedings be done in open session. The motion was seconded by Council Member Gillette. Mayor Joan Foster stated that she has reversed her earlier position for a closed-door approach to decide who will fill the upcoming vacancy on Council. Mayor Foster explained that her earlier decision for a closed-door approach was to protect people's privacy and that maybe more people would step up, but that she has since realized that once you step into public office, your life is an open book and you face public scrutiny so why not conduct the proceedings in the open. Mayor Foster also stated that she did approach other Council members individually and asked them to also consider changing their votes as well. Councilman Michael Gillette stated that the open versus closed debate had become a distraction and, after further consideration, has decided a closed-session deliberation was unnecessary. Council Member Gillette also commented that the arguments in favor of a closed session were not sufficient to overrule the arguments in favor of openness. The vote was called on the motion, and Council by the following recorded vote agreed to call a special meeting on January 13, 2010, at 5:30 p.m., to discuss candidates for the vacancy and that all proceedings be done in open session:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

Council Members began to assemble a formal slate of candidates, i.e., former Council Member Joe Seiffert (submitted by Council Member Helgeson), Nat Marshall (submitted by Vice Mayor Dodson), John Randolph Nelson (submitted by Council Member Gillette) and Jim Weigand (submitted by Council Member Johnson). Council also agreed to leave the nomination process open until December 15 to allow Council Members the opportunity to continue to add names and agreed that candidates may only be nominated by a current Council Member. Council also agreed that candidates would be invited to submit resumes or related biographical information with the understanding those documents would be publicly released and that choosing not to submit any information will not disqualify a candidate. Council also agreed that the candidates will be invited to attend the January 13 meeting, but that no set format will be imposed during the discussion at that session. Council also agreed that the appointment itself be made at a later date to allow Council Members time to consider their choices and agreed to schedule a special meeting on Friday, January 15, at 7:30 a.m., to make the appointment.

// During roll call, Council Member Helgeson expressed concern regarding the growing number of coyotes in the City and asked that the hunting “permitting” policy be revisited at a future work session to determine if changes are needed to allow bow hunters the ability to address the problem. Council Member Gillette stated that he would like an update regarding the deer population and the number of traffic accidents in the City that are caused by the deer. Council Member Johnson stated that he would like an update regarding the recent incident regarding the one hundred and one year old citizen that was denied fuel assistance. In response to Council Member Garrett’s inquiry, City Manager Kimball Payne stated that the project for replacing or filling in the “eyesore” bridges next to the Kemper Street Station is moving forward with right of way acquisition with bids being received next summer. Vice Mayor Dodson mentioned that the Christmas Parade message needed to be removed from the sign at the Main Street entrance at the Carter Glass Bridge. In response to questioning, City Manager Payne stated that Campbell County would have been the first responder at a recent incident at the Airport involving an individual having a heart attack.

// Mayor Foster presented a special recognition to Clerk of Council Patricia W. Kost who will be retiring at the end of the year after 33 years of service with the City of Lynchburg.

// Mayor Foster stated that Deputy Clerk of Council Valeria P. Chambers has agreed to serve as Interim Clerk of Council, and on motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote appointed Valeria P. Chambers as Interim Clerk of Council effective January 1, 2010:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster	7
Noes:	0

// On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., Planning Commission, Community Services Board, Historic Preservation Commission, Airport Commission, Towing Advisory Board, Region 2000 Greenways Alliance, and Design Review Board, and for consultation with legal counsel and briefings by staff members about a specific legal matter, the housing discrimination complaint filed with HUD by Ronald Overstreet, pursuant to Section 2.2-3711(A) (1) and (7), respectively, of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster	7
Noes:	0

// The meeting was re-opened to the public.

// Vice Mayor Dodson 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 Council Member Gillette, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

// In the matter of Appointments, and on nomination of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote re-appointed Laura Lacy Hamilton to serve on the Planning Commission for a term to expire December 31, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

On nomination of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote re-appointed Clyde T. Clark, Sr. to serve on the Community Services Board for a term to expire December 31, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

On nomination of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote re-appointed Janice S. Crawford and David L. Young to serve on the Lynchburg Regional Airport Commission for terms to expire December 31, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

On nomination of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote re-appointed Kevin D. Jones, William Aldrich, Jim R. Martin and Jane M. Rigney-Trent to serve on the Towing Advisory Board for terms to expire December 31, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

On nomination of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote re-appointed Laurel Foot to serve on the Region 2000 Greenways Alliance for a term to expire December 31, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

On nomination of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote re-appointed Peter F. Barker to serve on the Design Review Board for a term to expire December 31, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// The meeting was adjourned at 10:38 P.M.

Clerk of Council