

// A regular meeting of the Council of the City of Lynchburg was held on the 13th day of November, 2012, at 4:00 P.M. in the Council Chamber, City Hall, Michael Gillette, President, presiding. The following Members were present:

Present: Cary, Foster, Helgeson, Nelson, Perrow, Gillette

6

Absent: Johnson

1

// City Manager Kimball Payne gave a brief summary regarding the proposal for a Visitors' Center at the New Office Building of the Lynchburg Regional Chamber of Commerce stating that the Chamber has acquired the building at 312 Border Street and intends to renovate the building as a replacement for its offices on Memorial Avenue. Representatives from the Chamber and the tourism program provided information regarding the concept of how the space would be laid out and asked for Council support. After Council discussion, Council gave its unanimous support to continue to explore the provisions of a new tourism program contract with the Lynchburg Regional Chamber of Commerce that would include a new visitors' center at its new office building.

// City Manager Kimball Payne gave a summary of the proposed 2013 Legislative Agenda outlined the position statement changes, deletions and newly-created positions. During Council discussion Council added the following language under Eminent Domain, "We support legislative efforts to clarify the implications of the amendment and to preserve local authority's ability to exercise domain for legitimate public purposes." Council asked City Manager Payne to check to see if the Mental Health/Mental Retardation Services statement was still valid or if it could be deleted.

// Water Resources Director Tim Mitchell briefed Council on staff's work to update the CSO Long Range Control Plan. During Mr. Mitchell's presentation he stated that (i) \$233M has been spent to date, (ii) 26 miles of interceptors have been replaced, (iii) 36 of 59 priority projects have been completed, designed, or under construction, and (iv) about 189 acres of rooftop area has been disconnected (about 70%).

// During Roll Call Council Member Cary requested that staff report back at a later date and give some idea of how the new 460 interchange may affect the ability to develop the Tyreeanna area. Mr. Cary also asked when the road work on lower Rivermont Avenue would be completed.

Council Member Foster gave an update on the "Live Healthy Lynchburg" initiative. Secondly, Council Member Foster stated that there is now a children's book called "Lynchburg Legs" about the "Live Healthy Lynchburg" initiative and all the elementary children in our area will receive a free copy of this book for National Education Week.

Council Member Helgeson mentioned that over the years we have heard about the bow hunters who are allowed to hunt deer because they are a nuisance in the City. Mr. Helgeson asked that with the deer there are also a number of other nuisance species and asked if the city could expand its list and add other species and to report back to Council on the options.

// City Council recessed the meeting at 6:14 p.m.

// City Council reconvened the meeting at 7:30 p.m.

The following Members were present:

Present: Cary, Foster, Helgeson, Nelson, Perrow, Gillette 6

Absent: Johnson 1

Council Member Foster gave the Invocation, followed by the Pledge of Allegiance.

// Mayor Gillette congratulated Library Director Lynn Dodge for her being awarded the Elizabeth ("Libby") M. Lewis Award presented by the Virginia Public Library Directors Association.

// Copies of the minutes of the October 19, 2012 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Cary, seconded by Council Member Perrow, Council by the following recorded vote approved the minutes as presented:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette 6

Noes: 0

Absent: Johnson 1

// Copies of the minutes of the October 23, 2012 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Cary, seconded by Council Member Perrow, Council by the following recorded vote approved the minutes as presented:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette 6

Noes: 0

Absent: Johnson 1

// Copies of the minutes of the October 30, 2012 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Cary, seconded by Council Member Perrow, Council by the following recorded vote approved the minutes as presented:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette 6

Noes: 0

Absent: Johnson 1

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #8 outlining the petition of American Legion Post #16 for a conditional use permit at 1301 Greenview Drive to allow a modified sign which would include a "digital reader board" in an R-1, Low Density, Single-Family Residential District. City Planner Tom Martin gave a brief summary of the request stating that the Planning Commission recommended approval. Mr. Trent Warner of Warner Engineering outlined the request for Council and asked Council for its approval. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Helgeson, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-12-127, as presented, granting the Conditional Use Permit:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette 6

Noes: 0

Absent: Johnson 1

// In the matter of Community Planning – General, a public hearing was held regarding City Council Report #9 regarding the petition of the City of Lynchburg to rename Bobbitt Place to Brenleigh Court. City Planner Tom Martin gave a brief summary of the request. The Physical Development Committee (PDC) was unable to review the application because a quorum was not present. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-12-128 renaming Bobbitt Place to Brenleigh Court, as presented:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette	6
Noes:	0
Absent: Johnson	1

// In the matter of Public Works – General, a public hearing was held regarding City Council Report #10 regarding a request to grant a License Agreement to Spring Hill Cemetery to place a private electrical line and water line in City owned right-of-way on Rives Street. This item was pulled from the Agenda.

// In the matter of Community Planning – General, a public hearing was held regarding City Council Report #11 regarding a request of the Lynchburg Office of Economic Development to vacate any public interest in excess right of way in two parcels of land located between Lakeside Drive and Whitehall Road, at 3901 Old Forest Road. City Attorney Walter Erwin gave a brief summary of the request. The Physical Development Committee (PDC) was unable to review the application because a quorum was not present. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Nelson, seconded by Council Member Perrow, Council by the following recorded vote adopted Ordinance #O-12-129, as presented, vacating any public interest in excess right of way in two parcels of land located between Lakeside Drive and Whitehall Road, at 3901 Old Forest Road:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette	6
Noes:	0
Absent: Johnson	1

// In the matter of City Attorney, City Council Report #12 was considered. On motion of Council Member Foster, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-12-130, as presented, to join the Virginia Association of Counties Group Self Insurance Risk Pool:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette	6
Noes:	0
Absent: Johnson	1

// In the matter of City Attorney, City Council Report #13 was considered. On motion of Council Member Cary, seconded by Council Member Foster, Council by the following recorded vote adopted Resolution #R-12-131, as presented, approving the City's participation in the July 1, 2009 Law Enforcement Mutual Aid Agreement:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette	6
Noes:	0
Absent: Johnson	1

// In the matter of Library – General, City Council Report #14 was considered. Deputy City Manager Bonnie Svrcek gave a brief presentation. Mr. John Moorman of Dominion Library Associates, LLC prepared a “Public Libraries Opportunities Analysis” and presented an overview of the results of the analysis as well as his recommendation to further explore the more detailed possibilities regarding the creation of a regional library system. On motion of Council Member Foster, seconded by Council Member Perrow, Council by the following recorded vote approved the further exploration of creating a Regional Library System:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette	6
Noes:	0
Absent: Johnson	1

// On motion of Council Member Cary, seconded by Council Member Perrow, Council by the following recorded vote elected to hold a closed meeting for discussion and consideration of the disposition of a City owned lot located at the intersection of Lakeside Drive and Whitehall Road because discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City, pursuant to Section 2.2-3711(A).(3) of the Code of Virginia, 1950, as amended:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette	6
Noes:	0
Absent: Johnson	1

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

// Council Member Cary 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 Perrow, and Council by the following recorded vote adopted the motion:

Ayes: Cary, Foster, Helgeson, Nelson, Perrow, Gillette	6
Noes:	0
Absent: Johnson	1

// The meeting was adjourned at 8:53 P.M.

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **November 27, 2012**

AGENDA ITEM NO.: **2**

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **Update on the Addition of a Story Room on to the Main Library**

RECOMMENDATION: No action required.

SUMMARY: Since this matter was originally brought to Council in September of 2011, work has taken place to design the proposed structure and to work out the conveyance of property from Liberty University. The original Council Report is attached for background information.

Emmet Lifsey of CJMW Architects will provide an overview of the design of the Story Room.

Construction documents are being finalized. The project will go to bid in December, with completion expected by August 2013.

PRIOR ACTION(S): September 13, 2011, \$10,000 appropriated to support this effort; September 27, 2011, budget amendment to accept the donation of funds for the reading room.

FISCAL IMPACT: With the capital costs covered by donations, the only impact will be some minimal increase in operating costs related to the new space.

CONTACT(S): Lynn Dodge, 455-6301

ATTACHMENT(S): September 27, 2011 Council Report

REVIEWED BY: lkp

157L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 27, 2011**

AGENDA ITEM NO.:

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Donation from St. John's Episcopal Church to Build a Story Time Room at the Public Library**

RECOMMENDATION:

Adopt a resolution to amend the FY 2012 City Capital Projects Fund budget and appropriate \$150,000 with resources from a donation from St. John's Episcopal Church to build a dedicated story time room at the Lynchburg Public Library.

SUMMARY:

In honor of its 100th anniversary the members of St. John's Episcopal Church decided to make a major gift to the community. After reviewing over fifty possible projects, the Church decided on a project to benefit the City's youngest residents, the children, citing the ability to read as the cornerstone of good citizenship and success in life. Library staff provides over 200 age-specific story times to hundreds of children from across the City each year; a dedicated room will enhance this experience.

The \$150,000 donation will provide for the design and construction of a dedicated story time room at the Lynchburg Public Library. A goal of \$50,000 has been set to decorate and furnish the approximately 650 square foot room. As part of the FY 2011 Carry Forward request presented to City Council on September 13, 2011, \$10,000 is earmarked as the City's contribution towards this private-public partnership. The Friends of the Lynchburg Public Library, which has long served as an advocate for the Library, has committed to raise the remaining \$40,000. LU Plaza Holdings, LLC, owner of the library parking lot, is providing additional community support by committing to donate the land necessary to build and landscape this space.

PRIOR ACTION(S):

September 27, 2011 Finance Committee

September 13, 2011 City Council Meeting, FY 2011 Carry Forward

FISCAL IMPACT:

\$10,000 appropriated at FY 2011 Carry Forward

CONTACT(S):

Lynn Dodge, Director of Libraries and Museums, 455-6330

ATTACHMENT(S):

Resolution

REVIEWED BY: bms

RESOLUTION:

BE IT RESOLVED that the FY 2012 City Capital Projects Fund budget is amended and \$150,000 is appropriated with resources from a donation from St. John's Episcopal Church to build a dedicated story time room at the Lynchburg Public Library.

Introduced:

Adopted:

Certified:

Clerk of Council

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **November 27, 2012**

AGENDA ITEM NO.: **3**

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: License Agreement for installation of Fiber Optic Cable from 3436 Odd Fellows Road to 3125 Albert Lankford Road

RECOMMENDATION: After a public hearing, adopt the attached resolution granting Liberty University, Inc. a License Agreement to place fiber optic cable in city owned right-of-way across Odd Fellows Road as seen on the attached route map.

SUMMARY: Liberty University, Inc., has submitted a request for installation of approximately 120 feet of fiber optic cable in City Right of Way from 3436 Odd Fellows Road (LU Annex) to 3125 Albert Lankford Road (Quality Inn). This bore will allow Liberty University, Inc. to bring Liberty University fiber optic lines from the LU Annex to the former Quality Inn Hotel.

PRIOR ACTION(S): PDC Meeting November 13, 2012

FISCAL IMPACT: None

CONTACT(S):

Lee Newland – City Engineer – 455-3947

Steve Lawson – Real Estate Manager – 455-3945

David Owen – Public Works Director - 455-4469

ATTACHMENT(S):

Resolution

Aerial Site Map

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED that the City Manager is hereby authorized to execute a License Agreement with Liberty University, Inc. allowing for placement of a fiber optic communication line in the right of way of Odd Fellows Road as shown on the attached site map.

Adopted:

Certified:

Clerk of Council

152L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **November 27, 2012**

AGENDA ITEM NO.: **4**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Hearing for Boundary Amendments to Enterprise Zones #2 and #46**

RECOMMENDATION: Conduct a Public Hearing regarding amendments to Virginia Enterprise Zones #2 and #46 to encompass the area as delineated and as described on maps entitled "Enterprise Zone Amendment, Zone # 2" and "Enterprise Zone Amendment, Zone #46," contingent upon approval by the Commonwealth of Virginia, Department of Housing and Community Development.

SUMMARY: Lynchburg has two enterprise zones identified by the state as # 2 and #46. Both zones were established by the state and provide incentives for businesses to locate, or to expand, thus stimulating economic development within the designated areas. Although the benefits of enterprise zone designation have changed over the years, two primary benefits remain for businesses: job creation and real estate improvement grants.

The boundaries are eligible for amendment upon approval of City Council and the Virginia Department of Housing and Community Development. Under the state's regulations the zone size is limited to 7% of the locality's total land area and as much as 15% of an existing zone may be deleted (with an equal area then added) in a given year. 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. The areas proposed for deletion from the zone are primarily ineligible public property such as right-of-way, or residential where zone designation provides no benefit. In order to accomplish this amendment, City Council is required to conduct a public hearing regarding the proposed amendments. Property owners in the areas to be deleted by the proposed amendment have been notified individually by letter.

Enterprise zone designation has no impact on land use regulation.

PRIOR ACTION(S): Amended Zone #2 and #46 boundaries in FY2011

FISCAL IMPACT: May positively impact tax receipts as business growth and expansion is incentivized in newly designated areas.

CONTACT(S): Marjette Upshur, 434-455-4490

ATTACHMENT(S): Map showing existing zone #2, proposed deletion, and proposed expansion; map showing existing zone #46, proposed deletion, and proposed expansion; proposed resolution.

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED THAT the Lynchburg City Council hereby endorses the removal of Areas "2-A through 2-G" from the City of Lynchburg, Virginia Enterprise Zone #2 and the addition of Areas "2-H through 2-J" to the City of Lynchburg, Virginia Enterprise Zone #2 as shown on the map entitled "Enterprise Zone Amendment, Zone #2."

BE IT FURTHER RESOLVED THAT the Lynchburg City Council endorses the removal of Area "46-A" from the City of Lynchburg, Virginia Enterprise Zone #46 and the addition of Areas "46-B through 46-D" to the City of Lynchburg, Virginia Enterprise Zone #46 as shown on the map entitled "Enterprise Zone Amendment, Zone #46."

Adopted:

Certified:

Clerk of Council

151L

ENTERPRISE ZONE AMENDMENT

ZONE #2

PROPOSED SUBTRACTIONS

93.27 Acres

PROPOSED ADDITIONS

83.25 Acres

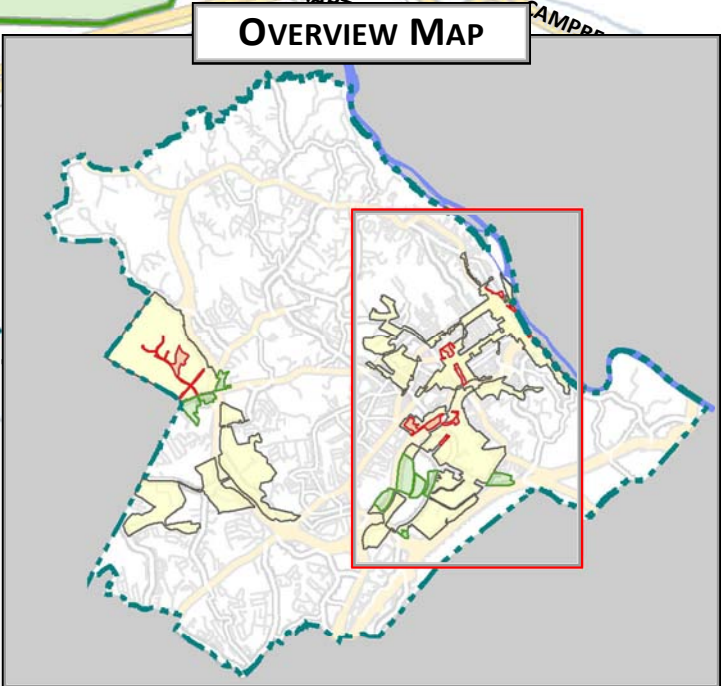
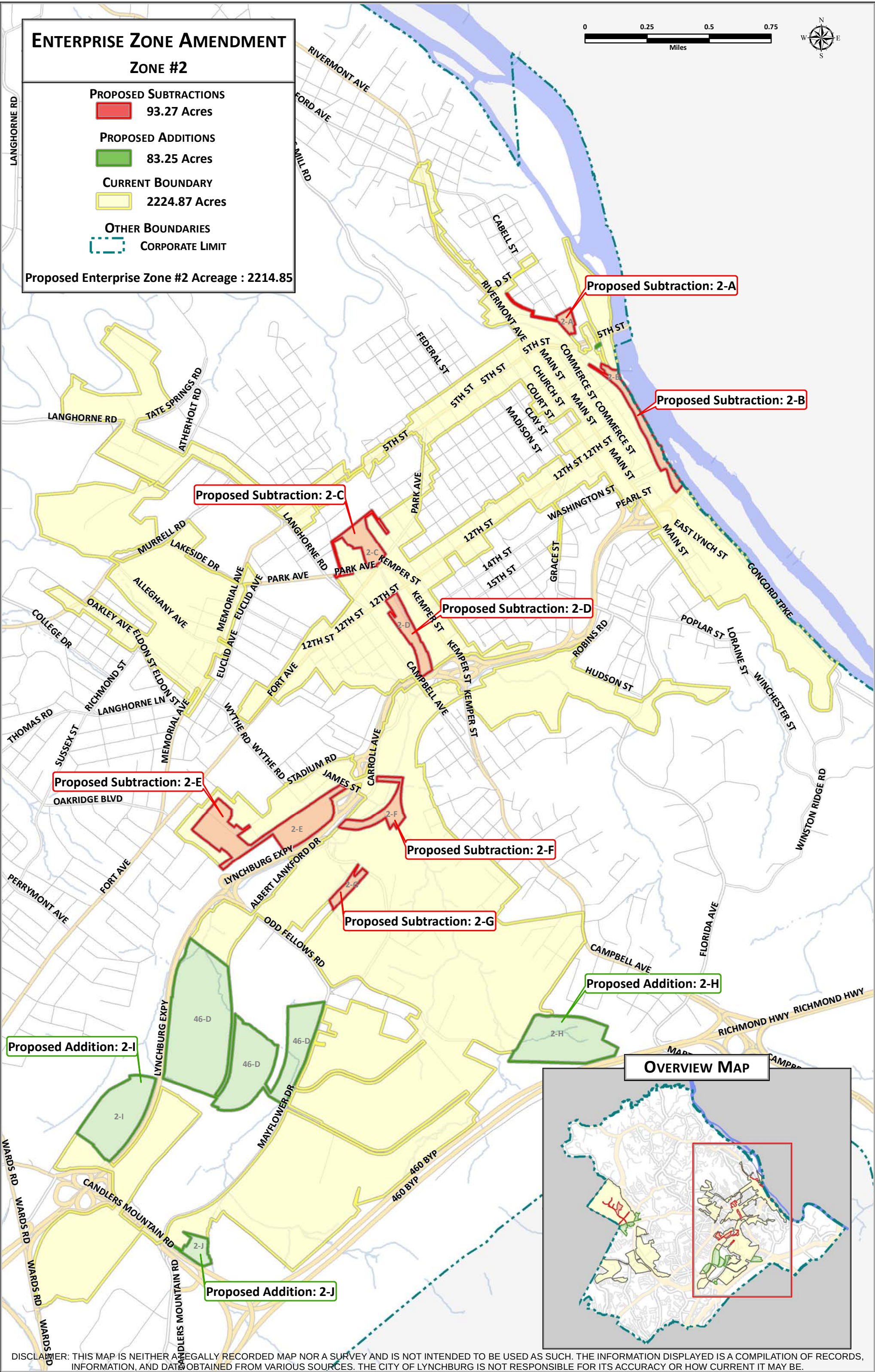
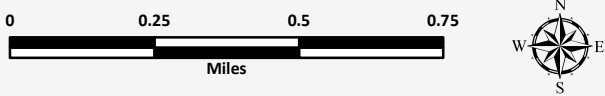
CURRENT BOUNDARY

2224.87 Acres

OTHER BOUNDARIES

CORPORATE LIMIT

Proposed Enterprise Zone #2 Acreage : 2214.85

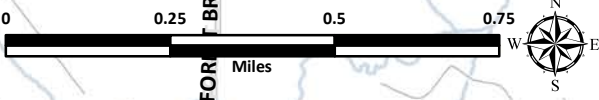


DISCLAIMER: THIS MAP IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS SUCH. THE INFORMATION DISPLAYED IS A COMPILATION OF RECORDS, INFORMATION, AND DATA OBTAINED FROM VARIOUS SOURCES. THE CITY OF LYNCHBURG IS NOT RESPONSIBLE FOR ITS ACCURACY OR HOW CURRENT IT MAY BE.

ENTERPRISE ZONE AMENDMENT
ZONE #46

- PROPOSED SUBTRACTIONS
53.8 Acres
- PROPOSED ADDITIONS
226.92 Acres
- CURRENT BOUNDARY
1998.14 Acres
- OTHER BOUNDARIES
CORPORATE LIMIT

Proposed Enterprise Zone #2 Acreage : 2171.2



Proposed Subtraction: 46-A

Proposed Addition: 46-B

Proposed Addition: 46-C

Zone 46 - Ancillary

Proposed Addition: 46-D

OVERVIEW MAP

DISCLAIMER: THIS MAP IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS SUCH. THE INFORMATION DISPLAYED IS A COMPILATION OF RECORDS, INFORMATION, AND DATA OBTAINED FROM VARIOUS SOURCES. THE CITY OF LYNCHBURG IS NOT RESPONSIBLE FOR ITS ACCURACY OR HOW CURRENT IT MAY BE.

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **November 27, 2012**

AGENDA ITEM NO.: **5**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **FY 2014 VDOT Revenue Sharing Program; Adoption of a Resolution of Participation**

RECOMMENDATION: Approve the attached resolution to participate in the FY 2014 VDOT Revenue Sharing Program.

SUMMARY: Staff is proposing to participate in the FY2014 Revenue Sharing Program to help with the funding of the several projects. The projects that are being submitted and their estimated costs are listed below in priority order.

Estimated project costs are as follows:

Timberlake @ Logan's (Add'l.Funding)	\$	1,000,000	Total Project	\$	3,764,800
Greenview Drive – R/W		1,700,000	Total Project	\$	13,260,000
Main Street Bridge Repairs		1,700,000			
Lakeside Drive @ Breckenbridge St.		<u>1,600,000</u>			
Total	\$	6,000,000			

PRIOR ACTION(S): PDC Meeting November 13, 2012

FISCAL IMPACT: Funds for the \$3 million match have to be budgeted and are a mix of interest income from UCI funds, proceeds from property sale at Whitehall Road, FY14 Bridge Repairs and private contributions. It is anticipated that Lynchburg College will provide the match for the improvements at the intersection of Lakeside Drive, Old Forest Road, and Breckenbridge St.

CONTACT(S):

Lee Newland, City Engineer	455-3947
Dave Owen, Director of Public Works	455-4469

ATTACHMENT(S):

Resolution
Designation of Funds Form

REVIEWED BY: lkp

RESOLUTION:

WHEREAS, the Lynchburg City Council desires to submit an application for an allocation of funds of up to six million dollars (\$6,000,000) through the Virginia Department of Transportation Fiscal Year 2013-2014, Revenue Sharing Program; and,

WHEREAS, six million dollars (\$6,000,000) of these funds are requested to fund various projects throughout the City of Lynchburg; and,

NOW, THEREFORE, BE IT RESOLVED THAT: The Lynchburg City Council hereby supports this application for an allocation of six million dollars (\$6,000,000) through the Virginia Department of Transportation Revenue Sharing Program.

BE IT FURTHER RESOLVED THAT: L. Kimball Payne, III, City Manager, is authorized to execute the City State Agreements and to execute any other documents for agreements that may be needed for this project.

Adopted:

Certified:

Clerk of Council

153L

**SUMMARY OF PROJECTS - Designation of Funds Form
FY 2014 Revenue Sharing Program**

\$10 million maximum allocation per locality and
no more than \$5 million of that amount may be allocated to maintenance projects

CONSTRUCTION FUNDS BEING REQUESTED:

Locality's Priority	Route #	Road Name	Requested State Match up to \$1M for Construction	Requested State Match Over \$1M for Construction	TOTAL CONSTRUCTION FUNDS REQUESTED FOR PROJECT
1	460	Timberlake Road	\$500,000	\$0	\$500,000
2	739	Greenview Drive	\$500,000	\$350,000	\$850,000
4	221	Lakeside Drive		\$800,000	\$800,000
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
TOTAL CONSTRUCTION FUNDS REQUESTED:			\$1,000,000	\$1,150,000	\$2,150,000

MAINTENANCE FUNDS BEING REQUESTED:

(cannot exceed \$5 million and is part of total \$10M)

Locality's Priority	Route #	Road Name	Requested State Match up to \$1M for Maintenance	Requested State Match Over \$1M for Maintenance	TOTAL MAINTENANCE FUNDS REQUESTED FOR PROJECT
3	29	Main Street	\$850,000	\$0	\$850,000
			\$0	\$0	\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
TOTAL MAINTENANCE FUNDS REQUESTED:			\$850,000	\$0	\$850,000

GRAND TOTAL OF ALL FUNDS REQUESTED:	\$1,850,000	\$1,150,000	\$3,000,000
--	-------------	-------------	-------------

Locality Representative

10/19/2012

Date Submitted

VDOT Representative

Date Reviewed

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **November 27, 2012**

AGENDA ITEM NO.: **6**

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Adoption of an Ordinance re Courthouse Maintenance Fees**

RECOMMENDATION: Adopt the attached ordinance imposing a two courthouse maintenance fee on civil cases filed in the City's general district and circuit courts.

SUMMARY: Under state law local governments are responsible for the maintenance of the local courthouses and court-related facilities. In 1990 the General Assembly adopted legislation allowing local governments to assess a fee of up to two dollars on criminal and traffic cases filed in the general district and circuit courts. The revenues from the fees can only be used by the locality to help cover the costs of maintaining, repairing and renovating the local courthouses and court-related facilities. On June 12, 1990, Lynchburg adopted Section 2-363.1 of the City Code charging a two dollar courthouse maintenance fee on criminal and traffic cases. In 1992 the General Assembly adopted legislation that also allowed local governments to assess the two dollar courthouse maintenance fee on civil cases filed in the general district and circuit courts as well as criminal and traffic cases. However, Lynchburg never amended Section 2-363.1 of the City Code to provide for a courthouse maintenance fee on civil cases. During a recent audit of the Circuit Court Clerk's Office the auditors pointed out that the City was losing possible revenues that could be used for the maintenance, repair and renovation of the courthouses and court-related facilities by not charging the two dollar maintenance fee on civil cases as well as criminal and traffic cases. Expanding the courthouse maintenance fee to include civil cases will ensure that those citizens who use the courthouses contribute to its upkeep.

PRIOR ACTION(S): The courthouse maintenance fee was adopted for criminal and traffic cases on June 12, 1990.

FISCAL IMPACT: Based on the number of civil cases filed in 2011 assessing a courthouse maintenance fee on civil cases would raise approximately \$5,200 each year for the maintenance, repair and renovation of the courthouses and court-related facilities.

CONTACT(S): Walter C. Erwin, 455-3973

ATTACHMENT(S): An ordinance amending Section 2-363.1 of the City Code.

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 2-363.1 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTION RELATING TO COURTHOUSE MAINTENANCE FEES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Section 2-363.1 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 2-363.1. Courthouse maintenance fees.

Beginning on July 1, 1990, and continuing thereafter until changed by Council, there is hereby assessed pursuant to the provisions of Section ~~14.1-133.2~~ 17.1-281 of the Code of Virginia, 1950, as amended, the sum of two dollars (\$2.00) as part of the fees taxed as costs in each civil action and in each criminal or traffic case filed in the circuit court, family court and the general district court of the City of Lynchburg, Virginia, said fees to be used for the maintenance, repair, and renovation of the courthouse and court-related facilities and to defray increases in the cost of heating, cooling, electricity, and other ordinary maintenance costs. The fees provided for herein shall be in addition to any other fees prescribed by law.

Fees hereby levied shall be collected by the clerks of the respective courts in which the criminal and traffic cases are heard, and shall be remitted to the finance department ~~city collector~~ and be held by said finance department ~~collector~~ for the purposes set forth in this ordinance.

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council

156L

**LYNCHBURG CITY COUNCIL
Agenda Item Summary**

MEETING DATE: **November 27, 2012**

AGENDA ITEM NO.: **7**

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Amend and Repeal Various Sections of the City Code Dealing with Tree Maintenance**

RECOMMENDATION: Adopt an ordinance amending Sections 38-1 and 38-3 and of the City Code and repealing Section 38-12 of the City Code, all of which deal with tree maintenance within the City.

SUMMARY: Section 38-3(a) of the City Code requires any property owner having a tree that overhangs a public street to maintain a minimum clearance for overhanging branches of 16 feet. The state code provides that no loaded or unloaded vehicle being operated on the public streets shall exceed a height of 13 feet, 6 inches. Federal guidelines recommend that the proper clearance for overhanging branches over public streets is 14 feet. It does not seem appropriate for the City Code to require overhanging branches to have a minimum clearance of 16 feet when the state code provides that vehicles using the public streets cannot exceed a height of 13 feet, 6 inches and federal guidelines provide that the proper clearance for overhanging branches is 14 feet. It is recommended that Section 38-3 of the City Code be amended to provide that the minimum clearance for tree branches that overhang a public street is 14 feet instead of 16 feet.

The City's Urban Forester has suggested a few additional amendments to the City Code as follows:

- (a) The definition of "Buildings and grounds" in Section 38-1 be amended to reflect the fact that the master planning of the parks is the responsibility of the Parks & Recreation Department, not the Public Works Department.
- (b) From time to time the Urban Forester has to notify the owners of trees and shrubs that border the public streets and sidewalks that they need to prune their trees and shrubs so they will not obstruct streetlights, the passage of pedestrians on sidewalks, the vision of traffic signs or the view of a street intersection. Section 38-3(c) provides that the owners must prune their trees or shrubs within 3 days after receiving notice. The Urban Forester advises that it is rarely possible to get tree work done within 3 days. Except in emergency situations he usually gives a property owner 10 days to perform ground work like trimming shrubs and 30 days for tree work. In order to provide as much flexibility as possible for both owners and the City, the Urban Forester recommends that Section 38-3(c) be amended to provide that owners of trees or shrubs will be given a reasonable time to prune them. The "reasonable time" standard is the same standard building officials follow in giving property owners notice to correct building code violations.
- (c) Section 38-12 of the City Code provides that the Forest Advisory Committee of the Keep Lynchburg Beautiful Commission shall monitor citizens' compliance with the provisions of the City Code dealing with the maintenance of trees and advise the Urban Forester on tree compliance and maintenance issues. The Forest Advisory Committee and the Keep Lynchburg Beautiful Commission no longer exist so this section can be deleted from the City Code.

PRIOR ACTION(S): None

FISCAL IMPACT: None

CONTACT(S): Walter C. Erwin, City Attorney's Office, 455-3973

ATTACHMENT(S): An ordinance amending Sections 38-1 and 38-3 and repealing Section 38-12 of the City Code.

REVIEWED BY:

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 38-1. DEFINITIONS AND SECTION 38-3. OBSTRUCTION OF THE CODE OF THE CITY OF LYNCHBURG, 1981 AND TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY REPEALING SECTION 38-12. FOREST ADVISORY COMMITTEE. THE AMENDED AND REPEALED SECTIONS RELATING TO THE MAINTENANCE OF TREES WITHIN THE CITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Sections 38-1 and 38-3 of the Code of the City of Lynchburg, 1981, be and the same are hereby amended and reenacted as follows:

Sec. 38-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

Buildings and grounds: The division in the department of public works under whose jurisdiction ~~the master planning of parks and/or~~ street trees fall.

Park: All public parks, or public open spaces having individual names.

Principal thoroughfare: Any street upon which trucks are not prohibited.

Property line: The right-of-way line of a street or highway.

Property owner: The person owning such property as shown by the city assessor's maps.

Public places: All other grounds owned by the city.

Public trees: All shade and ornamental trees now or hereafter growing on any street, right-of-way or any public areas where otherwise indicated.

(a) Large trees: Those attaining a height of forty-five (45) feet or more.

(b) Medium trees: Those attaining a height of thirty (30) to forty-five (45) feet.

(c) Small trees: Those attaining a height of less than thirty (30) feet.

Street or highway: The entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

Treelawn: That part of a street or highway, not covered by a sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

Urban forester: The person within buildings and grounds or his designated representative, assigned to carry out specified duties of this chapter.

Sec. 38-3. Obstruction.

(a) Duty of occupant. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, shrubs, weeds and other vegetation, to prune such trees, shrubs, weeds and vegetation in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be eight (8) feet over

sidewalks, and fourteen (14) ~~sixteen (16)~~ feet over all.

(b) Duty of property owner: It shall be the duty of any person or person owning or occupying real property bordering on any street upon which property there may be trees, shrubs, weeds and other vegetation which cause potential hazard to public safety, to prune or remove such trees, shrubs, weeds and other vegetation.

(c) Notice to prune: Should any person or persons owning real property bordering on any street fail to prune trees, shrubs, weeds and other vegetation as hereinabove provided, the urban forester shall order such person or persons, ~~within three (3) days after receipt of written notice,~~ to so prune such trees, shrubs, weeds and other vegetation within a reasonable time.

(d) Service of order: All notices to comply with the provisions of this article shall be served either by personal service, publication, posting or by certified mail and such procedures shall be deemed the equivalent of personal service. If the owner or owners of any unoccupied lot or premises is not a resident of the city and does not have an agent in the city upon whom notice can be served, notice may be given by sending the same by certified mail to the last-known address of the non-resident owner. The last known address of the owner shall be that shown on the current real estate tax assessment books or current real estate tax assessment records.

(e) Failure to comply: When a person to whom an order is directed shall fail to comply within the specified time, the city may prune such trees, shrubs, weeds, and other vegetation, and the cost thereof shall be recoverable from such person so failing to comply.

(c) The public works department shall notify the urban forester in advance of any applications for new curb, gutter, sidewalks, or driveway installations, or other improvements which might require the removal of or cause injury to any street tree, or its root system, or interfere with the fulfillment of the street tree plan.

2. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by repealing Section 38-12.

~~Sec. 38-12. Forest advisory committee.~~

~~The forest advisory committee of the Keep Lynchburg Beautiful Commission (KLBC) shall have among its responsibilities to monitor compliance with the provisions of this chapter and, through KLBC, to advise the urban forester of any non-compliance situation or incident, with recommendation for needed corrective action. The forest advisory committee shall explore and propose constructive solutions to any difficulties encountered by any party (whether private individual, commercial enterprise, city department, city official or employee) in conjunction with the fulfillment of this chapter. The forest advisory committee shall have no executive authority, its powers being strictly advisory.~~

3. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council

**LYNCHBURG CITY COUNCIL
Agenda Item Summary**

MEETING DATE: **November 27, 2012**

AGENDA ITEM NO.: **8**

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Adoption of an Ordinance re Public Law Library Support and Maintenance Fee**

RECOMMENDATION: Adopt an ordinance to include the public law library support and maintenance fee in the City Code.

SUMMARY: Since April 1984 the Lynchburg Public Library has operated the City's public law library. In 1988 the General Assembly enacted legislation allowing local governments to assess a fee of up to \$4.00 on civil cases filed in the local courts for the support and maintenance of the public law library. On March 14, 1989, City Council adopted an ordinance assessing a fee of \$4.00 on civil cases. However, the ordinance adopted by City Council was never included in the City Code; it was adopted as a stand alone ordinance. Because the ordinance is not included in the City Code it is difficult for the state's auditors to find the ordinance when they audit the fees that are collected by the various courts. Therefore, it is recommended that the ordinance assessing the \$4.00 public law library support and maintenance fee be included in the City Code as Section 24-15.

PRIOR ACTION(S): On March 14, 1989, City Council adopted any ordinance assessing a \$4.00 fee on civil cases for the support and operation of the public law library.

FISCAL IMPACT: None, the City will continue to receive the same revenues it has been receiving since 1984.

CONTACT(S): Walter C. Erwin 455-3973

ATTACHMENT(S): An ordinance adding Section 24-15 to the City Code.

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO A NEW SECTION NUMBERED 24-15, RELATING TO FEES FOR THE OPERATION AND MAINTENANCE OF THE PUBLIC LAW LIBRARY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by adding thereto Section 24-15 as follows:

Sec. 24-15. Public law library support and maintenance fees.

That beginning July 1, 1989, and continuing thereafter until changed by council, there is hereby assessed, pursuant to the provision of section 42.1-70 of the Code of Virginia (1950), as amended, the sum of four dollars (\$4.00) as part of the costs of each civil action filed in the circuit court and the general district court of the city of Lynchburg, Virginia, said assessment to be used for the support and maintenance of said law library which is open to the public.

That the assessments hereby levied shall be collected by the clerks of the respective courts in which the action is filed, and shall be remitted to the finance department ~~city collector~~ and be held by said finance department ~~collector~~ subject to disbursements by council for the maintenance of said public law library.

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council

155L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **November 27, 2012**

AGENDA ITEM NO.: **9**

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Proposed 2013 Legislative Agenda**

RECOMMENDATION: Adopt the City's Legislative Agenda for the 2013 session of the General Assembly.

SUMMARY: Attached are both an annotated 2012 Legislative Agenda that includes changes to update it for the 2013 session of the Virginia General Assembly and a clean copy for adoption by Council.

PRIOR ACTION(S): November 8, 2011, Adoption of the 2012 Legislative Agenda; November 13, 2012, Review of proposed legislative agenda with Council.

FISCAL IMPACT: N/A

CONTACT(S): Kimball Payne, 455-3990; Walter Erwin, 455-3973

ATTACHMENT(S): Annotated 2012 Legislative Agenda with proposed changes; clean copy.

REVIEWED BY: lkp

158L

CITY OF LYNCHBURG

2012-2013 LEGISLATIVE AGENDA

Adopted November ~~8~~, 2012

The City of Lynchburg is a member of both the Virginia Municipal League and the Virginia First Cities Coalition and supports the legislative agendas of both organizations. The City of Lynchburg 2012-2013 Legislative Agenda is meant to highlight those issues of particular importance to the City.

The Lynchburg City Council understands the fiscal challenges facing the Commonwealth as the 2012-2013 session of the Virginia General Assembly convenes. Those challenges make it even more important that the legislators keep the following principles in mind as they evaluate and vote on legislation and the possible amendments to the biennial budget ~~for the upcoming biennium~~.

PRINCIPLES

- Local governments are instruments of the state, created in large measure to deliver state responsible services in a more efficient and effective manner. This state/local partnership requires an equitable allocation of costs between the two levels of government and across the various jurisdictions of the Commonwealth.
- The state must continue to meet constitutional and statutory responsibilities to adequately fund the state share of state/local services, especially in education, human services, and public safety. Any shortfall in state revenues should not be shifted to local governments.
- When the state experiences or anticipates a budget surplus, due to either increased revenues or reduced expenditures, it should relieve localities of funding responsibilities that have been shifted to them for state mandated/locally delivered serves.
- Rather than shifting responsibilities for programs that the state is unwilling to fund down to the localities, the state should consider eliminating those programs.
- The state should explore ways to increase the efficiency and effectiveness of the delivery of state services at the local level including the regionalization of service delivery (e.g. Social Services) and the elimination of inefficient structures such as the Compensation Board.
- The General Assembly should defeat proposed legislation that would erode local taxing authority, cap or reduce local revenue sources or that would impose unfunded mandates on localities.

- The General Assembly should support legislation that provides greater authority to localities in implementing sustainability initiatives especially with regard to land use and transportation planning.
- The General Assembly should preserve local zoning and land use authority, allowing flexibility to meet the needs of individual communities.

2012-2013 LEGISLATIVE PRIORITIES

State Aid to Localities: Eliminate the annual ~~\$60 million~~ reduction in State Aid to Localities (ATL). Although the reduction has been lessened for the current biennium, maintaining reduced state aid for mandated services while the Commonwealth experiences budget surpluses places an undue burden on local taxes. This across the board cut to local core services has been in effect for the last 4 years and has enabled the state to balance its budget during the recession and run a surplus for the last two years, even as local revenues continue to be depressed. The cost to the City of Lynchburg, in FY12 alone, was \$644,424. The four year cost to core services in all localities has been \$220 million dollars. Eliminating the ATL reduction would restore funds to fund state mandated local services.

Comprehensive Services Act (CSA): CSA funding continues to be a serious concern. Actions taken by the General Assembly have increased mandated services and shifted costs to the localities. The General Assembly should refrain from adding additional mandated services and should fund its full share of the CSA program.

Educational Funding: Jobs are the key to economic recovery and adequate education is essential for preparing the current and future workforce. The State should fully fund the Standards of Quality (SOQ), including support staff costs and categorical incentive funds for At-Risk students and restore funding from cuts to education over the last biennium. The state has a constitutional duty to meet its education funding obligations and should refrain from changes in methodology and the division of financial responsibility that result in a further shift of funding responsibility from the state to localities. These shifts do not change what it actually costs to provide education but simply transfer additional costs to local governments, and ultimately to the local real estate tax base.

Local Law Enforcement Funding: The Commonwealth should be equitable in its support for local law enforcement funding both to those localities with police departments (HB 599 funding) and to those in which Sheriff's Departments provide law enforcement (through the Compensation Board). Cities should not bear a disproportionate burden for law enforcement funding through continued reductions in funds provided by HB 599.

Transportation: The General Assembly should ensure that adequate dedicated, non-general fund revenues are available to maintain the current transportation infrastructure, especially street maintenance of bridges, key arterial and collector roadways and non-

automobile transportation modes such as public transportation, pedestrian and bikeways and airports.

- Identify a sustainable source of operating funds~~The State should continue its support~~ for the Amtrak intercity passenger rail service from Lynchburg to Boston including continued funds for the Bus Bridge to Roanoke. In addition, support extension of passenger rail service ~~from between~~ Lynchburg ~~to and~~ Roanoke as part of the Trans Dominion Express.
- The City is seeking State funding to provide access to the new interchange that will be constructed on Route 460/29 at Oddfellows Road. Without improvements to the intersection of Oddfellows Road and Mayflower Drive and to Oddfellows Road from the Lynchburg Expressway (Rt. 29 Business) to the interchange access to the new interchange will be constricted, limiting the effectiveness of that facility.

Transit Funding: New formulae for transit funding should recognize the challenges of small transit systems, take into account geographic differences, focus on reasonable service metrics and not create a burdensome administrative process.

Virginia Retirement System: Support legislation that provides localities with greater flexibility in making adjustments to VRS benefits in order to reduce the increasing costs of the program, including but not limited to legislation to allow localities the option to require employees hired before July 1, 2010 to pay the 5% employee share of VRS.

Water Quality: The City's Combined Sewer Overflow (CSO) Program has cost a total of \$233 million and could cost in excess of will cost an additional ~~\$280-00~~ million to complete ~~in addition to total expenditures to date of \$154 million.~~ While the City is exploring an alternate approach to addressing the remaining 20% of the CSO program that could cut future costs in half, Aadditional water quality requirements related to the cleanup of the Chesapeake Bay and its tributaries will add as much as \$180 million in local costs for stormwater management and wastewater treatment plant upgrades. Further Federal and State assistance is required to avoid an unreasonable economic burden on City residents and businesses. The City urges support for the following positions:

- Provide \$5.0 million in each year of the biennium for Lynchburg and Richmond's CSO program (\$2.5Million each year for each city). Provide one half of the funding required (\$30-\$50 million) to implement a new CSO Long Range Control Plan within the next decade.
- Continue to increase funding to the Virginia Revolving Loan (VCWRLF) program and earmark those funds for CSO abatement in order to qualify Lynchburg and Richmond for zero interest rates.
- Support expansion of Virginia's Nutrient Credit Exchange Program to include other sectors such as stormwater as long as it is not to the detriment of the established point source trading or risk a reduction in point source allocations.

- Provide local authority to charge connection and availability or facility fees for stormwater systems similar to those charged by water and wastewater utilities.
- Insist that any regulations enacted to implement the Total Maximum Daily Load (TMDL) in the Chesapeake Bay watershed be based on factual information, propose a reasonable schedule and are sensitive to the fiscal ability of local governments.
- Support reasonable and affordable implementation of any new stormwater management requirements. EPA storm water requirements should be reviewed and revised to avoid placing an unreasonable economic burden on communities.
- Oppose efforts to implement further point source (wastewater treatment plant) reductions of nutrient discharges beyond those allocations currently in the Chesapeake Bay Nutrient General Permit.
- Provide state or federal funding support for all water quality initiatives, as well as continued funding for the Water Quality Improvement Fund (WQIF).

OTHER LEGISLATIVE POSITIONS

Binding Arbitration: Oppose legislation that mandates binding arbitration, meet and confer requirements, and imposed grievance procedures for local employees.

Communications Sales and Use Tax: Support legislation to reclassify the communications sales and use tax as a local not a state tax.

Economic Development: Provide \$2 million for the Virginia Brownfield Redevelopment Assistance Fund, to continue the redevelopment of brownfield sites.

Eminent Domain: With the approval of the constitutional amendment on eminent domain, it will be necessary to implement the new restrictions in statute. Support legislative efforts to clarify the implications of the amendment and to preserve local authority to exercise eminent domain for legitimate public purposes. Furthermore, legislation should be adopted to stipulate that property is not taken or damaged when access is temporarily restricted due to public infrastructure maintenance or public events that might temporarily block roadways. Oppose a constitutional amendment that would unreasonably restrict the local use of eminent domain. The City supports private property rights which are strictly protected by recent additions to state law that prevent a "Kelo" type taking in Virginia. However, the constitutional amendment currently under consideration goes far beyond current law and would impair the ability of local government to perform essential utility and transportation responsibilities at a reasonable cost. The proposed amendment could add significant costs to local taxpayers for CSO and other utility projects and for street improvements like the Crosstown Connector. It could also preclude utility or transportation improvements required to bring a major employer like Frito-Lay to the City. Landowners would no longer have to show that public improvements projects actually reduced the fair market value of their property in order to recover damages and could claim damages for lost

~~profits resulting from the temporary closing of a street for such things as utility line projects, street repairs or even closing a street for community events such as the Lynchburg Ten Miller and the Christmas parade.~~

Exemptions: Oppose any legislation that would exempt churches and other religious and non-profit organizations from neutral, generally applicable local ordinances, and in particular local health, safety and zoning ordinances."

~~**Employee Retirement and Benefits:** Support the local option of participating in the Virginia Sickness and Disability Program.~~

Line of Duty Act: Support initiatives that return program funding responsibility to the state. Should this unfunded mandate continue, give localities the authority to establish these benefits rather than participate in the state program.

~~**Mental Health/Mental Retardation Services:** Community Service Boards (CSB's) should be required to provide mental health services to children as mandated by state law.~~

Prevention: Restore state funds for prevention services.

~~**Region 2000:** Maintain funding for the Center for Advanced Engineering and Research (CAER)~~

Social Services: Maintain funding for workforce re-training through appropriate agencies, retaining VIEW staff and funding in Social Services. This program has successfully helped TANF recipients secure and maintain jobs.

State Aid to Public Libraries: Retain state aid for libraries. Public libraries are experiencing unprecedented demand for their services due to the recession. In FY 2011 state aid was provided at a level of only 56% of that mandated by the Code of Virginia. Further cuts will threaten the future viability of local libraries.

Substance Abuse Treatment: Restore state funding for substance abuse treatment programs. Such funding could be provided to Community Service Boards, programs such as "The Healing Place" or other pilot programs.

Taxes on Local Services: Oppose the imposition of a state fee, tax or surcharge on water, sewer, and solid waste or on any other local government funds or services.

Taxes- Machinery and Tools: Oppose legislation that would reduce or eliminate a locality's authority to impose a machinery and tools or business license tax.

Taxes- Business License: Oppose legislation that would reduce or eliminate a locality's authority to impose a business license tax.

Taxes- Transient Occupancy and On-line Travel Companies: Support legislation to ensure that transient occupancy taxes are based on the cost of the room as paid by the consumer. On-line travel companies collect and remit transient occupancy taxes based

on the wholesale room price hotels and motels paid by the travel companies not the room price paid by the consumer.

Telecommunications: Maintain local authority over zoning, land use, rights-of-way and taxation. Limit new state regulation preempting local authority regarding the use and compensation of local rights of way for telecommunications.

TDO Transports: Approve legislation to reduce the burden on local law enforcement agencies required to transport patients subject to temporary detention orders to treatment centers significant distances from the jurisdiction.

Trespassing Bans: Amend Section 15.2-1717.1 of the Code of Virginia to include language providing that a notarized form signed by the property owner will be admissible in court for the purpose of proving that the local law enforcement agency has the authority to enforce a trespassing ban.

CITY OF LYNCHBURG 2013 LEGISLATIVE AGENDA

Adopted November 27, 2012

The City of Lynchburg is a member of both the Virginia Municipal League and the Virginia First Cities Coalition and supports the legislative agendas of both organizations. The City of Lynchburg 2013 Legislative Agenda is meant to highlight those issues of particular importance to the City.

The Lynchburg City Council understands the fiscal challenges facing the Commonwealth as the 2013 session of the Virginia General Assembly convenes. Those challenges make it even more important that the legislators keep the following principles in mind as they evaluate and vote on legislation and possible amendments to the biennial budget.

PRINCIPLES

- Local governments are instruments of the state, created in large measure to deliver state responsible services in a more efficient and effective manner. This state/local partnership requires an equitable allocation of costs between the two levels of government and across the various jurisdictions of the Commonwealth.
- The state must continue to meet constitutional and statutory responsibilities to adequately fund the state share of state/local services, especially in education, human services, and public safety. Any shortfall in state revenues should not be shifted to local governments.
- When the state experiences or anticipates a budget surplus, due to either increased revenues or reduced expenditures, it should relieve localities of funding responsibilities that have been shifted to them for state mandated/locally delivered services.
- Rather than shifting responsibilities for programs that the state is unwilling to fund down to the localities, the state should consider eliminating those programs.
- The state should explore ways to increase the efficiency and effectiveness of the delivery of state services at the local level including the regionalization of service delivery (e.g. Social Services) and the elimination of inefficient structures such as the Compensation Board.
- The General Assembly should defeat proposed legislation that would erode local taxing authority, cap or reduce local revenue sources or that would impose unfunded mandates on localities.

- The General Assembly should support legislation that provides greater authority to localities in implementing sustainability initiatives especially with regard to land use and transportation planning.
- The General Assembly should preserve local zoning and land use authority, allowing flexibility to meet the needs of individual communities.

2013 LEGISLATIVE PRIORITIES

State Aid to Localities: Eliminate the annual reduction in State Aid to Localities (ATL). Although the reduction has been lessened for the current biennium, maintaining reduced state aid for mandated services while the Commonwealth experiences budget surpluses places an undue burden on local taxes.

Comprehensive Services Act (CSA): CSA funding continues to be a serious concern. Actions taken by the General Assembly have increased mandated services and shifted costs to the localities. The General Assembly should refrain from adding additional mandated services and should fund its full share of the CSA program.

Educational Funding: Jobs are the key to economic recovery and adequate education is essential for preparing the current and future workforce. The State should fully fund the Standards of Quality (SOQ), including support staff costs and categorical incentive funds for At-Risk students and restore funding from cuts to education over the last biennium. The state has a constitutional duty to meet its education funding obligations and should refrain from changes in methodology and the division of financial responsibility that result in a further shift of funding responsibility from the state to localities. These shifts do not change what it actually costs to provide education but simply transfer additional costs to local governments, and ultimately to the local real estate tax base.

Local Law Enforcement Funding: The Commonwealth should be equitable in its support for local law enforcement funding both to those localities with police departments (HB 599 funding) and to those in which Sheriff's Departments provide law enforcement (through the Compensation Board). Cities should not bear a disproportionate burden for law enforcement funding through continued reductions in funds provided by HB 599.

Transportation: The General Assembly should ensure that adequate dedicated, non-general fund revenues are available to maintain the current transportation infrastructure, especially street maintenance of bridges, key arterial and collector roadways and non-automobile transportation modes such as public transportation, pedestrian and bikeways and airports.

- The State should continue its support for the Amtrak intercity passenger rail service from Lynchburg to Boston including continued funds for the Bus Bridge to Roanoke. In addition, support extension of passenger rail service between Lynchburg and Roanoke as part of the Trans Dominion Express.

- The City is seeking State funding to provide access to the new interchange that will be constructed on Route 460/29 at Oddfellows Road. Without improvements to the intersection of Oddfellows Road and Mayflower Drive and to Oddfellows Road from the Lynchburg Expressway (Rt. 29 Business) to the interchange access to the new interchange will be constricted, limiting the effectiveness of that facility.

Transit Funding: New formulae for transit funding should recognize the challenges of small transit systems, take into account geographic differences, focus on reasonable service metrics and not create a burdensome administrative process.

Water Quality: The City's Combined Sewer Overflow (CSO) Program has cost a total of \$233 million and could cost in excess of an additional \$200 million to complete. While the City is exploring an alternate approach to addressing the remaining 20% of the CSO program that could cut future costs in half, additional water quality requirements related to the cleanup of the Chesapeake Bay and its tributaries will add as much as \$180 million in local costs for stormwater management and wastewater treatment plant upgrades. Further Federal and State assistance is required to avoid an unreasonable economic burden on City residents and businesses. The City urges support for the following positions:

- Provide one half of the funding required (\$30-\$50 million) to implement a new CSO Long Range Control Plan within the next decade.
- Continue to increase funding to the Virginia Revolving Loan (VCWRLF) program and earmark those funds for CSO abatement in order to qualify Lynchburg and Richmond for zero interest rates.
- Support expansion of Virginia's Nutrient Credit Exchange Program to include other sectors such as stormwater as long as it is not to the detriment of the established point source trading or risk a reduction in point source allocations.
- Provide local authority to charge connection and availability or facility fees for stormwater systems similar to those charged by water and wastewater utilities.
- Insist that any regulations enacted to implement the Total Maximum Daily Load (TMDL) in the Chesapeake Bay watershed be based on factual information, propose a reasonable schedule and are sensitive to the fiscal ability of local governments.
- Support reasonable and affordable implementation of any new stormwater management requirements. EPA storm water requirements should be reviewed and revised to avoid placing an unreasonable economic burden on communities.
- Oppose efforts to implement further point source (wastewater treatment plant) reductions of nutrient discharges beyond those allocations currently in the Chesapeake Bay Nutrient General Permit.
- Provide state or federal funding support for all water quality initiatives, as well as continued funding for the Water Quality Improvement Fund (WQIF).

OTHER LEGISLATIVE POSITIONS

Binding Arbitration: Oppose legislation that mandates binding arbitration, meet and confer requirements, and imposed grievance procedures for local employees.

Communications Sales and Use Tax: Support legislation to reclassify the communications sales and use tax as a local not a state tax.

Economic Development: Provide \$2 million for the Virginia Brownfield Redevelopment Assistance Fund, to continue the redevelopment of brownfield sites.

Eminent Domain: With the approval of the constitutional amendment on eminent domain, it will be necessary to implement the new restrictions in statute. Support legislative efforts to clarify the implications of the amendment and to preserve local authority to exercise eminent domain for legitimate public purposes. Furthermore, legislation should be adopted to stipulate that property is not taken or damaged when access is temporarily restricted due to public infrastructure maintenance or public events that might temporarily block roadways.

Exemptions: Oppose any legislation that would exempt churches and other religious and non-profit organizations from neutral, generally applicable local ordinances, and in particular local health, safety and zoning ordinances.

Line of Duty Act: Support initiatives that return program funding responsibility to the state. Should this unfunded mandate continue, give localities the authority to establish these benefits rather than participate in the state program.

Prevention: Restore state funds for prevention services.

Social Services: Maintain funding for workforce re-training through appropriate agencies, retaining VIEW staff and funding in Social Services. This program has successfully helped TANF recipients secure and maintain jobs.

State Aid to Public Libraries: Retain state aid for libraries. Public libraries are experiencing unprecedented demand for their services due to the recession. In FY 2011 state aid was provided at a level of only 56% of that mandated by the Code of Virginia. Further cuts will threaten the future viability of local libraries.

Substance Abuse Treatment: Restore state funding for substance abuse treatment programs. Such funding could be provided to Community Service Boards, programs such as "The Healing Place" or other pilot programs.

Taxes on Local Services: Oppose the imposition of a state fee, tax or surcharge on water, sewer, and solid waste or on any other local government funds or services.

Taxes- Machinery and Tools: Oppose legislation that would reduce or eliminate a locality's authority to impose a machinery and tools or business license tax.

Taxes- Business License: Oppose legislation that would reduce or eliminate a locality's authority to impose a business license tax.

Taxes- Transient Occupancy and On-line Travel Companies: Support legislation to ensure that transient occupancy taxes are based on the cost of the room as paid by the consumer. On-line travel companies collect and remit transient occupancy taxes based on the wholesale room price hotels and motels paid by the travel companies not the room price paid by the consumer.

Telecommunications: Maintain local authority over zoning, land use, rights-of-way and taxation. Limit new state regulation preempting local authority regarding the use and compensation of local rights of way for telecommunications.

TDO Transports: Approve legislation to reduce the burden on local law enforcement agencies required to transport patients subject to temporary detention orders to treatment centers significant distances from the jurisdiction.

Trespassing Bans: Amend Section 15.2-1717.1 of the Code of Virginia to include language providing that a notarized form signed by the property owner will be admissible in court for the purpose of proving that the local law enforcement agency has the authority to enforce a trespassing ban.