// A regular meeting of the Council of the City of Lynchburg was held on the 11th day of November, 2008, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Garrett gave the Invocation, followed by the Pledge of Allegiance led by Cub Scout Pack 29 – Den #3. The following Members were present:

Present:	Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Absent:	Johnson	1

// Mayor Foster announced that Council Member Johnson was representing the City at the National League of Cities conference in Orlando.

// Copies of the minutes of the October 28 (two meetings), 2008 meetings, having been previously furnished Council, reading was dispensed with. Mayor Foster mentioned a correction on page 204 of the minutes. On motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote approved the minutes as corrected:

Ayes:	Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:		0
Absent:	Johnson	1

// In the matter of Police – General, Resolution #R-08-129 amending the FY 2009 City/Federal/State Aid Fund budget and appropriating $27,500, fully reimbursable, to conduct DUI and occupant restraint enforcement activities, laid over from the October 28, 2008 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

Ayes:	Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:		0
Absent:	Johnson	1

// In the matter of Police – General, Resolution #R-08-130 amending the FY 2009 City/Federal State Aid Fund budget and appropriating $23,100, fully reimbursable, for accident investigation training and to purchase equipment, laid over from the October 28, 2008 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

Ayes:	Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:		0
Absent:	Johnson	1

// In the matter of Community Planning - General, City Council Report # 4 was considered. On motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-08-132, as presented, approving the waiver of a demolition lien in the amount of $5,322.83 for 1415 Fifth Street:

Ayes: Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

// In the matter of Commonwealth Attorney, City Council Report #5 was considered. On motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-08-133, as presented, amending the FY 2009 City/Federal/State Aid Fund budget and appropriating $8,025, fully reimbursable, to provide outreach materials and educational programming to the Central Virginia community:

Ayes: Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

// In the matter of Community Planning - Zoning, a second public hearing was held regarding the petition of Systematic Concepts, LLC for a Conditional Use Permit (CUP) at 2016, 2020 and 2028 Mimosa Drive to allow the construction of a planned unit development containing eight (8) single-family detached and eighteen (18) single-family attached units in an R-1, Low Density, Single-Family Residential District. City Planner Tom Martin explained that following a public hearing on January 8, 2008, City Council indefinitely postponed action on the petition to allow the developers an opportunity to address environmental concerns and density issues. Mr. Martin stated that the petitioner submitted a revised concept plan on September 17 that would reduce the proposed density of the project to eight (8) single-family detached homes and eighteen (18) single-family attached homes and that the revised plan also provides for a reduced environmental impact by eliminating one (1) road and homes that were proposed on the steepest part of the site. Mr. Martin went on to say that City Council at its September 23 meeting requested that staff schedule a new public hearing for the petition for November 11. Mr. Trent Warner, representing the petitioner, provided a brief overview regarding the changes from the original petition and stated that the petitioner has reduced the project by 15%. Two adjoining property owners spoke in support of the project, expressing appreciation for the demolition of the unsightly radio station building that is located on the property. Ms. Shannon Brennan, representing many of the neighbors who are opposed to the proposed development, stated that Council Members were aware of the concerns of the neighborhood, i.e., traffic, density, environmental impact, etc. A large number of individuals stood in opposition to the proposed development. Ms. Brennan asked Council consider an earlier suggestion by Dr. Garrett that the developers donate a portion of the property to resource conservation and reduce the number of buildings to no more than twenty. Five other individuals spoke in opposition to the proposed development citing concerns regarding density, the increase in traffic on an already narrow street, the development would not be in character with the existing neighborhood, and that it would have a negative impact on the adjoining neighborhood. Mr. Peter Ramsey also distributed a traffic study prepared by City staff during the summer showing the amount of traffic on Mimosa Drive. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Gillette stated that Council Member Johnson wanted to be present during the discussion regarding this item, and made a motion, seconded by Vice Mayor Dodson, that this item be postponed until the November 25 work session.

Some Council Members recognized the developers' willingness to reduce the original project by 15% and commented regarding the success of other such developments, i.e., Legacy Oaks, while other Council Members still questioned whether the road could handle the increased traffic, the impact on the environment, and the potential impact of additional students on the Bedford Hills Elementary School. Council Member Gillette called for a point of order and questioned whether the debate should be focused on the motion on the floor or on the petition. City Attorney Walter Erwin agreed that the debate has gone beyond the motion on the floor. Mayor Foster stated that she also favored taking this item to a work session and asked that staff update the traffic study presented at tonight's meeting to reflect the traffic generated by the Bedford Hills Elementary School. City Manager Payne stated that in preparation for the work session discussion, staff would provide City Council with the following additional information: (1) a clarification on the differences between a Planned Unit Development and a rezoning, (2) the capacity of Bedford Hills Elementary School based on the potential for additional students, (3) an updated traffic count (that includes school traffic), and (4) a means to insure the protection of steep slopes on the property. The vote was called on the motion, and Council by the following recorded vote agreed to postpone the petition of Systematic Concepts, LLC for a Conditional Use Permit (CUP) at 2016, 2020 and 2028 Mimosa Drive to allow the construction of a planned unit development until the October 25 work session:

Ayes: Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #7 outlining the petition of the Church of the Covenant for a conditional use permit to allow the construction of a 1,250 square foot sanctuary addition to an existing church in an R-1, Low-Medium Density, Single-Family Residential District at 4415 Boonsboro Road. City Planner Tom Martin provided a brief summary regarding the petition. Rev. David Edwards, Minister of Church of the Covenant, outlined the request and asked for 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 Garrett, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-08-134, as presented, granting the Conditional Use Permit:

Ayes: Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

// In the matter of Community Planning - General, a public hearing was held regarding City Council Report #8 regarding adopting an Ordinance to amend Chapter 12, Natural Systems of the City of Lynchburg Comprehensive Plan 2002-2020, to reflect the Natural Resources Advisory Committee's recommended updates to the text, goals and objectives. City Planner Tom Martin introduced Dr. Karin Warren, Chair of the Natural Resources Advisory Committee, who provided a brief summary regarding the request. Ms. Laura-Gray Street, President of the Greater Lynchburg Environmental Network (GLEN), stated that although GLEN supports the proposed changes to the ordinance, GLEN is requesting that the ordinance be returned to the Planning Commission to be further updated to incorporate the best available information and initiatives regarding Lynchburg's natural resources, i.e., the City's participation in the James River Association's 2006 watershed-wide assessment of local development codes and ordinances, the Sustainable City Initiative adopted by City Council on August 8, 2008, the applicable findings of the City's Green Infrastructure Project, and the Region 2000 water supply plan. There was no one else present who wished to speak to this item, and the public hearing was closed. City Manager Kimball Payne stated that he would also like to recommend that the document be sent back to the Planning Commission for further review for the following reasons: 1) the document has not been reviewed by the City's Utilities Department which has subsequently suggested some language revisions, 2) anticipated comments from GLEN, and 3) inclusion in the document regarding the Sustainable City Initiative. Council Member Helgeson expressed a concern that some of the "information" statements contained in the document could not be quantified and suggested that the document should only contain factual information. Council Member Gillette stated that he also would like to see the document reflect the Sustainable City Initiative. Council Member Perrow made a motion, seconded by Council Member Helgeson, to postpone indefinitely the request to adopt an Ordinance to amend Chapter 12, Natural Systems of the City of Lynchburg Comprehensive Plan 2002-2020, to reflect the Natural Resources Advisory Committee's recommended updates to the text, goals and objectives. In response to questioning, Council agreed that staff could determine when to bring this item back to Council. The vote was called on the motion, and Council by the following recorded vote agreed to postpone indefinitely the request to adopt an Ordinance to amend Chapter 12, Natural Systems of the City of Lynchburg Comprehensive Plan 2002-2020, to reflect the Natural Resources Advisory Committee's recommended updates to the text, goals and objectives:

Ayes: Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #9 regarding an Ordinance to amend the City's Zoning Ordinance relating to large scale retail establishments. City Planner Tom Martin presented a power point presentation outlining the proposed changes to the City's zoning ordinance to address large scale retail establishments. Mr. Martin stated that the key elements of the proposed ordinance are 1) it applies to retail establishments with cumulative gross floor area of 50,000 square feet, 2) does not apply to renovation, rehabilitation or redevelopment of existing retail establishments, 3) provides incentive to expand existing retail establishments by increasing the threshold to 75,000 square feet, 4) sets mandatory requirements and voluntary provisions, 5) provides for administrative review if all mandatory requirements and 75% of voluntary provisions are met, and 6) requires conditional use permit if developer does not wish to fulfill voluntary provisions. Mr. Martin provided a list of the mandatory and voluntary requirements of the ordinance. Dr. Tom Shahady spoke in support of the proposed changes to the ordinance, but expressed a little concern that the environmental protection and economic development balance might be hard to achieve if the ordinance is too complex. Mr. Gary Case, representing himself, Norman Moon, Rick Read and George Lupton stated that with the additional regulations imposed by the City's new sign and landscape ordinances, they did not see the need for these additional regulations. Mr. Case explained that they were opposed to the ordinance in its current form, expressing the following concerns: 1) 50,000 square feet for new development is too small and if City Council is considering the ordinance, then 100,000 square feet should be the definition for a big box; 2) the ordinance should not apply to renovation or expansion of existing developments, i.e., The Plaza or the Fort Hill Shopping Center,; 3) that the mandatory traffic study should not be required before presenting a project to the Planning Department, that it should be required later on in the process; 4) in addition to what the new development may create, the developer would have to pay for all of the traffic study recommended improvements when the City should be funding some of those improvements; 5) many of the improvements are cost prohibitive and that the City should contribute since the City will be receiving the real estate, water/sewer and property taxes from the development; 6) mandatory concealment of flat roofs and rooftop equipment from street view is not feasible due to the City's topography, citing the new Home Depot store as an example; 7) voluntary provisions in lieu of a public hearing appear to be more mandatory since, of the 20 possible points, 3 are tied to LEED certification, and of the 17 remaining, you have to get 15 to qualify; 8) connectivity requirements is not always practical and doable due to topographical issues and the impact on adjoining properties, i.e., liability exposure due to traffic, and that requirement should not be mandatory; and 9) total compliance of LEED certification is a very expensive. Mr. Case stated that one of the goals in the City's Comprehensive Plan is to keep the City as a retail HUB and that we need to be careful not to over regulate ourselves and discourage development in the City, and mentioned that Campbell and Bedford Counties do not have big box ordinances. Mr. Case asked City Council to take time to study the ordinance. Mr. Norman Moon expressed concern regarding the complexity of the document, and stated that these additional regulations will be adding upfront costs to the site plan and engineering costs for a project. There was no one else present who wished to speak to this item, and the public hearing was closed. Vice Mayor Dodson stated that Council Member Johnson wanted to be present during the discussion regarding this item, and made a motion, seconded by Council Member Gillette, that this item be postponed until the November 25 work session. In response to Council Member Perrow's request, Gary Case stated that he has been in the commercial real estate business for 34 years and has done a lot of development in the City, Rick Reed stated that he has been in the commercial real estate business for 32 years and has done a lot of projects in the City, including shopping centers, and Norman Moon stated that he has been in the commercial real estate business for 22 years and has done a lot of projects, and is currently working on the Walmart project on Old Forest Road. Council Members Perrow and Helgeson stated that they were philosophically opposed to a big box ordinance. Council Member Gillette stated that he is philosophically in support of the ordinance and mentioned that the idea for the ordinance came about due to the Walmart development on Old Forest Road. Mayor Foster stated that the ordinance is complex and that she would like more time to review. The vote was called on the motion, and Council by the following recorded vote agreed to postpone this item until the November 25 work session:

Ayes: Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

// In the matter of Economic Development - General, a public hearing was held regarding City Council Report #10 regarding a proposal to amend the boundaries of Enterprise Zone #2 (Downtown). Economic Development Director Marjette Glass stated that Lynchburg has two enterprise zones identified by the state as # 2 and #46 and referred to locally as “Downtown” and “Lynchpin”, respectively. Ms. Glass explained that 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, and that although the benefits of enterprise zone designation have changed over the years, two primary benefits remain -- job creation and capital improvement grants. Ms. Glass went on to say that Enterprise Zone #2 has existed since 1984 and its current boundaries encompass primarily downtown, with an extension to the Carroll Avenue industrial area, and that the boundaries are eligible for amendment upon approval of City Council and the Virginia Department of Housing and Community Development. Ms. Glass noted that 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. Ms. Glass explained that for sometime there has been an interest in amending the boundaries of Enterprise Zone #2 (Downtown) to take in more of the midtown area and, in particular, the Plaza and properties along Oakley Avenue, and 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. Ms. Glass stated that the areas proposed for deletion from the zone are primarily residential where zone designation provides no benefit, and that in order to accomplish this amendment, City Council is required to conduct a public hearing and to consider adopting a resolution in support of the proposed revision to the zone boundaries. Ms. Glass explained that property owners in the areas to be deleted by the proposed amendment have also been notified, and that enterprise zone designation has no impact on land use regulation. Mr. Gary Case spoke in support of the request and commended the City for having such a program. Mr. Mike Bedsworth spoke in support of the request and commented that the businesses currently on Cabell Street, Daniels Hill and Rivermont needed to remain in the Enterprise Zone. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Garrett stated that since his office building is located in the area to be encompassed, he will abstain from discussion and voting on this item. Council Member Helgeson inquired of City Attorney Walter Erwin regarding whether he should abstain since his office building is also located in this area. City Attorney Erwin stated that Council Member Helgeson could participate since the requested action impacts a group of individuals and that he is only one member of a group that would be affected. Mr. Erwin went on to say that he would need to make a statement that he can participate in a fair and impartial manner in order to satisfy the requirements of the Conflicts of Interests Act. Council Member Helgeson stated that he was not aware that his office facility was in the enterprise zone and that he believes that he can participate in this matter in a fair and impartial manner. Council Member Perrow stated that his family offices are in this area, but that he can participate in this matter in a fair and impartial manner. In response to questioning, Ms. Glass stated that only businesses located in an Enterprise Zone can take advantage of the program. On motion of Council Member Perrow, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted Resolution #R-08-135, as presented, amending the boundaries of Enterprise Zone #2 (Downtown):

Ayes: Dodson, Gillette, Helgeson, Perrow, Foster	5
Noes:	0
Absent: Johnson	1
Abstention: Garrett	1

// In the matter of Community Planning - General, a public hearing was held regarding City Council Report #11 to receive comments and questions regarding the draft Consolidated Annual Performance and Evaluation Report (CAPER) for FY 2007-2008. Community Planning Director Charlene Montford provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. Mayor Foster announced that no action by City Council is required at this time.

// In the matter of Community Planning - General, City Council Report # 12 regarding amending the Citizen Participation Plan for the Community Development Block Grant and HOME Programs was considered. Community Planning Director Charlene Montford stated that at the October 28 public hearing several revisions were suggested, and that the Plan has been updated to incorporate those revisions. On motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-08-136, as presented, amending the Citizen Participation Plan for the Community Development Block Grant and HOME Programs:

Ayes: Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

// In the matter of Economic Development – General, City Council Report #13 regarding appropriating $500,000, with resources from the Commonwealth of Virginia's Governor's Opportunity Fund, to assist with an expansion at R. R. Donnelley and Sons Company was considered. Council Member Helgeson, Chair of the Finance Committee, stated that the request was considered by the Finance Committee and made a motion to approve the request. The motion did not require a second, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-08-137, as presented, amending the FY 2009 City/Federal/State Aid Fund budget and appropriating $500,000, fully reimbursable, to assist with an expansion at R. R. Donnelley and Sons Company :

Ayes: Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

// In the matter of Parks and Recreation - General, City Council Report #14 regarding appropriating $22,000 to purchase replacement seats and hinge assemblies at the City Stadium was considered. Council Member Helgeson, Chair of the Finance Committee, stated that the request was considered by the Finance Committee and made a motion to approve the request. The motion did not require a second, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-08-138, as presented, amending the FY 2009 Stadium Fund budget and appropriating $22,000 to purchase replacement seats and hinge assemblies:

Ayes: Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

// On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., Code Enforcement Task Force, pursuant to Section 2.2-3711(A) (1) of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Garrett, Gillette, Helgeson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

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

// Council Member Perrow 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, Perrow, Foster 6

Noes: 0

Absent: Johnson 1

// In the matter of Appointments, and on nomination of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote appointed Vice Mayor Bert Dodson to serve on the Code Enforcement Task Force for an indefinite term:

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

Noes: 0

Absent: Johnson 1

// The meeting was adjourned at 10:13 P.M

Clerk of Council