// A regular meeting of the Council of the City of Lynchburg was held on the 27th day of October, 2009, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

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

Absent: 0

// City Manager Kimball Payne informed that in 2007 the General Assembly did adopt legislation to allow the creation of a regional airport authority, a copy of which was distributed to Council Members. Mr. Payne stated that the Airport Commission asked Airport Director Mark Courtney to prepare a timeline for establishing a regional airport authority and to share that information with City Council and other area governments. Mr. Payne noted that although little progress has been made since the legislation was adopted the creation of the Lynchburg Regional Airport Authority remains a priority with the Airport Commission. Airport Director Mark Courtney reviewed the steps involved in forming an independent airport authority by the target date of July 2011. Mr. Courtney explained that the authority would oversee the Lynchburg Regional Airport and the Airport Commerce Park and that the time is now right to pursue participation by surrounding counties and the City in a regional airport authority. Mr. Courtney noted that airport revenues have increased significantly from recent growth in both direct and indirect airline-generated revenues, resulting in the airport's operating budget deficit being reduced from over $600,000 annually in 2002 to just $295,850 in 2009, and that if current levels continue, it is now projected that the airport could be self-sustaining by as early as FY 2012. Mr. Courtney stated that he has made presentations before officials of the various localities, area economic development agencies, business organizations and civic groups. Mr. Courtney stated that the next step would be to develop a framework for financial sharing between participating localities and the make-up of the authority structure. Council discussion focused briefly regarding some of the broad powers that the regional authority would be granted under the new legislation, especially the power of eminent domain. Mr. Courtney stated that the Federal Aviation Administration (FAA) does require that the authority has the power to protect the air space. Mr. Payne stated that he would think that eminent domain would only be used to protect airport operations. Mr. Payne stated that there are a lot of issues that need to be decided before the regional authority can be established. Council Members discussed and agreed that the next step would be for the Finance Committee to review the financial implications involved in creating a regional airport authority and then City Council would need to determine the structure and make-up of the authority and finalize a proposal to present to participating localities.

// City Planner Tom Martin advised regarding further changes to the Subdivision Ordinance:

<u>Section 24.1-5. Words and terms.</u>

(24) Public water or sewer: A water or sewer system designed to accommodate more than two (2) family residences, whether owned by the City of Lynchburg or a private individual~~ or concern~~. This definition shall not apply to nonresidential subdivisions.

Suggestion: replace “a private individual” with “<u>privately owned</u>”.

<u>Section 24.1-5. Words and terms.</u>

(25) Sight distance triangle: A straight line with unobstructed view measured fifty (50) feet along the edge of pavement lines from their points of junction with points being three (3) feet above the pavement edge.

Suggestion: Delete definition of "Sight distance triangle"

<u>Section 24.1-28. Lots.</u>

(3) <u>Residential Driveways: It is the city's intent to limit the number of new access points to existing arterial and collector streets and to maintain good access management of its streets. Required frontage and access should be from local streets. Residential driveways shall not be permitted from arterials and collectors unless size, topography, shape or other prohibitive conditions, as approved by the subdivision agent, would prevent access from a local street.</u> ~~Each lot shall be located and designed such that a usable driveway can be built to access the lot directly from the street on which it has the required street frontage, except for lots in approved planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.~~

Suggestion: Remove new language and keep stricken language.

<u>Section 24.1-28. Lots.</u>

<u>4) Shared Direct Access and Internal Vehicle Circulation: All multifamily residential, commercial and industrial developments fronting on existing arterial and collector streets shall be designed to achieve direct and convenient vehicular access between adjacent multifamily residential, commercial and industrial properties including outparcels, subject to the provisions of this ordinance.</u>

<u>i. The shared direct access and/or internal vehicular circulation provisions shall apply to all properties, including outparcels, owned or controlled by the subdivider or that are the subject to a single site plan or plan of development.</u>

<u>ii. In determining whether a site plan meets the requirements of this section, the technical review committee shall consider the characteristics of the proposed development, the information in the traffic study prepared pursuant to this section, the existing uses on adjacent properties, and the foreseeable development of adjacent properties based on the existing uses, existing zoning designations, comprehensive plan designations and factors and development patterns in the area.</u>

<u>iii. The shared direct access provisions of this ordinance shall not be required to provide primary access to a public street for an adjacent commercial property not owned or controlled by the subdivider or subject to a single site plan or plan of development that would not otherwise exist. An subdivider shall not be required to provide primary access through the shared direct access provisions to a public street to benefit an adjacent commercial property not owned or controlled by the subdivider or subject to a single site plan or plan of development that would not otherwise exist.</u>

<u>iv. A subdivider shall not be required to construct any improvements allowing shared direct access with adjacent commercial properties other than on property owned or controlled by the subdivider or subject to a single site plan or plan of development in order to meet this standard. A subdivider shall not be required to dedicate any property or property interest to the city to meet this standard.</u>

v. In the event that an owner of adjacent commercial property will not consent to a design allowing shared direct access at the time of development, the development shall be designed and constructed to allow for the establishment of shared direct access with adjoining commercial properties in the future should the consent of the adjacent owner or owners become available.

Suggestion: Remove new language

Section 24.1-28. Lots.

d) Sight distance ~~(across intersections)~~ triangle: Clear sight distance triangles of fifty (50) feet measured along edge of pavement lines from their points of junction shall be provided at all intersections, and no building, structure, grade or planting higher than three (3) feet above the center line of the street shall be permitted within such sight distance triangle.

Suggestion: Remove new language.

Section 24.1-30. Streets, (b)

Suggestion: Revise image caption to match text. (Less than 600')

Section 24.1-44. Approval

b) The ~~city council, commission or other~~ agent shall render a decision on the proposed plat ~~right-of-way~~ within sixty (60) days after it has been submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore. Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

Suggestion: Remove "city council, commission or other"

Include "proposed plat" remove "right of way".

Section 24.1-44. Approval

If the ~~city council, commission or other~~ agent fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the commission or agent, may petition the circuit court of the city ~~or county in which the land involved, or the major part thereof, is located~~, to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

If the ~~city council, commission or other~~ agent disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction. ~~, of such land and the court shall hear and determine the case as soon as may be.~~

Suggestion: Remove "city council, commission or other"

Section 24.1-45. Exceptions.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, or where, because of topographical or other conditions peculiar to the site, in the opinion of the agent a departure may be made without destroying the intent of such provisions, the agent may authorize an exception <u>after consultation with the City Attorney</u>. When the agent or subdivider desires, the matter shall be referred <u>first</u> to the commission ~~or~~ <u>and thence to</u> city council for review. Any exceptions authorized under the provisions of this section shall be stated in writing on the plat, by the agent, commission or city council with the reasoning set forth on which the departure was justified.

Suggestion: Add wording "after consultation with the City Attorney".

Mr. Martin indicated that following City Council's review, the recommendation would be to refer this revised document back to the Planning Commission prior to bringing it back to City Council for adoption. City Manager Kimball Payne also inquired if City Council wanted to revise the language in Section 24.1-6 regarding street dedications/naming of new streets to allow that function to be handled administratively. Mr. Payne explained that this would speed up the process for developers. Following the presentation, Council agreed with the recommendation to revise the ordinance, have the Planning Commission review the changes, and to bring the ordinance back to City Council at a later date for adoption.

// City Manager Kimball Payne stated that after the discussion regarding business growth incentives during Council's last meeting, he was asked to determine some alternative sources to locate a one-time incentive program in the current fiscal year. Mr. Payne explained that since transferring funds from pay-as-you-go capital projects was suggested as one alternative, he has provided a list of the approved pay-as-you-go projects funded in the FY 2010 Capital Fund, noting that some of the projects may already have had funds committed. Mr. Payne also provided information regarding other sources to fund the one-time incentive program. Mr. Payne went on to say that whether or not to establish a business growth incentive program for FY 2010 is clearly a policy decision for City Council. Council Member Perrow stated that both he and Council Member Garrett have recently met with a number of business leaders who expressed a need for some relief and suggested a special one-time rebate on business license taxes which could be administered through the Economic Development Authority. Council Members disagreed regarding whether the benefit of any potential rebate — which ranged from a few dollars for individual businesses to as much as $700-plus for certain small companies depending on the format suggested — outweighed the gap such a move would leave in the City budget. Some Council Members argued that the rebate would allow companies to re-invest in their businesses and create more jobs, while other Council Members questioned how it would help some of the smaller businesses which pay only $30-50 a year. Mayor Foster suggested that since the Economic Development Authority (EDA) currently operates several business incentive programs for the City, that Council ask them to assess whether any changes or improvements could be made to their programs and report back to Council. Some Council Members expressed concern that the budget could not afford to take such a hit and made note of the capital needs facing the City, specifically a new plan to make pedestrian improvements to Wards Road. Following discussion, City Manager Payne stated that he would ask the EDA to assess whether any changes or improvements could be made to their existing programs to better assist local businesses.

// During roll call, Council Member Perrow made a motion that the City offer a rebate of 1¢ on the Business, Professional and Occupational License tax and that $311,000 be appropriated from pay-as-you-go capital and shifted to the Economic Development Authority (EDA) as a grant to be distributed as a direct rebate to businesses. The motion was seconded by Council Member Garrett. Council Member Helgeson stated that he could not support a tax cut that did not come with specific recommendations on how to correspondingly reduce spending. Council Member Garrett offered a friendly amendment to allow the City Manager to determine the source of funding. Council Member Perrow accepted the friendly amendment. Mayor Foster stated that she would rather wait until the EDA has had a chance to review its current incentives. The vote was called on the motion, and Council by the following recorded vote defeated the motion:

Ayes: Garrett, Perrow 2

Noes: Dodson, Gillette, Helgeson, Johnson, Foster 5

// City Council recessed the meeting at 7:28 p.m.

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

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

// Mayor Foster read a proclamation declaring Friday, October 30, as “Pink and White Day” in Lynchburg and recognized a group of individuals and companies (Sam’s Club, Wal-Mart, Pepsi, Brookville and E. C. Glass High Schools) for their commitment to increase awareness of breast cancer and raise $25,000 for the Patient Support Fund at the Alan B. Pearson Regional Cancer Center.

// Copies of the minutes of the October 13, 2009 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of Police – General, Resolution #R-09-107 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $57,361, fully reimbursable, to purchase computer hardware and software to upgrade the Criminal Justice Information Sharing Program, laid over from the October 13, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Fire – General, Resolution #R-09-108 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $1,000, fully reimbursable, for the Fire Department’s Hazardous Materials Response Team to attend the Virginia Hazardous Materials Conference in October 2009, laid over from the October 13, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Fire – General, Resolution #R-09-109 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $10,560, fully reimbursable, to purchase surgical masks for all EMS providers in the event of a state declared pandemic event, laid over from the October 13, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Fire – General, Resolution #R-09-110 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $100,000, fully reimbursable, to purchase equipment for the Fire Department's Technical Rescue Team, laid over from the October 13, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Community Planning – General, Resolution #R-09-111 amending the FY 2010 – 2014 Capital Improvement Program (CIP) and appropriating $193,458, fully reimbursable, for the Greenview Drive Phase II project, laid over from the October 13, 2009 meeting, was again presented and read, and on motion of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Public Works – Water, City Council Report # 11 regarding authorizing the City Manager to execute the Virginia Water and Wastewater Agency Response Network Mutual Aid Agreement was considered. Utilities Director Tim Mitchell provided a brief summary regarding the request. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-09-125, as presented, authorizing the City Manager to execute the Virginia Water and Wastewater Agency Response Network Mutual Aid Agreement:

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

// In the matter of Finance – General, City Council Report # 12 regarding approving the Identity Theft Prevention Policy was considered. Financial Services Director Donna Witt provided a brief summary regarding the request. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-09-126, as presented, approving the Identity Theft Prevention Policy dated November 1, 2009:

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

// In the matter of Finance – General, City Council Report #13 regarding appropriating $500,000 to the FY 2010 General Fund Reserve for Contingencies and appropriating $18,045 to the Office of the Clerk of Court was considered. City Manager Kimball Payne stated that at the October 13 meeting, City Council agreed with the recommendation to move the $500,000 to the Reserve for Contingencies in order to make the funds available for future use as determined by Council and to assist the Clerk of Court by appropriating $18,045 to restore funding cut by the State. Council Member Helgeson, Finance Committee Chair, stated that this item came before the Finance Committee and made a motion to approve the request. The motion required no second, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-127, as presented, appropriating $500,000 to the FY 2010 General Fund Reserve for Contingencies with resources from the Designated Local Aid to the Commonwealth Reserve, and appropriating $18,045 to the Office of the Clerk of Court to restore funding cut by the State:

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

Noes: 0

// In the matter of Capital Improvement Program (CIP), City Council Report #14 regarding including the Wards Road Pedestrian and Bicycle Improvement project in the FY2010-2014 CIP was considered. City Manager Kimball Payne provided a brief summary regarding the request. Mr. Payne mentioned that $177,421 will be reallocated from the Community Development Renovations project to this project so that engineering design can begin. On motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-09-128, as presented, amending the FY2010-2014 Capital Improvement Program to include the Wards Road Pedestrian and Bicycle Improvement project:

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

Noes: 0

// On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote elected to hold a closed meeting for consultation with legal counsel and briefings by staff members about a specific legal matter, the housing discrimination complaint filed with HUD by Ronald Overstreet, pursuant to Section 2.2-3711(A)(7) of the Code of Virginia, 1950, as amended:

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

Noes: 0

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

// Council Member Helgeson made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Council Member Johnson, and Council by the following recorded vote adopted the motion:

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

Noes: 0

// The meeting was adjourned at 8:34 P.M.

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Clerk of Council