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October 22, 2013

// A regular meeting of the Council of the City of Lynchburg was held on the 22nd day of October, 2013, at 2:00 P.M. in the Council Chamber, City Hall, Michael Gillette, President, presiding. The following Members were present:

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

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Absent: Helgeson

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// Council Member Helgeson arrived at 2:08 p.m.

// City Planner Tom Martin provided an update on the 2013-2030 Comprehensive Plan. Mr. Martin stated that Planning Works, Inc. will provide an overview of the Comprehensive Plan update process and findings. The Comprehensive Plan and Zoning Ordinance update was presented to City Council and the Planning Commission during a joint meeting on April 9, 2013. Mr. Martin gave background information on the Zoning Ordinance and Comprehensive Plan documents, which have previously been discussed as needing updates. Mr. Martin introduced Mr. Michael Lauer and Dr. Michael Chandler, consultants from Planning Works, Inc., who provided an overview of the Comprehensive Plan update process and findings.

The consultants will explore questions that Council and the Planning Commission raised on the Comprehensive Plan and Zoning Ordinance. In closing the consultants stated the adoption of this Comprehensive Plan is an early step in the planning process. The City of Lynchburg has a long history of planning and bringing those plans to reality. This Plan includes the Plan Implementation Program (PIP) that should be followed and updated annually to reflect changing conditions and priorities. The tasks in this PIP are not the only actions required to be pursued to implement the Plan, the policies are to provide operational guidance on a wide range of issues from departments throughout the City. This Plan will be most valuable if City Council, Planning Commission and administration focus on the vision and goals as they prepare annual updates to the PIP through the budget process and the City's administration continuously follows and works with the community to refine the policies to improve delivery of the services that best meet the community's needs.

// JoAnn Martin, Director of Communications and Marketing, made a presentation regarding the City's new web-based application that will be used to complement existing citizen engagement efforts. The cloud-based tool, *Civic Ideas*, will help the City engage a broader audience beyond in-person meetings by offering a convenient online space to share ideas, participate in forums, and collaborate on projects. *Civic Ideas* will launch online in early November 2013. Ms. Martin went on to say that on October 8, 2013, City Council formally adopted the 12 pillars that support the City's vision "A Great Place to Live, Work and Play." Citizen Engagement and Social Capital is one of those pillars. The City has long recognized the benefits of engaging citizens in its decision-making processes and utilizes multiple methods with varying degrees of success to solicit feedback and ideas from our citizens. Ms. Martin further stated that In order to enhance civic engagement efforts, the City has contracted with Granicus (the City's software provider for online Council agenda/meeting management and video archiving), to make use of its *Civic Ideas* application. The application is an efficient way to hear from a broader group of residents and is a convenient way for citizens to stay engaged in the governing process and in turn, help the City collect timely and actionable input from citizens. In following past practice for the City's engagement efforts, the

application has been branded as *Lynchburg is Listening*. Lastly, Ms. Martin stated that the cost of the *Civic Ideas* application is \$4,800 per year.

// Major Todd Swisher with the Police Department, as requested by Council Member Perrow, provided information regarding the Lynchburg Police Department's use of Automatic License Plate Reader (ALPR) technology. Mr. Swisher stated that on June 28, 2011 and January 22, 2013, Council amended the budget and appropriated federal grant funds to purchase license plate readers for criminal law enforcement. Mr. Swisher stated that this system is a relatively new technology that allows system-equipped police vehicles to "read" basic license plate information from other vehicles. Read data is then actively compared with recently-downloaded law enforcement be-on-the lookout listings related to fugitives, missing persons and stolen vehicles. The ALPR system notifies the officer operating the vehicle when a system "hit" is generated – meaning that a recently read license plate appears to match that of a wanted, missing or stolen vehicle. This process has been referred to as "active" data processing. Mr. Swisher further stated for the present, the Lynchburg Police Department (LPD) is using ALPR systems in "active" mode only, and is automatically purging "passive" ALPR data, without any investigative review of that data, within 24 hours of it being collected. Mr. Swisher went on to say that it is his understanding that the Virginia State Police is following the same procedure that the LPD is following.

// Margaret Schmitt, Human Resources Director, provided information on the Employee Benefits follow-up.

Ms. Schmitt stated that City Council discussed employee and retiree medical coverage at two previous sessions and requested follow-up information regarding the City's contribution levels since 1996, the availability of spouse coverage and premium cost sharing.

Ms. Schmitt provided the following information:

- Annual Contribution Rates
- Spouse Availability of Other Coverage
- Spouse Elections
- Reason for Spouse coverage
- Impact of Limiting Eligibility for Spouses
- Projected Expenses for 1/1/14 – 12/31/14
- Collections
- Current Rates – 10/11/12 – 12/31/13
- 2014 Rates (City Contribution Increases 5.5% and Family Member Rates Increase 3%)
- New Rates (Fully Fund Single Coverage – Employees)
- New Rates (Fully Fund Single Coverage – Retirees <65)
- New Rates (Fully Fund Single Coverage – Medicare Retirees)
- Share 5% of 2014 Single Rate (Shifts \$405,000 from City to Employees)
- Share 10% of 2014 Single Rate (Shifts \$810,000 from City to Employees)

During Council discussion several concerns were mentioned regarding cost sharing including giving a supplement to retirees and making it mandatory that when they reach 65 they would go on Medicare.

Mayor Gillette did state that at this time not to do a radical change in the benefits but over a period of time look into this much closer.

A motion was made by Council Member Cary, seconded by Council Member Perrow to require that when an employee reaches 65 they would go on Medicare and give a cost of \$60.00 for supplemental insurance.

Council Member Helgeson made a friendly motion, seconded by Council Member Foster to table the item until the first meeting in January 2014 for implementation on July 1, 2014. Council by the following recorded vote adopted the motion to table this item until the first meeting in January 2014:

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

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Noes:

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// During roll call Council Member Nelson announced that he had attended the CASA (Court Appointed Special Advocates) dedication of their new renovated space in the Monument Terrace Building. CASA staff wants to thank City Council, City staff and others that had made it possible for CASA to move into their new facilities.

// Council Member Cary announced that he attended the recognition of 23 students at T.C. Miller Elementary School for the first inaugural National Honor Society Chapter in the first elementary school of its kind, and hopes the other elementary schools will start the program in their school as well.

// Council Member Joan Foster also stated that she attended the CASA dedication, and secondly wanted to thank Chief Parks Snead for his comments that we are a safe community and would like the message to get to all our citizens that we are a safe community.

// Council Member Perrow announced that he attended the 2013 James River Association and noted in the press release that the James River received a "C" and it was up 2% from last year. He stated that the James River is clean and safe to swim in.

// Vice Mayor Johnson wanted to thank the Mayor and City Manager for attending the Harambee event that was held on October 19, 2013 at the Legacy Museum.

// Mayor Gillette presented the following announcements:

Council Member "H" Cary was recognized as a "Certified Local Government Official" at the Annual Virginia Municipal League (VML) Conference last week. This means that he completed a core course in local government competencies and has been appropriately recognized. Council Member Cary also was elected to serve as the Vice Chair of the Urban Section of VML. We would like to congratulate him on his recognition and his election.

City Council was reminded of GLTC's Annual Meeting on October 23, 2013 at 6:00 p.m. at the GLTC office located on Kemper Street.

Mayor Gillette asked Council, due to the Thanksgiving holiday, would Council be in favor of starting the November 26 Council Meeting as early as 1:00 p.m. and adjourn by 5:00 p.m. or the possibility of cancelling the meeting altogether? Council agreed to start the November 26 Council Meeting at 1:00 p.m. After roll call Council Member Perrow asked Council to alter the Rules of Procedures, seconded by

Council Member Helgeson, to allow a spoke person to speak for 5 minutes. The motion failed to alter the Rules of Procedures:

Ayes: Nelson, Perrow 2

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

// On motion of Vice Mayor Johnson, seconded by Council Member Cary, Council by the following recorded vote elected to hold a closed meeting for consultation with legal counsel and briefings by staff members regarding specific legal matters requiring the provision of legal advice, specifically: the discussion of the negotiation of the terms and conditions of a proposed contract between the City and the Lynchburg Regional Chamber of Commerce for the operation of the tourism program; the discussion of the negotiation of the terms and conditions of proposed contracts between the City and the adjacent counties for the sale and purchase of water; legal issues related to the Environmental Protection Agency's regulations concerning wastewater collection systems; and, legal matters involving a former City employee; pursuant to Section 2.2-3711(A.)(7) of the Code of Virginia, 1950:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// 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, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// City Council recessed the meeting at 6:44 p.m.

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

The following Members were present:

Present: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Absent: 0

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

// In the matter of Police – Emergency Services, Resolution #R-13-107 amending the FY 2014 General Fund budget and appropriating \$210,700 with resources from the General Fund Reserve to fund the City of Lynchburg share of additional costs associated with the Regional Radio Upgrade Project, laid over from the October 8, 2013 meeting, was again presented and read, and on motion of Council Member Foster, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// In the matter of Finance – Bonds, Resolution #R-13-112 amending the FY 2014 General Fund budget in the amount not to exceed \$191,250 with resources from the General Fund Reserve for Contingencies to fund the debt service interest payment due June 1, 2014, laid over from the October 8, 2013 meeting, was again presented and read, and on motion of Council Member Foster, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// In the matter of Finance – Bonds, Resolution #R-13-113 amending the FY 2014 General Fund budget and appropriating \$64,000 with resources from proceeds of the FY 2014 General Obligation Public Improvement Bond to fund issuance costs, laid over from the October 8, 2013 meeting, was again presented and read, and on motion of Council Member Foster, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// In the matter of Community Development - Zoning, a public hearing was held regarding City Council Report #9 outlining the petition of Wanjema Muhoro for a Conditional Use Permit (CUP) at 1116 Wise Street to allow the use of an existing building as a duplex in a B-5, General Business District. City Planner Tom Martin gave a summary of the request and stated the Planning Commission recommended approval of the CUP. Mr. Wanjema Muhoro, the petitioner, asked Council for approval of the CUP. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Cary, seconded by Council Member Nelson, Council by the following recorded vote adopted Resolution #R-13-115, as presented, granting the Conditional Use Permit:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// In the matter of Community Development - Zoning Amendments, a public hearing was held regarding City Council Report #10 outlining the petition of Alan R. Sale to rezone the property located at 2600 Fort Avenue from I-2, Light Industrial District to B-5C, General Business District (Conditional) to allow the use of the property for automobile sales. City Planner Tom Martin gave a summary of the request and stated the Planning Commission recommended approval of the rezoning petition. Mr. Thomas C. Brooks, representing the petitioner, outlined the request and asked for approval for the rezoning petition. 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 Ordinance #0-13-116, as presented, granting the Zoning Amendments:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// In the matter of Community Development - Zoning, a public hearing was held regarding City Council Report #11 outlining the petition of James River Day School for a Conditional Use Permit (CUP) at 104 Bon Ton Circle to allow a temporary modular classroom to become permanent and to allow the use of the existing structure at 108 Bon Ton Road for educational uses in an R-1, Single-Family Residential District. City Planner Tom Martin gave a summary of the request and stated the Planning Commission recommended approval of the CUP. Mr. Peter York, representing the petitioner, outlined the request and asked for approval of the CUP. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Vice Mayor Johnson, seconded by Council Member Foster, Council by the following recorded vote adopted Resolution #R-13-117 as presented, granting the Conditional Use Permit:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// In the matter of Public Works – Street Vacation, a public hearing was held regarding City Council Report #12 regarding GOBO Properties, LLC to vacate excess right-of-way located on Old Forest Road between Ardmore Drive and Dandridge Drive. The excess right-of-way will be combined with the adjoining parcels on Old Forest Road. City Planner Tom Martin gave a summary of the request and stated the Physical Development Committee (PDC) forwarded the request to City Council with a recommendation to vacate the right-of-way. Mr. Norman Walton, representing the petitioner, outlined the request and asked for approval of the right-of-way. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Perrow, Chair of the Physical Development Committee (PDC) stated that this item came before PDC which recommended approval of the request. This motion does not require a second and Council by the following recorded vote adopted Ordinance #O-13-118, as presented, to vacate excess right-of-way located on Old Forest Road between Ardmore Drive and Dandridge Drive:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// Council Member Perrow stated the following, "my company, WW Associates, occasionally contracts with Liberty University for engineering services. While Freedom Aviation is associated with Liberty University, it is in fact a separate and distinct legal entity from Liberty University. Because Freedom Aviation is a separate and distinct entity from Liberty University, I do not have a conflict of interest that prevents me from participating in this matter, and I am able to participate in this matter fairly, objectively and in the public interest. Therefore, I will participate in the discussion of and vote on Freedom Aviation's request."

// In the matter of Airport – General, a public hearing was held regarding City Council Report #13 to receive public comments on the request of Falwell Aviation, currently doing business as Freedom Aviation, to amend the terms of the July 1, 2007 franchise agreement between Falwell Aviation and the City. The requested amendment to the franchise agreement would remove the restrictions on Freedom Aviation's ability to provide retail fuel services at the Lynchburg Regional Airport, and would allow Freedom Aviation to sell aviation fuel to the military and commercial airlines.

Mark Courtney, Airport Manager, gave a summary of the request. On August 26, 2013 the Lynchburg Regional Airport Commission voted to recommend disapproval of the request.

David Young with Freedom Aviation, doing business as Freedom Aviation, is requesting to amend its Franchise Ordinance to remove all references to limitation on retail fueling operations as an authorized full-service fixed base operator by Lynchburg Regional Airport.

Jim Walker with Virginia Aviation stated that both parties agreed with the franchise agreement. Both parties understood the agreement.

Robin Wood, the Attorney for Virginia Aviation, asked questions regarding the FAA regulations on exclusive rights. Mr. Wood stated that, in his judgment, there are no violations; Freedom Aviation can sell branded gas, there was no objection from Virginia Aviation. There was no one else present who wished to speak to this item, and the public hearing was closed. After Council discussion Council Member Perrow made a motion, seconded by Vice Mayor Johnson to table the matter to a closed session at a later time. Council by the following recorded vote adopted the motion to take this matter to a closed session:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// In the matter of Community Planning – General, a public hearing was held regarding City Council Report #14 to receive citizen comments on the adoption of a resolution authorizing the City Attorney's Office to initiate condemnation proceedings to acquire the fee simple title to the parcel of property owned by J. Wayne Henson, located at 3010 Wards Ferry Road, Lynchburg City Tax Map No. 247-03-020, containing approximately 2.39 acres. The property in question is needed and shall be used for the construction of the new Heritage High School. City Attorney Walter Erwin gave a summary of the request stating he received a call from Mr. Henson's lawyer. The lawyer stated Mr. Henson was having his own appraisal conducted and would be ready to revisit the issue once its findings were in. Two people spoke in opposition of the request with regard to buying the land, stating "don't strong arm" and expressed a concern with the process. There was no one else present who wished to speak to this item, and the public hearing was closed. After Council discussion, Council Member Helgeson made a motion to deny the request, the motion failed for lack of a second. On motion of Vice Mayor Johnson, seconded by Council Member Nelson, Council by the following recorded vote adopted Resolution #R-13-119 as presented, to initiate condemnation proceedings to acquire the fee simple title to the parcel of property owned by J. Wayne Henson, located at 3010 Wards Ferry Road:

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

Noes: Helgeson 1

// The meeting was adjourned at 9:14 P.M.