

## LYNCHBURG CITY COUNCIL

### Agenda Item Summary

|                                                                                                                    |                   |                    |
|--------------------------------------------------------------------------------------------------------------------|-------------------|--------------------|
| MEETING DATE: <del>August 11, 2009</del> <b>October 13, 2009</b>                                                   |                   | AGENDA ITEM NO.: 1 |
| CONSENT:                                                                                                           | REGULAR: <b>X</b> | CLOSED SESSION:    |
| ACTION: <b>X</b>                                                                                                   | INFORMATION:      | (Confidential)     |
| <u>ITEM TITLE:</u> <b>City of Lynchburg Comprehensive Plan 2002-2020 Amendment – Chapter 12, Natural Resources</b> |                   |                    |

RECOMMENDATION: Approval of the amendments to Chapter 12 of the City of Lynchburg *Comprehensive Plan 2002-2020*.

SUMMARY: The City of Lynchburg *Comprehensive Plan 2002-2020* recommends the establishment of “a Natural Systems/Environmental Resources Advisory Committee [NRAC] of local experts to monitor trends in environmental science.” **(12.8)** The Planning Commission appointed representatives to the Committee on June 14, 2006 and the group has met regularly since August 15, 2006. NRAC has submitted recommendations for the update of Chapter 12 of the *Comprehensive Plan 2002-2020*. These include the deletion of goals that have been completed or are no longer applicable, as well as amendments to reflect the current status of other existing City programs. The revisions also include the addition of a goal to prioritize open space, a goal to promote water conservation and drinking water source protection and a goal to promote the conservation of energy and natural resources. Planning Commission recommended approval of the amendments because:

- The City’s *Comprehensive Plan 2002–2020* provides that “one of the most important aspects of implementation is being certain that each strategy is moving forward; that this Plan has not simply been ‘put on the shelf’.” **(17.8)**
- The proposed revisions would more accurately reflect the status of the City’s current initiatives, as well as provide for additional goals to help the City become a more sustainable community.

PRIOR ACTION(S):

- October 8, 2008: Planning Division recommended approval of the City of Lynchburg *Comprehensive Plan 2002-2020* Chapter 12 amendments.
- Planning Commission recommended approval (6-0, 1 Absent - Oglesby) of the amendments to Chapter 12 of the City of Lynchburg *Comprehensive Plan 2002–2020*.
- November 11, 2008: City Council referred the City of Lynchburg *Comprehensive Plan 2002-2020* Chapter 12 amendments back to Planning Commission.
- June 24, 2009: Zoning and Natural Resources Division recommended approval of the City of Lynchburg *Comprehensive Plan 2002-2020* Chapter 12 amendments.
- Planning Commission recommended approval (6-0, 1 Absent - Oglesby) of the amendments to Chapter 12 of the City of Lynchburg *Comprehensive Plan 2002–2020*.
- August 11, 2009: City Council referred to work session.

BUDGET IMPACT: None

CONTACTS:

|               |          |
|---------------|----------|
| Bonnie Svrcek | 455-3990 |
| Tom Martin    | 455-3909 |
| Erin Hawkins  | 455-3869 |

ATTACHMENT(S):

Ordinance  
PC Report – October 8, 2008  
PC Minutes – October 8, 2008  
PC Report – June 24, 2009  
PC Minutes – June 24, 2009  
Speaker Sign-up Sheet

REVIEWED BY: lkp

081L

## ORDINANCE

### AN ORDINANCE AMENDING CHAPTER 12, NATURAL SYSTEMS, OF THE CITY'S COMPREHENSIVE PLAN 2002-2020.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG that in order to promote the public necessity, convenience, general welfare, and good zoning practice Chapter 12, Natural Systems, of the City's Comprehensive Plan 2002-2020, be amended and reenacted as follows:

## Introduction

**L**ynchburg residents attach a high value to preserving and enhancing their natural and environmental resources. For many residents, the beauty of the City is an essential part of their quality of life. The City is known for its hills and steep ravines that harbor rich woodlands, wildlife, and rare plants. The James River, Lynchburg's most prominent natural feature, provided the City's early reason for being—a source of water, power and a transportation vehicle. Now the James River is becoming the focus for downtown revitalization.

~~As the City has developed, pressures have increased to build on sensitive natural lands. Citizens have expressed a desire to increase efforts to protect natural and environmental resources and to move toward a more sustainable community. Using such cities as Chattanooga, Tennessee, and Boulder, Colorado, as models, Lynchburg embraces sustainable development, defined as “meeting the needs of the present without compromising the ability of future generations to meet their needs.” The goals, objectives and strategies identified in this element strive to lead Lynchburg towards a more sustainable future by protecting and promoting the City's outstanding natural resources.~~

As the City has developed, pressures have increased to build on sensitive natural lands. Citizens have expressed a desire to increase efforts to protect natural and environmental resources and to move towards a more sustainable community. Lynchburg embraces sustainability and recognizes that elements such as environmental stewardship, financial responsibility, economic development and social impact must serve as a filter for the City's decision making and development of policy. Only through appropriate consideration of these principles will Lynchburg provide its residents with the opportunity to meet the needs of the present without compromising the ability of future generations to meet their needs. The goals, objectives and strategies identified in this element strive to lead Lynchburg towards a more sustainable future by protecting, ~~and~~ promoting and restoring the City's outstanding natural resources.

## Context & Recommendations

### Geology, Topography & Soils

The natural features of Lynchburg, including the geology, topography, and soils, have a significant impact on the suitability of the land for development. The variable rock types underlying the City have formed the hills and steep ravines of the central city, the imposing

Candlers Mountain along the City's southern border, and the foothills of the Blue Ridge Mountains that begin in the Reusens area along the northwest border. Those areas of the City that feature a highly dissected landscape of narrow ridges and steep-sided valleys present a challenge to developers, especially for large retail and industrial buildings needing large areas for parking. Grading of steep slopes can result in significant soil erosion and sedimentation of streams, though to accomplish much additional development in Lynchburg, some steep areas will likely need to be graded.

Some areas of the City are so steep that they remain wooded and relatively natural today. Many steep-sided stream valleys harbor a rich diversity of plant and animal life. The amount and extent of forested areas is quite unusual for a city of Lynchburg's size and age. Large areas of woodland remain on Candlers Mountain, in the Tyreeanna area, in the vicinity of the Blackwater Creek Natural Area and Peaks View Park, and in the Cheese Creek and Judith Creek watersheds. These areas have the potential to be connected to create a natural greenways system that builds on the success of the Blackwater Creek Natural Area.

## Water Resources

Lynchburg is drained by ~~11~~ eleven streams. Judith, Pigeon, Blackwater, Fishing, and Opossum Creeks all drain directly to the James River, while Ivy, Cheese, Tomahawk, Burton, and Dreaming Creeks are tributaries of Blackwater Creek. By far, Blackwater Creek has the largest watershed area affecting the City and extending into neighboring Bedford and Campbell counties.

Over the years, City staff and citizens have noticed an increase in flood levels in the City streams, both the frequency of bank overflow and flood elevations. The increased impact of floods appears to be due to increased urbanization of stream watersheds, not only in the City, but also in neighboring counties. City engineers and planners have noted that the City's FEMA 100-year floodplain maps, published in 1983, are no longer accurate and recommend that they be updated. This has resulted in an update of the City's floodplain mapping with new FEMA 100-year floodplain maps being adopted by the City, effective June 3, 2008. While the City has permitted development to occur in the 100-year floodplain in the past, it should limit new development in the floodplain in the future and seek to protect existing development that may be affected by flooding. The City should also review and study dam break inundation zones and potential impacts to downstream properties as resources allow.

The water quality of several streams, including Blackwater, Burton, Fishing, Ivy, Judith and Fishing Tomahawk Creeks and the James River, is in violation of ~~has been found to violate the~~ state and federal water quality standard for Escherichia coli (E. coli), a type of fecal coliform, which indicates contamination from human or animal wastes. E. coli ~~Fecal coliform~~ levels exceed the standards to the extent that the Virginia Department of Environmental Quality (DEQ) has placed these streams on the priority list of impaired waters pursuant to Section 1313(d) (1) of the Federal Clean Water Act. As a result, the DEQ has performed a study called Total Maximum Daily Load (TMDL) to determine the total amount of a pollutant from point and non-point sources that the streams can handle daily and still meet water quality standards for their designated uses. The study, "Bacteria TMDL for the James River Basin" dated August 2007 identifies Lynchburg's Combined Sewer Overflows as a major point source contributor to the total fecal coliform load. The study also states that the majority of the fecal coliform originates from non-point sources, which primarily include: agriculture, residential and forested areas. Non-agriculture anthropogenic non-point sources include loadings from straight pipes, leaking sanitary sewers, failing septic



systems and pet waste. An Implementation Plan of the TMDL, which looks at all sources of bacteria loadings, should be developed through collaboration with DEQ and other stakeholders. Lynchburg's combined sewer system overflows (CSOs) have been identified as the primary source of this contamination. The City's project to separate sewage from stormwater flows, the Combined Sewer Overflow (CSO) project, is designed to address the problem. The DEQ ~~has performed a special study~~ will be performing special studies, called Total Maximum Daily Load (TMDL) studies, to determine actions that are necessary to address this problem if there are any other actions that will need to be taken to reduce fecal coliform counts. Implementation of this TMDL should be a priority to bring watershed/water quality in to compliance. But beyond these efforts, other water quality concerns will need to be addressed in the future

The EPA, DEQ and DCR are implementing various regulations and requirements related to reducing is seeking voluntary cooperation from localities in the effort to reduce nutrient (phosphorus and nitrogen) and sediment pollution as part of the James River Tributary Strategy. The James River Tributary Strategy is one element of a multi-state effort to improve the water quality and to protect the important living resources of the Chesapeake Bay. Lynchburg will continue working with these and other agencies towards the goal of water pollution reduction. For communities above the fall line like Lynchburg, the focus will be on the reduction of erosion and sedimentation.

The EPA and the DEQ will also require The City by 2003 to adopted standards and implemented mitigation measures to address stormwater quality, the so-called Phase II National Pollution Discharge Elimination System stormwater requirements. In response to the Phase II National Pollution Discharge Elimination System stormwater requirements from EPA and DCR, the City has adopted standards and implemented mitigation measures to address stormwater quality. as required by the EPA and DCR.

The City and Bedford County have completed obtained a regional stormwater management grant that will explore efficient methods for controlling stormwater quantities and for meeting these new stormwater quality requirements. It is likely that The City's efforts to address stormwater quality will reduce sediment pollution and therefore assist the DEQ in fulfilling the goals for the James River Tributary Strategy.

As a result of these water quality challenges, the City should work towards the development of an effective and efficient strategy to address overall water quality needs and comply with regulatory requirements, while ensuring other needs of the community continue to be met.

## **Air Quality & Noise Issues**

The DEQ indicates that Lynchburg is in compliance with federal ambient air quality standards. However, not all regulated air pollutants are monitored in the City, particularly those resulting from non-point sources such as automobiles. If the DEQ were to monitor air quality more comprehensively, it may be determined that Lynchburg is not meeting the standard for some pollutants, such as ground-level ozone. In this event, the City will have to prepare and implement a plan to address air pollution issues. Also, existing and forthcoming regulation, such as that outlined by the Climate Action Plan issued by the Governor's Commission on Climate Change, will eventually require the City to address emissions of greenhouse gases such as carbon dioxide. Noise, odors, and light pollution are other environmental concerns for some citizens, but detailed data on these pollutants are not readily available.

~~The DEQ indicates that Lynchburg's air quality meets federal standards, though not all regulated air pollutants are monitored in the City. The EPA revised the standard for ozone in 2000, making it more difficult to meet. If the DEQ places an ozone monitor in Lynchburg in the future, there is a possibility that the City will not meet the standard and will have to prepare and implement a plan to address ozone pollution.~~

~~Noise, odors, and light emissions are environmental concerns for some citizens, though detailed data on these pollutants is not readily available.~~

## **Understanding the Value of Natural Systems**

There is a keen interest among citizens in improving the environmental quality of Lynchburg and protecting its natural resources. The first step in protecting these resources is to understand their value in providing a healthy environment. Monitoring and managing the environmental resources within the City can require a significant amount of resources. As stated in Chapter 5, Citywide Land Use & Development, the City needs to improve its capacity to monitor, analyze, and report on local conditions, including environmental and natural resources. The City should develop a natural systems/environmental database to understand existing conditions and monitor future environmental health. Many cities and counties across Virginia are developing environmental databases in their GIS systems to help them plan sustainable, environmentally sensitive communities. Most cities map topography, soils, water bodies, floodplains and parks.

The City should also designate a City staff person to serve as an Environmental Management Coordinator, to maintain and monitor the environmental database and to prepare annual reports on the state of the City's environmental health, for distribution to City officials, staff, residents, and others in the region. Initial environmental reports could be based on existing data and expanded as the GIS and other data systems are improved. City officials and citizens could benefit from more comprehensive information about effective environmental protection techniques. City staff, including the Environmental Management Coordinator, should be kept abreast of environmental trends and practices through training, conferences, workshops, and other educational forums. The City ~~needs to~~ has established a Natural Systems/Environmental Resources Advocacy Advisory Committee of local experts to monitor trends in environmental science. The advisory group ~~could be~~ is composed of representatives from the Robert E. Lee Soil and Water Conservation District, ~~Friends of Lynchburg Stream Valleys~~ Region 2000 Local Government Council, local colleges and universities, and others.

## **Evaluating Human Activities**

Currently, the City does not have an effective tool for evaluating the impacts of development proposals on environmental resources. Residents have expressed a strong desire for a mechanism to evaluate development impacts. One possible method would be for the staff to develop a simple environmental checklist to be applied to all public and private development proposals including rezonings, conditional use permits, site plans, and subdivision plans. The checklist would help evaluate the potential positive and negative effects of development proposals. More detailed evaluations may be required on projects that have a significant impact on environmental resources. Staff should, therefore, develop a process for reviewing these types of impacts more closely. The completed environmental checklists and detailed environmental analyses should be compared to economic and fiscal impact reports and incorporated into staff

reports to the Planning Commission and City Council. The environmental checklists and analyses should also be used to update the natural systems/environmental database.

The City needs to establish a set of environmental performance standards for private and public development activities. The standards should be based upon adopted local, state, and federal requirements and cover such issues as air emissions; pollutant discharges; stormwater, erosion, and sediment controls; light, noise, and odor emissions; steep slopes; floodplains; and wetlands; among others. By having environmental performance standards in place, the City can require the modification, redesign, or replanning of proposed development projects.

## **Resource Management & Protection**

The City desires to improve the protection and management of its natural systems in order to create a truly sustainable community. There are a number of approaches that the City may choose to pursue, including environmental performance standards, incentives for private actions, education and awards programs, and direct City actions.

As described above, it is important for the City to consider environmental performance standards for new development and redevelopment, not only to ensure compliance with state and federal standards, but also to address the protection and management of important natural resources. Through the application of reasonable standards limiting the development of floodplains, wetlands and streamside steep slopes, these important resources could be preserved. Standards for the construction and maintenance of stormwater management facilities would ensure that flooding levels are kept in check and that the water quality of stormwater discharges is addressed. A major concern raised by citizens is the design, quality, and upkeep of stormwater management facilities. During the Community Character Survey, poorly functioning stormwater management facilities received some of the lowest rankings. Maintenance and upkeep of such facilities are directly linked to their effectiveness in managing stormwater.

Incentives, rather than codified standards, may be more appropriate for other efforts to achieve sustainable development. For example, the City should continue to promote the recycling and re-use of existing buildings and offer incentives for the cleanup and redevelopment of brownfield sites, including tax abatement, density/intensity increases, and contributions to infrastructure and public amenities. Density increases or other incentives for private developers should be available in a variety of zoning districts, not just the Traditional Neighborhood Development and Planned Unit Development zones, in exchange for the preservation of significant wooded open space, unique species areas or critical habitats, and for green building design.

The City should also employ softer techniques for natural resource protection such as educational programs and programs to recognize private environmental initiatives. The City is planning to develop an environmental education center at Lynchpin Nature Center that would demonstrate environmental protection and green building techniques. The City should also install interpretive signage along the trail systems of the James River and Blackwater Creek to educate the public about water, wetlands, and riparian land protection. Education and awareness programs should be used to promote the eradication of invasive plant species, such as kudzu, Japanese honeysuckle, and purple loosestrife. The City's park naturalists could work with landowners, community groups (e.g., Boy Scouts and Girl Scouts), and others, as well as offering special awards for eradication efforts. Developers who make special efforts to incorporate green building techniques, protect stream valley woodlands, or otherwise build sustainably could be recognized

through an annual awards program. A number of communities in Virginia use awards programs to promote green development.

Finally, the City itself could become actively involved in natural resource protection and management. When the City constructs a building, a parking lot, a road, or a park, for example, it should strive to protect wooded areas, steep slopes, and floodplains to the extent feasible. The City should use green building techniques and demonstrate well-landscaped stormwater management facilities that not only serve as best management practices, but also provide visually pleasing amenities. The construction of the new Juvenile and Domestic Relations Courthouse and Sandusky Middle School projects will be the first City buildings built to sustainable building guidelines. Citizens in public meetings voiced a great deal of support for City establishment of a greenway program to expand the James River Heritage Trail and the Blackwater Creek Natural Area and to establish similar areas along other City streams. The greenway program should promote the purchase and accept donations of open space for resource protection along streams. The City could also use environmental performance standards to obtain the dedication of stream valley open space for the greenway program in developing and redeveloping areas. The Resource Conservation Areas identified on the Future Land Use Map and described in Chapter 5, Citywide Land Use & Development, outline what a fully implemented greenway system might look like.

## **A Regional Approach**

Since nature does not respect political boundaries, regional cooperation is essential in addressing environmental problems and managing natural systems. The expansion of existing partnerships should be encouraged to address regional environmental issues such as stormwater (in progress), greenways, scenic resources, water and air quality, and invasive species. Collaboration between state agencies, local and regional environmental groups, and colleges and universities may prove more effective in addressing resource protection and management. The regional stormwater management effort is a good example of environmental planning that extends across jurisdictions and utilizes grant funds from the Virginia Department of Conservation and Recreation. The City should continue to pursue other funding opportunities to monitor and manage environmental resources.

Information about the health of the natural systems in the City and region is dispersed among various groups, and data collection is currently a cooperative effort. There is no local repository for information. Information-sharing responsibilities and data collection protocols should be established between the various groups so that an annual report on the state of the City's and region's natural systems and environmental health can be produced.

## Chapter 12 – Natural Systems, Comprehensive Plan Goals, Objectives & Strategies

**Goal 1. Promote an understanding of the value of natural systems (geology, landforms, vegetation, wildlife, air, water, noise, and energy, among others) in providing a pleasant, healthy, and safe environment for human activity.**

**Objective 1.A. Education. Increase awareness of environmental health issues, including those associated with the region's air and water quality, among City officials, staff, and citizens—both individual and corporate.**

- 1) Designate a City staff person (the Environmental Management Coordinator) to prepare and maintain the natural systems/environmental databases and prepare reports and coordinate efforts of other City Departments.
- 2) Publish an annual report on the state of the City's and regions natural systems and environmental health for distribution to City officials, staff, residents, and others in the region. The initial reports should be based on existing data and expanded as the GIS and other databases are improved. Use of the Internet and other technologies to distribute the report should be maximized to the greatest extent possible to reduce paper waste.
- 3) Demonstrate effective environmental protection and "green" building techniques at the proposed environmental education center at Lynchpin Nature Center and/or at other venues.
- 4) Provide environmental education opportunities that highlight the James River through interpretive signage and programs along the James River Heritage Trail and in the downtown riverfront parks.

**Goal 2. Evaluate the potential effects, both positive and negative, of human activities (such as new development, redevelopment, installation of infrastructure, and resource use and disposal, among others) on natural systems.**

**Objective 2.A. Training & Education. Keep abreast of trends in environmental science to better understand the potential effects of development on natural systems.**

- 1) ~~Establish a Natural Systems/Environmental Resources Advisory Committee of local experts to monitor trends in environmental science.~~ Maintain the Natural Resources Advisory Committee and its support of the Planning Commission regarding environmental issues.
- 2) Provide training and conference opportunities for the City's Environmental Management Coordinator.
- 3) Offer workshops and training sessions for City officials, staff, developers, and citizens on effective environmental protection and "green" building techniques.

**Objective 2.B. Environmental Impact Methodologies. Improve methodologies, practices, and procedures for assessing the environmental impacts of development proposals.**

- 1) Develop a simple environmental checklist for ~~screening~~ evaluating proposed projects for potentially significant environmental effects. Apply this checklist to all rezonings, conditional use permits, site plans, and subdivision plans.
- 2) Establish methodologies for more detailed evaluation of potentially significant environmental impacts identified through use of the checklist.
- 3) Require private developers to prepare more detailed analyses for significant environmental impacts identified through use of the checklist.
- 4) Prepare detailed analyses for City projects that show potentially significant environmental impacts through use of the checklist.

5) Incorporate the environmental checklists and detailed environmental analyses in staff reports to the Planning Commission and City Council so that environmental impacts can be directly compared with economic and fiscal impact reports on projects.

~~6) Pursue the development of more accurate maps of the City's 100-year floodplains so that the impacts of development on floodplains can be assessed more accurately.~~

### **Goal 3. Temper and refine human activities to promote and enhance the value of natural systems.**

#### **Objective 3.A. Development Standards. Improve environmental standards for private and public development activities.**

1) With input from the Natural ~~Systems/Environmental~~ Resources Advisory Committee, prepare a set of environmental performance standards for private and public development projects that address such issues as:

- Air emissions, based on state standards and local plans.
- Pollutant discharges into water resources, based on state standards and regional and local plans.
- Phase II National Pollution Discharge Elimination System Stormwater Program.
- James River Tributary Strategy.
- Total Maximum Daily Load Impaired Waters Plans.
- Erosion and sediment controls based on state and local standards.
- Noise exposure limits based on Federal Highway Administration standards.
- Light emissions, odors, energy use and efficiency, water consumption and solid waste disposal, based on local standards.
- Natural features, including steep slopes, floodplains, and tree cover, based on local standards.
- Wetlands, based on U.S. Army Corps of Engineers standards.

2) Consider adoption of the environmental performance standards as either policies or regulations after public input.

#### **Objective 3.B. Analyses. Use environmental analyses to modify, redesign, or replan entirely proposed developments to ensure the City's environmental health.**

1) Apply environmental performance standards to reduce negative environmental effects.

2) If environmental analyses show significant adverse effects even after application of standards, then modify, redesign, or replan projects to reduce the effects, based on the recommendations of the analyses.

3) Consider environmental tradeoffs or offsets for economic development projects deemed essential to the City.

### **Goal 4. Manage natural systems to improve the health and enjoyment of future generations.**

#### **Objective 4.A. Incentives. Develop incentive programs for the private preservation of important environmental resources.**

~~1) Offer density/intensity increases and/or other incentives to private developers for the preservation of significant wooded open space, unique species areas, and critical habitats; for "green" building design; and for environmental remediation within not only the Planned Unit Development and Traditional Neighborhood Development zoning districts, but also other zoning districts.~~

Offer density/intensity increases and/or other incentives to private developers for the following:

- Preservation of significant wooded open space
- Preservation of unique species areas
- Preservation of critical habitats
- Implementation of "Green" Building design (ex: LEED, Earth Craft)
- Environmental remediation within Planned Unit Development, Traditional Neighborhood Development zoning districts and all other zoning districts

2) Continue to promote the adaptive re-use of existing buildings, ~~as a form of recycling through a variety of incentives.~~

3) Offer incentives for the redevelopment of “grey field” sites and cleanup and redevelopment of “brownfield” sites, for example, density/intensity increases, tax abatements, and City contributions of infrastructure and public amenities.

4) Establish a program to promote the donation of open space easements to the City or a private land trust, showing the tax benefits that apply. The program should ~~address only target~~ land recommended for open space preservation on the Future Land Use Map and/or identified through future land resource plans/studies.

5) Promote the eradication of invasive plant species through education and awards programs or other incentives.

**Objective 4.B. Protection. Protect and manage important environmental resources.**

1) Establish a greenway program to expand the James River Heritage Trail and Blackwater Creek Natural Area and to establish similar areas along other City streams:

- Apply performance standards protecting floodplains, wetlands, and streamside steep slopes to development projects.
- Organize a program to purchase and accept donations of open space land for natural resource protection and passive recreational use along streams.

2) Protect important natural resources on City-owned land:

- Refrain from filling or developing in the 100-year floodplain and in wetlands, except as required for water resource and passive recreational projects. For the latter type of project, impacts on floodplains and wetlands should be minimized to the greatest extent possible.
- Limit development of steep slopes adjacent to streams, floodplains, and wetlands.
- Protect wooded areas, unique vegetation areas, and critical habitats to the greatest extent possible.
- Protect and enhance scenic resources, such as City parks and trails, the Old City Cemetery, the Riverfront and Point of Honor.
- Eradicate invasive plant species on City-owned properties.

3) Apply “green” building techniques to new and renovated City buildings.

4) ~~Continue to work with neighboring jurisdictions to address both water quality and quantity (flooding) within watersheds develop through a regional stormwater management program and watershed management plan that addresses both water quality and quantity (flooding) within watersheds, and to design stormwater facilities to be attractive visual assets rather than eyesores.~~

5) Monitor the water quality impacts of the CSO ~~project program, and other water quality initiatives,~~ and implement water quality improvement plans for other TMDL impaired streams as they are designated.

6) ~~Seek Take advantage of water quality improvement fund (WQIF) grants that are available from the Virginia Department of Conservation and Recreation (e.g., the recently approved regional stormwater management grant for the City of Lynchburg and Bedford County). Federal, State, Local, and private grants that are available for the purpose of protecting land and water resources.~~

7) Monitor the air quality standard attainment status of the City and the region, as determined by the state, particularly with respect to ozone, and develop an appropriate nonattainment plan as necessary.

8) Expand public/private clean-up programs to remove trash and debris from stream valleys and ravines.

9) Utilize GIS and other tools, such as the Virginia Conservation Lands Needs Assessment, to guide prioritization of conservation of current city open spaces and in assessing impact of new development on surrounding natural systems.

10) Promote protection and conservation of drinking-water resources throughout the City and region through educational outreach, encouragement of conservation practices and through land use conservation/protection. Implement strategies that are being developed in the Region 2000 Local Government Council Regional Water Supply Plan.

**Goal 5. Promote regional cooperation in managing natural systems.**

**Objective 5.A. Partnerships. Build partnerships in managing natural systems.**

1) Continue to expand partnerships with the following agencies, governments, and groups to address regional environmental issues:

- ~~Region 2000 Regional Commission~~ Virginia's Region 2000 - Local Government Council
- Robert E. Lee and Peaks of Otter Soil and Water Conservation District
- Adjoining counties
- State agencies, including DEQ, DCR and VDOT
- Colleges and universities
- Local and regional environmental groups
- Citizen and business volunteers
- Central Virginia Erosion & Sediment Control Committee (CVESCC)

2) Identify issues that are best addressed on a regional basis, such as:

- Stormwater management and watershed management ~~(Grant in progress)~~
- Greenways and Blueways ~~(James River Heritage Trail planning in progress)~~
- Air quality
- Invasive plant species eradication
- Scenic resources protection

**Objective 5.B. Information Collection. Improve methods for collecting and sharing environmental information.**

1) Work with regional partners to establish responsibilities and protocols for environmental data collection.

2) Distribute the annual report on the state of the City's and region's natural systems and environmental health to regional partners.

3) Use the Internet and other technologies to broadcast information widely and to minimize paper waste.

4) Promote conservation of energy and natural resources.

~~**Objective 5.C. Regional Cooperation. Initiate regional cooperative efforts with demonstration projects.**~~

~~1) Support current regional stormwater management planning and greenways efforts.~~

~~2) Expand regional environmental planning efforts to other topic areas, such as air quality, invasive plant species eradication, and scenic resource protection, over time as success is demonstrated.~~

Adopted:

Certified: \_\_\_\_\_  
Clerk of Council

081L



**The Department of Community Development**  
**City Hall, Lynchburg, VA 24504** **434-455-3900**

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**To:** Planning Commission  
**From:** Zoning & Natural Resources Division  
**Date:** June 24, 2009  
**Re:** City of Lynchburg *Comprehensive Plan 2002-2020* Amendment – Chapter 12, Natural Systems

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**I. PETITIONER**

City of Lynchburg, Zoning & Natural Resources Division, 900 Church Street, Lynchburg, VA 24504  
**Representative:** Erin Hawkins, Environmental Reviewer, Zoning & Natural Resources Division, 900 Church Street, Lynchburg, VA 24504  
Dr. Karin Warren, Chair, Natural Resources Advisory Committee [NRAC], Randolph College, 2500 Rivermont Avenue, Lynchburg, VA 24503

**II. LOCATION**

N/A

**Property Owner:** N/A

**III. PURPOSE**

The purpose of this petition is to consider the NRAC recommended updates to Chapter 12, Natural Systems, of the City of Lynchburg *Comprehensive Plan 2002-2020*.

**IV. SUMMARY**

- The City's *Comprehensive Plan 2002-2020* recommends establishing "a Natural Systems/Environmental Resources Advisory Committee of local experts to monitor trends in environmental science." **(12.8)**
- The NRAC's recommendations include revisions to the text, goals and objectives of the Natural Systems chapter of the City of Lynchburg *Comprehensive Plan 2002-2020*.

**The Zoning & Natural Resources Division recommends approval of the amendments to Chapter 12, Natural Systems, of the *Comprehensive Plan 2002-2020*.**

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan 2002-2020* recommends the establishment of "a Natural Systems/Environmental Resources Advisory Committee of local experts to monitor trends in environmental science." **(12.8)** The Planning Commission appointed representatives to the committee on June 14, 2006 and the group has met regularly since August 15, 2006. In addition to revisions to the *Stormwater Management Ordinance* and an evaluation of climate change initiatives, the committee was also charged with the review and update of Chapter 12 of the plan. NRAC has submitted recommendations for the Planning Commission's review; these include the deletion of goals that have been completed or are no longer applicable, as well as amendments to reflect the current status of other existing City programs. The revisions also include the addition of a goal to prioritize open space, a goal to promote water conservation and drinking water source protection and a goal to promote the conservation of energy and natural resources.
2. **Zoning.** N/A

3. **Board of Zoning Appeals (BZA).** N/A
4. **Surrounding Area.** N/A
5. **Site Description.** N/A
6. **Proposed Use of Property.** N/A
7. **Traffic and Parking.** N/A
8. **Stormwater Management.** The proposed revisions highlight the City's ongoing work to implement mitigation measures that address stormwater quality as part of the Phase II National Pollution Discharge Elimination System. NRAC also recommended language to clarify Objective 4.B.3 to reflect the City's desire to work with neighboring jurisdictions to ensure consistent standards as part of a regional stormwater management program.
9. **Emergency Services.** N/A
10. **Impact.** The City's *Comprehensive Plan 2002–2020* provides that “one of the most important aspects of implementation is being certain that each strategy is moving forward; that this Plan has not simply been ‘put on the shelf.’” (17.8) The proposed revisions would more accurately reflect the status of the City's current initiatives, as well as provide for additional goals to help the City become a more sustainable community.
11. **Technical Review Committee.** N/A

#### **VI. ZONING & NATURAL RESOURCES DIVISION RECOMMENDATION:**

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of amendments to Chapter 12, Natural Systems, of the City of Lynchburg *Comprehensive Plan 2002-2020*.**

This matter is respectfully offered for your consideration.



Erin B Hawkins  
Environmental Reviewer

pc: Mr. L. Kimball Payne, III, City Manager  
Mr. Walter C. Erwin, City Attorney  
Ms. Charlene B. Montford, Director of Community Development  
Mr. J. Lee Newland, City Engineer  
Mr. William T. Martin, City Planner  
Ms. Cynthia Kozerow, Lynchburg Police Department  
Battalion Chief Greg Wormser, Fire Marshal  
Mr. Gerry Harter, Traffic Engineer  
Mr. Robert Drane, Building Commissioner  
Mr. Keith Wright, Zoning Official  
Mr. Robert Fowler, Zoning Administrator  
Mr. Kent White, Senior Planner

## **VII. ATTACHMENTS**

- 1. Proposed Revisions – Chapter 12, Natural Systems, City of Lynchburg Comprehensive Plan 2002-2020**

**MINUTES FROM THE JUNE 24, 2009 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):**

b. Changes to Chapter 12, Natural Systems of the *Comprehensive Plan*: Ms. Hawkins reminded them that in October 2008, the revisions to this chapter were forwarded to City Council from the Planning Commission. At that meeting, the Utilities Department and the Greater Lynchburg Environmental Network had brought forward some items to be included in Chapter 12. The matter was referred back to the Natural Resources Advisory Committee (NRAC). Today, Ms. Hawkins is presenting the latest version of the revisions to Chapter 12 for the commissioners' review. These revisions include the comments and concerns that were brought forward at the previous City Council meeting.

The majority of the revisions were done in the Water Resources section. They did not change the content of the document. The changes clarified and brought up to date the section, mostly regarding the CSO separation and the findings of the Total Maximum Daily Load (TMDL) reports. TMDLs are findings that the Department of Environmental Quality (DEQ) has put out. We have TMDLs in the City that we are working to improve. These revisions changed two of the goals 4.B.4) and 4.B.5).

There were no other major changes to the document. Since this had gone through the public hearing process already, Ms. Hawkins clarified with the City Attorney that it was not necessary to have another public hearing, unless the commissioners feel that the document has substantially changed.

Commissioner Worthington referred to page three and commented that he is still trying to understand how we manage pet waste and the bacteria that is in the water supply when it comes from farming and some septic systems. Lynchburg's CSO was previously identified as the primary source, and that has now been crossed out. Commissioner Worthington asked if that is no longer a source of contamination. Ms. Hawkins answered that there are still active overflow points within the combined sewer system. It is Ms. Hawkins' understanding that they are continuing the separation of the system, but there are still several overflow points existing. We are still a contributor to the total fecal coliform within the impaired watersheds in Lynchburg. The TMDL looks at the total contribution, not just one point source. What the City is currently moving into is the implementation plan phase of the TMDL and has been doing so along with the Region 2000 Local Government Council. They will be addressing the wide array of sources that were found within the TMDL.

Commissioner Worthington asked if the implementation plan addresses the other sources of contamination, such as pet waste, wild animal waste and septic tanks. Ms. Hawkins answered that when we have complete separation with our system and do not have those overflow points anymore, you would be solely looking at the nonpoint sources. Commissioner Worthington asked what the plans are for addressing these nonpoint sources. Ms. Hawkins stated that there are several things you can do for each of the sources. You can exclude animals from rivers, streams and ponds. There are programs that help farmers do that kind of exclusion. Other communities work with people who are still on septic systems to understand the proper maintenance of them and clean out of them or the possibility of hooking into a sewer system. These are issues that the City will be looking at long term; there are not definitive answers right now. But we are a stakeholder and vested in the TMDL process.

Commissioner Hannon commented that Lynchburg cannot clean up Blackwater Creek or the James River on its own. As far as nonpoint sources are concerned, identifying those in the City and eliminating all of them may still not solve the problem because we are downstream from a lot of sources that we have no control over. This could wind up imposing significant cost on the City for no purpose.

Chair Hamilton asked if the implementation plan would eventually go through City Council. Ms. Hawkins said that she did not know the answer to that question, but she would assume that it would be brought before City Council. The City is working with Region 2000 since we are dealing with headwaters in Bedford and Campbell Counties. All of those stakeholders are at the table for this process. It is something to look at watershed wise, not just jurisdictionally. They are looking at the big picture, so she would imagine that

it would be brought before City Council so that the City would fully understand the plan and how we can address these issues.

Commissioner Hannon commented on the introduction and the language about sustainability. As far as he knows, sustainability has never been defined. It's one of those words that he has problem with because he has only seen it used to stop things. It seems to him that it introduces a lot of uncertainty in this whole approach because he doesn't know what it is. On a case by case basis, someone is going to come in and say they don't think that is sustainable because of the needs of future generations. We don't know what the needs of future generations are going to be. He thinks that the City is not omniscient and cannot foresee what the needs of future generations are going to be. On a policy level, from his perspective, he trusts the stewardship of property owners not City administrators to determine what is sustainable for their property. As far as the Planning Commission is concerned and the impact of this document on planning decisions, he has significant problems with it. It is going in a direction which he thinks will stifle growth in Lynchburg and have an adverse economic impact on the City. It can be used in the future to justify significant new regulations that he would undoubtedly oppose.

Commissioner Hannon also asked what the term "social equity" means. Commissioner Barnes suggested that it might be things like where you locate the landfill—that people of lower income are not disproportionately exposed to environmental hazards. It might be in terms of affordable housing. Commissioner Hannon still did not understand the term. Social equity would be having a landfill in Boonsboro somewhere. Commissioner Hannon did not understand how it is used to guide the City's decision making and development process.

Chair Hamilton asked Ms. Hawkins if she had any historical information from NRAC and what some of their thoughts were as they came up with this language. Ms. Hawkins said that one of the issues brought forward was the inclusion of some of the sustainability initiatives that the City has been working on and including some of that in the introduction and the overall feel of the document. It is not specific in any regard but that we should embrace the sustainability issues within the City. As far as social equity, she cannot say that they have specific references to that; some of the language was brought from the sustainability initiative that was taken before City Council.

Commissioner Barnes noted that the language is not really new; it echoes language that is earlier in the *Comprehensive Plan*. On page two, it talks about how the City embraces sustainability. With the Sustainable City Initiative, the City has already gone on record as far as supporting sustainability. Commissioner Hannon stated that he knows it is not new but feels that he needs to say something when he sees that language.

Commissioner Swienton commented that when he sees the concept of environmental stewardship, financial responsibility, economic development and social equity, always in equal application, he is trying to put this into a formula. If something comes to them, how do they apply equal application? Ms. Hawkins said that would be one of the issues they will have to look at is how do you apply that fairly and equitably to all types of development or is it just a principle or policy. Commissioner Swienton asked if that is always going to be 25 percent to each category, since it says "equal?" He was wondering if that could be reworded or if that was the intent, to have "equal" really be 25 percent applied to each category. Ms. Hawkins said she did not think that was the intent. It was just the idea that each of these items should be considered equally. Commissioner Worthington said he concurred with Commissioner Swienton. "Equally" has all kinds of connotations. All of these need to be considered, and he thinks each case may make one rise above the other, depending on the circumstances. You may need to give more weight to one than the other. Then this passage would have no meaning. Commissioner Swienton suggested striking "equal application" and replacing it with "equal consideration." Commissioner Hannon suggested "appropriate consideration" and everyone agreed with that phrase.

Commissioner Hannon suggested changing "social equity" to "social impact." The commissioners agreed with that change.

Commissioner Sale brought up a discussion of Goal 4.B.2) and suggested adding "trails" after "City parks" because the City's trails (such as Blackwater Creek) are an important scenic resource as much as the others

listed. Ms. Hawkins said that protection of the Blackwater Creek trail is probably mentioned in the Parks and Recreation section of the *Comprehensive Plan* and there was no reason why it was intentionally left out of this goal. The commissioners agreed with the change to add "trails" after "City parks."

Commissioner Swienton brought up a discussion of the section on Resource Management & Protection. In the second paragraph of that section, it talks about state and federal standards and he wondered if we should add the word "local" to that sentence or "City?" Chair Hamilton clarified for him that this document says that as a local government we will make sure that we comply with state and federal standards, as opposed to just local. Commissioner Swienton appreciated that clarification.

Commissioner Swienton brought up Objective 4.B.2) and the sentence about limiting development on steep slopes. He has no idea how to define the words "limit development." "Steep slopes" gets defined. Commissioner Barnes asked if we don't already do that when a slope exceeds a certain amount. Commissioner Swienton said that a project got through that he was vocal about. He said there is a key difference between "prevent" and "limit." He is trying to clarify if we want the word "limit" or the word "prevent." Chair Hamilton commented that if she is thinking of the same project Commissioner Swienton is referring to, there was some degree of applying Best Management Practices (BMPs) to developing. There are BMPs for developing on steeper slopes. If you prohibit the development of steep slopes, you may be cutting off your nose to spite your face. Commissioner Swienton agreed with that but was trying to figure out why it is in the document, if we are just going to say they can develop on steep slopes if they use BMPs. Chair Hamilton commented that is why you have a conditional use permit process, so that each case is looked at individually. Commissioner Swienton pointed out that it could be in a by-right development. Commissioner Hannon pointed out that this section is talking about city-owned land. Commissioner Swienton asked what their intent would be then on city land. Chair Hamilton asked Ms. Hawkins what the City's practice is right now in terms of developing steep slopes. She said that we do not have anything that says that development on steep slopes is prohibited. One of the things they do look at is ways that the amount of grading could be minimized. Where on a piece of property could you locate development to try and stay away from steep slopes. Sometimes it is just unavoidable. It can be very challenging on some projects.

Commissioner Worthington pointed out that the City has to approve the development of City owned property. He asked if we are talking about IDA land when we talk about City land and Chair Hamilton said that was a good question. Commissioner Worthington said he would like to hear that input before he said IDA can't do something with their land. Commissioner Barnes commented that he is more comfortable with the word "limit" and Commissioner Worthington said he was as well. Although you definitely want to avoid developing on steep slopes, if at all possible, it is certainly possible to do certain kinds of building that do not have an adverse impact on the slopes or the wetlands, if it is done in an environmentally sensitive way. Commissioner Barnes would not want to rule out the possibility that you might be able to develop on a steep slope in a responsible way.

Commissioner Swienton commented that he was not trying to change the word to "prohibit." He wanted to get everyone's thoughts on the issue. This way we have a reference down the road should it be needed; he appreciated everyone's comments.

Commissioner Swienton remarked that this can be an extremely positive document. Chair Hamilton agreed. Commissioner Swienton remarked that it can help promote residents wanting to locate into the City, as well as residents wanting to stay in the City. The part that he thinks makes it even stronger is if there were a goal added (perhaps Goal 6), which would be something similar to "promoting a policy for existing and new residents of ensuring high quality environmental living through an environmental enforcement policy." He commented that we put these standards in place, we put our goals in, but he is not convinced that we have a policy of active enforcement of new development that helps create an enjoyable place to live. Chair Hamilton asked him to clarify if that is in the process of development or once it is developed, and he said it is during the process.

Commissioner Sale asked Ms. Hawkins how that fits with the implementation plan. He wondered if it would lead to some of the things Commissioner Swienton is referencing. Ms. Hawkins asked what type of environmental enforcement Commissioner Swienton was referencing. There is enforcement in terms of

stormwater management and erosion and sediment control. Would it be over and beyond those types of things or within the floodplain ordinance? Commissioner Swienton said it would be a commitment to actively enforce those. He is basing this on people's comments from various parts of the City from citizens asking him to go and look at a site because of something. He has heard comments that they have called the City and nothing has been done. He is not looking to cite any developer or implicate anyone on City staff. He is looking to make certain that we have a reputation and image that a development will be top quality and they will take care of it and the City is going to make certain that they double check to see that everything is fine in terms of environmental concerns. He would like to see enforcement being put in the *Comprehensive Plan* as a policy and objective to enhance the document.

Chair Hamilton asked whose jurisdiction enforcement is currently, and Ms. Hawkins said it is Community Development. Chair Hamilton asked her what their enforcement mechanism is currently. Ms. Hawkins stated that through regular inspections, deficiencies are cited. They will give someone an opportunity to correct them. We are required by law to give them an opportunity to correct them. If they do not do so within the time period, they can be issued a notice to comply and then a stop work order can be issued if they do not comply. Chair Hamilton asked if Community Development check sites that under development or do they have to wait for a citizen to call. Ms. Hawkins said they are out regularly at least every two weeks, if not more frequently, depending on weather. They are inspecting the sites to determine if measures have been maintained or other work needs to be done.

Commissioner Barnes commented that Objective 4.A. talks about incentives. He thinks that is the main approach that this document takes. The City wants to encourage people through incentives to do environmentally appropriate development. Objective 4.B deals with protection. He suggested inserting some language in that section about actively supporting the enforcement of existing environmental codes. Commissioner Swienton remarked that he would like to turn it into a positive aspect because the average citizen does not know the process that Ms. Hawkins just described. They can find the regulations on line, but maybe there could be a separate web link that translates the objective to something as eloquent as what Ms. Hawkins just said. They could be reassured that it occurs. Commissioner Swienton would like to turn this into a positive that promotes what the City does to make certain that the compliance is there. Chair Hamilton asked Ms. Hawkins if the department might be able to do a link like that, and Ms. Hawkins said they could certainly do that at a staff level.

Commissioner Worthington commented that he would not have a problem with including some type of language, but he is not sure of the point that Commissioner Swienton is trying to make. Commissioner Swienton said that he wants to reassure citizens that the City is enforcing development standards because he does not think they are enforcing them 100 percent. He is not fault finding, but because of the comments he hears, he is not sure where the breakdown is. Commissioner Barnes suggested the language could be something like "strengthen the enforcement of existing development standards." Commissioner Swienton said he would fine with that but he would also like there to be a communication with the public as to how this process works. Commissioner Sale suggested something like "provide clear access for citizen participation in the enforcement and management of development standards." That could be done at a staff level but put in here as an objective as well. Commissioner Sale would support encouraging our citizens to be a part of a community consciousness of the standards we have and it is important to provide them the access to participate in the process.

Chair Hamilton asked if this needs to be in the *Comprehensive Plan* or is it something that can be done at a staff level. Commissioner Worthington said one is a concept and one is a practical application of it. It sounds like Commissioner Swienton's concern is what is happening more at the City level. Commissioner Hannon remarked that he understands the concern, but any enforcement action is a legal action. If standards have to be interpreted by staff and applied to circumstances on the ground, he thinks what we don't want is a good faith decision on the part of City staff to be second guessed by a committee of irate citizens. That could potentially expose the City to a legal liability because it will be an issue between the developer, the property owner and the City. Enforcement of standards can involve liability and he thinks there has to be some flexibility built into the system. It could create a potential liability issue if the standards aren't equally applied. Chair Hamilton agreed that a citizen participatory process does not make sense. The citizen participation is during the

public hearing portion and once the rules are set and not adhered to, a citizen has a cause for action. Whether people know about the process of reporting problems is most likely the problem, but she does not think this document is the place for it. Commissioner Barnes said he understands the problem Commissioner Swienton is addressing, but he is not sure the *Comprehensive Plan* is the place to put it.

Commissioner Swienton said he was wrestling with that problem himself. Commissioner Barnes thought it relates more to the communication between citizens and the City on all sorts of issues, so it might go in a section on citizen participation. Commissioner Sale said that citizens need to understand the process, so they feel that the City did something about their complaint. Commissioner Hannon pointed out that once a developer goes through the approved process and has a building permit, the developer has a vested right to build a building a certain way. If a citizen comes into the process late, that might be an invitation for grief. Commissioner Swienton asked what his recommendation would be if a citizen has a high degree of certainty that there is an environmental issue or violation. Commissioner Hannon said it would depend on the violation, but he guessed you would call the City. Commissioner Swienton said he is fine with somehow there being a policy on the City website that describes the procedure for citizen complaint. He would like to make certain that the City has a reputation for the highest quality standards being maintained.

Mr. Martin suggested adding a sentence like “increase citizen awareness of the City’s environmental regulations and strengthen their enforcement.” Chair Hamilton said she was not convinced it was necessary. Commissioner Sale said he thought it was because it is not just the reputation of the City. He thinks that it is an invitation for the citizens to participate in something that is a community concern. To be sensitive to that is a *Comprehensive Plan* issue. If there are ways that the citizens can participate in the process, he thinks that is encouraging and something he would support.

Commissioner Sale made the following motion, which was seconded by Commissioner Swienton, to add the following language as number 11 in Objective 4.B: “Increase citizen awareness of the City’s environmental regulations and strengthen their enforcement.”

Commissioner Sale remarked that he understands what Commissioner Hannon is saying that the City has to defend itself in situations, but Commissioner Sale would like to invite citizen participation in that conversation and provide them the information in a clear and accurate and understandable way. To him, all of that, as well as to be held accountable to the standards the City has already set forth is a *Comprehensive Plan* issue, particularly in issues of natural resources.

Commissioner Hannon commented that the way it is phrased would involve the expenditure of funds. You can’t increase a public awareness of anything without spending money. To strengthen enforcement would involve the expenditure of funds. He is not certain that sort of thing is what we want to put in this document.

Commissioner Barnes commented that other things in the document also involve the expenditure of funds, but this is intended as a set of goals to work toward. The City will only accomplish the things that it can afford.

The motion failed by the following vote:

|              |                                  |   |
|--------------|----------------------------------|---|
| AYES:        | Barnes, Sale and Swienton        | 3 |
| NOES:        | Hamilton, Hannon and Worthington | 3 |
| ABSTENTIONS: |                                  | 0 |
| ABSENT:      | Oglesby                          | 1 |

Commissioner Sale commented to Ms. Hawkins that he hopes that the implementation plan will address this direction. We want a clear partnership with our citizens as we move forward. Ms. Hawkins agreed.

Commissioner Barnes made a motion, which was seconded by Commissioner Worthington, to forward this document on to City Council with the noted corrections.



Commissioner Swienton thought the document was very well crafted. Chair Hamilton noted that the committee had put a lot of work into it and thanked Ms. Hawkins for it. Commissioner Sale thinks it is a better document than the first draft. He is glad it is updated to the point of mentioning dates and current law. He thinks it is very helpful to put us where we presently are and where we hope to go.

The motion passed by the following vote:

|              |                                                          |   |
|--------------|----------------------------------------------------------|---|
| AYES:        | Barnes, Hamilton, Hannon, Sale, Swienton and Worthington | 6 |
| NOES:        |                                                          | 0 |
| ABSTENTIONS: |                                                          | 0 |
| ABSENT:      | Oglesby                                                  | 1 |

**The Department of Community Development**  
**City Hall, Lynchburg, VA 24504** **434-455-3900**

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** October 8, 2008  
**Re:** City of Lynchburg *Comprehensive Plan 2002-2020* Amendment – Chapter 12, Natural Systems

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**I. PETITIONER**

City of Lynchburg, Planning Division, 900 Church Street, Lynchburg, VA 24504  
**Representative:** Dr. Karin Warren, Chair, Natural Resources Advisory Committee [NRAC],  
Randolph College, 2500 Rivermont Avenue, Lynchburg, VA 24503

**II. LOCATION**

N/A  
**Property Owner:** N/A

**III. PURPOSE**

The purpose of this petition is to consider the NRAC recommended updates to Chapter 12, Natural Systems, of the City of Lynchburg *Comprehensive Plan 2002-2020*.

**IV. SUMMARY**

- The City's *Comprehensive Plan 2002-2020* recommends establishing "a Natural Systems/Environmental Resources Advisory Committee of local experts to monitor trends in environmental science." (12.8)
- The NRAC's recommendations include revisions to the text, goals and objectives of the Natural Systems chapter of the City of Lynchburg *Comprehensive Plan 2002-2020*.

**The Planning Division recommends approval of the amendments to Chapter 12, Natural Systems, of the *Comprehensive Plan 2002-2020*.**

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**V. FINDINGS OF FACT**

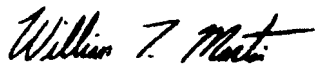
1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan 2002-2020* recommends the establishment of "a Natural Systems/Environmental Resources Advisory Committee of local experts to monitor trends in environmental science." (12.8) The Planning Commission appointed representatives to the committee on June 14, 2006 and the group has met regularly since August 15, 2006. In addition to revisions to the *Stormwater Management Ordinance* and an evaluation of climate change initiatives, the committee was also charged with the review and update of Chapter 12 of the plan. NRAC has submitted recommendations for the Planning Commission's review; these include the deletion of goals that have been completed or are no longer applicable, as well as amendments to reflect the current status of other existing City programs. The revisions also include the addition of a goal to prioritize open space, a goal to promote water conservation and drinking water source protection and a goal to promote the conservation of energy and natural resources.
2. **Zoning.** N/A
3. **Board of Zoning Appeals (BZA).** N/A
4. **Surrounding Area.** N/A

5. **Site Description.** N/A
6. **Proposed Use of Property.** N/A
7. **Traffic and Parking.** N/A
8. **Stormwater Management.** The proposed revisions highlight the City's ongoing work to implement mitigation measures that address stormwater quality as part of the Phase II National Pollution Discharge Elimination System. NRAC also recommended language to clarify Objective 4.B.3 to reflect the City's desire to work with neighboring jurisdictions to ensure consistent standards as part of a regional stormwater management program.
9. **Emergency Services.** N/A
10. **Impact.** The City's *Comprehensive Plan 2002-2020* provides that "one of the most important aspects of implementation is being certain that each strategy is moving forward; that this Plan has not simply been 'put on the shelf'." (17.8) The proposed revisions would more accurately reflect the status of the City's current initiatives, as well as provide for additional goals to help the City become a more sustainable community.
11. **Technical Review Committee.** N/A

#### VI. PLANNING DIVISION RECOMMENDATION:

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of amendments to Chapter 12, Natural Systems, of the City of Lynchburg *Comprehensive Plan 2002-2020*.**

This matter is respectfully offered for your consideration.



William T. Martin, AICP  
City Planner

pc: Mr. L. Kimball Payne, III, City Manager  
Mr. Walter C. Erwin, City Attorney  
Ms. Charlene B. Montford, Director of Community Development  
Mr. J. Lee Newland, City Engineer  
Ms. Cynthia Kozerow, Lynchburg Police Department  
Battalion Chief Greg Wormser, Fire Marshal  
Mr. Gerry Harter, Traffic Engineer  
Mr. Robert Drane, Building Commissioner  
Mr. Keith Wright, Zoning Official  
Mr. Robert Fowler, Zoning Administrator  
Mr. Kent White, Senior Planner  
Mrs. Erin Hawkins, Environmental Planner

#### VII. ATTACHMENTS

1. Proposed Revisions – Chapter 12, Natural Systems, City of Lynchburg *Comprehensive Plan 2002-2020*

**MINUTES FROM THE OCTOBER 8, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):**

- a. Consideration of amending 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. The revisions include the addition of a goal to prioritize the conservation of open space, a goal to promote water conservation and drinking water source protection and a goal to promote the conservation of energy and natural resources. Additional updates also propose to delete goals that have been completed or are no longer applicable as well as amendments to reflect the current status of other existing City programs.**

Mr. Martin addressed the commissioners with the following comments. These amendments to Chapter 12, Natural Systems of the *Comprehensive Plan* are an item that was identified by the Planning Commission that needed to be worked on during the five-year review of the plan. The Natural Resources Advisory Committee (NRAC) has completed its work on those revisions and the chair of NRAC, Dr. Karin Warren, is here to speak to the commission about them today. Planning staff has reviewed the proposed revisions. There are really no major changes, and staff does recommend approval.

Dr. Karin Warren came forward, as well as Dr. Thomas Shahady, the co-chair of NRAC, to address the commission. Chair Hamilton thanked them for their work on this committee and these revisions. Dr. Warren explained that when the committee started reviewing Chapter 12, the first thing they wanted to do was to see what progress had been made on its goals and which ones needed to be addressed. It is a testament to how thorough the original chapter was in that a lot of good goals were already laid out in this chapter. A lot of the changes that the commission sees in this document are places where progress has been made. One is the very existence of NRAC. Another goal is the work on the environmental development checklist project that they are working on currently. The committee is hoping to bring more information on that in the spring. Finally, the committee wanted to see what is not in Chapter 12 that they felt should be in there. Most of those identified already fit into existing goals. The revisions are further strategies to accomplish those goals.

Commissioner Swienton asked a question regarding the section "Geology, Topography & Soils" and how the grading of steep slopes can result in significant soil erosion and sedimentation of streams. Commissioner Swienton noticed that there was no commentary as to whether or not the grading of steep slopes is recommended, but there was a part about limiting development in floodplains. He was curious what the committee's opinion was as to whether or not there should be any recommendation on limiting grading of steep slopes. Dr. Warren commented that, in general, steep slope development is something they hope to discourage through various incentives and to adopt methods that--if that type of development is unavoidable--can minimize the impact. They are looking at this issue in the environmental development checklist that the committee is developing--incentives that can reduce steep slope development or providing information about alternatives to it--recognizing that Lynchburg is a very hilly city and it is something that the City has to deal with it.

Commissioner Swienton asked Dr. Warren to clarify that this issue would not be addressed through a statement in the *Comprehensive Plan* but rather through the environmental development checklist. Dr. Warren explained that the checklist will be used to assess where impacts might be and then look for ways to incentivize reducing the impact of that development. Commissioner Swienton asked if the checklist will have any definition of a steep slope. Dr. Warren explained that they are developing a glossary to go with the checklist. The glossary will also be a companion to Chapter 12. There will be a definition of a steep slope based on the degree of it.

Commissioner Swienton asked about the paragraph on the next page which talks about limiting development in the floodplain in the future. He asked Dr. Warren if the committee had any

recommendation on how much should be limited because this sentence is very open ended. He asked if this issue would also be handled through the checklist. Dr. Warren stated that they have not had extensive discussion about this issue yet. They look to city staff on the committee to give advice about how this links with other ordinances, such as the *Stormwater Ordinance* and the *Zoning Ordinance*. The committee plans on addressing this issue when they get to that point.

Commissioner Swienton asked about the next paragraph, which talks about violations given to the City by the Department of Environmental Quality (DEQ) for federal and state water quality standards. He was not sure when these violations occurred and he asked if the City is still in violation of those. Dr. Shahady commented that the Total Maximum Daily Load (TMDL) has been performed and completed. The City is really looking toward implementation of the TMDL. Dr. Shahady stated that the City is still in violation of the E. coli standard. Dr. Shahady commented that this paragraph should be changed to reflect that the TMDL has been done. Dr. Shahady suggested putting in some language reflecting that implementation of the TMDL should bring water quality standards into compliance.

Commissioner Swienton asked about the ozone monitor mentioned in the section "Air Quality and Noise Issues." Commissioner Swienton wondered if either Dr. Shahady or Dr. Warren had ever placed an ozone monitor in the City. Dr. Warren commented that she had just recently purchased an ozone monitor, but the class that will use it does not begin until next fall. It is not one that you can place permanently. They would have to take samples and analyze them separately. They want to check a few spots around Lynchburg where there is possible concern, such as congested areas. If the commission has suggestions for areas of town that they are particularly curious about, she could arrange for those to be tested. Commissioner Swienton stated that he was curious because the reference is to DEQ monitoring this and if they do not get around to it, the City could still have an issue that might need addressing. Dr. Warren agreed that DEQ is not monitoring this, but there is some question. We believe that we are not in violation, but we would like reassurance. They were thinking that this would be a good opportunity to use their college partners to get that done.

Chair Hamilton asked what would happen if they did find that the City was in violation of some clean air standards. What kind of means would they suggest to clean up the air? Dr. Warren explained that if their data indicated that they were violating the ozone standards, then they would probably have to notify DEQ and DEQ would have to verify the data. You have to violate it a couple of times before you are classified as "non attainment." But in terms of dealing with air quality, it would be linked directly to mobile sources. Making sure that everyone's emissions tests are up to date, making sure that people are keeping their cars tuned up and getting their inspections can go a long way toward helping air quality. Dealing with congestion issues would also help air quality issues. Dr. Shahady commented that we do not want to be classified "non attainment." All the rules change, and that would not be in our best interest. Dr. Warren commented that if their research indicated that there was a concern, they would bring it to the commission sooner rather than later. Commissioner Worthington commented that a lot of the cars that travel up and down Timberlake Road are not people that live in Lynchburg, and you can't deal with them. Commissioner Worthington asked Commissioner Hannon how California dealt with their pollution problems. Commissioner Hannon said that it has been such a long time since he lived in California that there were no such standards when he was there.

Dr. Warren stated that many urban cities deal with it in different ways. You can put restrictions on what kind of cars you are allowed to drive or provide incentives for people to use more public transportation. Some cities are adding a fine if you come into the city to disincentive people from opting to use their cars. Dr. Warren thought that the issue needs to be dealt with on a regional level and how we can address this is through vehicle standards or looking for alternatives to vehicles and trying to reduce congestion. Lots of cars standing and idling builds up the kind of conditions for this kind of pollution. Dr. Warren mentioned that Lynchburg is lucky in that our air quality is probably pretty good because of the kind of weather patterns we have. Pollution doesn't get stuck here like it does in other

cities. Good planning can help though, in terms of where future development occurs, where our traffic is going to be and making sure that the City can deal with traffic in a way that doesn't create backups.

Commissioner Hannon asked to go back to the issue of water quality. If he understands it correctly, the combined sewer system overflows (CSOs) have been identified as the primary source of the contamination. That implies that these contaminations are periodic and tied to some event like a rainstorm of a certain magnitude. Commissioner Hannon asked how periodic the contaminations occur and what they are triggered by? Dr. Shahady explained that you have to look at it in two ways. There are also sanitary sewer overflows (SSOs), and those happen whether it rains or not due to system failures. He explained that a very small amount of rainfall would cause CSOs. These violations were with no rainfall event and a CSO. Commissioner Hannon asked if there are choke points or holding ponds. Is the City doing anything? These overflows must be point specific and what is being done to address that? Dr. Shahady explained that we are trying to disconnect—that project is going on—and that is going to take money and time. There are also overflow points that are identified in the consent order that the City is under presently. There are specific overflow points where it runs directly into the stream and there is no other way to handle those overflows. When we get a three or four-inch rain, we have a lot of sewage going into the streams.

Commissioner Hannon asked what the other sources of contamination are. Dr. Shahady commented that agriculture is a big one and we are looking at this on a watershed wide basis. Livestock, wildlife and pets also contribute, as well as runoff from parking lots. Dr. Warren commented that some of the sites where her students test are near where the CSO project has gone on and separation has occurred. It does make a difference. You can tell in the years after the separation that the results are better. They are still getting positives for coliform, but the results are not as dramatic as they were before separation.

Commissioner Hannon asked if a number of the other sources are natural sources, then that must mean that there is a background level of coliform. Commissioner Hannon asked if they had any numbers as to what the background level is and how far off our violations are in comparison to those numbers. Dr. Shahady commented that it spikes. It is very, very high, number wise. He is thinking ten fold at some of these spots. He explained that you also have to identify the use of the water. Swimming waters are a certain level versus drinking water sources. They are looking at the recreational levels and that is the standard the City is violating. Some of the numbers are tremendous and a lot of it has to do with our CSO system. Commissioner Hannon asked how the James River is in terms of the coliform, since that is an area that the City cannot control. Dr. Shahady stated that the James River has been in violation, but does not have the spikes they are seeing in Blackwater Creek. The James is maintaining a pretty steady level of violation and Blackwater Creek is contributing to that due to upstream discharges and some of the agriculture issues and failing septic systems. Ultimately, the state is managing this as the James River Basin, trying to control the middle James and, of course, Blackwater Creek is a contributor to it.

Commissioner Worthington asked if they monitor the creek at the borders of the counties to try and find out what is coming into Lynchburg versus what the City is contributing. Dr. Shahady explained that they do monitor in Bedford quite a bit. What you get is a transition, a primarily agricultural watershed that urbanizes into Lynchburg. The urbanization does degrade the water further but he would never say that is not degraded coming in either. Dr. Shahady stated that they do monitor what comes in versus what goes out. He stated that they try and manage this watershed with non-point agricultural techniques at the top and do urban best management practices in the City. We have a unique watershed in that we have to deal with both.

There was discussion about how to change the paragraph dealing with the water quality and TMDL. Dr. Shahady suggested changing it to say that the City has water quality violations, that the TMDL has been done and that we are going to recommend that implementation of the TMDL take place in order to bring the waters into compliance. Chair Hamilton said there would be time for them to reword it after all questions had been asked.

Chair Hamilton had a question regarding the section "Understanding the Value of Natural Systems." It talks about initial environmental reports based on data in GIS. Chair Hamilton had some recollection of Bob Flint, when he was a commissioner, always looking for that type of information on the GIS. This type of information would be valuable to the commissioners, as well as developers. Chair Hamilton asked what kind of form that would take. Dr. Warren thought that Mr. Martin might be better able to address that question. Mr. Martin commented that the only environmental information in the GIS is the floodplain information. Commissioner Barnes asked if the green infrastructure project is based on GIS. Mr. Martin said they have given them a lot of GIS data. Mr. Martin thought that the person who would end up managing that would be Erin Hawkins or J. P. Morris. Chair Hamilton asked Mr. Martin why he thought it was important that environmental information be part of the GIS. Mr. Martin thought that you could use that information for the overall health of the City, but at a project specific level, we could see what the topography is and identify potential issues. Mr. Martin reminded the commission that the *Comprehensive Plan* has to have a balance. The City has to develop, but we also have to maintain a level of environmental responsibility. Any information that we have that allows us to do that would be helpful. Commissioner Barnes pointed out that this information might help them find areas that are less environmentally sensitive and more appropriate for development. Dr. Shahady did not know how coordinated the college is with the City's GIS, but they have been dealing with land use databases, which the college does have it in GIS. The college is looking at putting together some grants that will hopefully identify conservation areas on a bigger scale, on a watershed scale. There was some discussion about how the city is moving to Arc View (a different type of GIS) and Dr. Shahady thought that once the City moves to that type of platform, it should help. Translating each other's data has been slowing things down a little.

Chair Hamilton moved to Objective 4.A. and establishing a program to promote the donation of open space easements or land trusts to the City. Chair Hamilton asked if NRAC has looked at areas that the City would target for that type of gifting. As a Planning Commission, they are looking at working with the IDA and City Council to figure out the areas that would be prime for higher density development and which areas should be left for open space. Dr. Shahady commented that this is going on in California a lot. They are developing natural conservation plans that look at it on a watershed scale and say the specific things Chair Hamilton is asking. NRAC has not done that yet, but he thinks it is really where they have to move in their thinking, particularly as people move out to Bedford. We really have to pay attention to that because it affects our watershed. The college has some money now to model the watershed and is looking at nutrients and how they are flowing through the system. He thinks that we need to continue to develop these tools and as more information becomes available make it a useful tool for decision makers and planners. Dr. Warren said that it is on their radar as something they would like to do and they are excited about the green infrastructure study that is going on because they see how that will segue into the ultimate goal of identifying areas that would be most appropriate for high density and what areas would be most appropriate for conservation.

Mr. Martin brought up a discrepancy in the use of "designate" and "create" in two places. One is in the section "Understanding the Value of Natural Resources" where it says to "designate" a staff person (an Environmental Management Coordinator) and Objective 1.A. number 1) says to "create" a staff person. There was discussion about which one to use. After some discussion, it was decided that "designate" should be used because "create" sounds like you are creating a new position, whereas "designate" carries the possibility of reallocating someone's time rather than creating a new position. There was consensus among the commissioners to use the word "designate."

Dr. Shahady and Dr. Warren took some time to redraft the section about water quality and TMDL. Chair Hamilton asked if there was anyone else present to speak either in favor or opposition to this petition. No one came forward and she closed the public hearing portion. Commissioner Barnes commented that the conversation they have been having today really points out the original purpose of

forming this committee, which was to connect the planning process by connecting people in the business community with those in the academic community to address environmental issues.

Commissioner Sale commented that he is very pleased with both where we were and where we are going and how we are getting there. It shows the dynamic quality of what we are doing. The document includes some nice “tweaks” to keep us updated. Chair Hamilton commented that she was interested to see the incentives that would be in the environmental checklist.

Dr. Shahady then offered the following changes to the paragraph about water quality: “The water quality of Blackwater, Ivy, and Fishing Creeks, and the James River is in violation of ~~has been found to violate~~ the state and federal water quality standard for E. coli fecal coliforms, which indicates contamination from human or animal wastes. E. coli fecal coliform levels exceed the standards to the extent that the Virginia Department of Environmental Quality (DEQ) has placed these streams on the priority list of impaired waters pursuant to Section 13123 (d)(1) of the Federal Clean Water Act. Lynchburg’s combined sewer system overflows (CSOs) have been identified as the primary source of this contamination. The City’s project to separate sewage from stormwater flows, the Combined Sewer Overflow (CSO) project, is designed to address the problem. The DEQ has performed a special study ~~will be performing special studies~~, called Total Maximum Daily Load (TMDL) studies determining actions that are needed to address this problem in the future ~~to determine if there are any other actions that will need to be taken to reduce fecal coliform counts~~. Implementation of the TMDL should be a priority to bring the watershed water quality into compliance. ~~But beyond these efforts, other water quality concerns will need to be addressed in the future.~~

Commissioner Barnes made a motion, which was seconded by Commissioner Sale, to approve the above amendment, as proposed by Dr. Shahady. It passed by the following vote:

|              |                                                          |   |
|--------------|----------------------------------------------------------|---|
| AYES:        | Barnes, Hamilton, Hannon, Sale, Swienton and Worthington | 6 |
| NOES:        |                                                          | 0 |
| ABSTENTIONS: |                                                          | 0 |
| ABSENT:      | Oglesby                                                  | 1 |

Commissioner Sale made a motion, which was seconded by Commissioner Hannon, to approve all other changes to Chapter 12 of the *Comprehensive Plan*. It passed by the following vote:

|              |                                                          |   |
|--------------|----------------------------------------------------------|---|
| AYES:        | Barnes, Hamilton, Hannon, Sale, Swienton and Worthington | 6 |
| NOES:        |                                                          | 0 |
| ABSTENTIONS: |                                                          | 0 |
| ABSENT:      | Oglesby                                                  | 1 |



# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 2

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **Reductions in State Funding for Locally Delivered Services**

RECOMMENDATION: None at this time. Ultimately, Council will have to decide if and how to utilize the \$500,000 set aside in the fund balance after adoption of the FY 2010 Budget as a buffer against further state funding cuts. Council may want to consider support for the Clerk of the Circuit Court's Office and the Commonwealth's Attorney.

SUMMARY: On September 8<sup>th</sup> Governor Kaine released his plan to address the anticipated \$1.35 billion State Budget shortfall in Fiscal Year 2010. As anticipated, local governments were not spared from the axe. The following is a compilation of the State funding cuts to Lynchburg that have been identified to date

- Funding for Local Law Enforcement (\$235,000)
- Aid to the Library (\$9,000)
- Support for Constitutional Officers (\$245,000)
- Funding for the Blue Ridge Regional Jail (\$605,993—the City is responsible for about one half of that)
- Fire Programs Fund Aid to Localities (\$180,000)
- Funding for public education (\$300,000)—this is a combination of a loss of \$800,000 in sales tax revenue and the addition of \$500,000 in basic aid to fund the Standards of Quality
- Reduction in Virginia Juvenile Community Crime Control Act funds (\$15,000)
- Reduction in Detention Block Grant (\$47,000)
- In addition, there will be a reduction in state funding for the Registrar's Office and the Electoral Board, for litter grants, for Community Service Boards, and for EMS funding through the "\$4 for Life" program

Those reductions with identified numbers total \$1.33 million. All together, the cuts in State funding for Lynchburg could total more than \$1.5 million. Fortunately, however, this will not be the full impact on the City as there are some mitigating factors, such as:

- The Blue Ridge Regional Jail Authority has decided that, as much as possible, the reduction in state funding will be absorbed in adjustments to jail operations and through the use of fund balance. It is not planned to ask the member jurisdictions to make up the loss.
- The School System has received additional federal funds that compensate for the loss of state funding.
- Efforts will be made to mitigate other reductions within the General Fund as much as possible.
- The General Assembly could amend the Governor's actions during the 2010 session.

As you know, at the end of the budget process, when City Council restored the 3% pay cut that had been included in the adopted budget, an additional \$500,000 was set aside in anticipation of expected cuts in State funding. That \$500,000 was also insurance against further losses in local revenues that could produce a deficit in our own FY 2010 Budget. While revenues have so far come in at or just above projections, it is still too early in the fiscal year to make any prediction about year end. At this time there is no recommendation on how to use the \$500,000 that was set aside. With two possible exceptions, we should wait to see how things progress before deciding whether or not to use the funds.

The first exception is the Clerk of the Circuit Court. The latest cut in State funding for that office is \$59,097.

The Clerk has advised that the reduction would have a significant negative impact on the operations of his office. He has indicated that two employees would have to be laid-off immediately (October 1), and a third employee would be laid-off in March, 2010. The Clerk has advised, *"The layoff option would reduce our staffing to the late 1970's or early 1980's level. With 2 employees in Court daily, we would only have 7 employees to provide other vital services to citizens. It would be impossible to meet our Constitutional as well as Statutory duties with a staffing level at this range. The recording and indexing of land records would be affected, as well as court orders, probating wills, processing of civil cases, and other vital services."* Furthermore, the Clerk has reported that his Chief Deputy will be undergoing a major surgery the third week of October, and will be out 6-8 weeks afterward. The Clerk was advised to delay taking any personnel action until the matter was discussed with City Council.

The Clerk of the Circuit Court is budgeted to receive \$526,190 from the Commonwealth and \$128,372 in local support in FY 2010. Currently, the City funds 1.2 FTE in the Clerk's Office out of a total staff of 13 FTE.

The second exception is the Commonwealth's Attorney. The latest cut in State funding for that office is \$74,263. In addition, the Commonwealth's Attorney has recently learned that his office has lost a federal domestic violence grant that funds two attorneys. Funds remain to keep them on staff until January 1 and additional grant funding is being sought. If the funds are not found, the office will not be able to prosecute domestic violence cases in Juvenile & Domestic Relations Court and will only be able to prosecute felonies in that court. Even if funding is found to support domestic violence prosecutions, the Commonwealth's Attorney advises that he will have to lay off two attorneys on January 1 if the cut in State funding is not restored. If that happens, the office will be unable to prosecute misdemeanors in General District Court. Please note that the Commonwealth's Attorney is only required by statute to prosecute misdemeanors in Circuit Court and felonies. Some offices in other localities have stopped prosecuting misdemeanors due to funding cuts.

The Commonwealth's Attorney is budgeted to receive \$940,476 from the Commonwealth, \$470,610 from Federal grants, and \$475,435 in local support in FY 2010. Currently, the City provides partial funding for two non-attorney positions (1.11 FTE) and grants fund 6.78 FTE out of a total staff of 23.50 FTE. Of eleven (11) attorneys positions, nine (9) are funded by the State.

There are at least two options for Council to consider. The first would be to step in with local funds to maintain staffing in the Clerk's and the Commonwealth's Attorney's offices. The fiscal impact of that option is noted below.

The second option is to decline to supplant with local funds state funding cuts for state-mandated offices or programs. It has come to our attention that some localities across the Commonwealth have actually taken a stand on this matter by resolution or policy statement. One of the most recent is the City of Manassas. The policy adopted by its City Council is attached for your information.

PRIOR ACTION(S): N/A

FISCAL IMPACT: \$47,209 would be required to maintain staffing in the Clerk of the Circuit Court's Office. Several activities in the Clerk's Office impact City revenues or costs. They include the timely recording of property transactions and the processing of paperwork for state responsible prisoners.

\$66,755 would be required to make up for the State funding cut to the Commonwealth's Attorney. Misdemeanor convictions generate revenue in terms of fines.

CONTACT(S): Kimball Payne, 455-3990

ATTACHMENT(S): Policy statement from the City of Manassas

REVIEWED BY: lkp

# POLICY STATEMENT #P-2010-02

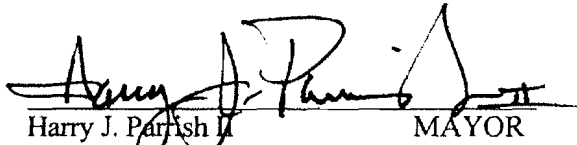
REGULAR COUNCIL MEETING  
September 14, 2009

## RE: PREVENT SUPPLANTING STATE, FEDERAL AND PRIVATE FUNDS WITH LOCAL FUNDS

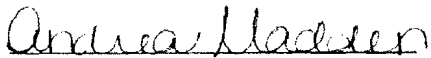
The Citizens of the City of Manassas (City) receive important, beneficial services from a wide variety of State, Federal and private agencies. In addition, many City Departments rely on funding from State, Federal and private agencies. These State, Federal, and private agencies are critical partners with the City and the Manassas City Public Schools (MCPS) in providing services to our community. When these State, Federal and private agencies terminate programs, reduce services or curtail funding, it cannot be assumed that the City will maintain these programs. The City does not have the ability to assume the financial responsibility for State, Federally and privately funded services without significantly impacting other service areas or raising taxes to our citizens.

It is the policy of the City of Manassas to prevent, to the extent possible, the shifting of financial responsibility for State, Federal, or privately funded programs to the citizens of Manassas by not supplanting those funds with local funds when the State, Federal or private agencies reduce funding to the various community programs and City departments that rely on that funding.

For purposes of this policy, *supplanting* means substituting local funds for reductions in State, Federal or private funding.

  
Harry J. Parrish II MAYOR  
On Behalf of the City Council  
of Manassas, Virginia

ATTEST:

  
Andrea Madden City Clerk

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 3

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **Business Growth Incentives**

RECOMMENDATION: None at this time. Council should provide guidance on its interest in developing new or enhanced incentives to promote business growth in Lynchburg.

SUMMARY: As requested by Council Member Garrett time has been set aside during the work session portion of Council's agenda to discuss incentives to stimulate business growth in the City. Dr. Garrett specifically mentioned incentives to encourage businesses to locate headquarters facilities in the City and to promote job creation. It has been suggested that the incentives could take the form of reduced or a rebate in taxes such as the Business License Tax, the Machinery & Tools Tax, or the Business Personal Property Tax.

Implementation of new or enhanced incentives would probably involve the participation of the Lynchburg Economic Development Authority (LEDA). The LEDA has been the prime entity through which incentives have been provided in the past.

Attached is a document that summarizes the incentives currently available through the LEDA.

PRIOR ACTION(S): N/A

FISCAL IMPACT: Depends on the design of a potential incentive program. Typically, a positive return on investment (ROI) is anticipated when a cash grant is involved. This is done by comparing the value of the grant to the value of the additional taxes received from capital investment by the business.

It is difficult to measure the impact of additional employees so calculating a ROI would be more challenging. Depending on program design, an incentive to encourage additional employment might also require an additional administrative effort for payroll audit and workforce monitoring.

FY 2010 estimated revenues for the Business License Tax equal \$6,856,103; for the Machinery & Tools Tax equal \$4,358,341; and, for the Business Personal Property Tax equal \$4,496,388.

CONTACT(S): Kimball Payne, 455-3990; Marjette Upshur, 455-4992; Mitch Nuckles, 455-3871

ATTACHMENT(S): City of Lynchburg Business Incentives

REVIEWED BY: lkp

## **CITY OF LYNCHBURG BUSINESS INCENTIVES**

### **Background**

The City, through the Lynchburg Economic Development Authority (LEDA), has a program of local economic development incentives designed to enhance the City's competitiveness for new industry and business and to support the expansion of existing basic employers.

New and existing businesses must satisfy certain criteria for amounts of new taxable capital investment and/or increased full-time job equivalents to be entitled to locally funded incentives. The program is also designed to provide matching funds for State incentives.

### **Incentives Provided By Commonwealth Of Virginia**

The Commonwealth provides a number of different incentive programs. The following are listed in the current edition of the Virginia Economic Development Partnership (VEDP) *Guidelines for Business Incentives*.

- Corporate Income Tax Incentives—Major Business Facility Job Tax Credit, Recycling Equipment Tax Credit, Day Care Facility Investment Credit, Worker Retraining Tax Credit
- Property Tax Incentives
- Sales and Use Tax Exemptions
- Enterprise Zones
- Technology Zones
- Workforce Services Training—New Jobs Program, Small Business New Jobs Program, Retraining Program
- Workforce Investment Act
- Industrial Access Road Program
- Rail Industrial Access Program
- Foreign Trade Zones
- Industrial Development Bonds
- Community Development Block Grants
- Governor's Opportunity Fund (GOF)
- Virginia Investment Partnership Grant Fund (VIP)
- Virginia Small Business Financing Authority
- Solar Photovoltaic Manufacturing Grants
- Virginia's Center for Innovative Technology
- Global Market Research Program
- VALET: Virginia Leaders in Export Trade
- VSBDC: Virginia's Small Business Development Center Network

## **Basis For Incentives**

Incentives may be offered, as directed by the LEDA, to existing and new businesses based on:

- The amount of new, taxable capital investment (real estate, machinery & tools, business personal property)
- A positive return on investment (ROI) of 3-5 years
- The number of new jobs
- Maintaining existing jobs
- The average salary of new jobs
- The financial strength of the company
- Location competition
- Match to State incentives

## **City Of Lynchburg Incentives**

All incentives are subject to LEDA approval, modification, and the availability of funds.

1. **Cash grant to qualifying industry for capital investment**—generally up to 1% of eligible capital investment if less than \$750,000; generally up to 2% of eligible capital investment if greater than \$750,000 and if machinery and tools and real estate taxes generate a positive ROI over a five year period.
2. **Cash grant to service or technology business for capital investment**—generally up to 1% of eligible capital investment if greater than \$750,000 and if business personal property, business license, and real estate taxes generate a positive ROI over a five year period.
3. **Cash grant to qualifying industry, service or technology business for employment growth**—generally up to 2% of the increase to the annual payroll for full time employees with health benefits if base employment is increased by more than one-third netting a minimum of thirty new FTEs in one year, subject to payroll audit and a performance agreement.
4. **Fast Track Designation for projects determined to be time critical**-- City staff will review a fast track designated project's 100% complete site plan and building plans and provide written comments within ten working days. Approval will be based on one set of review comments.
5. The LEDA owns and manages two **industrial parks**. In the past, the LEDA has facilitated business location in the industrial parks through various incentives such as:

- The sale of lease or property at beneficial rates
  - Build-to-lease or build-to-own arrangements
  - Site preparation
  - Infrastructure improvements
6. The City also provides support to the **Business Development Centre, Inc.**, which was established to help small start-up businesses with one-stop support services. The Centre provides counseling, advising and training services as well as office or industrial space at the facility. Additionally, there are loan programs administered by the Centre that are available to finance eligible small businesses.
  7. **Real Estate Rehabilitation and Renovation Tax Credits**—provides a tax exemption for five years on the value added to commercial or industrial real estate through rehabilitation or renovation.
  8. **Technology Zones**—tax abatement, grants, and office space as described below
  - 9, **Enterprise Zones**—a combination of state and local benefits, described below, including grants, tax abatement, and loans.
  10. **Tax Exempt Industrial Revenue Bonds**—limited applicability.
  11. **Development Support**—in the past the LEDA has provided for the waiver of sewer and water availability fees to qualifying industries and for public infrastructure improvements in privately owned industrial parks and sites based on 8% of the eligible capital investment. The elimination of General Fund support for this activity has curtailed these incentives.

### **TECHNOLOGY ZONE BENEFITS**

The City has two technology zones that are identical to the two enterprise zones. Qualifying businesses are eligible for the following incentives.

- **Reduction and/or Waiver of City Fees**--Includes fees for building permits, mechanical and gas permits, plumbing permits, electrical permits, sign permits, conditional use permits, and zoning ordinance fees. The fees identified will only be exempt if the qualified zone resident can demonstrate that 100% of the cost of expansion, rehabilitation, or new construction is to house or accommodate a qualified technology business.

- **Reduction in Taxes**

- o Business License Fees (BPOL)—a five-year reimbursement of BPOL to qualified technology businesses in an amount equal to 100% for the first three years and 50% during the remaining two years.
- o Machinery and Tools Tax (M&T)—A five-year reimbursement of M&T to qualified technology businesses in an amount equal to 100% for the first three years and 50% during the remaining two years.

- **Grants**

- o Small Business Innovation Research (SBIR)/Small Business Technology Transfer (STTR)—A \$500 grant to underwrite the cost of an application consultant for SBIR/STTR projects to qualified technology businesses.
- o Venture Capital Fund—Based upon the LIDA's available interest revenue, a \$5,000 grant to pursue research and development projects by qualified technology businesses.

- **Office Space--Bank of the James 10<sup>th</sup> Floor Technology Center**—Use of office space for a period of six months, renewable at below market cost, based upon availability and meeting the requirements of a qualified technology business, or associated service. Includes only office space and related electricity, HVAC, janitorial services, and wireless connectivity. Modifications to any of the offices shall be at the tenant's expense and as approved by the lessee and owner.

**Minimum Investment**--In the Downtown Technology Zone, a minimum capital investment of \$10,000 is required. In the Lynchpin Technology Zone, a minimum capital investment of \$250,000 is required.

**Minimum Employment**

**Expanding Technology Business**--Increase the number of full-time employees by 10% over a base year, or the increase must constitute at least 2 net new full-time employees, whichever is greater.

**New Technology Business**--In the Downtown Technology Zone, create a minimum of 2 new full-time jobs within 1 year of the firm's application. In the Lynchpin Technology Zone, create a minimum of 15 new full-time jobs within 1 year of the firm's application.



Wages paid to the minimum threshold number of full-time employees needed to qualify must be equal to twice the federal minimum wage rate, and provide health benefits.

## **ENTERPRISE ZONE BENEFITS**

### **State Benefits**

- **Real Property Investment Grant**
  - o Grant available for investment, up to 20% of qualified investment, within five year period. Greater than \$5 million investment, grant capped at \$200,000. Less than \$5 million, grant capped at \$100,000.
  - o Rehab or expansion of existing structure requires \$100,000 minimum investment: new construction requires \$500,000 minimum investment.
- **Wage-Based Job Creation Grants**
  - o For net new permanent full-time positions; must increase by four, grant begins with the fifth position.
  - o \$500 per grant eligible position filled by employee earning 175% of federal minimum wage and offered health benefits. \$800 per grant eligible position filled by employee earning 200% of federal minimum wage and offered health benefits.
  - o If eligible, may receive grants for five consecutive calendar years.
  - o Not available to retail, local service, or food/beverage service provider (personal service providers are eligible).

### **Local Enterprise Zone Benefits**

- **Business & Professional License Tax Refund** (must first qualify for State job creation grants)

- o Refund of 100%, years 1-3; 50%, years 4-5; based on gross receipts
- **Machinery & Tools Tax Refund** (must first qualify for State job creation grants)
  - o Refund of 100%, years 1-3; 50%, years 4-5
- **EZ Loan Pool Program**
  - o Loans available from selected local banks at beneficial interest rates

Lkp3 101309

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: **N/A**

CONSENT:

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **FY 2010 Performance Measures (Written Report Only)**

RECOMMENDATION:

Review the FY 2010 Performance Measures.

SUMMARY:

In 2005 City departments developed goals, objectives, and performance measures to be included in the FY 2006 budget document. Since that time, as part of the annual budget process, departments submit actual and projected data for each of their measures. Staff also reviews the measures to determine if they demonstrate information that is helpful to citizens or if another measure may be more relevant or meaningful.

Each year, in addition to modifying the measures themselves, staff looks at ways to make the performance measurement tool more useful. To that end, in FY 2010, an "Analysis of the Data" section was added to each goal. Departments will use this section to explain to citizens what the numbers really mean and/or the reason for differences in projected and actual data. In addition, each Department has involved "benchmark" localities. Benchmarking Lynchburg against other localities will help Departmental staff compare its services with others and determine if there are opportunities for improved service delivery.

The attached document contains FY 2010 Performance Measures; these pages should be added to the FY 2010 Budget, Volume I, behind the "Performance Measures" tab.

PRIOR ACTION(S):

None

FISCAL IMPACT:

None

CONTACT(S):

Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development, 455-3900

ATTACHMENT(S):

FY 2010 Performance Measures

REVIEWED BY: lkp

**City Assessor Performance Measures****Goal 1:**

To achieve a reasonable assessment-to-sale value ratio by assessing all real property within the City fairly and equitably.

**Objective:**

Completion of the 2009 general reassessment and appeals with values based on real estate market trends and sales.

| <b>Performance Measure:</b>                                            | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|------------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Assessment-to-Sale Value Ratio as determined by the State Ratio Study. | 0.90                    | 0.88                 | 0.85                    | 0.90                    |

**Analysis of the Data:**

The Virginia Department of Taxation conducts this annual assessment/sales ratio study. During FY 2008, the real estate market was appreciating with property selling higher than the previous assessments established for July 1, 2007. In odd numbered years, this ratio is expected to be lower because the City reassesses real property biennially.

**Goal 2:**

Assess all real property within the City, fairly and equitably, at fair-market value by having accurate data with a recent on-site inspection.

**Objective:**

Review property by visiting all improved parcels, measuring buildings, and verifying the data is accurate.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Property Reviews Completed  | 70%                     | 65%                  | 85%                     | 90%                     |

**Analysis of the Data:**

This project is very time consuming. Although in FY 2008, the goal of 70% of properties reviewed by staff was not met, the Office is on track to achieve a higher percentage (85%) in FY 2009. Appraisers remeasure and inspect property to correct data errors as needed. This task is very important toward achieving a high quality reassessment.

**Benchmark Localities:**

Charlottesville, Danville, Hampton, Norfolk, Richmond, Roanoke

**Communications and Marketing Performance Measures****Goal 1:**

Ensure public information services are aligned with the needs and expectations of Lynchburg citizens.

**Objective:**

Increase the percentage of Lynchburg residents rating public information services as good or excellent on the City's biennial Citizens Survey.

| <b>Performance Measure:</b>                  | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|----------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Percent rating services as good or excellent | 60%                     | 71%                  | None, biennial survey   | 76%                     |

**Analysis of the Data:**

FY 2008 Actual exceeded the FY 2008 Projected by 11%. As a result, and to continue on the path of improvement, the FY 2010 projected rating is 76%.

**Goal 2:**

Provide useful and timely information to the citizens of Lynchburg via the internet.

**Objective:**

Increase the number of page views on www.lynchburgva.gov.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Number of page views        | New Measure             | 1,908,975            | 2,099,872               | 2,309,859               |

**Analysis of the Data:**

Based on a greater emphasis on marketing the City and promoting the Lynchburg brand, the department anticipates an annual increase of 10% in FY 2009 and FY 2010.

**Goal 3:**

Produce quality programming on LTV that are both entertaining and informative.

**Objective:**

Increase the number of original programs produced and broadcast on LTV.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Number of programs produced | New Measure             | 45                   | 65                      | 80                      |

**Analysis of the Data:**

LTV, the City's local government channel, was created in FY 2009 and had the ability to focus solely on the production of local government programming. With a year of experience, staff projects an increase in programs to 80 annually.

**Benchmark Localities:**

Hampton, Fairfax, Falls Church, and Roanoke, VA

**Financial Services Performance Measures****Goal:**

To ensure vendor, customer, and citizen trust through sound financial management (of all City funds).

**Objective 1:**

Place the City in the best financial position possible by maintaining a AA bond rating and receiving the Government Finance Officers' Association (GFOA) awards of excellence.

| <b>Performance Measure:</b>   | <b>Projected FY2008</b>                                                               | <b>Actual FY2008</b>                          | <b>Projected FY2009</b>                       | <b>Projected FY2010</b>                       |
|-------------------------------|---------------------------------------------------------------------------------------|-----------------------------------------------|-----------------------------------------------|-----------------------------------------------|
| Bond rating                   | AA                                                                                    | AA                                            | AA                                            | AA                                            |
| Financial presentation awards | Comprehensive Annual Financial Report (CAFR) and Budget Presentation awards from GFOA | CAFR and Budget Presentation awards from GFOA | CAFR and Budget Presentation awards from GFOA | CAFR and Budget Presentation awards from GFOA |
| Audit findings                | Not previously projected                                                              | 8                                             | 7                                             | 6                                             |

**Analysis of the Data:**

Due to economic and per capita statistics, it is unlikely Lynchburg would ever be upgraded from a AA rating by the rating agencies - AAA ratings are generally given to larger localities with higher median incomes. However, receiving awards from the Government Finance Officers' Association for the CAFR and the Budget document reflect a recognition of strong and prudent financial management, which is noted by rating agencies. While the economy has slowed and Lynchburg has seen a reduction in revenues, it is expected that the City will maintain its highly favorable bond rating and recognition of excellence in financial reporting.

The number of audit findings should continue to decrease as the City and School's staff work together to improve procedures.

**Objective 2:**

Make the payment of taxes and fees by citizens and businesses as economically efficient as possible.

| <b>Performance Measure:</b>             | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Percent of payments made electronically | Not Measured            | Not Measured         | 12.4%                   | 13.0%                   |

**Analysis of the Data:**

An increase in the percentage of electronic payments is expected due to the implementation of e-bills and a stronger web presence.

**Objective 3:**

To increase the timeliness and quality of services delivered by the Procurement Division.

| <b>Performance Measure:</b>                                          | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|----------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Percent of users rating timeliness of services as good or excellent. | No survey performed     | No survey performed  | No survey performed     | 70%                     |
| Percent of users rating quality of service as good or excellent.     | No survey performed     | No survey performed  | No survey performed     | 75%                     |

**Analysis of the Data:**

While a satisfaction survey was not performed in FY 2008 or 2009, one is planned for FY 2010. It is anticipated that users may experience a decrease in the timeliness and quality of service due to the combination of school consolidation resulting in more duties for the department coupled with the retirement of a senior buyer.

**Benchmark Localities:**

City of Roanoke, Roanoke County, and City of Charlottesville, VA

**Human Resources Performance Measures****Goal 1:**

Provide excellent customer service to the workforce.

**Objective:**

80% of survey respondents rate overall Human Resources' (HR) services as Excellent or Good.

| <b>Performance Measure:</b>                         | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| % employees rating HR services as excellent or good | 80.0%                   | 86.1%                | 80.0%                   | 80.0%                   |

**Analysis of the Data:**

Specific strategies developed from survey trend analysis, such as spending more time interacting directly with employees and providing additional supervisory training, appear to have increased the satisfaction ratings over expected levels.

**Goal 2:**

Support effective recruitment processes.

**Objective:**

In a timely manner, following the posting close date, develop and deliver to hiring officials a list of certified (qualified) applicants for non-public safety positions.

| <b>Performance Measure:</b>                                    | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|----------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Average number of days to screen and deliver a certified list. | New Measure             | New Measure          | 5 work days             | 5 work days             |

**Analysis of the Data:**

HR supports a quick and effective recruitment process by evaluating applicants and referring the most qualified to departments in a timely manner. The quicker the department has the list of certified candidates, the faster they can begin their selection process thereby reducing non-productive time.

**Goal 3:**

Support effective employee performance management.

**Objective:**

Performance evaluations are completed and shared with employees in a timely manner.

| <b>Performance Measure:</b>                     | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| % of performance evaluations completed on time. | 100%                    | 100%                 | 100%                    | 100%                    |

**Analysis of the Data:**

Performance evaluations are required for all employees at the end of the fiscal year and usually the ratings are used to determine pay adjustments. The driving forces for timely performance evaluation appear to be the organizational focus on performance evaluation all at one time and the link to pay increases.

**Benchmark Localities:**

ICMA-CPM data continues to provide the most effective benchmark for the measures above. Additional comparisons will be sought throughout the upcoming year.

**Information Technology Performance Measures****Goal 1:**

Overall employee satisfaction with IT services.

**Objective:**

To ensure the information technology services provided by the department are meeting the needs of the users of the services and to improve from the prior year.

| <b>Performance Measure:</b>                                                | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|----------------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Annual survey rating:<br>4 = Excellent<br>3 = Good<br>2 = Fair<br>1 = Poor | > 3.36                  | 3.50                 | 3.57                    | > 3.57                  |

**Analysis of the Data:**

The goal for this measure is to improve on the prior year's rating, using feedback from one year's survey to improve service delivery and, hopefully, the satisfaction level in the next year. This goal was achieved in both 2008 and 2009.

**Goal 2:**

Maximum availability of critical network services.

**Objective:**

To provide network availability during normal general government business hours (8:30am - 5:00pm, M-F) for at least 99.99% of the year.

| <b>Performance Measure:</b>                   | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Network availability of<br>Priority 1 devices | 99.99%                  | 99.99%               | 99.99%                  | 99.99%                  |

**Analysis of the Data:**

The Projected FY 2009 availability is based on the year-to-date measure of 99.994%, as of March 2009. It is anticipated the annual goal of 99.99% will be met.

**Goal 3:**

Service requests completed on time.

**Objective:**

To meet the agreed-upon due date for Incidents and Small Projects at least 85% of the time.

| <b>Performance Measure:</b>                                         | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|---------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Percentage of Incidents<br>and Small Projects<br>completed on time. | 85.0%                   | 90.6%                | 91.1%                   | 90.0%                   |

**Analysis of the Data:**

The Projected FY 2009 on-time completion percentage is based on the year-to-date measure of 91.1%, as of March 2009.

**Benchmark Localities:**

Danville, Stafford, Staunton, and Williamsburg, VA



**Police Department Performance Measures****Goal 1:**

To maintain life safety through effective response time and addressing the community perception of rapid response equating to improved personal safety.

**Objective:**

To maintain the response time to priority calls for service in light of current staffing and overall responsibilities.

| <b>Performance Measure:</b>                                                        | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|------------------------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Computer-Aided Dispatch (CAD) response time inclusive of dispatch and travel time. | 6.50 minutes            | 7.17 minutes         | 7.17 minutes            | 7.17 minutes            |

**Analysis of the Data:**

With the implementation of twelve-hour shifts and its unknown impact in this area as well as the potential for staffing shortages and increased calls for service, the Department expects to maintain the current response time.

**Goal 2:**

To improve public safety and the perception of crime in the community by successfully investigating and clearing a greater percentage of the violent and property crimes that occur and are reported.

**Objective:**

To increase the clearance rate for reported violent and property crimes.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Crime clearance rates       |                         |                      |                         |                         |
| Violent                     | 50.0%                   | 40.8%                | 62.0%                   | 62.0%                   |
| Property                    | 27.4%                   | 22.5%                | 30.9%                   | 30.9%                   |

**Analysis of the Data:**

Crime clearance rates are a measure of the effectiveness of investigative measures applied by the police department; however, these rates are also impacted by timely reporting by citizens and the cooperation of victims and witnesses. In the past, the Department has normally met or exceeded national standards; however, FY 2008 posed some challenges, which prevented meeting these goals. As FY 2008 was an unusual year, the Department intends to meet and sustain the national standards in FY 2009 and FY 2010.

**Goal 3:**

To increase safety by reducing dangerous actions by individuals operating motor vehicles, as these actions contribute to injuries and fatalities involving the motorists as well as innocent bystanders.

**Objective:**

To increase traffic safety enforcement efforts, focusing on Driving Under the Influence (DUI) arrests, occupant safety summonses, and speeding summonses.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| DUI Arrests                 | 238                     | 259                  | 266                     | 274                     |
| Occupant Restraint          | 643                     | 663                  | 682                     | 702                     |
| Speeding Enforcement        | 5,250                   | 5,616                | 5,784                   | 5,957                   |

**Analysis of the Data:**

Traffic safety enforcement has the dual benefit of positively impacting traffic safety and educating citizens. However, enforcement efforts are impacted by staffing levels and by other calls for service that reduce time available for proactive enforcement. Over time the Department has found ways to reduce this impact; therefore, an increase is projected based on the percentage of growth in prior years.

**Benchmark Localities:**

Charlottesville, Chesapeake, Danville, Roanoke, and Suffolk, VA

**Fire Department Performance Measures****Goal 1:**

Increase the likelihood of survival for patients who are in cardiac arrest.

**Objective:**

Increase the percentage of patients that regain Return of Spontaneous Circulation (ROSC) after cardiac arrest. Strategies include increasing the use of the AutoPulse devices and implementing current recommendations of AHA (American Heart Association) in reference to the treatment of cardiac arrest patients.

| <b>Performance Measure:</b>                                       | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Meet or exceed AHA National average of 5-7% of patients with ROSC | New Measure             | New Measure          | New Measure             | 5%                      |

**Analysis of the Data:**

The department is working on a procedure to be able to track patients who regain ROSC after cardiac arrest; it will be ready for implementation July 1, 2009.

**Goal 2:**

Respond in a safe and expeditious manner to emergency incidents (dispatched equipment).

**Objective:**

Maintain (without compromising safety) an average response time of 360 seconds or less to emergency incidents (response time = time of dispatch to time of arrival of the 1st unit). Strategies include examining response times to determine if another response zone is more appropriate and evaluating traffic patterns and construction zones.

| <b>Performance Measure:</b>                    | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Average response time to an emergency incident | Not Projected           | 314 seconds          | 324 seconds             | 329 seconds             |

**Analysis of the Data:**

Call volume continues to increase; this increases response time due to the need for equipment to respond outside of designated response zones. Also, upcoming construction on major roads may negatively impact response time.

**Goal 3:**

Maintain or reduce average structure fire loss (in dollars) per incident.

**Objective:**

Limit structure fire loss per incident to below \$40,000. Strategies include increasing the number of inspections, the number of public education events, and the oversight in new construction and site design.

| <b>Performance Measure:</b>                              | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|----------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Average structure fire loss per incident per fiscal year | Not Projected           | 28,252               | 28,260                  | 29,413                  |

**Analysis of the Data:**

Projections are based on a 5-year trend analysis utilizing historical data from FY 2004 through FY 2008.

**Benchmark Localities:**

Charlottesville, Danville, Roanoke, Staunton, Hampton, and Petersburg, VA

**Public Works Performance Measures****Goal 1:**

Provide solid waste collection as economically as possible.

**Objective:**

Collect solid waste in a cost effective and efficient manner.

| <b>Performance Measure:</b>                                         | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|---------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Operating and maintenance expenditures per ton of refuse collected. | \$43.56                 | \$41.48              | \$45.74                 | \$48.03                 |

**Analysis of the Data:**

Actual costs reflect a very efficient operation. The employees have been involved in analyzing and balancing routes. Employees are strongly committed to providing excellent customer service in a cost efficient manner. The cost is expected to increase each year due to higher fuel, parts, and repair costs.

**Benchmark Localities:**

Chesapeake, Danville, Harrisonburg, and Spotsylvania County, VA; Longmont, CO

**Goal 2:**

Citizen approval of the appearance of parks and recreation facilities.

**Objective:**

Increase the percentage of citizens giving an excellent or good rating of the appearance of parks and recreation facilities.

| <b>Performance Measure:</b>                                               | <b>Projected FY2008</b> | <b>Actual FY2008</b>              | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|---------------------------------------------------------------------------|-------------------------|-----------------------------------|-------------------------|-------------------------|
| Percentage of Parks and Recreation facilities rated as excellent or good. | 63.00%                  | Question was not asked on survey. | None, biennial survey   | 66.15%                  |

**Analysis of the Data:**

This performance measure helps the City understand the users' rating and perception of the City parks and recreation facilities. This area was rated in 2006 and left off in 2008, but will be placed back in for rating in 2010.

**Benchmark Localities:**

Charlottesville, Danville, Harrisonburg, Herndon, and James City County, VA

**Goal 3:**

Support the safety of the traveling public and the operating efficiency of the streets infrastructure system as economically as possible.

**Objective:**

Perform street maintenance activities in a cost effective and efficient manner.

| <b>Performance Measure:</b>                           | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Road rehabilitation expenditures per paved lane mile. | \$3,197                 | \$2,487              | \$3,357                 | \$3,525                 |

**Analysis of the Data:**

Actual costs reflect a very efficient operation. Costs to maintain and repair streets have been very dynamic during the past several years with the cost of asphalt and patching material increasing significantly. The City has sought to perform more maintenance in order to lengthen the life of the streets leading to the expected increase in cost per lane mile.

**Benchmark Localities:**

Blacksburg, Danville, Harrisonburg, and Richmond, VA; Salem, OR

**Juvenile Services Performance Measures****Goal 1:**

Program participants will successfully complete Juvenile Services programs.

**Objective:**

Participants will successfully complete all program requirements as outlined in the Individualized Service Plans (ISPs).

| <b>Performance Measure:</b>                                                                    | <b>Projected FY 2008</b> | <b>Actual FY 2008</b> | <b>Projected FY 2009</b> | <b>Projected FY 2010</b> |
|------------------------------------------------------------------------------------------------|--------------------------|-----------------------|--------------------------|--------------------------|
| At least 75% of participants will successfully complete the program (average of all programs). | New Measure              | 83%                   | 85%                      | 87%                      |

**Analysis of the Data:**

While the State Department of Juvenile Justice has set a 75% successful completion rate, it is anticipated, based on the current treatment plan methodologies and past success rates that Juvenile Services can achieve an 87% success rate for FY 2010. However, it is important to note that there are various, uncontrollable factors that impact successful program completion.

**Goal 2:**

Outreach Detention program participants are in compliance with court orders.

**Objective:**

Participants are available for all scheduled court appearances.

| <b>Performance Measure:</b>                                                           | <b>Projected FY 2008</b> | <b>Actual FY 2008</b> | <b>Projected FY 2009</b> | <b>Projected FY 2010</b> |
|---------------------------------------------------------------------------------------|--------------------------|-----------------------|--------------------------|--------------------------|
| At least 95% of program participants will be present at all scheduled court hearings. | New Measure              | 100%                  | 96%                      | 97%                      |

**Analysis of the Data:**

While Juvenile Services achieved 100% attendance in FY 2008, it is very difficult to project 100% success when providing services to at-risk youth. A number of uncontrollable factors can impact whether or not a youth is available for and present at all scheduled court hearings; as a result, projected figures are less than 100%.

**Goal 3:**

Participants will gain an appreciation of the value of community service.

**Objective:**

Program participants will successfully complete court-ordered community service activities (service learning) and projects.

| <b>Performance Measure:</b>                                                                     | <b>Projected FY 2008</b> | <b>Actual FY 2008</b> | <b>Projected FY 2009</b> | <b>Projected FY 2010</b> |
|-------------------------------------------------------------------------------------------------|--------------------------|-----------------------|--------------------------|--------------------------|
| At least 90% of program participants will complete court-ordered community services activities. | New Measure              | 100%                  | 90%                      | 93%                      |

**Analysis of the Data:**

As with Goal 2, it is very difficult to project 100% success when providing services to at-risk youth. A number of uncontrollable factors can impact successful completion of community services hours; as a result, projected figures are less than 100%.

**Benchmark Localities:**

Roanoke, Newport News, and Petersburg, VA

**Social Services Performance Measures****Goal 1:**

Provide timely financial assistance services (Food Stamps, Medicaid and Temporary Assistance to Needy Families) to eligible clients.

**Objective:**

Meet or exceed State timeliness target of 96.5% for these programs.

| <b>Performance Measure:</b>                                                   | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-------------------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Percentage of cases meeting State and federal programmatic timeliness policy. | 96.5%                   | 93.0%                | 96.5%                   | 97.0%                   |

**Analysis of the Data:**

Significant turnover and policy changes during FY 2008 contributed to the failure to meet target. A relatively stable workforce, which is close to fully trained, should enable the department to achieve its target for FY 2009 and FY 2010.

**Goal 2:**

Protect at risk children by providing excellent Child Protective and Family Services.

**Objective:**

Reduce the occurrence of repeat maltreatment of children to the State target of 6.1% or less.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Repeat maltreatment         | 0.0%                    | 0.0%                 | 2.0%                    | 2.0%                    |

**Analysis of the Data:**

Emphasis on preventive ongoing services to abused children will continue to protect them from repeat maltreatment.

**Goal 3:**

Provide outstanding customer service to citizens.

**Objective:**

Meet or exceed statewide benchmark of 92% client satisfaction rate.

| <b>Performance Measure:</b>                                        | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|--------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Percentage of customers rating services as satisfactory or better. | 96.0%                   | 96.6%                | 97.0%                   | 97.0%                   |

**Analysis of the Data:**

Staff exceeded the projected satisfaction level in FY 2008 by 0.6%. As a result, the projected FY 2009 and FY 2010 goals reflect an increase to 97%. With a reduced workforce due to economic challenges, this goal may be challenging to meet.

**Benchmark Localities:**

Petersburg, Charlottesville, Danville, Roanoke City, Chesterfield, and Hanover, VA

**Public Library Performance Measures****Goal 1:**

Increase circulation per capita.

**Objective:**

To provide a diverse collection of materials which are useful to our community.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Circulation per capita      | 7.9                     | 8.2                  | 8.0                     | 8.1                     |

**Analysis of the Data:**

FY 2009 showed the highest circulation in the library's 44-year history due in large measure to the worsening economy, forcing citizens to seek free services close to home. However, following a shooting at the Main Library in January 2009, concerns over safety slowed this growth - subsequent months showed a 2% reduction in use from FY 2008. Projections for FY 2010 are conservative to reflect the potential need to reduce the number of hours the library is open (due to lack of adequate staffing) and possible State Budget cuts resulting in less money to buy new books, DVDs, etc. The reduction in hours and/or new materials will directly and negatively impact the number of people served and the number of items circulated. (Note: FY 2008 population was 68,758; the FY 2009 population was 70,734.)

**Goal 2:**

Increase program attendance per capita.

**Objective:**

To provide programming to reach a broad section of the community, for both youth and adults.

| <b>Performance Measure:</b>   | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Program attendance per capita | 0.20                    | 0.20                 | 0.16                    | 0.16                    |

**Analysis of the Data:**

A vibrant youth program reaches thousand of children annually. Adult programs such as Lynchburg Reads appeal to hundreds of teens and adults. However, the freeze on hiring has had a negative impact on the number of programs staff can physically provide. A shrinking staff is unable to manage increased use at the public information desks, 65,000 personal computer (PC) user sessions, and continue to provide programming at previous levels. Projections for FY 2010 show no increase for these reasons. (Note: FY 2008 population was 68,758; the FY 2009 population was 70,734.)

**Public Library Performance Measures - continued****Goal 3:**

Increase on-site, through-the-door visitorship.

**Objective:**

To encourage the community to visit the library facilities by offering a wide range of materials, PCs, and programs.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Visits per capita           | 4.7                     | 4.9                  | 4.4                     | 4.5                     |

**Analysis of the Data:**

FY 2009 was the busiest in the library's history, but the decrease in visits per capita is a direct result of public concerns over security, especially after the January 2009 shooting. Projections for FY 2010 are conservative to reflect the potential need to reduce the number of hours the library is open (due to lack of adequate staffing) and possible State Budget cuts resulting in less money to buy new books, DVDs, etc. A reduction in hours and/or new materials will directly and negatively impact the number of people served and the number of items circulated. (Note: FY 2008 population was 68,758; the FY 2009 population was 70,734.)

**Benchmark Localities:**

Data for the VA First Cities' public libraries was retrieved from the Library of VA database: Appomattox Regional, Blue Ridge Regional, Central Rappahannock Regional, Danville Public, Hampton Public, Jefferson Madison Regional, Newport News Public, Norfolk Public, Petersburg Public, Portsmouth Library, Richmond Public, Roanoke City Public, Staunton Public, and The Handly Library.

**Museums Performance Measures****Goal 1:**

To offer quality interpretive programs that are mission driven, accessible to the public, and of interest to residents and visitors.

**Objective:**

Present exhibits, tours, special events, and outreach programs to 13,000 visitors annually.

| <b>Performance Measure:</b>                    | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Number of annual visitors to the Museum System | 11,500                  | 13,995               | 12,000                  | 13,000                  |

**Analysis of the Data:**

Many museums in Virginia are seeing declines in visitation with the economy, fuel costs, and cutting of field trips. In FY 2008, the Museum benefited from the expected "honeymoon" period when it reopened with over 3,000 visitors in the first two months. In FY 2009, KidsHaven ended its annual event at Point of Honor, which previously brought 500 visitors. The end of this event coupled with the D Street Bridge closing, resulted in a projected decline. For FY 2010, the Department is striving to increase school tours and programs to offset these current challenges.

**Goal 2:**

Provide opportunities for the community to participate in Lynchburg's history.

**Objective:**

Acquire a broader base of volunteer support for the Museum System's mission by increasing volunteer hours.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Value of volunteer hours    | \$41,000                | \$49,261             | \$49,000                | \$46,000                |

**Analysis of the Data:**

The data is expressed as total volunteer hours donated multiplied by the Federal hourly rate for volunteer service. The number of hours donated in 2008 totalled 2,230 valued at \$22.09 (\$49,261). A decrease is expected in FY 2010 due to one less major event (KidsHaven), less overall activity, and demographic trends in volunteerism, which include an aging pool and people returning to work.

**Goal 3:**

To provide quality experiences for visitors (local, regional, and traveling) who tour the Lynchburg Museum and Point of Honor.

**Objective:**

To achieve at least an 80% satisfaction rating on visitor surveys completed by those who visit either site.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Customer satisfaction level | New Measure             | New Measure          | New Measure             | 80%                     |

**Analysis of the Data:**

A satisfaction question was added to the customer survey in FY 2009. Based on initial scores, a projected FY 2010 satisfaction rate of 80% is expected.

**Benchmark Localities:**

Manassas, Portsmouth, Newport News, and Petersburg, VA



**Parks and Recreation Performance Measures****Goal 1:**

Manage parks, trails, and civic facilities for the benefit of Lynchburg citizens and create opportunities for citizens of all ages and abilities to participate in a rich variety of recreational activities.

**Objective:**

Provide quality recreation programs and excellent customer service to the citizens of Lynchburg, increasing the percentage of citizens rating Parks and Recreation programs as good or excellent.

| <b>Performance Measure:</b>                                              | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|--------------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| % of citizens rating Parks and Recreation programs as good or excellent. | 60%                     | 60%                  | 61%                     | 65%                     |

**Analysis of the Data:**

FY 2008 median data is not yet available for this measure; however, when comparing FY 2008 actual percentages with the FY 2007 data from the ICMA Performance Measurement Survey, Lynchburg ranks below the national median rate (for other localities reporting on this survey) which show that 82% of citizens rank Parks and Recreation programs as good or excellent.

**Goal 2:**

Manage parks, trails, and civic facilities for the benefit of Lynchburg citizens and create opportunities for citizens of all ages and abilities to participate in a rich variety of recreational activities.

**Objective:**

Provide effective and efficient services.

| <b>Performance Measure:</b>                    | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Parks and Recreation FTEs per 1,000 population | 0.90                    | 0.90                 | 0.85                    | 0.80                    |

**Analysis of the Data:**

Represents the combined FTEs per 1,000 population for parks and recreation operations, including maintenance provided by Public Works. The median for localities reporting on the ICMA survey in 2007 is 0.89 FTEs (0.41 Parks Maintenance & Operations, 0.47 Recreation). Lynchburg had 0.38 Parks and 0.52 Recreation FTEs in FY 2008 and had the lowest number of FTEs for all Virginia localities reporting on the survey.

**Goal 3:**

Create opportunities for citizens of all ages and abilities to participate in a rich variety of recreational activities.

**Objective:**

Develop and fund a scholarship program to ensure recreation programs are affordable to all City residents.

| <b>Performance Measure:</b>                | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|--------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Total number/value of scholarships awarded | 350/Not Projected       | 347/\$8,579          | 350/\$9,000             | 375/\$12,000            |

**Analysis of the Data:**

Reliance on the scholarship fund continues to increase slightly. The vast majority of scholarships are given to youth attending center-based summer camps and youth participating in basketball. It is difficult to benchmark with other localities as scholarship program structures vary widely or are nonexistent in other cities.

**Benchmark Localities:**

Charlottesville, Hopewell, Newport News, and Williamsburg, VA; Johnson City, TN

**Community Development Performance Measures****Goal 1:**

Improve the timeliness and on-budget delivery of capital projects managed by the Engineering Division in excess of \$1.0 million.

**Objective:**

Complete capital project delivery within the City that is both on time and within budget as defined on the capital improvement program project detail sheet.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Percentage of Projects:     |                         |                      |                         |                         |
| On time                     | New Measure             | New Measure          | New Measure             | 75%                     |
| Within budget               | New Measure             | New Measure          | New Measure             | 80%                     |

**Analysis of the Data:**

This is a new performance measure and will become the baseline in FY 2010. Staff's long-term goal is to be within budget and on time with 90% of the projects.

**Benchmark Localities:**

Virginia Department of Transportation; Roanoke and Danville, VA

**Goal 2:**

Facilitate development by reviewing and processing site plans, subdivision plats, and public hearing items.

**Objective:**

Identify ways to improve the quality and timeliness of reviews while ensuring compliance with City Code and fulfilling the Goals and Objectives of the Comprehensive Plan.

| <b>Performance Measure:</b>                                                    | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|--------------------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Percentage of reports reviewed and processed within the initial 15 day period. | New Measure             | New Measure          | 87%                     | 95%                     |

**Analysis of the Data:**

The number of development reviews can be directly correlated to overall economic conditions. The analysis of the percentage of reviews that City staff complete within the allotted time periods can help determine staffing needs to the Technical Review Committee (TRC).

**Benchmark Localities:**

Charlottesville, Spottsylvania, Albemarle, and City of Roanoke, VA

**Community Development Performance Measures - continued****Goal 3:**

Preserve and improve the physical, social, and economic health of neighborhoods through housing and community development projects, downtown redevelopment, environmental code enforcement, and building code enforcement.

**Objective:**

Streamline the process by responding to customer/citizen requests for service within forty-eight hours from the time of the request. This only includes customers/citizens who provided contact information.

| <b>Performance Measure:</b>                                      | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Respond within 36 hours:<br>Zoning / Erosion<br>Sediment Control | New Measure             | New Measure          | New Measure             | 100%                    |
| Environmental Code<br>Enforcement                                | New Measure             | New Measure          | New Measure             | 100%                    |
| New Construction<br>Inspections                                  | New Measure             | New Measure          | New Measure             | 100%                    |
| Housing Code<br>Inspections                                      | New Measure             | New Measure          | New Measure             | 100%                    |

**Analysis of the Data:**

Response will only be available to those leaving contact information; some customers/citizens choose to remain anonymous.

**Benchmark Localities:**

Danville and Roanoke, VA

**Economic Development Performance Measures****Goal 1:**

Relationship management and building through business engagement.

**Objective:**

Establish the Office of Economic Development (OED) as a primary resource to promote retention and expansion of the City's existing businesses through multiple types of communications, informational meetings, events, and programs.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Number of participants      | 307                     | 610                  | 564                     | 350                     |

**Analysis of the Data:**

Relationships with and connections made for the City's business community are a priority for the OED. The department tracks all connections made with customers (City businesses) using a specialized database. While every effort is made to increase the number of "touches," reductions in staff and monetary resources are reflected in the projections.

**Goal 2:**

Business recruitment and development.

**Objective:**

Strengthen and support a business environment which attracts and develops businesses through a "value added" model of state and local innovative incentive programs and strategic regional alliances.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Number of inquiries         | New Measure             | New Measure          | 400                     | 500                     |

**Analysis of the Data:**

Increased inquiries have been shown to boost participation in programs. Limited resources will impact OED's ability to communicate, market, and administer programs at an optimal level.

**Goal 3:**

Marketing, information management, and workforce development initiatives.

**Objective:**

Collect, market, and distribute information both internally and externally to market the City as a great place to live, work, and play. Connect the public and private schools with the business community to create organic workforce development.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Number of Initiatives       | New Measure             | New Measure          | 10                      | 10                      |

**Analysis of the Data:**

With limited resources OED will seek opportunities to collaborate and share resources to accomplish innovative, agile initiatives to promote the City and its assets. The department plans to track initiatives and participation and continue to seek innovative organic approaches to workforce development, marketing, and branding as well as effective, efficient data collection methods. Reduced staff and budget will impact capacity.

**Benchmark Localities:**

Virginia's First Cities - Charlottesville, Danville, Fredericksburg, Hampton, Hopewell, Martinsville, Newport News, Norfolk, Petersburg, Portsmouth, Richmond, Roanoke, Staunton, and Winchester

**Fleet Services Performance Measures****Goal 1:**

Enable the efficient delivery of city services by providing expedient repairs to vehicles making them available for duty each day.

**Objective:**

Maintain a 97% fleet availability rate.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Fleet availability rate     | 98.0%                   | 97.9%                | 98.0%                   | 97.0%                   |

**Analysis of the Data:**

The FY 2010 budget did not include any vehicle replacements due to financial constraints. As a result, it is expected the availability percentage will drop 1% since more vehicles will require maintenance while the number of repair staff will remain constant.

**Goal 2:**

To repair police fleet vehicles at a competitive and minimal cost.

**Objective:**

Repair light duty police vehicles at a cost of \$0.165 cents or less per mile driven.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Cost per mile driven        | \$0.16                  | \$0.15               | \$0.15                  | \$0.16                  |

**Analysis of the Data:**

It is expected that the aging police fleet, due to limited vehicle replacement, will drive the FY 2010 figure to \$0.16.

**Goal 3:**

To provide excellent customer service.

**Objective:**

Maintain a Good/Excellent customer satisfaction rating (98% or greater).

| <b>Performance Measure:</b>  | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Customer satisfaction rating | New Measure             | 98%                  | 98%                     | 98%                     |

**Analysis of the Data:**

Although an older fleet requires more maintenance and may increase service response time, the Department expects to maintain its customer satisfaction rate.

**Benchmark Localities:**

Fairfax County, Roanoke, and Charlottesville, VA; Longmont, CO; Durham, NC

**Lynchburg Regional Airport Performance Measures****Goal 1:**

Attract additional passengers, increase airport revenues, and contribute to the City's overall economic development potential.

**Objective:**

Increase the number of daily departure seats available from the Airport by attracting additional airline service and/or low fares.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Daily departure seats       | 287                     | 247                  | 274                     | 287                     |

**Analysis of the Data:**

Efforts to increase the number of daily departure seats offered by Lynchburg airline service providers during FY 2008 were hampered by unprecedented aviation fuel prices and a sluggish economy. However, significantly lower fares introduced in July 2008 make the FY 2009 and FY 2010 goals attainable.

**Goal 2:**

Produce additional direct and secondary revenue to the Airport.

**Objective:**

Increase airline passenger traffic served by the Airport.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Passenger traffic           | 112,000                 | 98,423               | 132,000                 | 144,000                 |

**Analysis of the Data:**

The airline passenger traffic goal for FY 2008 was not met due primarily to cutbacks by business travelers as a result of the sluggish economy. Generally high fares prior to July 2008 discouraged leisure travelers as well. However, significantly lower fares implemented in July 2008 make the FY 2009 and FY 2010 goals attainable.

**Goal 3:**

Eliminate the annual operating subsidy from the City to the Airport by FY 2013.

**Objective:**

Reduce annually the operating subsidy from the City to the Airport.

| <b>Performance Measure:</b> | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Operating Subsidy           | \$399,265               | \$359,364            | \$310,000               | \$286,401               |

**Analysis of the Data:**

The annual subsidy has declined each year since a high of \$614,530 in FY 2002. A lower subsidy was achieved for FY 2008 primarily by generating modest revenue increases combined with decreased debt service.

**Benchmark Localities:**

There is no other locality in Virginia which owns a commercial service airport and our goals are not comparable to any other airport.

**Utilities Department - Water Performance Measures****Goal 1:**

Maintain a high level of customer satisfaction with the quality and quantity of water produced.

**Objective:**

Produce safe, high quality water on an uninterrupted basis with sufficient volume and pressure for consumption and fire protection throughout the Lynchburg water system.

| <b>Performance Measure:</b>                                                                                  | <b>Projected FY 2008</b> | <b>Actual FY 2008</b> | <b>Projected FY 2009</b> | <b>Projected FY 2010</b> |
|--------------------------------------------------------------------------------------------------------------|--------------------------|-----------------------|--------------------------|--------------------------|
| Drinking Water Compliance Rate (Percent of time compliant with National Primary Drinking Water Regulations). | 100%                     | 100%                  | 100%                     | 100%                     |

**Analysis of the Data:**

Drinking water quality consistently exceeds all state and federal standards.

**Goal 2:**

Deliver water on an uninterrupted basis while maintaining a high level of customer satisfaction.

**Objective:**

Maintain and operate the water system such that customer complaints and service disruptions are minimized.

| <b>Performance Measure:</b>                                                      | <b>Projected FY 2008</b> | <b>Actual FY 2008</b> | <b>Projected FY 2009</b> | <b>Projected FY 2010</b> |
|----------------------------------------------------------------------------------|--------------------------|-----------------------|--------------------------|--------------------------|
| Water Distribution System Integrity (breaks per 100 miles of distribution pipe). | 24                       | 21                    | 25                       | 27                       |

**Analysis of the Data:**

The water distribution system is aging. The consequence will be a steady increase in the number of water main breaks.

**Goal 3:**

Operate the water treatment plants and pump stations efficiently.

**Objective:**

Operate the Water Treatment Plants in a cost-effective and efficient manner.

| <b>Performance Measure:</b>                               | <b>Projected FY 2008</b> | <b>Actual FY 2008</b> | <b>Projected FY 2009</b> | <b>Projected FY 2010</b> |
|-----------------------------------------------------------|--------------------------|-----------------------|--------------------------|--------------------------|
| Overall water treatment cost per million gallons treated. | \$640                    | \$664                 | \$754                    | \$735                    |

**Analysis of the Data:**

Projected FY 2009 and FY 2010 increases are due primarily to rising chemical and power costs as well as additional regulatory requirements.

**Benchmark Localities:**

Charlottesville, Danville, Hampton, Richmond, and Roanoke, VA; American Water Works Association (AWWA)

**Goal 1:**

Protect the environment and promote the general health and welfare of the citizens of Lynchburg while maintaining a high level of customer satisfaction.

**Objective:**

Provide pollution and flood control through the maintenance of the sanitary and storm sewer systems.

| <b>Performance Measure:</b>                                             | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-------------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Sewer Overflow Rate (reportable overflows per 100 miles of sewer line). | 4.0                     | 3.6                  | 7.3                     | 7.5                     |

**Analysis of the Data:**

This measure reflects overflows not associated with Combined Sewer Overflow (CSO). Significant work has been performed on the combined portion of the system; meanwhile, the separated sewer system continues to age resulting in an anticipated increase in overflows.

**Goal 2:**

Protect the environment and promote general health and welfare.

**Objective:**

Treat wastewater from the City of Lynchburg and Amherst, Bedford, and Campbell Counties to meet or exceed all state and federal regulatory requirements.

| <b>Performance Measure:</b>                                                                                                    | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|--------------------------------------------------------------------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Treatment Effectiveness Rate (% of days in compliance with numerical VA Pollutant Discharge Elimination System permit limits). | 100%                    | 100%                 | 100%                    | 100%                    |

**Analysis of the Data:**

Wastewater Treatment Plant effluent quality is consistently better than permitted requirements.

**Goal 3:**

Operate the Wastewater Treatment Plant in a cost-effective and efficient manner.

**Objective:**

Treat wastewater in a technically-sound and efficiently-operated Regional Wastewater Treatment Plant on an uninterrupted basis.

| <b>Performance Measure:</b>                         | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-----------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Overall treatment cost per million gallons treated. | 1,194                   | 1,186                | 1,407                   | 1,437                   |

**Analysis of the Data:**

Projected FY 2009 increase is due primarily to rising chemical and power costs as well as additional regulatory requirements. The projected decrease in FY2010 is due to forecasted weather conditions that could result in using less chemicals and power.

**Benchmark Localities:**

Charlottesville, Danville, Hampton, Richmond, and Roanoke, VA; American Water Works Association (AWWA)



**Risk Management Performance Measures****Goal 1:**

Reduce safety and loss control hazards to lessen or prevent injuries to employees and citizens, while protecting city assets from damage or destruction.

**Objective:**

Inspect 5% of City owned facilities and buildings (approximately 13) annually, recommending corrective measures to departments when required. The City owns approximately 250 buildings/facilities.

| <b>Performance Measure:</b>                                               | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|---------------------------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| % of facilities inspected with comprehensive repairs sent to departments. | New Measure             | New Measure          | New Measure             | 5%                      |

**Analysis of the Data:**

Each facility inspected will have a report prepared detailing deficiencies and follow-up when corrective measures have been completed.

**Goal 2:**

Assist all city departments to achieve OSHA compliance, reduce employee injuries, and lower associated workers compensation claims.

**Objective:**

Provide the City Manager with an annual report evaluating each department's progress towards OSHA compliance. To assist and monitor department progress towards OSHA compliance.

| <b>Performance Measure:</b>                           | <b>Projected FY2008</b> | <b>Actual FY2008</b> | <b>Projected FY2009</b> | <b>Projected FY2010</b> |
|-------------------------------------------------------|-------------------------|----------------------|-------------------------|-------------------------|
| Percent of departments evaluated for OSHA compliance. | New Measure             | New Measure          | New Measure             | 100%                    |

**Analysis of the Data:**

Departmental progress will be monitored on a monthly basis detailing Risk Management assistance and cooperative efforts within departments.

**Benchmark Localities:**

Charlottesville, Hampton, Petersburg, Portsmouth, and Roanoke, VA

// A regular meeting of the Council of the City of Lynchburg was held on the 22nd day of September, 2009, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

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

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Absent: Dodson

1

// Vice Mayor Dodson arrived at 5:07 p.m. during Agenda Item #1.

// Mr. Bryan David, Executive Director of the Region 2000 Economic Development Council, presented an overview regarding information contained in a report entitled "The Contribution that Virginia's Region 2000 Partnership makes to Region 2000's Economy", dated April 2009, prepared by Mangum Economic Consulting, LLC. Mr. David stated that the report assesses the contributions that Virginia's Region 2000 Partnership makes toward improving the regional economy. Mr. David reported that the principle findings from that assessment are:

- Region 2000's economy is evolving.
- Region 2000's demographic characteristics attest to the fact that it offers an attractive and affordable quality of life.
- The Region 2000 Partnership has a substantial impact on the region's economy.
- The Region 2000 Partnership also serves to "raise the bar" by encouraging changes that will better position the region for future economic prosperity.
- The Region 2000 Partnership is extensively involved in "filling the workforce pipeline".

Mr. David stated that between 2005 and 2008, the Economic Development Council's efforts were instrumental in fostering 71 announcements for the creation or expansion of businesses within Region 2000. Mr. David went on to say that these announcements included plans to create 3,098 new jobs and bring \$329 million in new investment to the region. Mr. David also noted that over the next 15 years one fifth of the jobs would require a bachelor degree or better for employment. Mr. Gary Christie, Executive Director of the Region 2000 Local Government Council, provided an overview regarding the activities of the Local Government Council during the past year. Mr. Christie also highlighted some of the upcoming activities of the Council, i.e., a regional transportation plan for the urban Lynchburg area, a regional rural transportation plan, and the development of a regional economic development strategic plan.

// Mr. Andy Reeder, Parks Service Manager, along with Mr. Jerry Eastridge and Ms. Dawn Bohaz, with The RBA Group Inc., provided an overview regarding the Creekside Trail Extension Plan. Mr. Reeder stated that the Plan is a continuation of the 1977 Blackwater Creek Natural Area Master Plan, which had as one of its goals "... to provide for the cultural, historical, recreational, and economic welfare of its current and future residents." Mr. Reeder explained that the Plan came about at the urging of citizens who wished to realize the goals of the original Blackwater Creek Natural Area Master Plan and an interest from Lynchburg College to extend the trail through the campus. Mr. Reeder went on to say that the Plan is part of the City's ongoing effort to update sections of the original Blackwater Creek Natural Area Master Plan,

while identifying new opportunities amidst the current challenging economic environment. Ms. Bohaz provided an overview regarding the Trail Alignment Study, which included a sketch of the various segments of the Trail and the objectives and methodology used in the development of the Study. Mr. Reeder stated that the next steps would be to identify funding strategies, prioritize preliminary volunteer trail construction (single-track, earthen treadway design), develop a trail right-of-way/acquisition strategy, identify appropriate grant opportunities, formalize a trail/greenway corridor agreement with Lynchburg College, and develop final construction drawings as sections of trail allow and funding becomes available.

Some Council Members questioned the \$3.6 million cost to fund the entire Plan, especially due to the tight budget constraints facing the City. Mr. Reeder explained that the first step would be to move forward to prioritize preliminary volunteer trail construction (single-track, earthen treadway design) while seeking grant opportunities to fund the Plan. City Manager Kimball Payne also noted that there is no funding in the Capital Improvement Plan and that the only funding that could possibly be included in the future would be to match grants that may be received. A number of Council Members expressed support for the Plan, but recognized that funding the Plan would be a challenge to the City without grant funding. On motion of Vice Mayor Dodson, seconded by Council Member Perrow, Council by the following recorded vote endorsed the Creekside Trail Extension Plan as presented:

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

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Noes:

0

// City Planner Tom Martin stated that during its August 11 work session, City Council developed general consensus on the majority of the proposed Large Scale Retail Establishments Ordinance. Mr. Martin explained that there were two (2) items that City Council desired to discuss further at the September 22 work session, i.e., the use of porous pavements and shared direct access requirements. Mr. Martin went on to say that Council suggested changes to the porous pavement requirement and City staff had drafted new language as follows: (g) All parking areas in excess of that required by Section 35.1-25, Off Street Parking and Loading shall ~~incorporate porous pavements~~ implement practices that will allow twenty-five percent (25%) of the stormwater attributable to the parking area to infiltrate through to the soil below. Mr. Martin also noted that Council requested that staff review the proposed infiltration provision of the draft Ordinance to determine whether the practices would be in accordance with the Virginia Department of Conservation and Recreation's (DCR) requirements for stormwater management. Mr. Martin stated that staff has reviewed DCR's Virginia Stormwater Management Handbook and determined that infiltration practices are permitted in accordance with the procedures outlined in Chapter 4, Hydrologic Methods. Council Member Helgeson requested that the shared direct access requirements be removed from the Ordinance. Council Member Helgeson also asked, and Council agreed, to allow Planning Commission Member Ted Hannon to come forward to speak on this issue. Commissioner Hannon, a former development attorney, outlined his reasons for not supporting the shared direct access requirements and stated that it is his opinion that this particular provision constitutes an illegal taking of private property for public access without just compensation. In response to Council questioning, City Attorney Walter Erwin stated that it is his opinion that the standard is permissible, comparing it to other zoning regulations that

require things such as sidewalks and entryways. Council Member Perrow stated that as an engineer he could not see how the shared direct access points could be addressed on the site plan without knowing how the adjoining property would be developed. Council Member Perrow made a motion, seconded by Council Member Helgeson, to strike from the Ordinance all of the provisions regarding shared direct access requirements. Some Council Members expressed concern that the shared direct access requirement would place a restriction on individual property rights, that it should be up to the property owners to decide if they want to share access with others across their property, and that it would be an imposition on developers by requiring them to determine future access points to adjoining properties. Other Council Members did not agree and noted that the requirement would allow some control regarding the placement of access points along heavily traveled roads in the City. The vote was called on the motion to strike from the Ordinance all of the provisions regarding shared direct access requirements, and Council by the following recorded vote defeated the motion:

Ayes: Garrett, Helgeson, Perrow 3

Noes: Dodson, Gillette, Johnson, Foster 4

In response to a concern, a change was suggested in Section 35.1-43.25 (3) as follows: "... the existing uses on adjacent properties, and the foreseeable development of adjacent properties based on the existing uses, existing zoning designations, comprehensive plan designations, physical site factors and development patterns in the area, and may grant exemptions on the basis of the foregoing considerations". Council Member Perrow also suggested that the word "through" be removed from Section 35.1-43.27 (g). Some Council Members stated that they would support the ordinance in that major retailers were accustomed to conforming to the different development standards of individual communities and that they felt that the final document struck a healthy balance between the business sector's desire for simplicity and the City's desire to manage the negative aspects of large retail developments. Other Council Members stated that the existing zoning laws were sufficient, that a new ordinance was not necessary, and that the ordinance would discourage more investment in the City. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #O-09-102, as amended to include the above mentioned changes to Sections 35.1-43.25 and 35.1-43.27, amending the Zoning Ordinance by adding Sections 35.1-43.22 through 35.1-43.28 relating to Large Scale Retail Establishments:

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Perrow 3

On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #O-09-101, as presented, amending Sections 35.1-11.9, 35.1-36, and 35.1-38 of the Zoning Ordinance relating to Large Scale Retail Establishments:

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Perrow 3

//During roll call, Council Member Perrow reported that a street light on Club Drive was being obstructed. Council Member Garrett reported that road work on Hunterdale Drive and Moreview Drive was unacceptable to the residents and asked that an item be added to the next work session to discuss ways to stimulate small businesses. Council Member Johnson thanked City staff for their efforts regarding the ceremony to reopen Fifth Street. Vice Mayor Dodson commented regarding his trip to Glauchau, Germany, one of the City's Sister Cities.

// City Council recessed the meeting at 7:10 p.m.

// City Council reconvened the meeting at 7:30 p.m. Council Member Gillette gave the Invocation, followed by the Pledge of Allegiance, led by Brownie Scout Troop 6004.

// Copies of the minutes of the September 8, 2009 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of Commonwealth's Attorney, Resolution #R-09-088 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$3,500, fully reimbursable, to conduct workshops on family violence and assist special populations, laid over from the September 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, 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 Commonwealth's Attorney, Resolution #R-09-089 amending the FY2010 City/Federal/State Aid Fund budget and appropriating \$52,682, fully reimbursable, to hire a part-time Community Safety Liaison, laid over from the September 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, 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 Taxes, Resolution #R-09-090 amending the FY 2010 General Fund budget and appropriating \$15,584 to refund an overpayment of erroneously paid business license taxes by the Floor Show, Inc. for the calendar years 2006, 2007, 2008 and 2009, laid over from the September 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, 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 Police – E911, Resolution #R-09-091 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$115,069, fully reimbursable, to replace aging equipment, provide training, purchase Automatic Vehicle Location (AVL) software, purchase additional Computer Aided Dispatch

(CAD) packages, and perform network improvements, laid over from the September 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, 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 Library – General, Resolution #R-09-092 amending the FY 2010 General Fund budget and appropriating \$2,500, fully reimbursable, to fund a temporary employee in the Lynchburg Public Library, laid over from the September 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, 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 Library – General, Resolution #R-09-093 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$5,200, fully reimbursable, to purchase personal computers and related hardware for the Downtown Branch Library, laid over from the September 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, 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 Parks & Recreation – General, Resolution #R-09-094 amending the FY 2010 City Capital Projects Fund budget and appropriating \$58,000, fully reimbursable, to complete a site specific environmental assessment and remediation plan for the former Allen Morrison property, laid over from the September 8, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, 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 Budget FY 2010, Resolution #R-09-100 amending the FY 2010 Operating Budget and appropriating funds to reflect the carry forward of unexpended funds in FY 2009, laid over from the September 8, 2009 meeting, was again presented and read. Director of Financial Services Donna Witt stated that in reviewing the FY 2009 Carry Forward agenda item, a transposition error was made and that the amount to be appropriated in Schools Capital for Fort Hill School should be \$452,000 and not \$425,000. On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote adopted the Resolution as corrected:

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

Noes: 0

// In the matter of City Code, a public hearing was held regarding amending Section 24.1, Subdivision Ordinance, to correct outdated terminology, reflect current City policies and recommend changes

regarding vehicle access management, street connectivity and public infrastructure. City Planner Tom Martin provided a brief summary regarding the changes to the Subdivision Ordinance. Mr. Martin reviewed the proposed changes:

Section 21--Require Health Official approval for site suitability for septic tanks and drainfield location.

Section 25 – 25.1--Policy for Bond Reimbursement and Partial Reimbursement consistent with Code of Virginia.

Section 26--Allow the subdivision plat approval and the engineering plan approval processes to run concurrently, but put the burden of ensuring proper coordination between them on the developer.

Section 28--Access Management provisions for residential driveways and shared direct access.

Section 30(b)--Require the coordination of street patterns with potential development on adjoining parcels.

Section 30(g)--Clarify provisions to widen streets based on "Average Daily Traffic". Reduce alley width requirements from minimum of 20 feet to 14 feet.

Section 30(i)--Reduce the maximum street grade allowed without engineering approval from 15% to 10%.

Section 30(k)--Require sidewalks in subdivisions along one side of street. Provision to require on both sides of street based on 6,000 car/day traffic count.

Section 31(d) -- Require that utility services to townhouses must go to each individual lot and not simply to the common ground.

Section 31(e) – Indicate that subdividers may be required to partially fund off-site utility extensions to their property in the event where obstacles increase construction costs by more than 20%.

Section 46 – Updates from Code of Virginia relating to penalties for violations of the Subdivision Ordinance.

Mr. Martin stated that staff is recommending that City Council conduct a public hearing and schedule discussion regarding the Subdivision Ordinance for a future work session. One individual spoke in support of the proposed changes to the Subdivision Ordinance. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote agreed to schedule discussion regarding the Subdivision Ordinance to a future work session:

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

7

Noes:

0

// In the matter of Finance – Bonds, a public hearing was held regarding City Council Report #15 regarding the issuance of not to exceed \$18,000,000 principal amount of General Obligation School Bonds, Series 2009, of the City of Lynchburg, Virginia to be sold to the Virginia Public School Authority for Sandusky Middle School. Director of Financial Services Donna Witt 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. In response to Council questioning, Ms. Witt stated that this action will reduce the interest rate from 3% to 0% with an estimated interest expenditure savings of \$4 million. City Manager Kimball Payne did note that debt service will begin in FY 2011 with an anticipated amortization period of fifteen years. On motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-09-103, as presented, authorizing the issuance of an amount not to exceed \$18,000,000 principal amount of General Obligation School Bonds, Series 2009, of the City of Lynchburg, Virginia, to be sold to the Virginia Public School Authority for Sandusky Middle School:

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

On motion of Council Member Helgeson, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-104, as presented, to amend the FY 2010 School Capital Projects Fund and appropriate \$197,213, \$162,238 and \$363,500, respectively, for estimated bond issuance costs, for estimated costs associated with federal Davis Bacon regulations required for the Qualified School Construction Bond Program, and for furnishings, the security system, and landscaping costs for Sandusky Middle School:

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

// In the matter of City Code, City Council Report #16 regarding amending Article VIII of Chapter 25 of the City Code relating to parking regulation and enforcement within the City was considered. City Manager Kimball Payne provided a brief summary regarding the request, stating that the Parking Authority has recommended approval of the amendments with an effective date of January 1, 2010, to give staff time to communicate the changes to the public and stakeholders. Council Member Perrow presented a number of questions regarding the proposed changes. In response to Council questioning, City Manager Payne stated that the Parking Authority will still need to establish and post the changes to the parking regulations before the January 1 effective date. Some Council Members stated that they would like to have more time to review the proposed changes and agreed with the City Manager's suggestion to schedule this item for vote at the October 13 meeting. Mr. Payne explained that this would allow staff time to address the questions and make changes to the ordinance to address capitalization, to clarify ownership, and to designate the Central Business District.

// In the matter of Sheriff, City Council Report #17 was considered. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-09-105, as presented, approving the issuance of debt by the Blue Ridge Regional Jail Authority



(BRRJA) in an amount not to exceed \$63 million for the construction of the new facility in Amherst County and additional beds in the Halifax facility:

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

7

Noes:

0

// In the matter of City Code, City Council Report #18 regarding amending Section 25–169 of the City Code relating to recovery of expenses for DUI and other traffic related offenses was considered. City Manager Kimball Payne stated that this item was presented to City Council on July 14, at which time it was decided by Council to discuss this item at a future meeting. Mr. Payne explained that since that meeting, the original proposed amendment to the City Code has been further amended to include the requirement of a response by the police and fire or emergency services to the accident or incident before the City of Lynchburg will be eligible to seek restitution. In response to Council questioning, City Attorney Walter Erwin stated that a Judge would have to find a person guilty before the City can receive these costs. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #0-09-106, as presented, amending Section 25–169 of the City Code relating to recovery of expenses for DUI and other traffic related offenses:

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 to consider appointments to Council-appointed Boards and Commissions, i.e., VASAP Board, Board of Building Code Appeals, Community Development Advisory Committee, Lynchburg Business Development Centre, for discussion and consideration of a prospective candidate to serve as the Interim Clerk of Council, to conduct the performance evaluations of the City Attorney and Clerk of Council and for consultation with legal counsel and briefings by staff members concerning specific legal issues on the enforcement of the provisions of the City's zoning ordinance regulating historic districts pursuant to Section 2.2-3711(A) (1) and (7), respectively, of the Code of Virginia, 1950, as amended:

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

7

Noes:

0

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

// Council Member Gillette 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

// In the matter of Appointments, and on nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed William A. Burns to serve on the Board of Building Code Appeals for a term to expire September 30, 2013:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Sharon R. Oglesby to serve on the Board of Building Code Appeals for a term to expire September 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Jennipher B. Lucado and Walter G. Miles to serve on the Board of Building Code Appeals for terms to expire September 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Council Member Turner Perrow to serve on the Lynchburg Redevelopment and Housing Authority Board for a term to expire September 30, 2013:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Eugene T. Domaleski, Marie O. Martin and Alexander J. Stuart, III, to serve on the Lynchburg Business Development Centre Board for terms to expire September 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Roy C. Jones to serve on the Lynchburg Business Development Centre Board for a term to expire September 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Samuel E. Stroud to serve on the Lynchburg Business Development Centre Board to fill an unexpired term ending September 30, 2010:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Phillip E. Brown to serve on the Lynchburg Business Development Centre Board to fill an unexpired term ending September 30, 2011:

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

Noes: 0

// The meeting was adjourned at 10:15 P.M.

---

Clerk of Council

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 7

CONSENT: **X**

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

**ITEM TITLE: FY 2009 Edward Byrne Memorial Justice Assistance Grant to Purchase Computer Equipment**

**RECOMMENDATION:** Adopt a resolution to amend the FY 2010 City/Federal/State Aid Fund budget and appropriate \$57,361 with resources from the FY 2009 Edward Byrne Memorial Justice Assistance Grant (JAG) Program to purchase computer hardware and software to upgrade the Criminal Justice Information Sharing Program.

**SUMMARY:**

The Police Department and Sheriff's Office have been awarded a grant under the JAG Program. Funding will be used to purchase computer hardware and software in order to upgrade of the Criminal Justice Information Sharing Program. Upgrades within the Police Department consist of four in-car laptops and "Police 2 Citizen" software, which will be used to share information with the public via the internet. Upgrades within the Sheriff's Office consist of desktop computer upgrades and software to allow integration with its software and database.

Total equipment cost is \$57,361, which is fully reimbursable by the grant; no local matching funds are required.

**PRIOR ACTION(S):**

Council Meeting, July 14, 2009

Finance Committee, September 22, 2009

**FISCAL IMPACT:** None, no local match is required.

**CONTACT(S):**

Chief Parks Snead, 455-6104

Captain Brandon Zuidema, 455-6052

**ATTACHMENT(S):** Resolution

**REVIEWED BY:** lkp

RESOLUTION:

BE IT RESOLVED That the FY 2010 City/Federal/State Aid Fund budget is amended and \$57,361 is appropriated with resources from the FY 2009 Edward Byrne Memorial Justice Assistance Grant (JAG) Program to purchase computer hardware and software to upgrade the Criminal Justice Information Sharing Program.

Introduced:

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

127L

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 8

CONSENT: **X**

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Virginia Association of Hazardous Materials Response Specialists (VAHMRS) Haz-Mat Equipment/Training Grant application**

### RECOMMENDATION:

Adopt a resolution to amend the FY 2010 City/Federal/State Aid Fund budget and appropriate \$1,000 with resources from the Virginia Association of Hazardous Materials Response Specialists (VAHMRS) Scholarship and Grants Committee for members of the Lynchburg Fire Department's Hazardous Materials Response Team to attend the Virginia Hazardous Materials Conference in October 2009.

### SUMMARY:

The VAHMRS has provided this grant opportunity to fund Haz-Mat Equipment/Training. Only VAHMRS members in good standing are eligible. The money would be used to help pay for five members of the Fire Department's Hazardous Materials Response Team to attend the 2009 Hazardous Materials Conference in Hampton, Virginia, October 19 – 24, 2009. The department had originally requested \$2,000 but was awarded \$1,000 plus two free conference registrations.

### PRIOR ACTION(S):

Finance Committee September 22, 2009

### FISCAL IMPACT:

None, no local match required.

### CONTACT(S):

Fire Chief S. Brad Ferguson, 455-6340

Battalion Chief Keith Johnson, 455-6340

Ellen Davidson-Martin, Fire Administrative Manager, 455-6368

### ATTACHMENT(S):

Award letter

Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED That the FY 2010 City/Federal/State Aid Fund budget is amended and \$1,000 is appropriated with resources from the Virginia Association of Hazardous Materials Response Specialists (VAHMRS) Scholarship and Grants Committee for members of the Lynchburg Fire Department's Hazardous Materials Response Team to attend the Virginia Hazardous Materials Conference in October 2009.

Introduced:

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

124L

**Fw: 2009 VAHMRS Training Grant Status**  
Ellen Davidson-Martin

09/28/2009 10:39 PM

This message has been forwarded.

Here is the award letter.

Thanks KPJ

----- Forwarded by Keith P Johnson/Fire/COL on 09/28/2009 10:39 PM -----

From: "Edinger, Rick" <EdingerR@chesterfield.gov>  
To: <keith.johnson@lynchburgva.gov>  
Cc: <ampm63@verizon.net>, <steven.ferguson@lynchburgva.gov>  
Date: 09/22/2009 12:21 PM  
Subject: 2009 VAHMRS Training Grant Status

Keith,

Congratulations, the Lynchburg Fire Department has been chosen by the Va. Association of Hazardous Materials Response Specialists (VAHMRS) Scholarship and Grants Committee to receive a training grant in the amount of \$1000 to send two personnel to the Virginia Hazardous Materials Conference. This grant also includes two free conference registrations.

Attached are conference registration directions. Please use the complimentary conference code to ensure that these registrations are processed at no cost to your members. VAHMRS will present a scholarship check to you or a department representative during the conference opening session on Wednesday, October 21 at 1030 a.m. If you are not attending, please provide me with a name of the person who will be representing your department.

We look forward to providing your personnel with a great educational and networking opportunity. Thank you for your interest in the VAHMRS scholarship program. VAHMRS is proud of our ability to support our members with financial assistance during the difficult economic times that we are currently experiencing.

Please contact me with any questions. I look forward to seeing you in Hampton in October.

*Rick*

Rick Edinger  
President, Virginia Assoc. of Hazardous Materials Response Specialists  
7109 Staples Mill Road  
Box 704  
Richmond, VA 23228  
(804) 748-1821



[www.virginiahazmat.org](http://www.virginiahazmat.org) Regis Procedure-Grant.doc



# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: **9**

CONSENT: **X**

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

**ITEM TITLE: Virginia Office of Emergency Medical Services – Personal Protective Equipment (PPE) Special Initiative Grant to purchase surgical masks for the Lynchburg Fire Department and Lynchburg Life Saving Crew**

**RECOMMENDATION:** Adopt a resolution to amend the FY 2010 City/Federal/State Aid Fund budget and appropriate \$10,560 with resources from the Virginia Office of Emergency Medical Services – Personal Protective Equipment (PPE) Special Initiative Grant to purchase surgical masks for all EMS providers in the event of a state declared pandemic event.

### **SUMMARY:**

The Virginia Office of Emergency Medical Services (OEMS) is providing this grant opportunity for all non-profit, volunteer, and governmental EMS and Fire agencies for the purchase of surgical masks to be used by EMS providers in the event of a state declared pandemic event. Eligible agencies must coordinate with the local governing body for submission of applications; therefore, the purchases will be made for EMS providers in both the Lynchburg Fire Department and Lynchburg Life Saving Crew.

The VA OEMS used a formula to determine the number of masks awarded and the amount of funding awarded to each locality. The Fire Department and Life Saving Crew were awarded 17,600 surgical masks at a cost of \$10,560.

This grant is 100% reimbursable; the City will submit the invoice to OEMS and then be reimbursed for the surgical masks purchase.

### **PRIOR ACTION(S):**

Finance Committee August 11, 2009

Finance Committee September 22, 2009

**FISCAL IMPACT:** None, no local match required.

### **CONTACT(S):**

Fire Chief S. Brad Ferguson, 455-6340

Ellen Davidson-Martin, Fire Administrative Manager, 455-6368

**ATTACHMENT(S):** Resolution

**REVIEWED BY:** lkp

RESOLUTION:

BE IT RESOLVED That the FY 2010 City/Federal/State Aid Fund budget is amended and \$10,560 is appropriated with resources from the Virginia Office of Emergency Medical Services – Personal Protective Equipment (PPE) Special Initiative Grant to purchase surgical masks for all EMS providers in the event of a state declared pandemic event.

Introduced:

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

125L

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 10

CONSENT: **X**

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

**ITEM TITLE: State Homeland Security Grant (SHSG) 2008 program: \$100,000 for Lynchburg Fire Department's Technical Rescue Team's equipment, exercise, and training**

**RECOMMENDATION:** Adopt a resolution to amend the FY 2010 City/Federal/State Aid Fund budget and appropriate \$100,000 with resources from the FY 2008 State Homeland Security Program (SHSP) grant from the National Preparedness Directorate, U.S. Department of Homeland Security (DHS), to purchase equipment for the Fire Department's Technical Rescue Team.

**SUMMARY:** The Virginia Department of Emergency Management is providing this grant opportunity with funding from the Department of Homeland Security (DHS) through the State Homeland Security Grant (SHSG) program. The Fire Department was notified of a \$100,000 award to be utilized by the Technical Rescue Team for equipment, exercise, and training.

This grant is 100% reimbursable; no local match is required.

**PRIOR ACTION(S):**

Finance Committee, June 23, 2009

Finance Committee, September 22, 2009

**FISCAL IMPACT:** None, no local match required.

**CONTACT(S):**

Fire Chief S. Brad Ferguson, 455-6340

Battalion Chief J. Paul Kilgore, 455-6340

Ellen Davidson-Martin, Fire Administrative Manager, 455-6368

**ATTACHMENT(S):** Resolution

**REVIEWED BY:** lkp

RESOLUTION:

BE IT RESOLVED That the FY 2010 City/Federal/State Aid Fund budget is amended and \$100,000 is appropriated with resources from the FY 2008 State Homeland Security Program (SHSP) grant from the National Preparedness Directorate, U.S. Department of Homeland Security (DHS), to purchase equipment for the Fire Department's Technical Rescue Team.

Introduced:

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

126L

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: **11**

CONSENT: **X**

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Appropriation of VDOT UCI Federal Reconciliation Funds**

RECOMMENDATION: Adopt a resolution to amend the FY 2010 – 2014 Capital Improvement Program (CIP) and appropriate \$193,458 with resources from VDOT Urban Construction Initiative (UCI) Federal Reconciliation and State Match Funds for the Greenview Drive Phase II project.

SUMMARY:

As part of the State's Urban Construction Initiative (UCI), leftover funds from VDOT projects, previously administered and closed out, were allocated to the City. These funds must be used on a federally authorized project in order for the City to receive them. Greenview Drive is currently under design and has federal authorization. A total of \$193,458 needs to be appropriated, of which \$154,766 are Federal Reconciliation Funds and \$38,692 are State Match Funds.

PRIOR ACTION(S):

Adopted FY 2010 – 2014 Capital Improvement Program, Greenview Drive Phase II, page 34  
Finance Committee, September 22, 2009

FISCAL IMPACT: As noted above

CONTACT(S):

Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development, 455-3900  
Lee Newland PE, City Engineer, 455-3947  
Tom Wilson, Project Manager, 455-4454

ATTACHMENT(S): Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY 2010 – 2014 Capital Improvement Program (CIP) is amended and \$193,458 is appropriated with resources from VDOT Urban Construction Initiative (UCI) Federal Reconciliation and State Match Funds for the Greenview Drive Phase II project.

Introduced:

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

128L

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 12

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

**ITEM TITLE: Public Hearing to Authorize the Lynchburg Redevelopment and Housing Authority (LRHA) To Pursue Acquisition of Blighted Property at 1527 Somerset Drive**

### RECOMMENDATION:

Adopt a resolution authorizing LRHA to pursue acquisition of blighted property at 1527 Somerset Drive under Section 36-19.5 of the Code of Virginia.

### SUMMARY:

Please see attached information from LRHA including notification to the property owners.

### PRIOR ACTION(S):

NA

### FISCAL IMPACT:

NA

### CONTACT(S):

Edward H. McCann 845-9011

### ATTACHMENT(S):

- Resolution
- Letter from LRHA

### REVIEWED BY: lkp

## RESOLUTION AUTHORIZING THE ACQUISITION OF REAL PROPERTY

WHEREAS, it appearing to City Council from the evidence presented at the public hearing that the structure located at 1527 Somerset Drive, parcel 067-10-010 (i) have deteriorated to such an extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare; (ii) that such structure is likely to continue to deteriorate unless corrected; (iii) that the continued deterioration of such structure will contribute to the blighting or deterioration of the area immediately surrounding 1527 Somerset Drive; (iv) that such structure is a blighted property in accordance with Section 1-219.1 of the Code of Virginia in that its condition endangers the public health or safety, and the structure is a public nuisance or is beyond repair or unfit for human occupancy or use; (v) that the owner of 1527 Somerset Drive was given 60 days notice by certified mail of the condition of the structure and has failed to correct the deterioration; and (vi) that 1527 Somerset Drive lies within the Lynchburg Redevelopment and Housing Authority's area of operation; and

WHEREAS, it further appearing to City Council from the evidence presented at the public hearing that the acquisition of 1527 Somerset Drive by the Lynchburg Redevelopment and Housing Authority is to serve a public purpose and not for private benefit or gain; and

WHEREAS, it further appearing to City Council from the evidence presented at the public hearing that the primary purpose for acquiring 1527 Somerset Drive by the Lynchburg Redevelopment and Housing Authority is not to increase any tax base or taxable revenues, or to increase employment;

NOW, THEREFORE BE IT RESOLVED that as provided by Section 36-19.5 of the Code of Virginia the Lynchburg City Council does hereby designate, authorize, and direct the Lynchburg Redevelopment and Housing Authority to acquire the property located at 1527 Somerset Drive by purchase, lease, gift or through the exercise of eminent domain for the purposes set forth in subsection A of Section 36-19.5 of the Code of Virginia, including, but not limited to, the renovation, rehabilitation, and disposition of the structure at 1527 Somerset Drive;

BE IT FURTHER RESOLVED that the Lynchburg Redevelopment and Housing Authority is hereby designated, authorized, and directed to act on the City's behalf in the acquisition of the property at 1527 Somerset Drive, and in the event the Lynchburg Redevelopment and Housing Authority files a petition in the Lynchburg Circuit Court to acquire the property located at 1527 Somerset Drive through the use of the power of eminent domain, the Lynchburg Redevelopment and Housing Authority shall be deemed to be acting as, and on behalf of, the City of Lynchburg for the purposes of such petition.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council



# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 13

CONSENT:                      REGULAR: **X**                      WORK SESSION:

CLOSED SESSION:  
(Confidential)

ACTION: **X**                                      INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP): Pittman City Centre Educational Use – 2323 Memorial Avenue**

RECOMMENDATION: Approval of the CUP petition.

SUMMARY: LU Plaza Holdings, LLC is petitioning for a CUP to allow the operation of a school or college use with a maximum enrollment of seven hundred (700) students within the Pittman City Centre shopping center. The proposed use would not be for the expansion of Liberty University and the petitioner has not yet secured a tenant or location for the school use within the retail complex. The petition would allow the applicant the option of providing the educational space anywhere on the property.

The Planning Commission recommended approval of the CUP petition because:

- Petition agrees with the *Comprehensive Plan* which recommends both Regional Commercial and Community Commercial uses for the subject property.
- Petition agrees with the *Zoning Ordinance* in that schools and colleges of all types are permitted in a B-3, Community Business District with approval of a CUP by City Council.

PRIOR ACTION(S):

September 9, 2009: Planning Division recommended approval of the CUP.

September 9, 2009: Planning Commission recommended approval of the CUP petition (4-0, with three members absent, Hannon, Oglesby and Sale) subject to the following conditions:

1. The school or college use will be permitted within the limits of the area defined on the "Master Plan for Pittman City Centre" designed by Hurt & Proffitt, Inc. on August 28, 2009.
2. All exterior lighting will be glare-shielded and non-directional to prevent illumination across the property line.

FISCAL IMPACT: None

CONTACT(S): Tom Martin, City Planner - 455-3900; Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development - 455-3900

ATTACHMENT(S):

- Resolution
- Planning Commission Report
- Planning Commission Minutes
- Vicinity Map
- Vicinity Proposed Land Use Map
- Watershed Location Map
- Concept Plan
- Parking Calculations
- Speaker Sign Up Sheet

REVIEWED BY: lkp

RESOLUTION:

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO LU PLAZA HOLDINGS, LLC TO ALLOW THE OPERATION OF A SCHOOL OR COLLEGE USE WITH A MAXIMUM ENROLLMENT OF SEVEN HUNDRED (700) STUDENTS WITHIN THE PITTMAN CITY CENTRE SHOPPING CENTER AT 2323 MEMORIAL AVENUE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of LU Plaza Holdings, LLC to allow the operation of a school or college use with a maximum enrollment of seven hundred (700) students within the Pittman City Centre shopping center at 2323 Memorial Avenue be, and the same is hereby approved subject to the following conditions:

1. The school or college use will be permitted within the limits of the area defined on the "Master Plan for Pittman City Centre" designed by Hurt & Proffitt, Inc. on August 28, 2009.
2. All exterior lighting shall be glare-shielded and non-directional to prevent illumination across the property line.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

122L

# PITTMAN CITY CENTRE

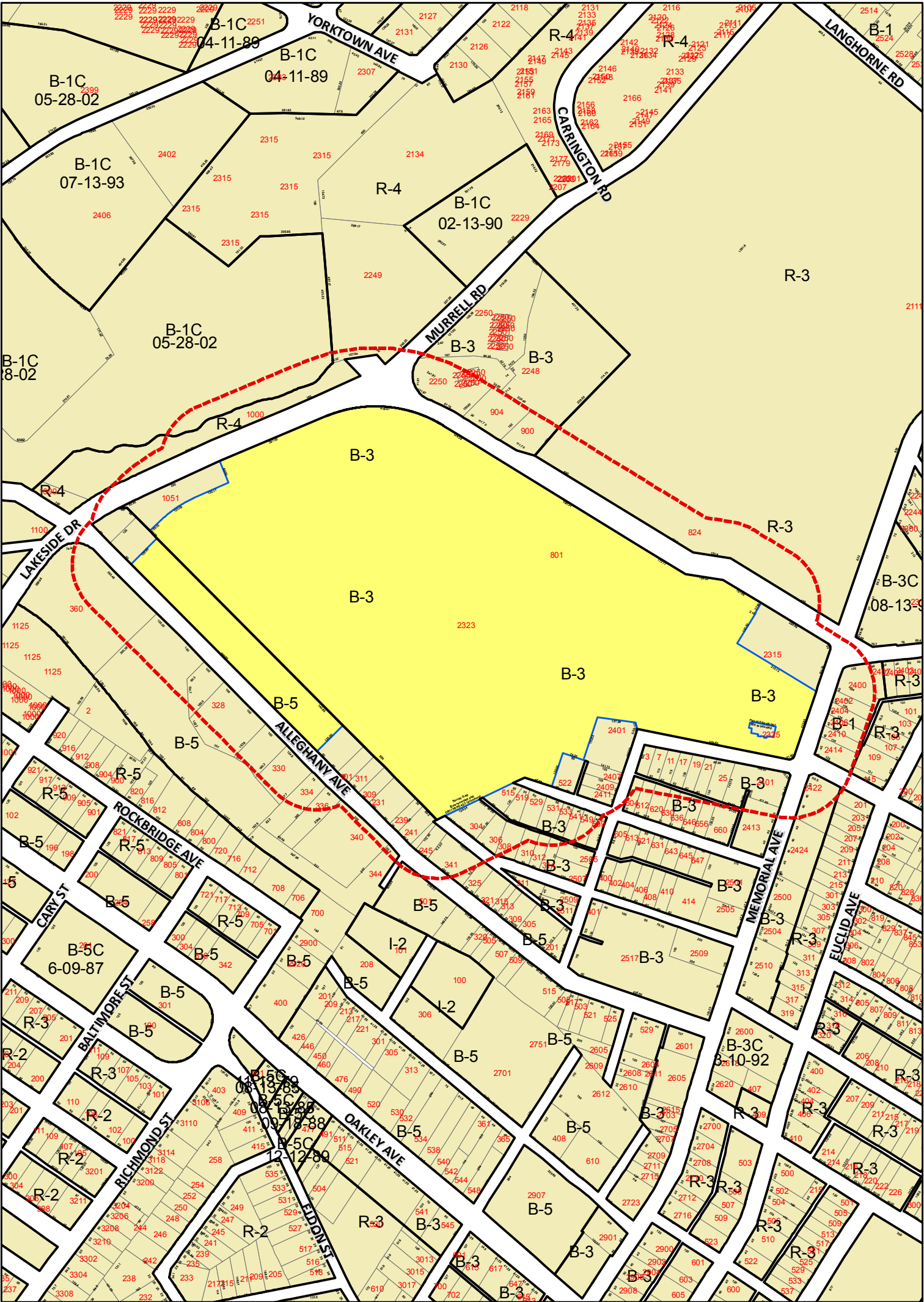
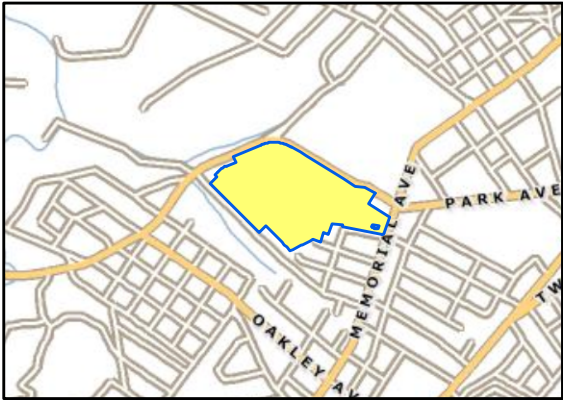
2323 Memorial Avenue

PIN# 004-06-001

Conditional Use Permit Request  
Petitioner-LU Plaza Holdings, LLC

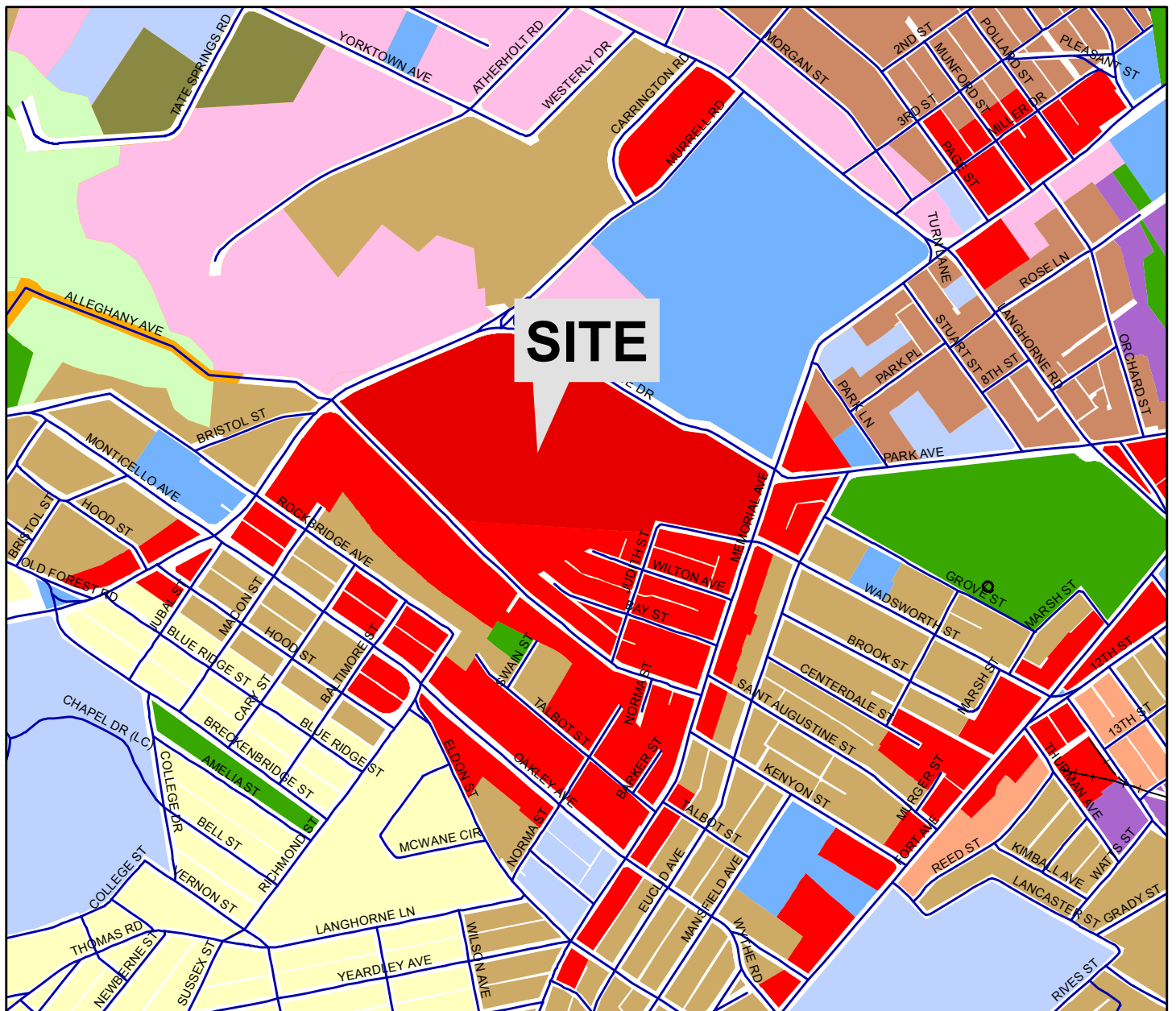
 Subject Property

 200FT Buffer



PITTMAN CITY CENTRE ADJOINING OWNERS

| PIN            | Owner                                                         | LocAddr            |
|----------------|---------------------------------------------------------------|--------------------|
| 00401005       | WAYNE COMPANY C/O GARY W CASE & CO INC                        | 904 LAKESIDE DR    |
| 00401006       | TUPELO INVESTMENTS LLC                                        | 900 LAKESIDE DR    |
| 00402002       | CITY OF LYNCHBURG C/O STEVE LAWSON                            | 2111 MEMORIAL AVE  |
| 00402003       | CITY OF LYNCHBURG C/O STEVE LAWSON                            | 2315 MEMORIAL AVE  |
| 00403004       | CRANK WILLIAM H & PATRICIA C                                  | 2407 JUDITH ST     |
| 00403005       | KOREAN EVANGELICAL CHURCH OF LYNCHBURG TRUSTEES               | 2409 JUDITH ST     |
| 00403006       | KOREAN EVANGELICAL CHURCH OF LYNCHBURG TRUSTEES               | 2411 JUDITH ST     |
| 00403007       | COLEMAN-ADAMS CONSTRUCTION INC                                | 522 WILTON AVE     |
| 00404001       | JAMERSON BILL L & ALLORIA M TRUSTEES U/THE JAMERSON           | 515 WILTON AVE     |
| 00404002       | JAMERSON BILL L & ALLORIA M TRUSTEES U/THE JAMERSON           | 519 WILTON AVE     |
| 00404003       | CRANK WILLIAM H & PATRICIA C                                  | 529 WILTON AVE     |
| 00404005       | JAMERSON BILL L & ALLORIA M TRUSTEES U/THE JAMERSON           | 531 WILTON AVE     |
| 00404006       | MCCRATH MEGAN K                                               | 533 WILTON AVE     |
| 00404007       | PETERS PAUL B                                                 | 541 WILTON AVE     |
| 00404008       | RODGERS DANA M TRUSTEES                                       | 549 WILTON AVE     |
| 00404009       | JAMERSON BILL L & ALLORIA M TRUSTEES U/THE JAMERSON           | 559 WILTON AVE     |
| 00404010       | KIRBY RUBY R                                                  | 2505 JUDITH ST     |
| 00404012       | MAYS JEANETTE L                                               | 314 BAY ST         |
| 00404013       | SLIGH WILLIAM L LIFE C/O WANDA S TORRENCE ETALS-REMAINDER     | 312 BAY ST         |
| 00404014       | SHULTZ RONALD I & ELIZABETH                                   | 310 BAY ST         |
| 00404015       | HALE MARY JONES                                               | 308 BAY ST         |
| 00404016       | HALE MARY JONES                                               | 306 BAY ST         |
| 00404018       | CLARK ODELL T                                                 | 304 BAY ST         |
| 00405022       | B M Q REALTY C/O TOM CHAFFIN III                              | ALLEGHANY AVE      |
| 00405024       | JONES JAMES C & JOYCE W                                       | 101 ALLEGHANY AVE  |
| 00405025       | JONES JAMES C & JOYCE W                                       | 311 ALLEGHANY AVE  |
| 00405026       | JONES KARA G                                                  | 309 ALLEGHANY AVE  |
| 00405027       | CLARKE JOHN P JR & MARTHA M                                   | 231 ALLEGHANY AVE  |
| 00405029       | PELFREY SHIRLEY M                                             | 239 ALLEGHANY AVE  |
| 00405030       | WHITE CAREY R & BARBARA A                                     | 241 ALLEGHANY AVE  |
| 00405031       | WHITE CAREY R & BARBARA A                                     | ALLEGHANY AVE      |
| 00405032       | WHITE CAREY R & BARBARA A                                     | 245 ALLEGHANY AVE  |
| 00405034       | LONG KEITH A T/A LONG'S TERMITE & PEST CONTROL                | 341 ALLEGHANY AVE  |
| 00405040       | GILBERT ISIAH                                                 | 325 ALLEGHANY AVE  |
| 00405056       | D L BRYANT PAINT CONTRACTOR                                   | ALLEGHANY AVE      |
| 00406001       | LU PLAZA HOLDINGS LLC                                         | 2323 MEMORIAL AVE  |
| 00406002       | COLEMAN-ADAMS CONSTRUCTION INC                                | 1051 LAKESIDE DR   |
| 00406003       | COLEMAN-ADAMS CONSTRUCTION INC                                | 1000 LAKESIDE DR   |
| 00406004       | LIBERTY UNIVERSITY INC C/O ANTHONY BECKLES                    | 2401 JUDITH ST     |
| 00406800       | MCDONALD'S CORPORATION                                        | 2325 MEMORIAL AVE  |
| 00407011       | OFFICE CONDOMINIUM ASSOCIATES                                 | 2250 MURRELL RD    |
| 00408001       | EMPLOYEE ASSISTANCE OF CENTRAL VIRGINIA, INC                  | 2250 MURRELL RD B6 |
| 00408002       | EMPLOYEE ASSISTANCE OF CENTRAL VIRGINIA, INC                  | 2250 MURRELL RD B5 |
| 00408003       | EMPLOYEE ASSISTANCE OF CENTRAL VIRGINIA, INC                  | 2250 MURRELL RD B4 |
| 00408004       | MILAM & ASSOCIATES INCORPORATED                               | 2250 MURRELL RD B3 |
| 00408005       | ROCK TREE INVESTMENTS LLC                                     | 2250 MURRELL RD B2 |
| 00408006       | ROCK TREE INVESTMENTS LLC                                     | 2250 MURRELL RD B1 |
| 00408007       | OFFICE CONDOMINIUM ASSOCIATES C/O R E CLARKE                  | 2250 MURRELL RD    |
| 00501002       | BURRUSS WILLIAM H JR & SHARON C TR U/T REVOCABLE LIVING TRUST | 2409 ATHERHOLT RD  |
| 00501010       | OAKS LYNCHBURG II L P                                         | 2249 MURRELL RD    |
| 01105001       | PHAM THANH T & VUONG LAI T                                    | 2400 MEMORIAL AVE  |
| 01105002       | POMPPER JOYCE M & POMPPER RICHARD                             | 2407 PARK AVE      |
| 01105015       | BRIGGS PROPERTIES LLC                                         | 2414 MEMORIAL AVE  |
| 01105017       | BRIGGS PROPERTIES LLC                                         | 2410 MEMORIAL AVE  |
| 01105018       | PHAM SONG T V                                                 | 2406 MEMORIAL AVE  |
| 01105019       | PHAM SONG T V                                                 | 2404 MEMORIAL AVE  |
| 01105020       | PHAM SONG T V                                                 | 2402 MEMORIAL AVE  |
| 01112001       | PARK VIEW UNITED METHODIST CHURCH OF LYNCHBURG VA TRS         | 2422 MEMORIAL AVE  |
| 01112002       | SOUTHERN PROPERTY GROUP LLC C/O BGP REALTY                    | 201 EUCLID AVE     |
| 01112027       | NEWCOMB FAMILY LP                                             | 2424 MEMORIAL AVE  |
| 01113001       | HICKS REALTY & DEVELOPMENT LLC                                | 3 WADSWORTH ST     |
| 01113002       | HICKS REALTY & DEVELOPMENT LLC                                | 7 WADSWORTH ST     |
| 01113003       | HICKS REALTY & DEVELOPMENT LLC                                | 11 WADSWORTH ST    |
| 01113004       | GILBERT MARY P                                                | 17 WADSWORTH ST    |
| 01113005       | HOOKS JERRY & DONNA F                                         | 19 WADSWORTH ST    |
| 01113006       | HICKS REALTY & DEVELOPMENT LLC                                | 21 WADSWORTH ST    |
| 01113007       | HICKS REALTY & DEVELOPMENT LLC                                | 25 WADSWORTH ST    |
| 01113009       | NPC INTERNATIONAL INC                                         | 2413 MEMORIAL AVE  |
| 01113013       | CHOPPERS INCORPORATED                                         | 660 WILTON AVE     |
| 01113015       | BRADLEY LAURA                                                 | 656 WILTON AVE     |
| 01113016       | TUCK LYNDA K                                                  | 646 WILTON AVE     |
| 01113017       | HOOKS JERRY & DONNA F                                         | 636 WILTON AVE     |
| 01113018       | GILBERT MARY P                                                | 630 WILTON AVE     |
| 01113019       | HICKS REALTY & DEVELOPMENT LLC                                | 620 WILTON AVE     |
| 01113020       | CAMPBELL GARNETT E JR & EVA K                                 | 612 WILTON AVE     |
| 01113021       | BROOKS JAMES W & BRENDA S                                     | 604 WILTON AVE     |
| 01113022       | CHOPPERS INCORPORATED                                         | 2401 MEMORIAL AVE  |
| 01213052       | DOUTHAT DAVID E & SUSAN M                                     | 501 ALLEGHANY AVE  |
| 01421003       | GREATER LYNCHBURG HABITAT FOR HUMANITY                        | 360 ALLEGHANY AVE  |
| 01421004       | D L BRYANT PAINT CONTRACTOR                                   | ALLEGHANY AVE      |
| 01421007       | BRYANT DONALD L & GLORIA M                                    | 328 ALLEGHANY AVE  |
| 01421009       | PARKER DOUGLAS G                                              | ALLEGHANY AVE      |
| 01421012       | PARKER DOUGLAS G                                              | 330 ALLEGHANY AVE  |
| 01421013       | JONES JAMES C & JOYCE W                                       | 334 ALLEGHANY AVE  |
| 01421014       | GOODMAN FAYE                                                  | 344 ALLEGHANY AVE  |
| 01421019       | JONES JAMES C & JOYCE W                                       | 336 ALLEGHANY AVE  |
| 01421020       | D L BRYANT PAINT CONTRACTOR                                   | 340 ALLEGHANY AVE  |
| 01421033       | CITY OF LYNCHBURG C/O STEVE LAWSON                            | ALLEGHANY AVE      |
| Owner          | LU PLAZA HOLDINGS LLC                                         |                    |
| Petitioner     | LU PLAZA HOLDINGS LLC                                         |                    |
| Representative | SCOTT BEASLEY/HURT & PROFFITT                                 |                    |



-  Local Historic District
-  Traditional Residential
-  Low Density Residential
-  Medium Density Residential
-  High Density Residential
-  Neighborhood Commercial
-  Community Commercial
-  Regional Commercial
-  Employment 1
-  Employment 2
-  Office
-  Institution
-  Downtown
-  Public Use
-  Public Parks
-  Resource Conservation
-  Residential Mixed Use
-  General Mixed Use
-  Employment Mixed Use

# PITTMAN CITY CENTRE 2323 MEMORIAL AVENUE LAND USE PLAN





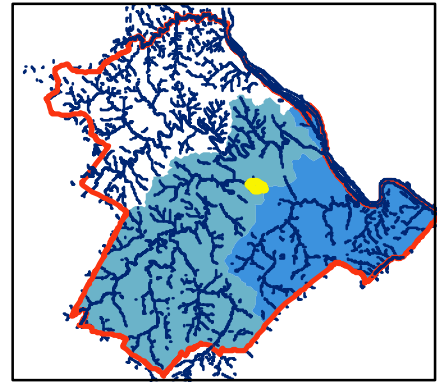
## Watershed Location Map

- 
- Project Site

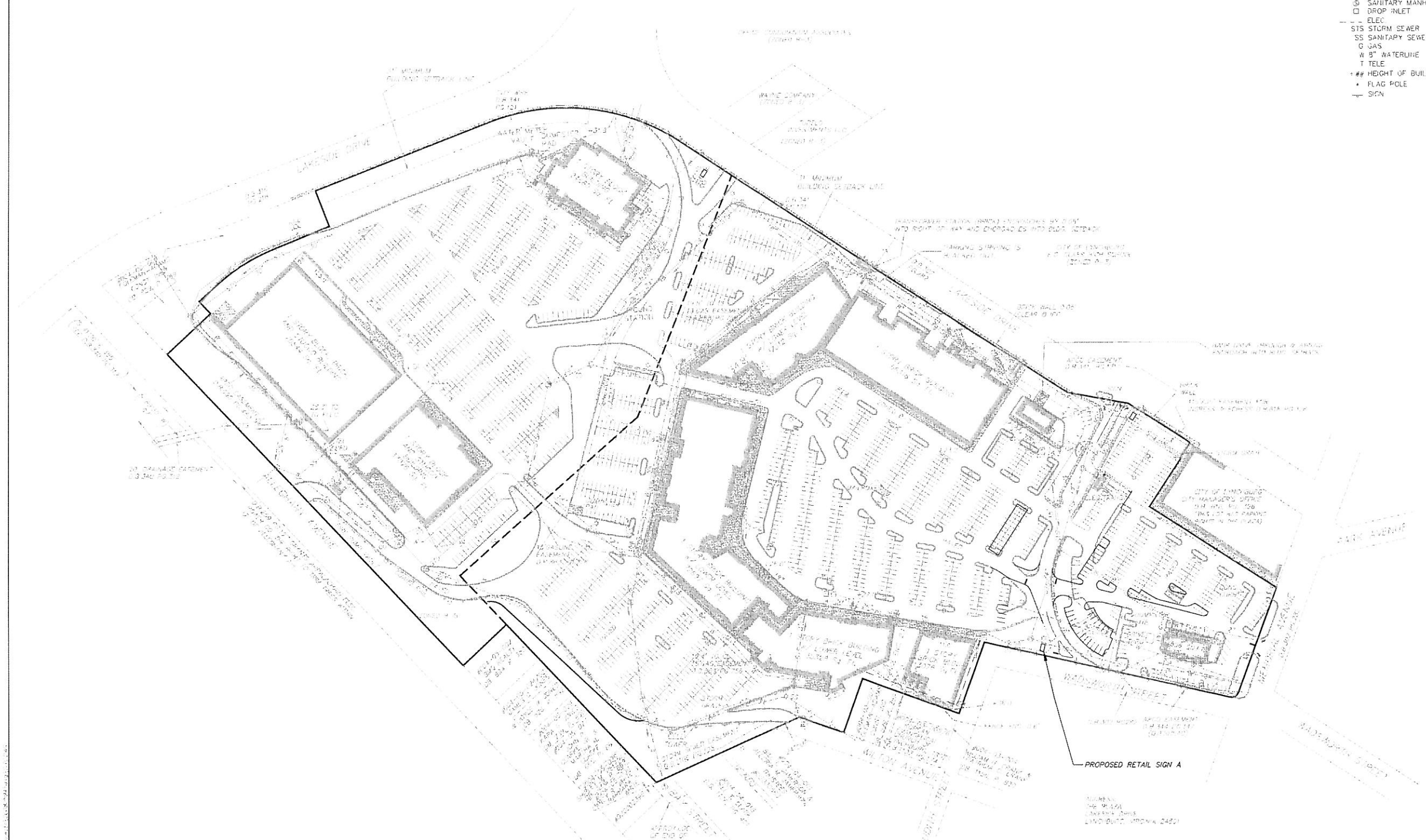
## Blackwater Creek

## Fishing Creek

Corporate Limit







OVERALL PARKING COUNT  
EXISTING PARKING SPACES = 2,006  
PROPOSED PARKING SPACES = 1,972

- LEGEND**
- IPF IRON PIN FOUND
  - IPS IRON PIN SET
  - OL OVERHEAD UTILITY LINE
  - UP UTILITY POLE
  - GW GUY WIRE
  - TP TELEPHONE PEDESTAL
  - CL CLEANOUT
  - WM WATER METER
  - WV WATER VALVE
  - SM STORM MANHOLE
  - SM SANITARY MANHOLE
  - DI DROP INLET
  - ELEC ELEC
  - SS STORM SEWER
  - SS SANITARY SEWER
  - G GAS
  - W 8" WATERLINE
  - T TELE
  - H# HEIGHT OF BUILDING
  - FP FLAG POLE
  - S SIGN

GRAPHIC SCALE IN FEET  
100' 50' 0' 50' 100'

**MASTER PLAN  
FOR  
PITTMAN CITY CENTRE  
CITY OF LYNCHBURG, VIRGINIA**

**HURT & PROFFITT  
INCORPORATED**  
2524 LANGHORNE ROAD  
LYNCHBURG VA 24501  
800.242.4506 TOLL FREE  
434.847.7796 MAIN  
434.847.0047 FAX

PROJECT NO. 20080594  
G.L. NO. 229-14-B3.0  
FILE NO. G-12425  
DATE: 8/28/2009  
DRAWN BY: NRO, ALB  
CHECKED BY: PCP, PSB

**HURT & PROFFITT**

SHEET NO.  
**1 OF 1**

**RECEIVED**

AUG 31 2009

COMMUNITY  
DEVELOPMENT

**NOT FOR CONSTRUCTION**

**The Department of Community Development**  
**City Hall, Lynchburg, VA 24504** **434-455-3900**

---

To: Planning Commission  
From: Planning Division  
Date: September 9, 2009  
Re: **CONDITONAL USE PERMIT (CUP): Pittman City Centre Educational Use at  
2323 Memorial Avenue**

---

**I. PETITIONER**

Alan Askew, LU Plaza Holdings, LLC, 1971 University Boulevard, Lynchburg, Virginia 24502  
**Representative:** P. Scott Beasley, Hurt & Proffitt, Inc., 2524 Langhome Road, Lynchburg, VA 24501

**II. LOCATION**

The subject property includes two (2) tracts totaling forty two (42) acres at 2323 Memorial Avenue.

**Property Owner:** LU Plaza Holdings, LLC, 1971 University Boulevard, Lynchburg, Virginia 24502

**III. PURPOSE**

The purpose of this petition is to allow an educational use within the Pittman City Centre.

**IV. SUMMARY**

- Petition agrees with the *Comprehensive Plan* which recommends both Regional Commercial and Community Commercial uses for the subject property.
- Petition agrees with the *Zoning Ordinance* in that schools and colleges of all types are permitted in a B-3, Community Business District with approval of a CUP by City Council.

**The Planning Division recommends approval of the CUP petition.**

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends both Regional Commercial and Community Commercial uses for the subject property. Regional Commercial areas include retail, restaurant, entertainment and hotel uses that draw customers from the entire region, as well as the traveling public. They contain large shopping centers or retail areas and are intended to serve seventy thousand (70,000) to one hundred thousand (100,000) people. [page 5.5] Community Commercial areas contain retail, personal service, entertainment, and restaurant uses that draw customers from at least several neighborhoods up to the entire City. Community Commercial areas contain clusters of businesses, often at major intersections, and shopping centers ranging from one hundred thousand (100,000) to two hundred thousand (200,000) square feet and serve forty (40,000) to seventy (70,000) people. [page 5.5]

Chapter 4 of the Midtown Area Plan designates The Plaza as one of the special places of Midtown Lynchburg. [page 4.9] Although the plan ultimately provides a vision of the center as a mixed-use neighborhood, the plan emphasizes that "redesign, upgrades and image improvements are essential for the Plaza site to draw higher-end retail". [page C.2] The petitioner is currently reviewing various options to update the facade and layout of the center.



2. **Zoning.** The subject property was annexed into the City in 1926. The existing B-3, Community Business District zoning was established in 1978 with the adoption of the current *Zoning Ordinance*.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances would be needed to allow the proposed use.
4. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
  - On June 12, 2007, City Council approved The Salvation Army's petition for a CUP to allow the implementation of a Master Plan for the Salvation Army Campus in an R-3, Medium Density, Two Family Residential District at 805, 807 Stuart Street; and 2201, 2211, 2215, 2225, and 2301 Park Avenue.
  - On April 12, 2005, City Council approved The Salvation Army's petition for a CUP to allow the use an existing building as a daycare facility for fifty-eight (58) children in an R-3, Medium Density, Two Family Residential District at 2301 Park Avenue.
  - On September 2, 2002, City Council denied The Salvation Army's petition for a CUP to allow the operation of a group home for up to six (6) women and children in an existing structure in an R-3, Medium Density, Two Family Residential District at 805 Stuart Street.
  - On May 28, 2002, City Council approved William H. Burrell, Jr.'s petition to rezone approximately fifty (50) acres from R-4, Medium-High Density, Multi-Family Residential District to B-1C, Limited Business District (Conditional) to allow the development of an office park within the 2400 Block of Atherholt Road.
  - On June 13, 2000, City Council approved The Surgery Center of Lynchburg, LLC's petition to rezone approximately five (5) acres from R-4, Medium-High Density, Multi-Family Residential District to B-1C, Limited Business District (Conditional) to allow the construction of an ambulatory surgery center, related services and parking at 2401 Atherholt Road.
  - On August 13, 1996, City Council approved C&C Development, LLC's petition to rezone two and three tenths (2.3) acres from R-3, Medium Density, Two-Family Residential District and B-1, Limited Business District to B-3C, Community Business District (Conditional) to allow the construction of a pharmacy at the intersection of Memorial Avenue and Park Avenue.
  - On June 11, 1996, City Council approved The Salvation Army's petition for a CUP to allow the operation of a child care center in an R-3, Medium Density, Two Family Residential District at 2215 Park Avenue.
  - On August 8, 1995, City Council approved Wilton B. and Kathleen W. Burgess's petition to rezone one half (0.5) of an acre at from I-2 Light Industrial District to B-5C, General Business District (Conditional) to allow the construction of a convenience store and parking area at 1200 Lakeside Drive.
  - On July 13, 1993, City Council approved Elderberry Nursing Home, Inc.'s petition to rezone seven and one-half (7.5) acres from R-4, Medium-High Density, Multi-Family Residential District to B-1C, Limited Business District (Conditional) and for a CUP to allow the construction of a nursing home with one hundred and twenty (120) beds, a speculative office building and a parking area behind 2303 Yorktown Avenue.

- On June 8, 1993, City Council approved The Salvation Army's petition for a CUP to allow the operation of an emergency shelter for up to seven (7) women and children in an existing house in an R-3, Medium Density, Two Family Residential District at 807 Stuart Street.
- On March 10, 1992, City Council approved Tarkington Realty Company's petition to rezone one and four tenths (1.4) acres from B-3C, Community Business District (Conditional) to B-3C, Community Business District (Conditional) and for a CUP to allow the operation of a vocational school and expansion of a parking area at 2600 Memorial Avenue.
- On February 13, 1990, City Council approved Snyder Hunt Corporation's petition to rezone two and seven tenths (2.7) acres from R-4, Medium-High Density, Multi-Family Residential District to B-1C, Limited Business District (Conditional) and for a CUP to allow the construction of a new office complex in the 2200 Block of Murrell Road.
- On September 11, 1990, City Council approved Tarkington Realty Company's petition to rezone one and four tenths (1.4) acres from R-3, Medium Density, Two Family Residential District and B-1, Limited Business District to B-3C, Community Business District (Conditional) to allow the operation of a vocational school and expansion of a parking area at 407 Euclid Avenue and 2600 Memorial Avenue.
- On April 11, 1989, City Council approved William H. Burruss Jr.'s petition to rezone four and two tenths (4.2) acres from R-4, Medium-High Density, Multi-Family Residential District to B-1C, Limited Business District (Conditional) to allow the use of an existing building and the construction of a new building as part of the Westerly Office Complex at 2303 Yorktown Avenue.
- On November 11, 1987, City Council approved Euclid Christian Church's petition for a CUP to allow a play area and additional parking in an R-3, Medium Density, Two Family Residential District at 2220 Memorial Avenue.
- On June 9, 1987, City Council approved Mrs. Giles Country Kitchen's petition to rezone one and eight tenths (1.8) acres from R-3, Medium Density, Two Family Residential District and B-5, General Business District to B-5C, General Business District (Conditional) to allow the construction of a warehouse and parking area in the 200 block of Oakley Avenue.
- On April 23, 1986, Randall Mitchell withdrew his CUP petition for the construction of a parking lot in an R-3, Medium Density, Two Family Residential District at 309 and 311 Euclid Avenue.
- On June 11, 1985, City Council approved The Salvation Army's petition for a CUP to allow a game room addition to an office in an R-3, Medium Density, Two Family Residential District at 2215 Park Avenue.
- On May 8, 1984, City Council approved Parkview United Methodist Church's petition for a CUP to allow the construction of a parking lot in an R-3, Medium Density, Two Family Residential District at 109, 111 and 115 Euclid Avenue.
- On January 24, 1984, City Council approved Lynchburg Cablevision's petition for a CUP to allow the construction of a television antenna in a B-5, General Business District at 402 Oakley Avenue.
- On August 11, 1981, City Council approved Euclid Christian Church's petition for a CUP to allow the construction operation of a child care facility in an R-3, Medium Density, Two Family Residential District at 2220 Memorial Avenue.

- On November 13, 1979, L.B. Wimmer withdrew his CUP petition for a family amusement center in the Pittman Plaza Mini Mall at 2323 Memorial Avenue.
  - On February 22, 1979, City Council approved The Salvation Army's petition for a CUP to allow the construction of a new office building in an R-3, Medium Density, Two Family Residential District at 2215 Park Avenue.
5. **Site Description.** The subject property includes a two (2)-level shopping center with associated parking; the Greater Lynchburg Transit Company's [GLTC] transfer area, the Lynchburg Public Library and several business outparcels are also located in the center. The site is bound to the north by E.C. Glass High School, commercial properties, single-family homes and an assisted living facility; to the east by single-family homes, commercial businesses and institutional uses; to the south by commercial businesses and single-family homes and to the west by vacant forestall land, commercial businesses and institutional uses.
6. **Proposed Use of Property.** The purpose of the CUP petition is to allow the operation of a school or college use with a maximum enrollment of seven hundred (700) students within the Pittman City Centre shopping center. The petitioner has not identified a specific location for the use within the complex and would like the option of providing the educational use space anywhere on the property. No exterior building changes are proposed at this time and the construction of any new buildings would require the approval of a site plan by the City's Technical Review Committee. Water and sewer services are currently available to the property.
7. **Traffic, Parking and Public Transit.** The City's Transportation Engineer had no concerns about the operation of an educational facility within the existing shopping center.
- Parking requirements for Pittman City Centre are based on the designated uses. The petitioner has provided a breakdown of existing and proposed uses and the required parking for each; the center would have an excess of six hundred and thirty-four (634) parking spaces based on these uses.
- Pittman City Centre currently serves as the transfer area for all routes of the GLTC public transit service.
8. **Stormwater Management.** The City's Environmental Reviewer had no concerns regarding the petition.
9. **Emergency Services.** The City's Fire Marshal had no concerns regarding the petition.
- The City Police Department commented that the building perimeter and parking area should be well lit for security. They also provided that no trespassing signs and signage directing both traffic and pedestrians to the entrances should be clearly visible. The final lighting and signage layout would be determined during site plan review.
10. **Impact.** The proposed addition of an educational use would provide tenant options that may help with the revitalization of the center. City staff concerns have all been addressed to the satisfaction of City staff and the result is a project that could strengthen the Midtown Area.
11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on August 4, 2009. Comments related to the proposed use were minor in nature and have been or will be addressed by the developer prior to final site plan approvals for the construction of any new buildings.
-

## VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of LU Plaza Holdings, LLC's petition for a conditional use permit at 2323 Memorial Avenue to allow the operation of a school or college use with a maximum enrollment of no more than seven hundred (700) students within the Pittman City Centre shopping center, subject to the following conditions:

1. The school or college use will be permitted within the limits of the area defined on the "Master Plan for Pittman City Centre" designed by Hurt & Proffitt, Inc. on August 28, 2009.
2. All exterior lighting will be glare-shielded and non-directional to prevent illumination across the property line.

This matter is respectfully offered for your consideration.



William T. Martin, AICP  
City Planner

pc: Mr. L. Kimball Payne, III, City Manager  
Ms. Bonnie M. Svrcek, Deputy City Manager/ Acting Director of Community Development  
Mr. Walter C. Erwin, City Attorney  
Mr. J. Lee Newland, City Engineer  
Ms. Cynthia Kozerow, Lynchburg Police Department  
Battalion Chief Greg Wormser, Fire Marshal  
Mr. Gerry Harter, Transportation Engineer  
Mr. Robert Drane, Building Commissioner  
Mr. Robert Fowler, Zoning Administrator  
Mr. Kent White, Senior Planner  
Ms. Erin Hawkins, Environmental Reviewer  
Mr. Alan Askew, LU Plaza Holdings, LLC, Applicant  
Mr. P. Scott Beasley, Hurt & Proffitt, Inc., Representative

## VII. ATTACHMENTS

1. Vicinity Zoning Pattern
2. Vicinity Proposed Land Use
3. Watershed Location Map
4. Concept Plan
5. Parking Calculations



**MINUTES OF THE SEPTEMBER 9, 2009 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED. THERE WAS NO MEETING ON SEPTEMBER 23, 2009):**

**a. Petition of LU Plaza Holdings, LLC for a conditional use permit in a B-3, Community Business District, to allow a higher education/college use with up to 700 students at 2323 Memorial Avenue.**

Mr. Martin addressed the commissioners with the following comments. This is a conditional use permit for the Pittman City Centre, formally known as The Plaza. The property is zoned B-3 and has been zoned B-3 since 1978 when the last comprehensive rezoning of the City was done. LU Plaza Holdings, LLC (LU Plaza Holdings) is proposing to allow the use of some of the space for students, primarily for technical colleges or similar uses. The Midtown Plan called for this area to be developed as more of a mixed-use type development, however, Mr. Martin thinks this is a good interim approach and would be beneficial for Midtown. People are needed in that area, and planning staff believes that the students being there will fully support the retail development.

City Council adopted the revised parking ordinance at its September 8, 2009 meeting, which means that there is more than ample parking to meet the retail needs and the educational needs. The GLTC transfer hub is currently located in The Plaza area, so there is adequate bus service. The Planning Division recommends approval of this conditional use permit petition. Staff feels it is a good alternate use of the property.

Mr. Scott Beasley of Hurt & Proffitt came forward as the representative of the petition. The petition proposes to use some of the property as a college or educational use. There is no specific building identified; it is a blanket request for wherever the use will fit best. An analysis of the parking has been done; there is adequate parking, even under the old parking ordinance. The new parking ordinance that was recently passed helps the parking situation. There is an abundance of parking available, even if all the retail spaces in The Plaza were completely filled. Mr. Beasley is available to answer questions but reiterated what Mr. Martin said that in order to revitalize The Plaza people are needed in the area. Allowing a use like what they are proposing would bring many people to the area and open it up to further retail development and other uses.

Chair Hamilton asked for anyone else present to speak in favor of the petition. No one came forward. She asked for anyone who wished to speak in opposition to the petition and no one came forward. She closed the public hearing.

Mr. Beasley and Mr. Lee Beaumont of Liberty University came forward to answer questions. Chair Hamilton remarked that in the narrative it talks about a maximum of 100 students but the parking calculations talk about 525 students in one place and in another place 700 students. Mr. Beasley answered that the 100 students is what is allowed under the existing B-3 zoning. The conditional use permit petition asks for up to 700 students. The parking numbers were calculated using the old parking ordinance and it showed that up to 525 students would be allowed. Under the new parking ordinance, up to 700 students would be allowed.

Mr. Beaumont pointed out that not all the students would be there at any one time. When they did their calculations, they used the assumption that every student would be there at one time, which is not how it would really work. Mr. Martin pointed out under the parking ordinance passed recently, colleges and universities are able to tell the City how much parking they need at the time of the conditional use permit process. There is really no set amount for a college or university. In this instance, there is ample parking, and Mr. Martin did not want the commissioners to get tied up in the parking requirements due to how the new parking ordinance works.



Chair Hamilton asked the representatives to elaborate on what schools they might put there and how the hours will work. Mr. Beaumont answered that they do not have any particular schools under contract at this point. They will be looking at technical schools to lease the space, a beauty school, for example.

Mr. Adam Askew, the Project Manager with Liberty University (LU) came forward to speak. He said that there is not a particular school interested in leasing space, but LU Plaza Holdings is trying to be proactive in case there is a potential tenant. LU Plaza Holdings did not want to have a situation where they had an interested tenant and then had to go through the conditional use permit process and they could lose the tenant to someone else. Mr. Beaumont commented that they have had some interest from people wanting to lease space for educational purposes. If this conditional use permit were approved, then LU Plaza Holdings would be able to lease space to someone who had more than a 100-student enrollment. Chair Hamilton clarified that they are not talking about an extension of LU, and the representatives said that was correct. Mr. Beaumont said that they do not really want any of LU's classes there, although right now they have some of the aviation school there. That is because a building has not been built for that yet, but that will soon be rectified. LU might use some of the space for storage purposes, but they will not have classes there.

Commissioner Swienton asked Mr. Martin for clarification on the recommendation on the Planning Commission report. The recommendation says for a "maximum enrollment of more than 100 students." Mr. Martin said that is the way it is currently worded; staff did not limit the number. Planning Commission could certainly limit the number of students. Staff was trying to say that the use of the property for more than 100 students would be approved. The commissioners thought that it was not clear, and Mr. Martin thought the term "no more than 700 students" would make it clearer. Mr. Askew and Mr. Beaumont said that would fine with them. Commissioner Barnes thought that 700 students seemed like a reasonable number, since that is what they have identified as the maximum allowed under the new parking ordinance. Mr. Beaumont pointed out that the types of schools they are thinking of are not usually that large, and they are not looking at bringing in any large schools anyway. They are looking at smaller schools in the 200-400 student range, but they wanted to go up to 700 students allowed just in case someone came in who was looking to grow. It would allow them to get the highest and best use of the space. It is taxable space, which is always an advantage.

Chair Hamilton asked the representatives what their plans are for the property overall, as far as improving the facades, demolishing buildings or adding buildings. Mr. Askew said that a master plan was submitted to the Technical Review Committee, but it will basically be done on a case-by-case situation. Right now they will be improving the property aesthetically—painting, reroofing and general cleanup. As far as new buildings and demolition, it will be done on a case-by-case basis. Mr. Beaumont said it is similar to the way they did the CUP for the university. Building pads have been identified and at least one building will be torn down, the old theatre that is no longer being used. That building has to be torn down. As situations are identified, LU Plaza Holdings will submit a site plan and address utilities, landscaping and stormwater management. If LU Plaza Holdings did the entire property at one time, they would be required to bring the entire property up to code all at once.

Chair Hamilton asked if the master plan is in the review process currently, and Mr. Martin said it has been reviewed already. The plan basically showed the construction of buildings for retail or office uses; it did not require any type of public hearing or review by anyone other than City staff. Commissioner Worthington commented that he had noticed that the overall parking count went down, and he did not understand why that was because he did not see any construction being done. He did not understand what was taking the place of thirty or forty parking spaces. Mr. Martin said that a gas station has already been constructed and some parking spaces were lost there.

Chair Hamilton clarified that they are not necessarily eliminating parking spaces. They are increasing the volume of people they can have on the site with the number of parking spaces they already have. Mr. Beaumont said that there might be some parking spaces lost with the final buildout. The old theatre

will be torn down, but there is no net loss there. A building would be added between StarTek and the old Rose's building, where there is no parking. There is one building pad close to the library which may impact a few spots; it will probably be an outparcel restaurant or a similar use. There would still be more than adequate parking. The counts were run at the most stringent parking requirements, and they are very comfortable with the counts. Obviously, if they do not give their customer adequate parking, the tenant is not going to sign a lease.

Commissioner Swienton asked for clarification about an article that he saw in the News and Advance recently about the new plans for The Plaza. The site plan submitted with this petition says "Master Plan for Pittman City Centre." Commissioner Swienton wanted to know if this is the conceptual master plan that was written about in the newspaper or is this just the structures and parking that is currently there. Mr. Beasley said the plan Commissioner Swienton is referring to is more or less what is on site right now. There were a couple of buildings shown on the plan submitted to the Technical Review Committee; they were near the library and a building between StarTek and the old Rose's building. The net loss of parking spaces included the pads that are proposed near the library, which impacted the parking there. A small lot was added and the plan rerouted some of the traffic near the McDonald's. There is an awkward intersection there now, and traffic was rerouted in that area to make it flow much better. Mr. Askew pointed out that the plan changes a lot of the diagonal cut through traffic for pedestrian safety.

Commissioner Swienton asked what the parking agreement is with the library; he wants to make sure that patrons of the library will have adequate parking if this CUP were to proceed. Mr. Martin said that staff met with Lynn Dodge of the library. The library surveyed their parking needs for more than a month. They had a copy of the plan and library staff feels that they will have sufficient parking. Mr. Beaumont said LU Plaza Holdings is contractually obligated to allocate a certain number of spaces, so the library's needs were taken into consideration.

Chair Hamilton asked Mr. Martin how the approval of this conditional use permit would affect any of the commercial uses that are currently allowed there. Mr. Martin said that it would not affect them at all. The commercial uses would still be permitted. The purpose of this conditional use permit is to allow the owner to lease some of the space for educational uses. The owner is asking for flexibility in the leasing of space. Staff thinks that is a good idea because in order to breathe life back into The Plaza area, you need to bring people there.

Commissioner Worthington wanted to discuss the impacts of this arrangement on the tax revenues for the City. If the space is leased to a tax-exempt organization, would that decrease tax revenues for the City? Mr. Martin did not think it would, but if LU used the space for its own purposes, it might. Mr. Beaumont said that is his understanding as well, but he is not a tax expert. Mr. Beaumont clarified that LU Plaza Holdings is a separate LLC; they are not representing Liberty University. Commissioner Swienton commented that he pulled some of the tax assessment records to get a sense of what the financial implications for the City could be. As far as he could tell, Centra leases some of the space, but LU Plaza Holdings is still paying taxes on the commercial space that is being leased. Mr. Beaumont said that either Centra is paying it or LU Plaza Holdings is paying it. Mr. Askew pointed out that several of the technical schools are for profit organizations.

Commissioner Worthington made a motion to approve the conditional use permit petition with the following change, which was seconded by Commissioner Swienton:

**"That the Planning Commission recommends to City Council approval of LU Plaza Holdings, LLC's petition for a conditional use permit at 2323 Memorial Avenue to allow the operation of a school or college use with a maximum enrollment of no more than seven hundred (700) students within the Pittman City Centre shopping center, subject to the following conditions:**



- 1. The school or college use will be permitted within the limits of the area defined on the "Master Plan for Pittman City Centre" designed by Hurt & Proffitt, Inc. on August 28, 2009.**
- 2. All exterior lighting will be glare-shielded and non-directional to prevent illumination across the property line.**

The motion passed by the following vote:

|              |                                            |   |
|--------------|--------------------------------------------|---|
| AYES:        | Barnes, Hamilton, Swienton and Worthington | 4 |
| NOES:        |                                            | 0 |
| ABSTENTIONS: |                                            | 0 |
| ABSENT:      | Hannon, Oglesby and Sale                   | 3 |

Commissioner Worthington commented to Mr. Martin that after reading this report and then finding out from this discussion what the petition was actually for, he did not think the report made the petitioner's intent clear. He thought that Liberty University was going to use the property and not lease it to others.

**Parking Calculations for Pittman City Centre  
(Using Current Parking Ordinance)**

| Existing Conditions  | GLA     | Unit | Number of Employees <sup>1</sup> | Number of Students | Old Rate | Parking Required | Parking Provided | Excess or (Deficiency) |
|----------------------|---------|------|----------------------------------|--------------------|----------|------------------|------------------|------------------------|
| General Retail Space | 459,924 | SF   | 100                              |                    | 300      | 1,566            |                  |                        |
| Star-Tek Call Center | 37,076  | SF   | 150                              |                    | 300      | 174              |                  |                        |
| Library              | 36,000  | SF   | N/A                              |                    | 300      | 120              |                  |                        |
| McDonald's           | 3,856   | SF   | 15                               |                    | 100      | 31               |                  |                        |
| Bank                 | 3,144   | SF   | 3                                |                    | 300      | 11               |                  |                        |
|                      | 540,000 | SF   |                                  |                    |          | 1,902            | 2,043            | 141                    |

| Proposed Conditions    | GLA     | Unit | Number of Employees <sup>1</sup> | Number of Students <sup>2</sup> | Old Rate   | Parking Required | Parking Provided | Excess or (Deficiency) |
|------------------------|---------|------|----------------------------------|---------------------------------|------------|------------------|------------------|------------------------|
| General Retail Space   | 451,467 | SF   | 150                              |                                 | 300        | 1,555            |                  |                        |
| Star-Tek Call Center   | 37,076  | SF   | 150                              |                                 | 300        | 174              |                  |                        |
| College (500 students) | 70,000  | SF   | 26                               | 525                             | See note 3 | 118              |                  |                        |
| Library                | 36,000  | SF   | N/A                              |                                 | 300        | 120              |                  |                        |
| McDonald's             | 3,856   | SF   | 15                               |                                 | 100        | 31               |                  |                        |
| Bank                   | 3,144   | SF   | 3                                |                                 | 300        | 11               |                  |                        |
|                        | 601,543 | SF   |                                  |                                 |            | 2,009            | 2,009            | 0                      |

Notes:

1. Number of employees is estimated.
2. The number of students value was changed until the total number of parking spaces provided equalled the total number provided.
3. Rate used = 1 space / 5 students + 1 space / 2 employees (commercial/trade school rate).
4. If the proposed parking ordinance is approved, see **Parking Calculations for Pittman City Centre (Using Proposed Parking Ordinance)**, which indicates that 700 students could be accommodated.

Calculations provided by:  
Hurt and Proffitt, Inc.  
P. Scott Beasley, PE, LEED AP

**Parking Calculations for Pittman City Centre**  
(Using Proposed Parking Ordinance)

| Existing Conditions  | GLA     | Unit | Number of Employees <sup>1</sup> | Number of Students | New Rate <sup>5</sup> | Parking Required | Parking Provided <sup>6</sup> | Excess or (Deficiency) |
|----------------------|---------|------|----------------------------------|--------------------|-----------------------|------------------|-------------------------------|------------------------|
| General Retail Space | 459,924 | SF   | 100                              |                    | 500                   | 953              |                               |                        |
| Star-Tek Call Center | 37,076  | SF   | 150                              |                    | 500                   | 124              |                               |                        |
| Library              | 36,000  | SF   | N/A                              |                    | 333                   | 108              |                               |                        |
| McDonald's           | 3,856   | SF   | 15                               |                    | See note 4            | 25               |                               |                        |
| Bank                 | 3,144   | SF   | 3                                |                    | 500                   | 7                |                               |                        |
|                      | 540,000 | SF   |                                  |                    |                       | 1,217            | 2,043                         | 826                    |

| Proposed Conditions    | GLA     | Unit | Number of Employees <sup>1</sup> | Number of Students <sup>2</sup> | New Rate <sup>5</sup> | Parking Required | Parking Provided <sup>6</sup> | Excess or (Deficiency) |
|------------------------|---------|------|----------------------------------|---------------------------------|-----------------------|------------------|-------------------------------|------------------------|
| General Retail Space   | 451,467 | SF   | 150                              |                                 | 500                   | 953              |                               |                        |
| Star-Tek Call Center   | 37,076  | SF   | 150                              |                                 | 500                   | 124              |                               |                        |
| College (500 students) | 70,000  | SF   | 35                               | 700                             | See note 3            | 158              |                               |                        |
| Library                | 36,000  | SF   | N/A                              |                                 | 333                   | 108              |                               |                        |
| McDonald's             | 3,856   | SF   | 15                               |                                 | See note 4            | 25               |                               |                        |
| Bank                   | 3,144   | SF   | 3                                |                                 | 500                   | 7                |                               |                        |
|                        | 601,543 | SF   |                                  |                                 |                       | 1,375            | 2,009                         | 634                    |

**Notes:**

1. Number of employees is estimated.
2. The number of students value shown is the maximum requested under this CUP.
3. Rate used = 1 space / 5 students + 1 space / 2 employees (commercial/trade school rate).
4. Restaurant capacity was assumed to be 80 persons for use in the parking rate for restaurants under the new parking ordinance.
5. New rate of 2 spaces / 1000 SF is shown with an equivalent rate of 1 space / 500 SF above. 3 spaces / 1000 SF is shown as 1 / 333 SF.
6. The reduction of parking spaces for proximity to mass transit has not been applied, as allowed by the new parking code. If applied, there would be an even greater excess of parking.

Calculations provided by:  
Hurt and Proffitt, Inc.  
P. Scott Beasley, PE, LEED AP

September 9, 2009

[illegible]



# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 14

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:  
(Confidential)

ACTION: **X**

INFORMATION:

**ITEM TITLE: PUBLIC HEARING AND CONSIDERATION OF REPROGRAMMING COMMUNITY  
DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS**

**RECOMMENDATION:** Conduct a public hearing to receive public input regarding the reallocation of HOME and CDBG funds. Approve the request from Rush Homes to reprogram funds from 2004/2005 and 2008/2009 to the Victoria Ridge project from Independence House; and, approve the request from the City's Parks and Recreation Department to reprogram funds from Yoder Center to Diamond Hill Center.

**SUMMARY:** Rush Homes has requested a reprogramming of 2004/2005 HOME funds in the amount of \$13,177 and 2008/2009 HOME funds in the amount of \$54,886 for the development of Victoria Ridge. Victoria Ridge is an apartment complex for people with special needs and low-incomes. City Council allocated HOME funding to the Victoria Ridge project in 2009/2010 in the amount of \$128,647.19. This reprogrammed funding will further support the development of Victoria Ridge.

The City's Parks and Recreation Department has requested a reprogramming of 2008/2009 CDBG funds in the amount of \$20,000 from Yoder Center to Diamond Hill Center. The purpose of this request is to consolidate federal monitoring requirements into the Diamond Hill Center which already has CDBG funding in the project from a prior year allocation. General Fund money in the amount of \$20,000 will be reallocated from the Diamond Hill Center to the Yoder Center resulting in no net fiscal impact to each project and streamlining the federal monitoring requirements into one project.

**PRIOR ACTION(S):** Community Development Advisory Committee approval on August 12, 2009  
Public notice as required by the Citizen Participation Plan

**FISCAL IMPACT:** None

**CONTACT(S):** Bonnie Svrcek, Deputy City Manager and Acting Director of Community Development  
455-3900

**ATTACHMENT(S):** Letter from Rush Homes dated July 29, 2009  
Public Notice – Reprogramming of CDBG and HOME Program Funds

**REVIEWED BY:** lkp

RESOLUTION:

BE IT RESOLVED that 2004/2005 HOME funds in the amount of \$13,177 and 2008/2009 HOME funds in the amount of \$54,886 for the development of Victoria Ridge be reallocated for Rush Homes and that 2008/2009 CDBG funds in the amount of \$20,000 from Yoder Center be reallocated to Diamond Hill Center.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

121L



July 29, 2009

Ms. Bonnie Svrcek, Acting Director of Community Development  
City of Lynchburg  
900 Church St.  
Lynchburg, VA 24504

RE: Victoria Ridge HOME funding

Dear Ms. Svrcek:

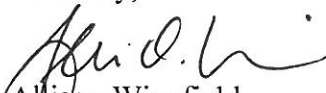
I am writing regarding HOME funding awarded to Rush Homes for FY 2004-2005 and FY 2008-2009. The amounts are \$13,177 and \$54,886 respectively. Rush Homes requested reprogramming the funds for use in the development of Victoria Ridge in my March 30, 2009 letter to Charlene Montford, Director of Community Development, as requested by Gwen Gillespie, then Assistant Director of Community Development. I was again requested to supply the letter by Community Development staff to Ms. Montford on July 8, 2009, finding then that she was out of the office until July 13. I emailed the letter to Desiree Varga at that time.

I was surprised at the July 14 City Council meeting to find that Rush Homes' request was not part of the reprogrammed funds brought before Council by Ms. Montford. I spoke with Ms. Montford later that week; she apologized for the oversight and the topic moved on to other HOME funds that she believed might be available for reprogramming.

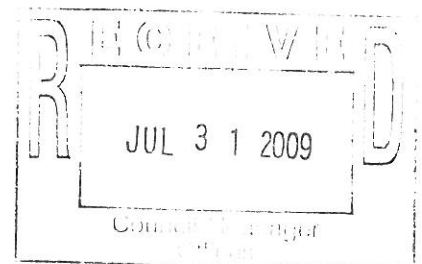
Since that time, I understand that Ms. Montford is only periodically in the office. I am, therefore, writing you regarding our original HOME funds reprogramming request and I again request the reprogramming of HOME funds noted above for the development of Victoria Ridge. Because of our positive conversations with the Department of Community Development regarding this reprogramming of funds and the relative assurance we received, either stated or implied, we have included these funds in our budgeting for Victoria Ridge. We need this added to the agenda for the next City Council meeting if possible so the project is not further delayed.

Please contact me if you have any questions regarding my request. Thank you.

Sincerely,

  
Allison Wingfield  
Executive Director

cc/Mr. Kimball Payne





# PUBLIC NOTICE

## CITY OF LYNCHBURG

### Reprogramming of CDBG and HOME Program Funds Public Hearing



**Tuesday, October 13, 2009, 7:30pm**  
**City Council Chambers, First Floor, City Hall**

ON THIS DATE CITY COUNCIL WILL CONDUCT A HEARING TO RECEIVE PUBLIC INPUT REGARDING A REPROGRAMMING OF CDBG AND HOME PROGRAM FUNDS. The City of Lynchburg is an entitlement City for the receipt of CDBG and HOME funds and receives an allocation of funds each year. The U.S. Department of Housing and Urban Development (HUD) funds the Community Development Block Grant (CDBG) and HOME Programs.

In fiscal year 2004/05, the City allocated \$13,177 in HOME funds to Rush Homes for an eligible HOME project. Also, in fiscal year 2008/09 the City allocated \$54,886 in HOME funds to Rush Homes to acquire and rehabilitate three houses or duplexes in Lynchburg to provide affordable rental housing units that meet the needs of families with disabilities and low incomes. Rush Homes is requesting that these funds (\$68,063 total) be reprogrammed to their new project – Victoria Ridge development.

In fiscal year 2008/09, the City Parks and Recreation Department was allocated \$20,000 in CDBG funds for the Yoder Community Center. The City Parks and Recreation Department is requesting that the \$20,000 from program year 2008/09 be reprogrammed to provide funding to Diamond Hill Community Center.

On August 12, 2009, at an advertised Special Meeting of the Community Development Advisory Committee (CDAC), Rush Homes and the City Parks and Recreation Department formally requested that the following federal funds be reprogrammed as follows:

| <u>Agency</u>      | <u>Year Initially Funded</u> | <u>Amount of Funding</u> | <u>Federal Program</u> |
|--------------------|------------------------------|--------------------------|------------------------|
| Rush Homes         | 2004/05                      | \$13,177                 | HOME                   |
| Rush Homes         | 2008/09                      | 54,886                   | HOME                   |
| City/Parks and Rec | 2008/09                      | 20,000                   | CDBG                   |

The CDAC voted during its Special Meeting to approve the request by Rush Homes and the City Parks and Recreation Department to reprogram the above funds.

The Lynchburg City Council makes final decisions on the use and allocation of CDBG and HOME funds.

For additional information, please contact the Community Development Department at 455-3900.



# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 15

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Donation of Property to Lynchburg Grows**

RECOMMENDATION: After a public hearing, authorize the donation of 0.279 acres of City owned property to Lynchburg Grows.

SUMMARY: The City and Lynchburg Grows, a 501(c)3 nonprofit organization, have worked cooperatively to develop the former Shenkel and Allen Morrison properties into an urban farm and park. Master planning of both sites has taken into consideration the potential for collaboration and joint use of properties for programming.

Both properties are managed to meet the objectives set by the Virginia Department of Environmental Quality (VDEQ), Brownfield Voluntary Remediation Program (VRP). The VRP allows for risk-based remediation and remediation by design.

Staff recommends that the City donate 0.279 acres of land, valued at \$7,500 by the City Assessor's office, to Lynchburg Grows to meet two objectives:

- Although there are no codes that dictate a specific setback of buildings on the two properties, it will facilitate development and management of the properties by creating a greater setback of the greenhouses and boiler house located on the Lynchburg Grows property from City owned property. Currently, two of the greenhouses and the boiler house are 10-20 feet from the property line. Lynchburg Grows has plans to develop one of the two greenhouses into an event space and the boiler house into a pizza house. Allowing more space between the buildings and the property line will allow Lynchburg Grows to create adequate buffers between the buildings and the future park. The terrain also lends itself to the proposed new property line.
- Adjusting the property line allows both the City and Lynchburg Grows to meet a remediation objective set by VDEQ. Within the property proposed to be donated to Lynchburg Grows is an area of contaminated soil. This area is currently owned by the City, but because the contamination was caused by past activities of the rose growing operation on Lynchburg Grows' property, they are responsible for remediation. This area must be remediated to the satisfaction of VDEQ prior to Lynchburg Grow's receiving a final certificate of satisfactory completion of remediation for their property. The area can be remediated by placing a no dig restriction on the property deed. The City could also take this course of action but it may be several years before the City is prepared to complete all remediation of the Allen Morrison property and record the deed with restrictions. This is the only remaining item for Lynchburg Grows to meet all VDEQ requirements for satisfactory completion of remediation through VRP. Completion will allow Lynchburg Grows to proceed with more favorable financing arrangements for the property which is imperative to their short and long term success.

Staff recommends that the City donate the 0.279 acres to Lynchburg Grows to facilitate development and remediation of the properties.

PRIOR ACTION(S):

September 22, 2009 – Physical Development Committee

FISCAL IMPACT: None

CONTACT(S): Kay Frazier, Department Director, 455-5868  
Dee Dee Conner, Principal Engineer, 455-3928

ATTACHMENT(S): Resolution  
Survey Plat

REVIEWED BY: lkp

## Resolution

BE IT RESOLVED That the Lynchburg City Council hereby approves the donation of 0.279 acres of property from parcel #28-07-049 to Lynchburg Grows, a 5013c nonprofit, needed for development of the urban farm.

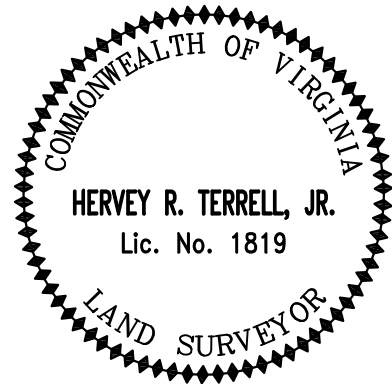
BE IT FURTHER RESOLVED That the City Manager is hereby authorized to sign the necessary deed to convey this property.

Adopted:

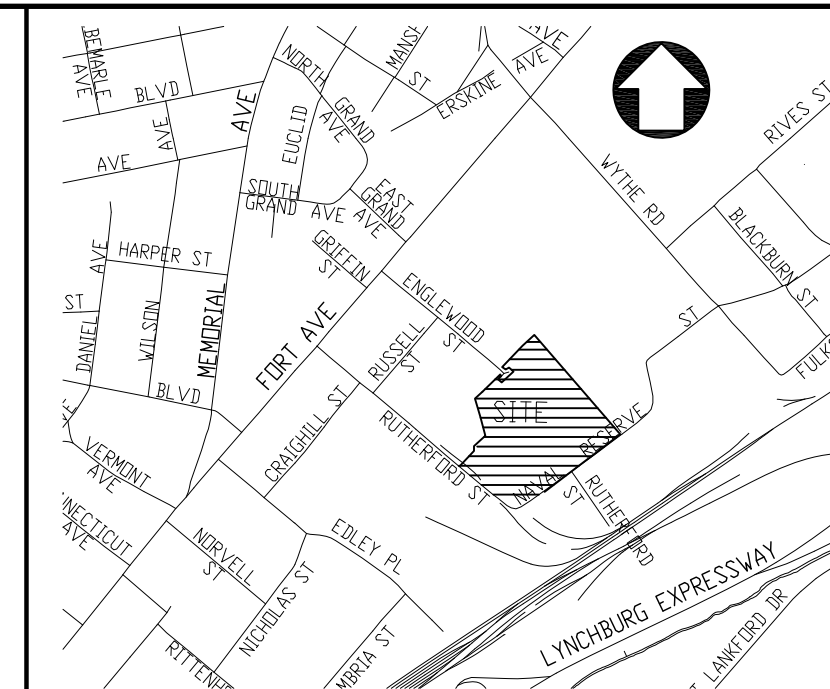
Certified:

\_\_\_\_\_  
Clerk of Council

114L



|                            |                        |                  |
|----------------------------|------------------------|------------------|
| DESIGNED BY:               | DRAWN BY: HRT          | CHECKED BY: A.S. |
| HORIZONTAL SCALE: 1" = 60' | VERTICAL SCALE:        |                  |
| PLAN SCALE: 1" = 60'       | PROJECT NO.: P00240100 |                  |
| DATE: 9/24/2009            | SHEET 1 OF 1           |                  |
| REVIEWED BY: DGC           | APPROVED BY: JLN       |                  |
| REVISED:                   |                        |                  |
| FILE # D-2132              |                        |                  |



CITY OF LYNCHBURG  
LOCATION MAP  
N.T.S.

THE SUBDIVISION OF THE LAND DESCRIBED HEREIN IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES.

THE OWNERS CERTIFY THAT THEY ARE THE FEE SIMPLE OWNERS OF SAID LAND AND ARE LEGALLY ENTITLED TO SUBDIVIDE THE SAME.

OWNER (FOR CITY OF LYNCHBURG) \_\_\_\_\_ DATE \_\_\_\_\_

COMMONWEALTH AT LARGE TO WIT:  
STATE OF VIRGINIA  
COUNTY/CITY OF \_\_\_\_\_  
I, \_\_\_\_\_, A NOTARY PUBLIC IN  
AND FOR THE STATE AFORESAID, DO HEREBY CERTIFY THAT THE  
OWNERS/REPRESENTATIVES WHOSE NAMES ARE SIGNED HEREON HAVE  
ACKNOWLEDGED THE SAME BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_, 20\_\_\_\_. MY COMMISSION  
EXPIRES \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

THE SUBDIVISION OF THE LAND DESCRIBED HEREIN IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES.  
THE OWNERS CERTIFY THAT THEY ARE THE FEE SIMPLE OWNERS OF SAID LAND AND ARE LEGALLY ENTITLED TO SUBDIVIDE THE SAME.

OWNER (FOR LYNCHBURG GROWS) \_\_\_\_\_ DATE \_\_\_\_\_

COMMONWEALTH AT LARGE TO WIT:  
STATE OF VIRGINIA  
COUNTY/CITY OF \_\_\_\_\_  
I, \_\_\_\_\_, A NOTARY PUBLIC IN  
AND FOR THE STATE AFORESAID, DO HEREBY CERTIFY THAT THE  
OWNERS/REPRESENTATIVES WHOSE NAMES ARE SIGNED HEREON HAVE  
ACKNOWLEDGED THE SAME BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_, 20\_\_\_\_. MY COMMISSION  
EXPIRES \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

TIE TO IPF  
N 45°15'36" W  
74.50'

CITY OF LYNCHBURG  
D.B. 201, PG. 153  
T.M. # 12-02-001

| LINE TABLE |             |        |
|------------|-------------|--------|
| L-1        | N50°05'44"W | 36.29' |
| L-2        | S39°49'31"W | 18.94' |
| L-3        | N50°07'06"W | 35.00' |
| L-4        | N39°49'31"E | 22.20' |
| L-5        | N50°07'06"W | 3.50'  |
| L-6        | S50°07'06"E | 38.50' |
| L-7        | S39°49'31"W | 19.87' |
| L-8        | N50°05'44"E | 9.92'  |
| L-9        | S45°15'36"E | 21.50' |
| L-10       | S54°47'06"W | 18.66' |

- | LEGEND   |                             |
|----------|-----------------------------|
| IPF      | IRON PIN FOUND              |
| IPS      | IRON PIN SET                |
|          | UTILITY POLE                |
|          | GUY WIRE                    |
|          | MONITORING WELL             |
|          | MAN HOLE                    |
|          | STORM DRAIN INLET           |
| OH E     | OVERHEAD ELEC. UTILITY LINE |
| - T -    | OVERHEAD TELE. LINE         |
|          | EDGE PAVEMENT               |
|          | CONCRETE AREA               |
| -- SS -- | SAN SEWER LINE              |
| -- SD -- | STORM SEWER LINE            |
| - - - -  | CHAIN LINK FENCE            |
|          | HYDRANT                     |
|          | WATER VALVE                 |
| ___ -    | APPROX. LOCATION FORMER     |
| ___ -    | RAIL ROAD SIDING            |

LYNCHBURG GROWS  
INST. # 060012217  
T.M. # 28-07-004

6.557 AC. ORIG LOT  
+0.279 AC.  

---

6.836 AC

CITY OF LYNCHBURG  
INST. # 030008053  
T.M. # 28-07-018

SOURCE OF TITLE: T.M. # 28-07-018  
T.M. # 28-07-049 S 38  
CITY OF LYNCHBURG 3

SEE INST. # 030008053 IN  
THE CITY OF LYNCHBURG  
CIRCUIT COURT CLERKS OFFICE

SOURCE OF TITLE:  
T.M. # 27-07-004  
LYNCHBURG GROWS  
SEE INST. # 060012217 IN  
THE CITY OF LYNCHBURG  
CIRCUIT COURT CLERKS OFFICE

NOTES:

1. IRONS OR MONUMENTS TO BE SET AT ALL CORNERS, WHERE POSSIBLE, OR AS OTHERWISE INDICATED ON THIS PLAT.
2. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
3. THIS DRAWING HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY AS PER DATE OF THIS PLAT.
4. THESE LOTS ARE CURRENTLY SERVED WITH WATER AND SEWER FROM THE CITY OF LYNCHBURG.

5. UTILITIES ARE OVERHEAD AND UNDERGROUND.
6. THE AREA SHOWN IS LOCATED IN ZONE "X" AND DOES NOT FALL WITHIN FLOOD HAZARD ZONE "A" FOR A 100 YEAR FLOOD AS SHOWN ON MAP #5100930043D BY F.E.M.A. DATED JUNE 23, 2008.

PLAT OF REFERENCE:  
SEE PLAT OF PROPERTY OF W.M. DOYLE, JR., LYNCHBURG, VA.  
DATED AUG. 31, 1950, BY A. OVERSTREET. SEE D.B. 271, PG. 643

SUBDIVISION APPROVED:

CITY ENGINEER, LYNCHBURG, VIRGINIA

CITY PLANNER, LYNCHBURG, VIRGINIA

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 16

CONSENT:                      REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Lease of City-owned property located behind 902, 904 and 906 Main Street**

RECOMMENDATION: After a public hearing, approve the attached Resolution to lease City-owned property located behind 902, 904 and 906 Main Street.

SUMMARY: Mr. Ralph Wilson, president of 902 Main Street Lynchburg, LLC, currently owns and has remodeled 3 buildings located at 902, 904 and 906 Main Street. His buildings will have 10 apartments, 1 assembly room, 1 large retail space, and a restaurant in the basement when completed. Mr. Wilson would like to rent a small strip of land from the City between where the City parking deck begins and his property starts. This property currently is undeveloped, is dirt, and is unsightly. Mr. Wilson plans to build a patio in the rear of these buildings which will be used for a restaurant. It will also provide another exit for his building to 9<sup>th</sup> Street. All of the construction will be paid for at Mr. Wilson's expense and constructed to the City's satisfaction. A drawing is provided showing his plans.

PRIOR ACTION(S): PDC – May 26, 2009 – At PDC's request, a Lease Agreement has been agreed upon and a copy attached  
PDC – September 22, 2009 - Proceed to hold Public Hearing

FISCAL IMPACT: Lease revenue of \$120/yr. on a month-to-month basis.

CONTACT(S): Steve Lawson – Real Estate Manager – 455-3945  
Lee Newland – City Engineer – 455-3947  
Bonnie Svrcek – Deputy City Manager/Acting Director of Community Development – 455-3990

ATTACHMENT(S): Resolution  
Drawing of proposal  
Lease Agreement

REVIEWED BY: lkp

## RESOLUTION

BE IT RESOLVED that the Lynchburg City Council hereby approves a lease agreement between the City of Lynchburg and 902 Main Street Lynchburg, LLC, a Virginia Limited Liability Company, for the undeveloped strip of land located between the Midtown Parking Deck and the rear of the buildings located at 902, 904 and 906 Main Street; and,

BE IT FURTHER RESOLVED that the City Manager is authorized to execute the lease agreement on behalf of the City.

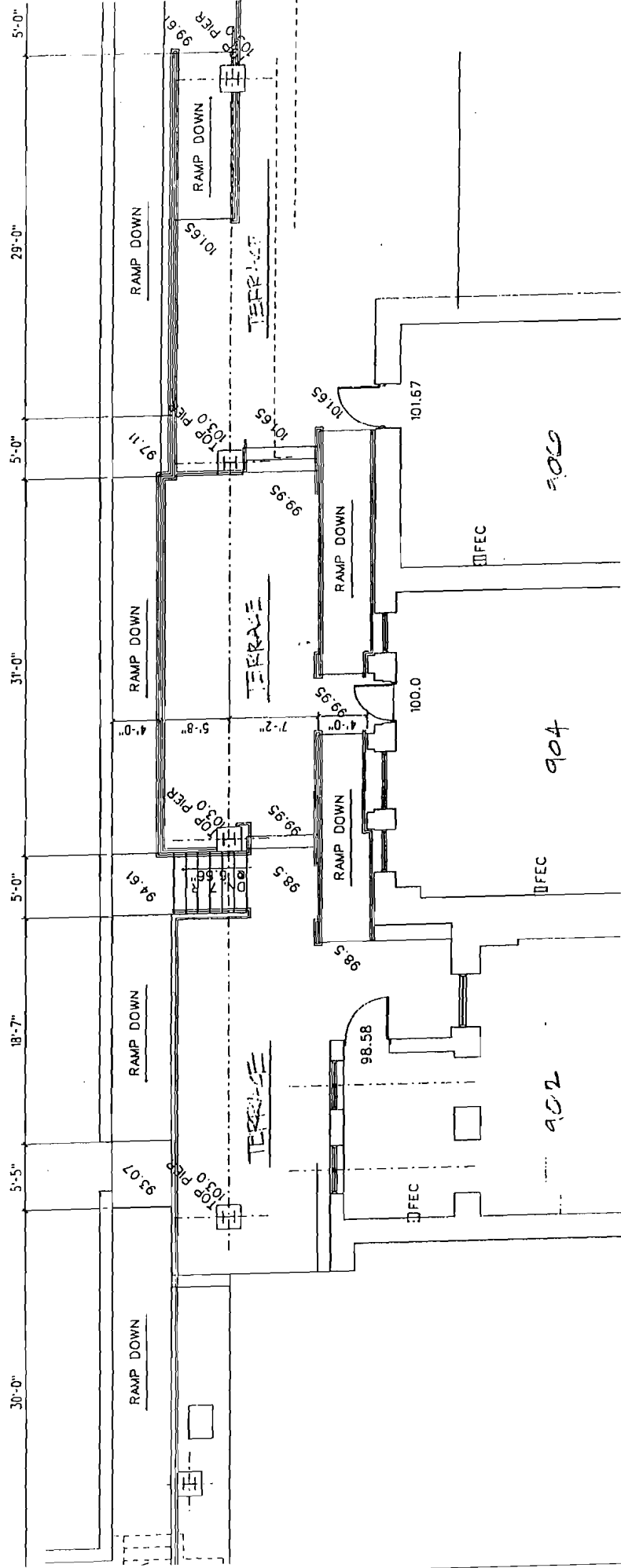
Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

115L

PICK-ING DECK



LOWER LEVEL CHOPPERS

1/8" = 1'-0"



THIS LEASE AGREEMENT made and dated this, \_\_\_\_\_, 2009,  
by and between the CITY OF LYNCHBURG, a municipal corporation of the  
Commonwealth of Virginia, party of the first part, hereinafter referred to as "Lessor,"  
and 902MAINSTREETLYNCHBURG, LLC, a Virginia Limited Liability Company,  
party of the second part, hereinafter referred to as "Lessee":

WITNESSETH

WHEREAS, the Lessor is the owner of an undeveloped strip of land in the  
City of Lynchburg located between the Midtown Parking Deck and the rear of the  
buildings owned by the Lessee at 902, 904 and 906 Main Street, hereinafter referred  
to as the "premises." A sketch showing the location of the undeveloped strip of land  
marked "Exhibit A" is attached to this lease and by this reference made a part hereof;  
and,

WHEREAS, the Lessee desires to lease the premises from the Lessor in order  
to construct a patio with walkways, steps and railings that will lead from the  
Midtown Parking Deck to the rear of the Lessee's buildings and the Lessor is willing  
to lease said premises to the Lessee under the following terms and conditions. A  
sketch showing the general layout of the patio, walkways and railings marked  
"Exhibit B" is attached to this lease and by this reference made a part hereof;

NOW, THEREFORE, for and in consideration of the premises and the mutual  
covenants and agreements hereinafter contained, the parties hereto agree as follows;

(1) The Lessor does hereby lease the premises shown on "Exhibit A," to the Lessee, for  
the sole use as a patio with walkways, steps and railings.

(2) The lease shall be a month to month lease, it shall begin on November 1, 2009 and shall remain in force and effect until one of the parties hereto terminates the lease by giving the other party thirty (30) days written notice of its desire to terminate the lease, termination shall be effective at the end of the thirty (30) day notice period. The rent shall be \$10.00 per month, which shall be payable in one lump sum of \$120 on the first day of November, 2009, and a similar sum shall be payable on the same day and month of each succeeding year that this lease remains in force and effect.

(3) The Lessee shall be permitted to construct a patio with walkways, steps and railings on the premises. However, no improvements shall be made to the premises without the prior written approval of the City Engineer. The Lessor shall be solely responsible for the cost of constructing all of the improvements the Lessee makes to the property.

(4) The Lessee agrees that for the term of this lease it will assume all responsibility for the general and routine maintenance of the premises. The Lessee shall at its sole cost and expense maintain the premises in a safe and presentable condition. The Lessee shall repair all damages to said premises caused by its agents, employees, guests, and patrons. All repairs must comply with State and Local Building Codes and Ordinances. The Lessee shall keep the premises in good order and repair, as is reasonably required in order to preserve and maintain the premises.

The Lessor reserves the right to inspect the premises at all reasonable times and to develop a maintenance schedule that the Lessee shall follow to properly maintain the premises. In the event the Lessee fails to follow the maintenance schedule and make the necessary repairs, the Lessor shall have the right to enter the premises, make such repairs and bill the Lessee for the repair costs. The Lessee agrees that there will be no outside storage of equipment, materials, or supplies on the premises.

(5) The Lessee may not assign this lease or sublease the premises without the prior written approval of the Lessor.

(6) The Lessee agrees to indemnify, hold harmless and defend the Lessor, its employees and officials, from and against any claim, loss, lawsuit, damage or liability occasioned by, growing out of or arising or resulting in any manner whatsoever from the Lessee's use and occupancy of the premises.

The Lessee agrees to secure comprehensive general liability insurance in an amount of not less than \$1,000,000.00, combined single-limit coverage against general public liability for injuries to or death of persons or damage to property. Such insurance policy shall also name the City of Lynchburg, its employees and officials, as insured parties.

The insurance required of the Lessee herein shall be primary and any insurance or self-insurance maintained by the Lessor are secondary and apply only in excess of and shall not contribute with the insurance obtained by the Lessee. Any deductibles or self-insurance retention applicable to the required coverage shall be paid by the Lessee and the Lessor shall not be required to participate therewith. The Lessee shall deliver to the City's Risk Manager a copy of said insurance policy or certificate showing the same to be in full force and effect before occupying the premises. Such insurance policy or certificate shall contain provisions providing the Lessor shall be given 30 days notice prior to any cancellation or reduction in the required insurance coverage. The failure of the Lessee to maintain such insurance coverage throughout the term of this agreement shall be grounds for the immediate termination hereof. The Lessee's responsibility to the City hereunder is not limited to the amount of such insurance coverage.

(7) Upon the expiration of this Lease Agreement, the Lessee's authority to use the premises

and facilities herein granted shall cease, and Lessee shall, upon such expiration, surrender the same to the Lessor, promptly and in good condition, ordinary wear and tear excepted. All improvements made to and all fixtures placed on the property by Lessee shall remain the property of the Lessor at the termination of this lease.

(8) If the premises shall be damaged or destroyed by a fire, the elements, a public enemy or other casualty to the extent that the premises becomes untenable, either the Lessor or Lessee may cancel this agreement without further obligation to the other or the parties may reach an agreement concerning repair of the premises, rent abatement, and term extension. The Lessee shall be responsible for repairing or replacing any damages to the premises caused by the acts or omissions of the Lessee, its employees, representatives or agents or any other persons the Lessee permits to be on the property.

(9) The Lessor shall not be liable for any damage to or loss of any of the Lessee's property or any of its agents, employees or students which is brought onto the premises, regardless of how such damage or loss may occur. It is expressly agreed and understood that the Lessees, its tenants, agents and employees, in placing property in and on the premises, do so at their own risk.

(10) Notices to Lessee provided for herein shall be sufficient if sent by registered mail, postage prepaid, addressed to Ralph Wilson, 902 Main Street, Lynchburg, VA 24504 or such other representative or address as the Lessee may designate in writing from time to time. Notice to the Lessor shall be sufficient if sent by registered mail, postage prepaid, addressed to the Lynchburg City Manager, City Hall Building, 900 Church Street, Lynchburg, VA 24504, or to such other representative or address as the Lessor may designate in writing from time to time.

(11) All terms and conditions with respect to this Agreement are expressly contained herein, and both parties agree that no representative or agent of Lessor or of Lessee has made any

representation or promise with respect to this Agreement expressly contained herein.

IN TESTIMONY WHEREOF, THE CITY OF LYNCHBURG has caused its name to be hereunto subscribed by L. Kimball Payne, III, its City Manager, and its seal affixed and attested by Patricia W. Kost, its Clerk of Council; and CHOPPER’S, INC., has caused its name to be hereunto subscribed by Ralph Wilson its President, all of the day and year first above written.

CITY OF LYNCHBURG

By: \_\_\_\_\_  
L. Kimball Payne, III, City Manager

ATTEST:

\_\_\_\_\_  
Patricia W. Kost, Clerk of Council

902MAINSTREETLYNCHBURG, LLC

By: \_\_\_\_\_  
Ralph Wilson, President

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 17

CONSENT:                      REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Lease of City-owned property located at 1800 Garnet St.**

RECOMMENDATION: After a public hearing approve the attached Resolution to lease City-owned property at 1800 Garnet Street to Claude L. Gunn.

SUMMARY: On May 28, 2009 the City of Lynchburg acquired the property located at 1800 Garnet Street from Jonathan B. Schewel in order to help facilitate construction of the Lynchburg Interceptor Project. The single story sections of the building that are on the lower elevation adjacent to the railroad tracks will be demolished to provide more room for construction of the interceptor.

Rev. Claude Gunn has leased this building for approximately the last 9 years and would like to execute a lease with the City of Lynchburg to continue leasing the building. Once the interceptor project is complete, a decision will be made on the ultimate disposition of the building. One option will be to offer the building for sale.

PRIOR ACTION(S): PDC – September 22, 2009 – Proceed to hold Public Hearing

FISCAL IMPACT: Income for the City in the amount of \$100/month on a month-to-month basis per Lease Agreement.

CONTACT(S):                      Steve Lawson – Real Estate Manager – 455-3945  
Lee Newland – City Engineer – 455-3947  
Bonnie Svrcek – Deputy City Manager/Acting Director of Community Development – 455-3990

ATTACHMENT(S):                      Resolution  
Lease Agreement

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED that the Lynchburg City Council hereby approves a lease agreement between the City of Lynchburg and Claude Gunn for the property located at 1800 Garnet Street; and,

BE IT FURTHER RESOLVED that the City Manager is authorized to execute the lease agreement on behalf of the City.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

116L

THIS LEASE AGREEMENT made and dated this, \_\_\_\_\_,  
2009, by and between the CITY OF LYNCHBURG, a municipal  
corporation of the Commonwealth of Virginia, party of the first part,  
hereinafter referred to as the "Lessor," and CLAUDE GUNN, party of the  
second part, hereinafter referred to as the "Lessee."

WITNESSETH

WHEREAS, the Lessor is the owner of a certain building in the  
City of Lynchburg located at 1800 Garnet Street, hereinafter referred to as  
the "premises." A sketch showing the location of the premises marked  
"Exhibit A" is attached to this lease and by this reference made a part  
hereof; and,

WHEREAS, the Lessee desires to lease the premises from the  
Lessor, subject to the following terms and conditions;

NOW, THERFORE, for and in consideration of the premises and the  
mutual covenants and agreements hereinafter contained, the parties hereto  
agree as follows;

**1. TERM AND PREMISES**

The Lessor does hereby lease the premises shown on "Exhibit A" to the Lessee  
and the Lessee does hereby lease such premises from the Lessor.

The lease shall be a month to month lease commencing upon the date of the  
execution of this lease agreement and shall remain in force and effect until one of the  
parties hereto gives the other party thirty (30) days written notice of its desire to terminate



the lease, termination shall be effective at the end of the thirty (30) day notice period. The rent shall be One Hundred Dollars (\$100) per month payable in monthly installments which shall be due and payable on the first day of each month this lease remains in force and effect. The monthly payments shall be made to the City's Billings and Collections Division, City Hall Building, 900 Church Street, Lynchburg, VA 24504.

## **2. MAINTENANCE OF THE PREMISES**

The Lessee has inspected the premises and agrees to accept them in the condition in which the same now are. During the term of the lease the Lessor shall be under no obligation to make any repairs, improvements or replacements of any nature whatsoever to the premises. The Lessor shall be permitted to make repairs, renovations and improvements to the premises but shall be solely responsible for the cost of such repairs, renovations and improvements the Lessee makes to the property. However, no repairs, renovations or improvements shall be made to the premises without the prior written approval of the City. Prior to beginning any repair, renovation or maintenance work, the Lessee shall obtain all necessary building permits and other appropriate permits, and in carrying out any work will comply the requirements of the Uniform Statewide Building Code and any other applicable codes and regulations. All repairs, renovations and improvements to the premises shall be done in a competent and workmanlike manner and shall become the property of the City at the termination of this lease.

The Lessee agrees during the term of this lease he will at his sole cost assume all responsibility for the general and routine maintenance of the premises and will keep the premises in a safe, clean, sanitary and presentable condition and in compliance with the requirements of the Uniform Statewide Building Code and all other codes and regulations

that are applicable to the maintenance of the premises. The Lessee shall at his cost and expense repair all damages to the premises caused by his agents, employees, guests, tenants and patrons.

The Lessor reserves the right to inspect the premises at all reasonable times and to develop a maintenance schedule that the Lessee shall follow to properly maintain the premises.

### **3. UTILITIES**

The Lessee shall be responsible for providing and paying for all heating, sewer, gas, water, electricity, telephone and other utility services which his use of the premise may require, including all deposits and installation costs of meters and utility services.

### **4. INSURANCE AND INDEMNITY**

The Lessee agrees to indemnify, hold harmless and defend the Lessor, its employees and officials, from and against any claim, loss, lawsuit, damage or liability occasioned by, growing out of or arising or resulting in any manner whatsoever from the Lessee's use and occupancy of the premises.

The Lessee agrees to secure comprehensive general liability insurance in an amount of not less than \$1,000,000.00, combined single-limit coverage against general public liability for injuries to or death of persons or damage to property. Such insurance policy shall also name the City of Lynchburg, its employees and officials, as insured parties.

The insurance required of the Lessee herein shall be primary and any insurance or self-insurance maintained by the Lessor are secondary and apply only in excess of and shall not contribute with the insurance obtained by the Lessee. Any deductibles or self-insurance retention applicable to the required coverage shall be paid by the Lessee and the

Lessor shall not be required to participate therewith. The Lessee shall deliver to the City's Risk Manager a copy of said insurance policy or certificate showing the same to be in full force and effect before occupying the premises. Such insurance policy or certificate shall contain provisions providing the Lessor shall be given 30 days notice prior to any cancellation or reduction in the required insurance coverage. The failure of the Lessee to maintain such insurance coverage throughout the term of this lease shall be grounds for the immediate termination of the lease without any prior notice to the Lessee. The Lessee's responsibility to the City hereunder is not limited to the amount of such insurance coverage.

#### **5. TERMINATION OF LEASE**

Upon the expiration of this lease, the Lessee's authority to use the premises and facilities herein granted shall cease, and Lessee shall, upon such expiration, surrender the same to the Lessor, promptly and in good condition, ordinary wear and tear excepted. All improvements made to and all fixtures placed on the property by Lessee shall remain the property of the Lessor at the termination of this lease.

#### **6. DAMAGE OR DESTRUCTION OF PREMISES**

If the premises shall be damaged or destroyed by a fire, the elements, a public enemy or other casualty to the extent that the premises becomes untenable, this lease shall automatically terminate without further obligation on the part of the Lessor to the Lessee. The Lessee shall be responsible for repairing or replacing any damages to the premises caused by the acts or omissions of the Lessee, its employees, representatives or agents or any other persons the Lessee permits to be on the property.

## **7. DAMAGE TO LESSEE'S PROPERTY**

The Lessor shall not be liable for any damage to or loss of any of the Lessee's property or any of its agents, employees or students which is brought onto the premises, regardless of how such damage or loss may occur. It is expressly agreed and understood that the Lessees, its tenants, agents and-employees, in placing property in and on the premises, do so at their own risk.

## **8. NOTICES**

Notices to the Lessee shall be sufficient if sent by registered mail, postage prepaid, addressed to Claude Gunn, 1800 Garnet Street, Lynchburg, VA 24504 or such other representative or address as the Lessee may designate in writing from time to time. Notice to the Lessor shall be sufficient if sent by registered mail, postage prepaid, addressed to the Lynchburg City Manager, City Hall Building, 900 Church Street, Lynchburg, VA 24504, or to such other representative or address as the Lessor may designate in writing from time to time.

## **9. GENERAL PROVISIONS**

(a) This lease shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.

(b) The Lessee shall assume responsibility for the security of the premises.

(c) In the event any provision of this lease shall be found to be invalid or unenforceable, the remaining portions shall remain in full force and effect.

(d) The Lessee agrees to observe and obey during the term of this lease all federal, state and local law, ordinances, rules and regulations, currently in force or

subsequently adopted that may apply to his use of the premises.

(e) All terms and conditions with respect to this lease are expressly contained herein, and both parties agree that no representative or agent of Lessor or of Lessee has made any representation or promise with respect to this lease not expressly contained herein.

IN TESTIMONY WHEREOF, the City of Lynchburg has caused its name to be hereunto subscribed by L. Kimball Payne, III, its City Manager, and its seal affixed and attested by Patricia W. Kost, its Clerk of Council; and Claude Gunn has hereunto subscribed his name, all as of the day and year first above written.

CITY OF LYNCHBURG

By: \_\_\_\_\_  
L. Kimball Payne, III, City Manager

ATTEST:

\_\_\_\_\_  
Patricia W. Kost, Clerk of Council

By: \_\_\_\_\_  
Claude Gunn

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 18

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Hearing Regarding the Vacation of a Portion of Harrison Street**

RECOMMENDATION: Vacate a portion of Harrison Street between 12<sup>th</sup> Street and Dunbar Drive.

SUMMARY: Ben Hassett, of Taproot LLC, is petitioning to vacate a portion of Harrison Street between 12<sup>th</sup> Street and Dunbar Drive. The portion of Harrison Street to be vacated begins at the intersection of 12<sup>th</sup> Street and Harrison Street and extends in a southeasterly direction approximately seventy-five (75) feet to the intersection of Harrison Street and Dunbar Drive. All adjoining property owners are in agreement to the vacation. The Technical Review Committee comments have been incorporated into the proposed ordinance.

At the September 22, 2009 Physical Development Committee review, the City requested to maintain ownership of the existing cobble stone and curb stones in the existing right-of-way by removing them from the site proposed to be vacated. The adjoining property owners, however, were interested in keeping the cobble stone and curb in place to preserve the character of the neighborhood. The proposed ordinance grants the City continued ownership of the cobble stone and curb with the right to remove at any time and vacates the portion of Harrison Street to the adjoining property owners.

PRIOR ACTION(S): September 8, 2009: Technical Review Committee Administrative review  
September 22, 2009: Physical Development Committee review

BUDGET IMPACT: None

CONTACT(S): Tom Martin, City Planner - 455-3900  
Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development  
- 455-3900

ATTACHMENT(S):

- Ordinance
- Vicinity Map
- Subdivision Plat
- Technical Review Committee Report
- Application

REVIEWED BY: lkp

AN ORDINANCE VACATING A PORTION OF HARRISON STREET BETWEEN 12<sup>TH</sup> STREET AND DUNBAR DRIVE

WHEREAS, Ben Hassett, of Taproot LLC, is petitioning to vacate a portion of Harrison Street which begins at the intersection of 12<sup>th</sup> Street and Harrison Street and extends in a south-easterly direction approximately seventy five (75) feet to the intersection of Harrison Street and Dunbar Drive; and

WHEREAS, the adjoining property owners are in agreement to the vacation of a portion of Harrison Street; and

WHEREAS, City Council finds that no public inconvenience will result from vacating a portion of Harrison Street;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lynchburg, on its own motion, and in accordance with the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 36-77 of the City Code, 1981, as amended, the following described street be, and the same hereby is, discontinued and vacated, namely:

A portion of the Harrison Street right-of-way which begins at the intersection of 12<sup>th</sup> Street and Harrison Street and extends in a south-easterly direction approximately seventy five (75) feet to the intersection of Harrison Street and Dunbar Drive.

Said vacation is contingent upon the following: (1) that an easement to locate, relocate, repair, replace, maintain and perpetually operate all utilities currently located therein or needed by the City in the future is hereby reserved unto the City of Lynchburg, and the construction of any building or structure or the use of the vacated property in any manner that could interfere with the City's right to locate, relocate, repair, replace, maintain and perpetually operate utilities is prohibited without the prior written approval of the City Manager's Office, City Utilities Division and the City Engineering Division; and (2) the City retains the right of ownership of the existing cobble stone and curb stone and reserves the right to remove the cobble stone and curb stone at the City's convenience.

BE IT FURTHER ORDAINED That the Clerk of Council is hereby authorized and directed to deliver a duly-certified copy of this ordinance to the Clerk of the Circuit Court for the City of Lynchburg so that said certified copy of this ordinance may be recorded as deeds are recorded and indexed in the name of the City of Lynchburg.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

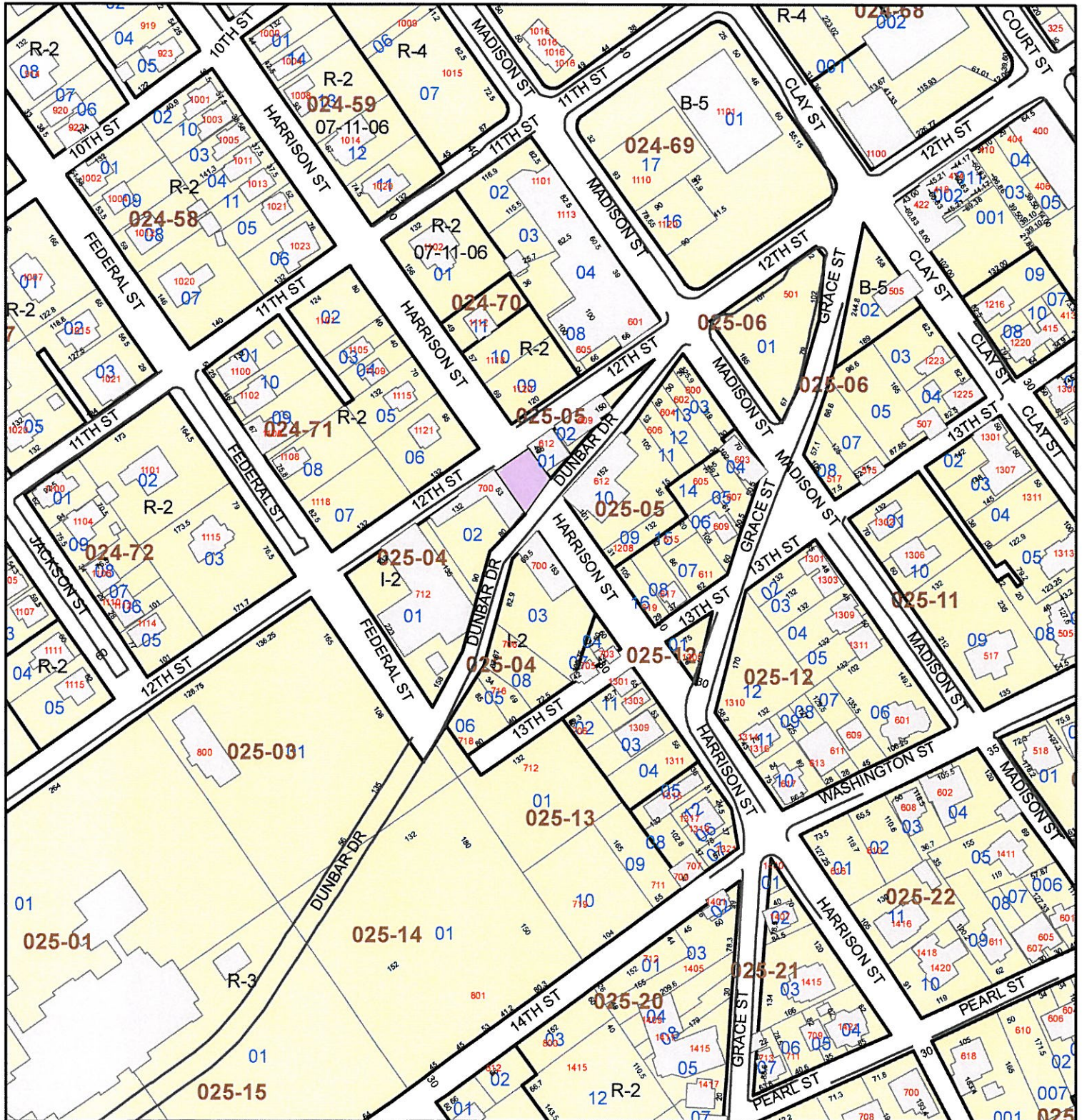
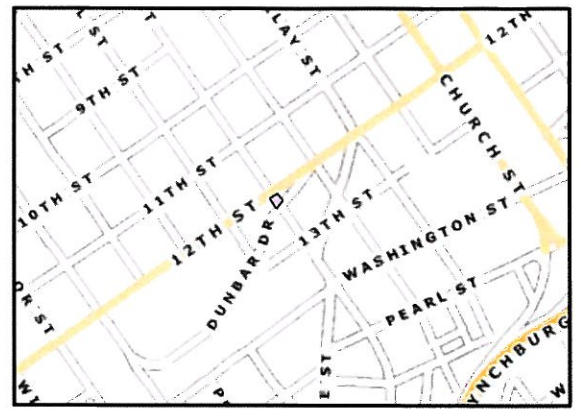


# PORTION OF HARRISON STREET STREET VACATION

MAP PREPARED BY  
THE DEPARTMENT OF COMMUNITY DEVELOPMENT



 Proposed Street Vacation







Project Number     **SUB0908-0009**  
Project Name        **Portion of Harrison Street**  
Site Address

| Review Type        | Contact          | Notes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AEP                | Tom G Woodford   | No Comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Assessor           | Steve Boyer      | No Comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| EngineeringAdm     | Lee Newland      | No Comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| EngineeringDesign  | James Talian     | 1. A plat is need to establish the location of the new property boundary between these properties.<br>2. Show reserved water and sewer easements on the plat.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| EngineeringMapRoom | Debbie Stinson   | 1. City should reserve an easement for public water and sewer lines                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Fire               | Greg Wormser     | No comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Neighbor Svcs      | Keith Wright     | No Comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Planning           | Rebecca McCharen | 1. The application proposes vacating a portion of Harrison Street. The application will be reviewed by the Physical Development Committee on September 22, 2009 and City Council on October 13, 2009. Applicant will need to attend.<br><br>2. The City does not guarantee the vesting of title to any portions of a public right-of-way that is vacated. In vacating a public right-of-way, the City is only giving up its interest in the public right-of-way. Virginia State law determines disposition of vacated right-of-way.<br><br>3. If the right-of-way was dedicated for public use prior to 1928, all the City owns is an easement to use the right-of-way for public purposes. The title to the right-of-way remains with the person that dedicated the right-of-way, his heirs or assigns. When a right-of-way is vacated, the City is simply giving up its right to use the property for public purposes. The vacation of a public right-of-way by the City does not convey title of the right-of-way to abutting property owners because the City never owned the right-of-way. If the abutting property owners want to acquire title to the right-of-way property, they have to acquire title from the original owner, or his heirs or assigns.<br><br>4. If the right-of-way was dedicated for public use after 1928, State law provides that when the right-of-way is vacated, title to the property encompassed in the right-of-way is divided in half and title passes to the abutting property owners.<br><br>5. All lots bounding this street have frontage on other public streets. |

Project Number    **SUB0908-0009**  
Project Name      **Portion of Harrison Street**  
Site Address

| Review Type | Contact | Notes |
|-------------|---------|-------|
|-------------|---------|-------|

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|  |  |                                                                                     |
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|  |  | Therefore, the Planning Division has no concerns with the proposed street vacation. |
|--|--|-------------------------------------------------------------------------------------|

|  |  |                                                                                                                                    |
|--|--|------------------------------------------------------------------------------------------------------------------------------------|
|  |  | 6. If there are utilities in the street, contact the Engineering Division for information on whether easements should be reserved. |
|--|--|------------------------------------------------------------------------------------------------------------------------------------|

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| PWStreets | Dave Owen | No Comment |
|-----------|-----------|------------|

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|         |              |              |
|---------|--------------|--------------|
| Traffic | Gerry Harter | No comments. |
|---------|--------------|--------------|

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|           |                 |                                                                                |
|-----------|-----------------|--------------------------------------------------------------------------------|
| Utilities | Eric E Schrader | 1 6" water and 12" sewer need to be located and placed within public easements |
|-----------|-----------------|--------------------------------------------------------------------------------|

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|         |               |            |
|---------|---------------|------------|
| Verizon | George Almond | No Comment |
|---------|---------------|------------|

RECEIVED

APPLICATION FOR THE VACATION OF A

AUG 11 2009

COMMUNITY  
DEVELOPMENT

Alley

(Street/Alley) wmm

LOCATED BETWEEN

700 12<sup>th</sup> Street & 612 12<sup>th</sup> Street

The undersigned applicant, Taproot LLC \_\_\_\_\_  
\_\_\_\_\_, pursuant to the provisions of Section 15.2-2006 of the Code of Virginia, 1950,  
as amended, and Section 35-71 through Section 35-77 of the City Code, 1981, as  
amended, respectfully makes application to the Lynchburg City Council for the vacation  
of that certain Street <sup>wmm</sup> described as follows:

We need to vacate the alley between 612 12<sup>th</sup> Street and 700 12<sup>th</sup>  
Street, to better maintain the property, decrease blight in the area, help to promote and  
increase access and foot traffic to the buildings and businesses in the neighborhood.

700 12<sup>th</sup> Street

612 12<sup>th</sup> Street

TAPROOT LLC

Steve Morris Pres Morris Const

The applicant further requests the Lynchburg City Council to hold a public  
hearing on this application at its meeting to be held in the Council Chambers, City Hall,  
900 Church Street, Lynchburg, Virginia, on Oct 13, 2009 <sup>wmm</sup>, at 7:30  
p.m., or as soon thereafter as the matter may be heard, and at the conclusion of which  
hearing to consider whether or not to vacate the above described Alley Street <sup>wmm</sup>

Given under my hand this 8<sup>th</sup> day of August, 2009.

BEN HASSETT-TAPROOT LLC  
Applicant

70012<sup>th</sup> Street  
Address

Home 434-528 4849  
Mobile 804-363-1606  
Telephone Number

WE, THE ADJOINING PROPERTY OWNER(S), ARE IN AGREEMENT TO THE  
VACATION OF THE ABOVE DESCRIBED PROPERTY:

Steve Morris Morris Const 612 12<sup>th</sup> St.

Home 434 525 0834  
434 845 1903

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 19

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Hearing Regarding the Vacation of Kimbrough Drive**

RECOMMENDATION: Vacate Kimbrough Drive between Williams Road and 4110 Williams Road.

SUMMARY: Adam Bryant, representative from Hurt and Profitt for James Farmer, is petitioning to vacate Kimbrough Drive between Williams Road and 4110 Williams Road. Kimbrough Drive begins at the intersection of Williams Road and 4116 Williams Road and extends in a northeasterly direction approximately two hundred and forty-two (242) feet and terminates at 4110 Williams Road. All adjoining property owners are in agreement to the vacation. The Technical Review Committee comments have been incorporated into the proposed ordinance.

PRIOR ACTION(S): August 4, 2009: Technical Review Committee Administrative review  
September 22, 2009: Physical Development Committee review

BUDGET IMPACT: None

CONTACT(S):

Tom Martin, City Planner - 455-3900

Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development - 455-3900

ATTACHMENT(S):

- Ordinance
- Vicinity Map
- Subdivision Plat
- Technical Review Committee Report
- Application

REVIEWED BY: lkp

ORDINANCE:

AN ORDINANCE VACATING KIMBROUGH DRIVE BETWEEN WILLIAMS ROAD AND 4110 WILLIAMS ROAD.

WHEREAS, James Farmer is petitioning to vacate Kimbrough Drive located at the intersection of Williams Road and 4116 Williams Road and extending in a north easterly direction approximately two hundred and forty two (242) feet and terminates at 4110 Williams Road; and

WHEREAS, the adjoining property owners are in agreement to the vacation of Kimbrough Drive; and

WHEREAS, City Council finds that no public inconvenience will result from vacating Kimbrough Drive;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lynchburg, on its own motion, and in accordance with the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 35-77 of the City Code, 1981, as amended, the following described street be, and the same hereby is, discontinued and vacated, namely:

The Kimbrough Drive right-of-way located between the intersection of Williams Road and 4116 Williams Road and extending in a north easterly direction approximately two hundred and forty two (242) feet and terminates at 4110 Williams Road.

Said vacation is contingent upon the following: that an easement to locate, relocate, repair, replace, maintain and perpetually operate all utilities currently located therein or needed by the City in the future is hereby reserved unto the City of Lynchburg, and the construction of any building or structure or the use of the vacated property in any manner that could interfere with the City's right to locate, relocate, repair, replace, maintain and perpetually operate utilities is prohibited without the prior written approval of the City Manager's Office, City Utilities Division and the City Engineering Division.

BE IT FURTHER ORDAINED That the Clerk of Council is hereby authorized and directed to deliver a duly-certified copy of this ordinance to the Clerk of the Circuit Court for the City of Lynchburg so that said certified copy of this ordinance may be recorded as deeds are recorded and indexed in the name of the City of Lynchburg.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

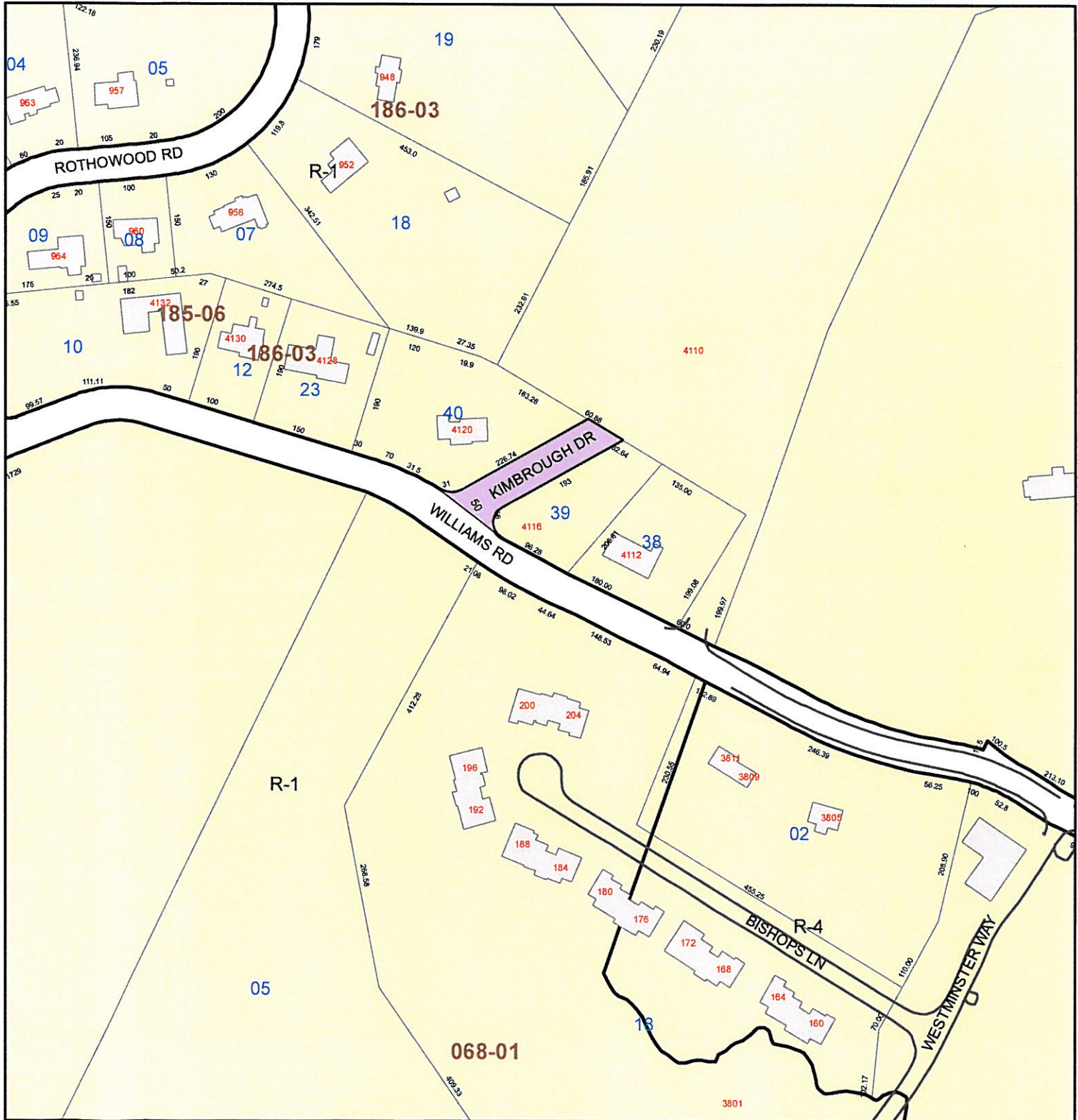
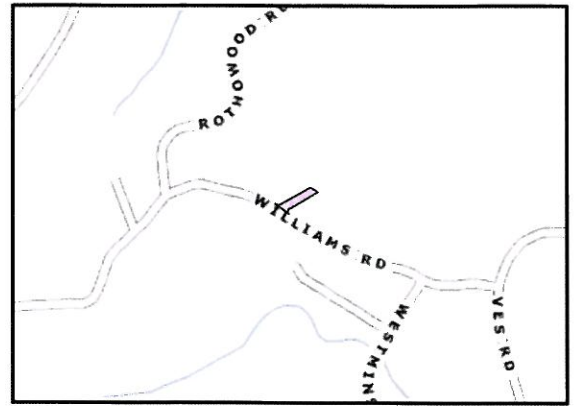


# KIMBROUGH DRIVE STREET VACATION

MAP PREPARED BY  
THE DEPARTMENT OF COMMUNITY DEVELOPMENT



 Proposed Street Vacation





THE SUBDIVISION OF THE LAND DESCRIBED HEREIN IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES. THE OWNERS CERTIFY THAT THEY ARE THE FREE SIMPLE OWNERS OF SAID LAND AND ARE LEGALLY ENTITLED TO SUBDIVIDE THE SAME.

REPRESENTATIVE OF VIRGINIA EPISCOPAL SCHOOL DATE

COMMONWEALTH AT LARGE TO WIT  
STATE OF VIRGINIA  
COUNTY/CITY OF

I, \_\_\_\_\_, A NOTARY PUBLIC IN  
AND FOR THE STATE AFORESAID, DO HEREBY CERTIFY THAT THE  
OWNERS/REPRESENTATIVES WHOSE NAMES ARE SIGNED HEREON HAVE  
ACKNOWLEDGED THE SAME BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_ 20\_\_\_\_ MY COMMISSION

EXPIRES \_\_\_\_\_

NOTARY PUBLIC

ACREAGE TABLE -- TM #100-01-40

0.482 ACRES -- LOT 2 (RECORD)  
0.592 ACRES -- LOT 1 (RECORD)  
+0.140 ACRES RIGHT-OF-WAY VACATION KIMBROUGH DRIVE  
1.214 ACRES

ACREAGE TABLE -- TM #100-01-39

0.404 ACRES (RECORD)  
+0.151 ACRES RIGHT-OF-WAY VACATION KIMBROUGH DRIVE  
0.615 ACRES

TM #125-06-07  
LARRY B. PAUL & JUDITH H. JOYNER  
INST #030013924

TM #125-03-18  
HENRY M. III & JUDITH B. SACKETT

TM #100-01-40

TM #100-01-39

TM #100-01-38

TM #100-01-37

TM #100-01-36

TM #100-01-35

TM #100-01-34

TM #100-01-33

TM #100-01-32

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TM #100-01-00

TM #100-01-99

TM #100-01-98

TM #100-01-97

THE SUBDIVISION OF THE LAND DESCRIBED HEREIN IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES. THE OWNERS CERTIFY THAT THEY ARE THE FREE SIMPLE OWNERS OF SAID LAND AND ARE LEGALLY ENTITLED TO SUBDIVIDE THE SAME.

JAMES S. FARMER DATE

COMMONWEALTH AT LARGE TO WIT  
STATE OF VIRGINIA  
COUNTY/CITY OF

I, \_\_\_\_\_, A NOTARY PUBLIC IN  
AND FOR THE STATE AFORESAID, DO HEREBY CERTIFY THAT THE  
OWNERS/REPRESENTATIVES WHOSE NAMES ARE SIGNED HEREON HAVE  
ACKNOWLEDGED THE SAME BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_ 20\_\_\_\_ MY COMMISSION

EXPIRES \_\_\_\_\_

NOTARY PUBLIC

SUBDIVISION APPROVED

CITY ENGINEER, LYNCHBURG, VIRGINIA DATE

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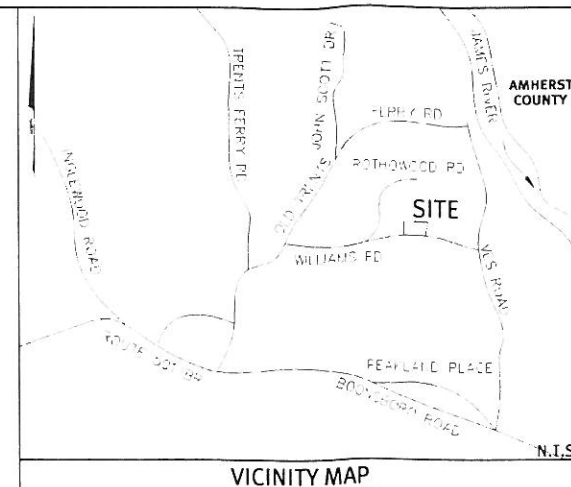
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ENGINEERING SURVEYING & PLANNING  
**PROFFITT**  
INCORPORATED  
2524 LANGHORNE ROAD  
LYNCHBURG VA 24501  
800.242.4906 TOLL FREE  
434.847.7796 MAIN  
434.847.0047 FAX

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| CURVE TABLE |           |        |        |        |               |
|-------------|-----------|--------|--------|--------|---------------|
| CURVE       | DELTA     | LENGTH | RADIUS | CHORD  | CHORD BEARING |
| C1          | 13°10'51" | 101.01 | 439.09 | 100.79 | N 61°56'34" W |

SOURCE OF TITLE TM #100-01-39:  
THE AREA SHOWN WAS ACQUIRED BY JAMES S. FARMER FROM JOSEPHINE S. & JOHN C. FARMANDEZ BY DEED DATED APRIL 15, 1975 AS RECORDED IN DB 501 PG 345 OF THE CIRCUIT COURT CLERK'S OFFICE OF THE CITY OF LYNCHBURG.

SOURCE OF TITLE TM #100-01-40:  
THE AREA SHOWN WAS ACQUIRED BY VIRGINIA EPISCOPAL SCHOOL FROM ADOLPHUS E. & MARTHA B. RICE BY DEED DATED JUNE 1, 2005 AS RECORDED AT INSTRUMENT #050005658 OF THE CIRCUIT COURT CLERK'S OFFICE OF THE CITY OF LYNCHBURG.

- NOTES:
1. THIS PLAT REPRESENTS A COMPOSITE DRAWING BASED ON PLATS OF RECORD AND IS FOR THE SOLE PURPOSE OF VACATING KIMBROUGH DRIVE. A FIELD SURVEY HAS NOT BEEN COMPLETED NOR HAVE PHYSICAL IMPROVEMENTS BEEN LOCATED AS PART OF THIS PLAT.
  2. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
  3. THE AREA SHOWN HEREON IS LOCATED IN FLOOD ZONE 'X' AND IS NOT LOCATED WITHIN FLOOD HAZARD ZONE 'A' FOR A 100 YEAR FLOOD AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AS SHOWN ON COMMUNITY-PANEL MAP #5100930029D DATED JUNE 3, 2008.
  4. THIS PLAT HAS BEEN PREPARED AT THE REQUEST OF JAMES S. FARMER.
  5. THESE LOTS CURRENTLY SERVED BY PUBLIC WATER & SEWER.



PROJECT NO. 20090196  
G.L. NO. 260-02-B5.8  
FILE NO. SL-12653  
DATE: 4/30/09  
DRAWN BY: JAB  
CHECKED BY: JAB

HURT

PROFFITT

SHEET NO.  
1 OF 1

Project Number SUB0907-0011  
Project Name Kimbrough Drive Vacation  
Site Address

| Review Type        | Contact          | Notes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AEP                | Tom G Woodford   | No comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Assessor           | Steve Boyer      | Parcel 100-01-040 is comprised of two legal lots. Does the owner intend to vacate the interior lot lines as well? If not, then the plat should show the two lots (1) & (2) with lot (2) benefiting from the street vacation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| EngineeringAdm     | Lee Newland      | No comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| EngineeringDesign  | James Talian     | No comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| EngineeringMapRoom | Debbie Stinson   | No comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Fire               | Greg Wormser     | No comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Neighbor Svcs      | Rob Fowler       | 1. On revised plat, label the parcels with the current address.<br><br>2. Note on revise plat if the parcels are served by city sewer and water.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Planning           | Rebecca McCharen | <p>The Subdivision Ordinance (Section 24.1 of the City Code) requires that every owner or proprietor of any tract of land who subdivides such tract prepare a subdivision plat in accordance with the regulations of this Ordinance. A copy of the plat must be recorded within six (6) months from the date of approval in the office of the Clerk of the Circuit Court where deeds conveying such land are required by law to be recorded. If the approved plat is not recorded within six (6) months, it will be voided.</p> <p>The Subdivision Ordinance requires that the following additional information be included on the plat:</p> <p>1. The subject project proposes the vacation of the unopened street named Kimbrough Drive between Williams Road and 4110 Williams Road. Adam Bryant has submitted an application to vacate this right-of-way, and the matter is tentatively scheduled to be heard by the Physical Development Committee on September 8, 2009 and City Council on October 13, 2009. Applicant will need to attend. Please submit twenty (20) copies of the plat 11x17 by August 31, 2009.</p> <p>2. If the right-of-way was dedicated for public use prior to 1928, all the City owns is an easement to use the right-of-way for public purposes. The title to the right-of-way remains with the person that dedicated the right-of-way, his heirs or assigns. When a right-of-way is vacated, the City is simply giving up its right to use</p> |

Project Number      **SUB0907-0011**  
 Project Name        **Kimbrough Drive Vacation**  
 Site Address  
 Review Type                      Contact                      Notes

the property for public purposes. The vacation of a public right-of-way by the City does not convey title of the right-of-way to abutting property owners because the City never owned the right-of-way. If the abutting property owners want to acquire title to the right-of-way property, they have to acquire title from the original owner, or his heirs or assigns.

3. If the right-of-way was dedicated for public use after 1928, State law provides that when the right of way is vacated, title to the property encompassed in the right-of-way is divided in half and title passes to the abutting property owners.

4. The only thing that has changed between the 2001 plat and the 2009 plat is that VES bought one of the homes on the corner of Kimbrough Drive and Williams Road - TM#100-01-040. TM# 100-01-036, which is currently owned by VES, has sixty feet (60') of frontage on Kimbrough Drive, and sixty feet of frontage (60') on Williams Road. It is in an R-1 area, which requires one hundred feet (100') of frontage. If VES combined the two parcels - TM#100-01-040 and TM#100-01-036, then TM#100-01-036 would have one hundred fifty-five feet (155') of frontage on Williams Road.

5. If there are utilities in the street, contact the Engineering Division for information on whether easements should be reserved.

6. The surveyor must endorse all final copies of the plat with his/her original signature.

7. Insert a property address for each lot. Put the address on each lot, rather than in a note.

8. Include a note as to whether the lots are served by public or private water and sewer.

9. If there are restrictions associated with the subdivision, add a note as to where they can be found.

10. When the approved plat is recorded in the Clerk's Office (see the first paragraph above), submit a copy of the receipt verifying that the plat was recorded to me.

11. If you make additional changes to the revised plat that TRC did no review on the subject plat, submit a cover letter with the revised plat stating the changes.

---

|                  |           |              |
|------------------|-----------|--------------|
| <b>PWStreets</b> | Dave Owen | No comments. |
|------------------|-----------|--------------|

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|                |              |              |
|----------------|--------------|--------------|
| <b>Traffic</b> | Gerry Harter | No comments. |
|----------------|--------------|--------------|

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Project Number     **SUB0907-0011**

Project Name        **Kimbrough Drive Vacation**

Site Address

**Review Type**

**Contact**

**Notes**

---

**Utilities**

Eric E Schrader

No comments.

---

**Verizon**

George Almond

No comments.



## APPLICATION FOR THE VACATION OF A

STREET       
 ((Street)Alley)

## LOCATED BETWEEN

Properties owned by Virginia Episcopal School, James S. Farmer,  
 and Adolphus E. Rice and Martha B. Rice, and no other owners,

---

The undersigned applicant, James S. Farmer,  
 pursuant to the provisions of Section 51.1-364 of the Code of  
Virginia, 1950, as amended, and Sections 35-71 to 35-77, both  
 inclusive, of the Lynchburg City Code, 1981, as amended,  
 respectfully makes application to the Lynchburg City Council for  
 the vacation of that certain street described as follows:

Kimbrough Drive, an unopened 50' right of way, running from the  
northeastern line of Williams Road, between the properties of James S.  
Farmer and of Adolphus E. and Martha B. Rice, extending approximately  
225 feet and ending at the property line of Virginia Episcopal School.

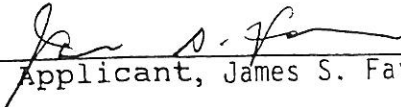
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The applicant further requests the Lynchburg City Council to  
 hold a public hearing on this application at its meeting to be  
 held in the Council Chamber, City Hall, 900 Church Street,  
 Lynchburg, Virginia, on OCT 13 2009 November 13 2009 at 7:30 p.m., or  
 as soon thereafter as the matter may be heard, and at the  
 conclusion of which hearing to consider whether or not to vacate  
 the above described street.

Given under my hand this 14<sup>th</sup> day of AUGUST,  
<sup>2009</sup>  
~~18 2001~~.

  
Applicant, James S. Farmer

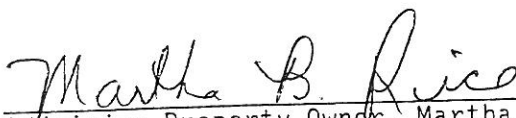
4112 Williams Road, Lynchburg, VA 24503

Address

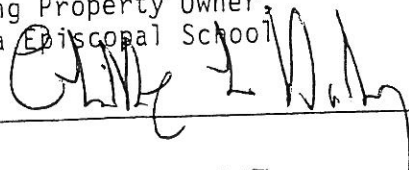
804-384-5995

Telephone Number

  
Adjoining Property Owner(s), Adolphus E. Rice

  
Adjoining Property Owner, Martha B. Rice

VIRGINIA EPISCOPAL SCHOOL  
Adjoining Property Owner,  
Virginia Episcopal School

by 

its HEADMASTER

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 20

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

**ITEM TITLE: Public Hearing Regarding the Vacation of an Unnamed Alley between Kemper Street and the Norfolk Southern Railway**

**RECOMMENDATION:** Vacate an unnamed alley between Kemper Street and the Norfolk Southern Railway.

**SUMMARY:** Russell Nixon, representative for Kemper Lofts, LLC, is petitioning to vacate an unnamed alley located between Kemper Street and the Norfolk Southern Railway. The unnamed alley begins at the intersection of Kemper Street and 1401 Kemper Street and extends in a westerly direction approximately two hundred and ninety (290) feet to where it terminates at the intersection of 1401 Kemper Street and the Norfolk Southern Railway. All adjoining property owners are in agreement. The Technical Review Committee comments have been incorporated into the proposed ordinance.

**PRIOR ACTION(S):** August 4, 2009: Technical Review Committee Administrative review  
September 22, 2009: Physical Development Committee review

**BUDGET IMPACT:** None

**CONTACT(S):**

Tom Martin, City Planner - 455-3900

Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development - 455-3900

**ATTACHMENT(S):**

- Ordinance
- Vicinity Map
- Subdivision Plat
- Technical Review Committee Report
- Application

**REVIEWED BY:** lkp



ORDINANCE:

AN ORDINANCE VACATING AN UNNAMED ALLEY BETWEEN KEMPER STREET AND THE NORFOLK SOUTHERN RAILWAY.

WHEREAS, Kemper Lofts, LLC is petitioning to vacate a portion of the unnamed Alley located at the intersection of Kemper Street and 1401 Kemper Street and extends in a westerly direction approximately two hundred and ninety (290) feet to where it terminates at the intersection of 1401 Kemper Street and the Norfolk Southern Railway; and

WHEREAS, the adjoining property owners are in agreement to the vacation of the unnamed Alley; and

WHEREAS, City Council finds that no public inconvenience will result from vacating the unnamed Alley;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lynchburg, on its own motion, and in accordance with the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 35-77 of the City Code, 1981, as amended, the following described alley be, and the same hereby is, discontinued and vacated, namely:

The unnamed Alley right-of-way located between the intersection of Kemper Street and 1401 Kemper Street and extending in a westerly direction approximately two hundred and ninety (290) feet to where it terminates at the intersection of 1401 Kemper Street and the Norfolk Southern Railway.

Said vacation is contingent upon the following: that an easement to locate, relocate, repair, replace, maintain and perpetually operate all utilities currently located therein or needed by the City in the future is hereby reserved unto the City of Lynchburg, and the construction of any building or structure or the use of the vacated property in any manner that could interfere with the City's right to locate, relocate, repair, replace, maintain and perpetually operate utilities is prohibited without the prior written approval of the City Manager's Office, City Utilities Division and the City Engineering Division.

BE IT FURTHER ORDAINED That the Clerk of Council is hereby authorized and directed to deliver a duly-certified copy of this ordinance to the Clerk of the Circuit Court for the City of Lynchburg so that said certified copy of this ordinance may be recorded as deeds are recorded and indexed in the name of the City of Lynchburg.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

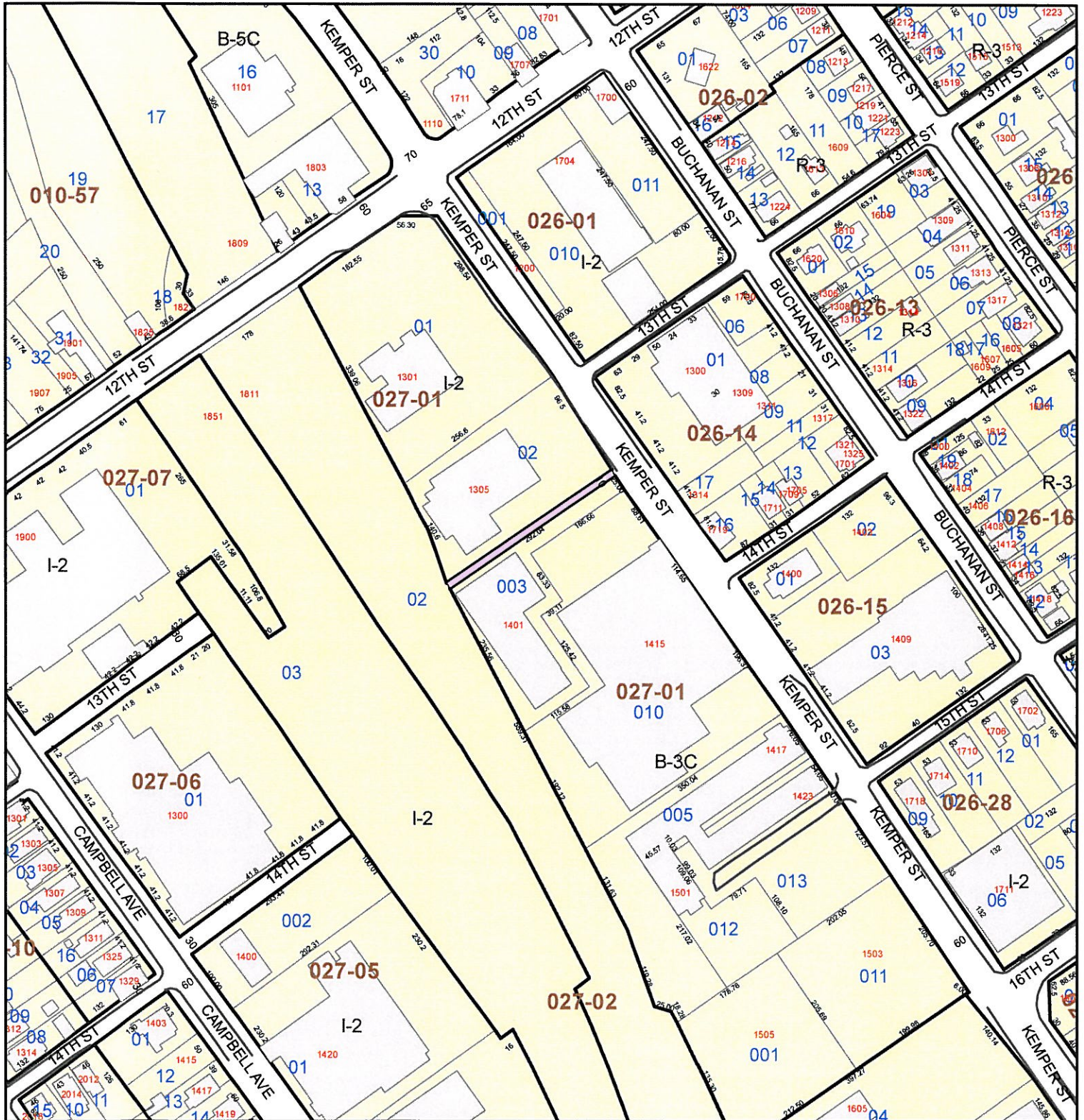


# ALLEY OFF OF KEMPER STREET VACATION

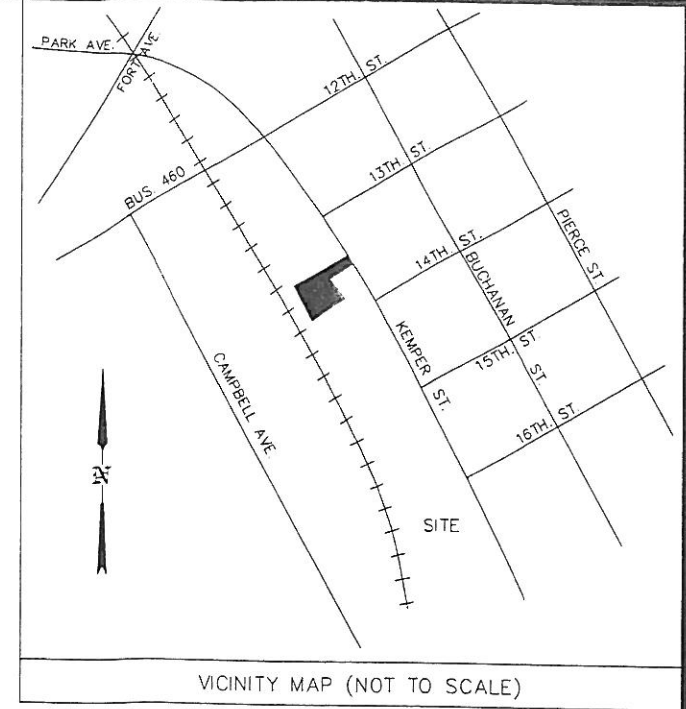
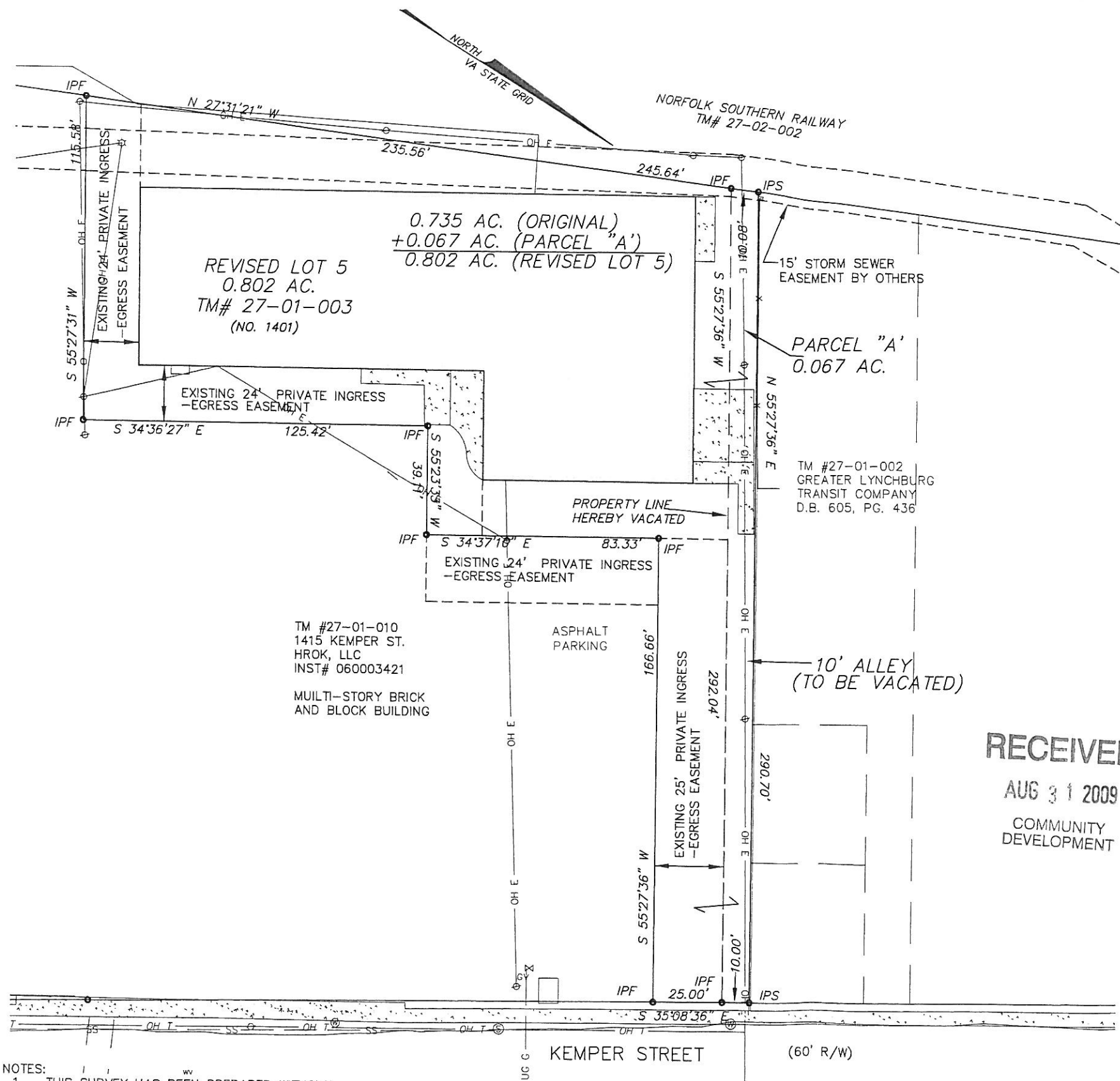
MAP PREPARED BY  
THE DEPARTMENT OF COMMUNITY DEVELOPMENT



 Proposed Alley Vacation







THE DEDICATION OF THE SUBDIVISION APPEARING ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER(S).

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
DATE: \_\_\_\_\_ BY: \_\_\_\_\_

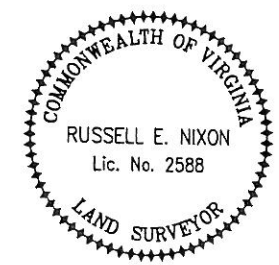
I, \_\_\_\_\_, A NOTARY PUBLIC FOR THE COUNTY AFORESAID, IN THE STATE OF VIRGINIA DO CERTIFY THAT

WHOSE NAMES ARE SIGNED TO THE WRITING ABOVE, BEARING THE DATE ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, HAVING ACKNOWLEDGED THE SAME BEFORE ME IN MY COUNTY AFORESAID GIVEN UNDER MY HAND THIS, \_\_\_\_\_ DAY OF \_\_\_\_\_

NOTARY PUBLIC  
MY COMMISSION EXPIRES \_\_\_\_\_

PROPERTY SERVED BY PUBLIC WATER AND SEWERAGE SYSTEMS.

APPROVED:  
CITY PLANNER \_\_\_\_\_ DATE \_\_\_\_\_  
CITY ENGINEER \_\_\_\_\_ DATE \_\_\_\_\_  
CLERK OF COUNCIL \_\_\_\_\_ DATE \_\_\_\_\_



- NOTES:
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES UPON THE PROPERTY.
  - THIS PROPERTY IS NOT IN A FLOOD ZONE. THIS PROPERTY IS IN FLOOD ZONE X AS SCALED FROM F.E.M.A. FLOOD INSURANCE RATE MAP PANEL NO. 5100930044D, DATED JUNE, 3, 2008.
  - THIS PLAT HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY DONE PER DATE OF THIS PLAT AND THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS EXCEPT AS SHOWN HEREON.

SOURCE OF TITLE: TM# 24-01-03  
KEMPER LOFTS, LLC  
INST# 080000362 AS RECORDED IN THE CITY OF LYNCHBURG CLERKS OFFICE.



**RECEIVED**  
AUG 31 2009  
COMMUNITY DEVELOPMENT

**SURVEYED FOR:** KEMPER LOFTS, LLC

**Nixon Land Surveying, L.L.C.**  
1063C Airport Road  
Lynchburg, VA 24502  
Phone: (434) 237-3600  
Fax: (434) 237-0699  
Email: ren@nixonlsec.com  
www.nixonlandsurveying.com

DO NOT MOVE AN ANCIENT BOUNDARY STONE OR ENCROACH ON THE FIELDS OF THE FATHERLESS. PROVERBS 23:10 (NIV)

**PLAT SHOWING SUBDIVISION OF LOT 5 KEMPER LOFTS PROPERTY ON KEMPER STREET CITY OF LYNCHBURG, VIRGINIA**

COMM. NO.: 2007026 REVISED: 8/07/09  
SCALE: 1" = 30' DR. BY: REN DATE: 7/17/09  
SHEET: 1 OF 1 CHK. BY: REN DRW. NME.

Project Number      **SUB0907-0010**  
 Project Name        **Alley Btwn Kemper St & N/S Railway**  
 Site Address

| Review Type        | Contact          | Notes                                                                            |
|--------------------|------------------|----------------------------------------------------------------------------------|
| AEP                | Tom G Woodford   | No comments.                                                                     |
| Assessor           | Steve Boyer      | No comments.                                                                     |
| EngineeringAdm     | Lee Newland      | No comments.                                                                     |
| EngineeringDesign  | James Talian     | An agreement is needed from GLTC waiving their rights to one half of this alley. |
| EngineeringMapRoom | Debbie Stinson   | No comments.                                                                     |
| Fire               | Greg Wormser     | No comments.                                                                     |
| Neighbor Svcs      | Keith Wright     | Remove zoning classifications labels.                                            |
| Planning           | Rebecca McCharen |                                                                                  |

The Subdivision Ordinance (Section 24.1 of the City Code) requires that every owner or proprietor of any tract of land who subdivides such tract prepare a subdivision plat in accordance with the regulations of this Ordinance. A copy of the plat must be recorded within six (6) months from the date of approval in the office of the Clerk of the Circuit Court where deeds conveying such land are required by law to be recorded. If the approved plat is not recorded within six (6) months, it will be voided.

The Subdivision Ordinance requires that the following additional information be included on the plat:

1. The subject project proposes the vacation of an unnamed public alley between Kemper Street and Norfolk/Southern Railway. Russ Nixon has submitted an application to vacate this right-of-way, and the matter is tentatively scheduled to be heard by the Physical Development Committee on September 8, 2009 and City Council on October 13, 2009. Applicant will need to attend. Please submit twenty (20) copies of the plat 11x17 by August 31, 2009.

2. Please have GLTC sign the application that they are in agreement. All adjoining property owners must be an applicant or sign the application form or file a separate statement indicating that they are not opposed to the vacation. If all adjoining property owners are not in agreement, applicant must send certified letters to all adjoining property owners notifying them of the date of the public hearing before City Council (applicant pays costs of these notices). Applicant will need to return to Planner the green cards showing that the adjoining property owners received notice prior to the public hearing. In addition to the notices, a statement that a sign, required

Project Number      **SUB0907-0010**  
 Project Name        **Alley Btwn Kemper St & N/S Railway**  
 Site Address  
 Review Type                      Contact                      Notes

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by law, stating 'a notice of application for vacation of a street within the city' has been posted and the date it was posted. The sign must be posted at least ten (10) days before the PDC meeting.

3. If the right-of-way was dedicated for public use prior to 1928, all the City owns is an easement to use the right-of-way for public purposes. The title to the right-of-way remains with the person that dedicated the right-of-way, his heirs or assigns. When a right-of-way is vacated, the City is simply giving up its right to use the property for public purposes. The vacation of a public right-of-way by the City does not convey title of the right-of-way to abutting property owners because the City never owned the right-of-way. If the abutting property owners want to acquire title to the right-of-way property, they have to acquire title from the original owner, or his heirs or assigns.

4. If the right-of-way was dedicated for public use after 1928, State law provides that when the right of way is vacated, title to the property encompassed in the right-of-way is divided in half and title passes to the abutting property owners.

5. All lots bounding this alley have frontage on other public streets. Therefore, the Planning Division has no concerns with the proposed alley vacation.

6. If there are utilities in the street, contact the Engineering Division for information on whether easements should be reserved.

7. Include municipal signature spaces for the City Engineer, City Planner and the Clerk of Council.

8. The surveyor must endorse all final copies of the plat with his/her original signature.

9. Insert a property address for each lot. Put the address on each lot rather than in a note.

10. Remove the zoning notes from the plat.

11. Correct the TM# in the source of title to 027-01-003.

12. Change note on alley from "vacated alley" to "to be vacated."

13. Include the FEMA Map # and revised date.

14. Include the TM# for adjoining property owner Norfolk Southern Railway.

15. If there are restrictions associated with the subdivision, add a note as to where they can be found.

Project Number      **SUB0907-0010**  
 Project Name        **Alley Btwn Kemper St & N/S Railway**  
 Site Address

| <b>Review Type</b> | <b>Contact</b>  | <b>Notes</b>                                                                                                                                                           |
|--------------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    |                 | 16. When the approved plat is recorded in the Clerk's Office (see the first paragraph above), submit a copy of the receipt verifying that the plat was recorded to me. |
|                    |                 | 17. If you make additional changes to the revised plat that TRC did not review on the subject plat, submit a cover letter with the revised plat stating the changes.   |
| <b>PWStreets</b>   | Dave Owen       | No comments.                                                                                                                                                           |
| <b>Traffic</b>     | Gerry Harter    | Need agreement signatures from adjoining property owners.                                                                                                              |
| <b>Utilities</b>   | Eric E Schrader | No comments.                                                                                                                                                           |
| <b>Verizon</b>     | George Almond   | No comments.                                                                                                                                                           |



APPLICATION FOR THE VACATION OF A

Alley  
(Street Alley)

LOCATED BETWEEN  
Kemper Street ROW and Norfolk Southern Railway ROW

The undersigned applicant, Kemper Lofts, LLC, pursuant to the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 35-77 of the City Code, 1981, as amended, respectfully makes application to the Lynchburg City Council for the vacation of that certain Alley described as follows:

BEGINNING AT THE SOUTHERN RIGHT OF WAY  
OF KEMPER STREET AT AN IPF THENCE LEAVING SAID  
RIGHT OF WAY S 55° 27' 36" W 292.04' TO THE RIGHT OF WAY  
OF NORFOLK SOUTHERN RAILROAD TO AN IPF, THENCE N 27° 31' 21" W  
10.08' TO AN IPS; THENCE N 55° 27' 36" E 290.70' TO AN IPS; THENCE  
S 35° 08' 36" E 10.00' TO AN IPF THE POINT OF BEGINNING, PARCEL  
CONTAINS 0.067 ACRES.

The applicant further requests the Lynchburg City Council to hold a public hearing on this application at its meeting to be held in the Council Chambers, City Hall, 900 Church Street, Lynchburg, Virginia, on <sup>OCT 13, 2009 12M</sup> ~~September 8, 2009~~, at 7:30 p.m., or as soon thereafter as the matter may be heard, and at the conclusion of which hearing to consider whether or not to vacate the above described Alley.

RECEIVED

JUL 16 2009

COMMUNITY  
DEVELOPMENT



Given under my hand this 17th day of July, 2009.

Kemper Lofts, LLC

Applicant

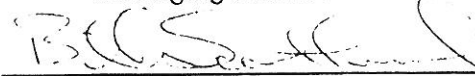
BY: Kemper Managing Member, LLC

ITS: Managing Member

BY: Landmark Asset Services, Inc.

ITS: Managing Member

BY:



Bill Scantland

ITS: Vice President

406 East Fourth Street, Winston-Salem, NC 27101

Address

336-714-8920

Telephone Number

WE, THE ADJOINING PROPERTY OWNER(S), ARE IN AGREEMENT TO THE  
VACATION OF THE ABOVE DESCRIBED PROPERTY:

Norfolk Southern Corporation  
Real Estate Department  
110 Franklin Rd., Box 59  
Roanoke, VA 24042

William A. Gorby  
Property Manager  
My Direct Line Is:  
Phone: (540) 981-5992  
FAX: (404) 653-3444  
Email [bill.gorby@nscorp.com](mailto:bill.gorby@nscorp.com)

August 26, 2009

Rebecca McCharen  
City of Lynchburg  
Planning Office  
City Hall  
Lynchburg, VA

RE: Kemper Lofts, LLC 1401 Kemper Street, Lynchburg, VA 24501

Dear Ms. McCharen:

On August 25, 2009 I inspected the ten (10') wide alley near 14<sup>th</sup> Street and Kemper Street proposed to be vacated as shown on Nixon Land Surveying, LLC site plan project 2007026. As the adjoining owner Norfolk Southern Railway Company (NSRC) will allow the vacation of the alley as NSRC has no vested interest. If you have any questions, please contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Gorby". The signature is fluid and cursive, with the first name "William" and last name "Gorby" clearly distinguishable.

William A. Gorby



**Greater Lynchburg Transit Company**



1301 Kemper Street  
PO Box 797  
Lynchburg, VA 24505  
434.544.5080  
434.847.8621 (Fax)  
[www.GLTCOnline.com](http://www.GLTCOnline.com)

September 1, 2009

Rebecca McCharen  
Planner II  
Department of Community Development  
City of Lynchburg  
Lynchburg, VA 24505

Dear Ms. McCharen:

We the adjoining property owners are in agreement to the proposed vacation of the ten foot (10') wide alley near 14th Street and Kemper Street, adjacent to the Greater Lynchburg Transit Company. It is our understanding that half of the alley will revert to GLTC after City Council approves the vacation.

Sincerely,



Michael J. Carroll  
General Manager

c: GLTC Board of Directors



## LYNCHBURG CITY COUNCIL

### Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 21

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Amendments to Section 16.1 - Erosion and Sediment Control (ESC) Ordinance**

RECOMMENDATION: Approval of the amendments to Section 16.1 of the *ESC Ordinance*.

#### SUMMARY:

The City's *Comprehensive Plan 2002-2020* recommends the City continue to improve development standards by implementing erosion and sediment controls based on state and local standards. **(pg. 12.9)**

Updating the *ESC Ordinance* amendments would make the ordinance consistent with the Code of Virginia by updating definitions, clarifying inspection frequency, defining plan requirements for state agencies and utility companies and revising language regarding enforcement. Clerical amendments were also made.

#### PRIOR ACTION(S):

September 9, 2009: Zoning and Natural Resources Division recommended adoption of the amendments to the Section 16.1 - *ESC Ordinance*.

Planning Commission recommended adoption (4-0, Hannon, Oglesby and Sale absent) of the amendments to Section 16.1 - *ESC Ordinance*.

FISCAL IMPACT: N/A

#### CONTACT(S):

Erin Hawkins, Environmental Reviewer - 455-3900

Robert Fowler, Zoning Administrator – 455-3900

Bonnie Svrcek, Deputy City Manager/ Acting Director of Community Development - 455-3900

#### ATTACHMENT(S):

- Ordinance
- Planning Commission Report
- Planning Commission Minutes
- Speaker Sign Up Sheet

REVIEWED BY: lkp

ORDINANCE:

AN ORDINANCE TO AMEND AND REENACT SECTIONS 16.1-3, 16.1-6, 16.1-7, 16.1-8, 16.1-9, 16.1-10, 16.1-13, 16.1-14 AND 16.1-15 OF THE CODE OF THE CITY OF LYNCHBURG, 1981; AND TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, AS AMENDED, BY ADDING THERETO SECTION 16.1-11.1; THE AMENDED AND ADDED SECTIONS RELATING TO THE EROSION AND SEDIMENT CONTROL ORDINANCE.

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

**1. That Sections 16.1-3, 16.1- 6, 16.1-7, 16.1-8, 16.1-9, 16.1-10, 16.1-13, 16.1-14 and 16.1-15 of the Code of the City of Lynchburg, 1981, be and the same are hereby amended and reenacted as follows:**

**Sec. 16.1-3. Terms beginning with “A” through “C”.**

As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

- (a) Agreement in lieu of a plan: means a contract between the plan approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.
- (b) Applicant: Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to commence.
- (c) Board: The Virginia Soil and Water Conservation Board, created under Sec. 10.1-502, Code of Virginia.
- (d) Certified inspector: means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of project inspection or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.
- (e) Certified plan reviewer: means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of plan review, (ii) is enrolled in the board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or landscape surveyor pursuant to Article 1 (§ 54.1-400 et. seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (f) Certified program administrator: means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of program administration or (ii) is enrolled in the board's training program for program administration and successfully completes such program within one year after enrollment.
- (g) Channel: A natural stream or manmade waterway.
- (h) City: The City of Lynchburg.
- (i) Clearing: Any activity which removes the vegetative ground cover including, but not limited to, root mat removal and/or topsoil removal.
- (j) Conservation plan, erosion and sediment control plan, or plan: A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water control plan inventory, and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation

decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives. It shall also address the stormwater management criteria as specified by this chapter.

**Sec. 16.1-6. Terms beginning with “L” through “O”.**

(a) Land disturbing activity: Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the state, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- (1) Minor land disturbing activities such as home gardens and individual home landscaping, repair and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street, or sidewalk provided such land disturbing activity is confined to the area of the road, street or sidewalk which is hard surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines and off-site disposal areas;
- (7) Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act Article 2, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with Chapter 11 (§ 10.1-1100 et. seq.) of this title or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;
- (8) Agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Chapter 8.1 (Sec. 62.1-115.1 et. seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;
- (9) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (11) Shore erosion control projects ~~on~~ or projects on tidal waters when the projects are approved by local wetlands boards, the Marine Resources Commission or the U.S. Army Corps of Engineers;
- (12) Emergency work to protect life, limb, or property, and emergency repairs; provided that if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of ~~the city engineering division~~ this chapter;
- (13) Disturbed land areas of less than one thousand (1,000) square feet in size.



Best management practices will be encouraged to all exceptions to land disturbing activity.

(b) Land disturbing permit: A permit issued by the city for the clearing, filling, excavating, grading, or transferring, or any combination thereof, or for any purpose set forth herein.

(c) Licensed design professional: A professional engineer, land surveyor III B, or landscape architect certified and licensed by the Commonwealth of Virginia.

(d) Local erosion and sediment control program or local control program: An outline or explanation of the various elements or methods employed by the city to regulate land disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinance, policies and guidelines, technical materials, inspection, enforcement and evaluation.

(e) Locality: The City of Lynchburg.

(f) Owner: The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

#### **Sec. 16.1-7. Terms beginning with “P” through “R”.**

As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

(a) Peak flow rate: The maximum instantaneous flow from a given storm condition at a particular location.

~~(a b)~~ Permittee: The person to whom the permit authorizing land disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

~~(b c)~~ Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the commonwealth, any interstate body, or any other legal entity.

~~(c d)~~ Plan approving authority: The city's certified plan reviewer is responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of land and for approving plans.

~~(d e)~~ Post-development: Conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

~~(e f)~~ Pre-development: Conditions existing at the time the erosion and sediment control plan is submitted to the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish pre-development conditions.

~~(f g)~~ Program authority: means a district, county, city or town which has adopted a soil erosion and sediment control program which has been approved by the board. The City of Lynchburg is the designated program authority through the department of community development.

(h) Responsible land disturber: An individual from the project or development team, who will be in charge of and responsible for carrying out a land disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a responsible land disturber certificate of competence, (ii) hold a current certificate of competence from the board in the areas of combined administration, program administration, inspection or plan review, (iii) holds a current contractor certificate of competence for erosion and sediment control or (iv) is

licensed in Virginia as a professional engineer, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

(g i) **Runoff:** That portion of precipitation that is discharged across the land surface or through conveyances to one (1) or more waterways.

(j) **Runoff volume:** The volume of water that runs off the land development project from a prescribed storm event.

#### **Sec. 16.1-8. Terms beginning with “S” through “Z”.**

(a) **Single-family residence:** A noncommercial dwelling that is occupied exclusively by one (1) family and not part of a residential subdivision development.

(b) **Stabilized:** An area expected to withstand normal exposure to atmospheric conditions without incurring erosion damage.

(c) **State erosion and sediment control program or state program:** The program administered by the Virginia Soil and Water Conservation Board pursuant to the state code including regulations designed to minimize erosion and sedimentation.

(d) **State waters:** All waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdictions.

(e) **Subdivision:** Division of any tract, parcel or lot of land into two (2) or more parts at one time or any extended period of time; except, however:

(1) The term “subdivision” shall not include the division of land into ten (10) acres or more for agricultural purposes, provided no new streets are required;

(2) The agent may, however, permit the separation of one (1) parcel from a tract of land without complying with all requirements of this chapter if it is (a) not in conflict with the general meaning and purpose of the chapter, and (b) no new streets are required to serve the parcel; and

(3) The word “subdivide” and any derivative thereof shall have reference to the term “subdivision” as defined in Section 24.1-5(26) of the subdivision ordinance.

(f) **Transporting:** Any moving of earth materials from one place to another place, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

(g) **Water quality volume:** The volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

#### **Sec. 16.1-9. Local erosion and sediment control program.**

(a) The City of Lynchburg adopts the regulations promulgated by the Virginia Soil and Water Conservation Board pursuant to Section 10.1-562 of the Code of Virginia for the effective control of soil erosion, sediment deposition and nonagricultural runoff to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. The Virginia Erosion and Control Regulations, The Virginia Erosion and Sediment Control Handbook, as amended, and the Lynchburg Erosion and Sediment Handbook, are adopted

as the standards, reference and guidelines for the local program. The standards and amendments contained within these publications are to be used by the applicant when making a submittal under the provisions of this chapter and in the preparation of an erosion and sediment control plan. The plan approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the state regulations shall take precedence.

(b) Any erosion and sediment plan submitted for review must address stormwater management in accordance with the Lynchburg Stormwater Ordinance, Chapter 16.2.

(c) Violators of this chapter shall be deemed guilty of a class 1 misdemeanor for each violation. In addition to any criminal penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the City of Lynchburg in a civil action for damages. The civil penalty for any one violation shall be not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000.00), except that the civil penalty for commencement of land disturbing activities without an approved plan as provided in Sec.16.1-10(a) shall be one thousand dollars (\$1,000.00). Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of ~~\$3000~~ ten thousand dollars (\$10,000.00) except that ~~and~~ a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00). ~~Adoption of such an ordinance providing that violations are subject to civil penalties.~~

#### **Sec. 16.1-10. Regulated land disturbing activities.**

(a) Except as provided herein, no person shall engage in any land disturbing activity until he has submitted to the department of community ~~planning & development~~ an erosion and sediment plan for land disturbing activity and such plan has been approved by the plan approving authority. Where land disturbing activities involve lands under the jurisdiction of more than one local control program an erosion and sediment control plan may, at the option of the applicant, be submitted to the board for review and approval rather than each jurisdiction concerned. Where land disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan approving authority.

(b) As a prerequisite to engaging in land-disturbing activities shown on an approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the program administrator and/or designee, as provided in §10.1-561 of the Code of Virginia, who will be in charge of and responsible for carrying out the land-disturbing activity. However, the plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan when construction of a single family residence is the purpose of a land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan.

~~(b c)~~ (c) The plan shall be acted upon within thirty (30) days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval. When a plan is determined to be inadequate, the plan approving authority shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken within thirty (30) days, the plan shall be deemed approved and the applicant authorized to proceed with the proposed activity.

~~(e d)~~ (d) An approved plan may be changed by the plan approving authority when:

(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or

(2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent

with the requirements of this chapter, are agreed to by the plan approving authority and the person responsible for carrying out the plan.

No changes may be made to an approved plan without review and written approval by the plan approving authority. The plan shall be acted upon within fifteen (15) days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval. When a plan is determined to be inadequate, the plan approving authority shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken within fifteen (15) days, the plan shall be deemed approved and the applicant authorized to proceed with the proposed activity.

(e) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies, and railroad companies shall file general erosion and sediment control specifications annually with the Virginia Soil and Water Conservation Board for review and approval. The specifications shall apply to:

(1) Construction, installation or maintenance of electric transmission, natural gas and telephone utility lines and pipelines; and

(2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

The Virginia Soil and Water Conservation Board shall have sixty (60) days in which to approve the specifications. If no action is taken by the board within sixty (60) days, the specifications shall be deemed approved. Individual approval of separate projects within subdivisions (1) and (2) of this subsection is not necessary when approved specifications are followed. Projects not included in subdivisions (1) and (2) of this subsection shall comply with the requirements of the city erosion and sediment control program. The board shall have the authority to enforce approved specifications.

~~(d f)~~ In order to prevent further erosion, the administrator may require approval of a conservation plan for any land identified in the local program as an erosion impact area.

~~(e g)~~ When land disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

### **Sec. 16.1-13. Land-disturbing permits; fees; bonding; and maintenance agreement.**

(a) No person shall engage in any land disturbing activity until he has acquired a land disturbing permit, and has paid the fees and posted the required bond, unless the proposed land disturbing activity is specifically exempt from the provisions of this chapter.

(b) Fees: A plan review fee and inspection fee for (1) one and two-family residential development of fifty dollars (\$50.00) per acre and (2) multi-family/commercial/industrial development of one hundred and fifty dollars (\$150.00) per acre, not to exceed five thousand dollars (\$5,000.00), paid to the city at the time of filing erosion and sediment control plans.

(c) No land disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed. An approved plan is required for issuance of grading, building or other permits.

(d) Bond: All applicants for permits shall provide to the city a performance bond with surety, cash escrow, or an irrevocable letter of credit equal to the amount necessary to implement and maintain all approved erosion and sediment control measures, including stormwater control measures in accordance with the Lynchburg Stormwater Ordinance, Chapter 16.2 on the approved plan. The city reserves the right to use this performance

bond, cash escrow, or letter of credit to implement these measures should the applicant fail within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land disturbing activity. Should it be necessary for the city to take such conservation action, the city may collect from the applicant any costs in excess of the amount of the surety held. Within sixty (60) days of the achievement of adequate stabilization, as determined by the department of community ~~planning and~~ development, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements of such permits.

#### **Sec. 16.1-14. Monitoring, reports, and inspections.**

(a) The program administrator or his designee shall provide for and/or conduct ~~periodic~~ inspections at least once in every two-week period and within forty eight (48) hours following any runoff producing storm event of the land disturbing activity and may require monitoring and reports from the person responsible for carrying out the plan to assure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier or operator shall be given an opportunity to accompany the inspector. If the administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter and, upon conviction, shall be subject to the penalties provided by the chapter.

(b) Upon receipt of a sworn complaint of violation of this chapter, the program administrator or his designee either may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this chapter. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven (7) days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court of Lynchburg. If the alleged violator has not obtained an approved plan or any required permits within seven (7) days from the date of service of the order, the administrator or his designee may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or land records of the locality in which the site is located. The owner may appeal the issuance of an order to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Any person violating or failing, neglecting or refusing to obey an order issued by the chief administrative officer or his designee may be compelled in a proceeding instituted in the Lynchburg circuit court to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion of corrective action, the order shall immediately be lifted. Nothing in this section shall prevent the administrator from taking any other action authorized by this chapter.

#### **Sec. 16.1-15. Penalties, injunctions and other legal actions.**

(a) Violators of this chapter shall be deemed guilty of a class 1 misdemeanor for each violation.

(b) The City of Lynchburg may apply to the circuit court of the city of Lynchburg to enjoin a violation or a threatened violation of this chapter, without the necessity of showing that an adequate remedy at law does not exist.

(c) In addition to any criminal penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the City of Lynchburg in a civil action for damages.

(d) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000) for each violation.

(e) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this chapter, the City of Lynchburg may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in paragraph (d) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under paragraph (d).

(f) For the purpose of enforcing the provisions of this chapter, the program administrator, or his duly authorized agent, shall have the authority to apply for the issuance of inspection warrants by a magistrate or court of competent jurisdiction. The program administrator or his agent may present sworn testimony to a magistrate or court of competent jurisdiction and if such sworn testimony establishes probable cause that a violation of this chapter has occurred, request that the magistrate or court grant the program administrator or his agent an inspection warrant to enable the program administrator or his agent to enter the subject property for the purpose of determining whether violations of this chapter exist. The program administrator or his agent shall make a reasonable effort to obtain consent from the owner or managing agent of the subject property prior to seeking the issuance of an inspection warrant under this section. It shall be a violation of this chapter for any owner, managing agent or other person, to deny the program administrator, or his duly authorized agent, access to any property after the program administrator, or his duly authorized agent have obtained an inspection warrant from a magistrate or a court of competent jurisdiction.

(g) f The city attorney shall, upon request of the city, take legal civil action to enforce the provisions of this chapter.

(h) g Compliance with the provisions of this chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

**2. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by adding thereto Section 16.1-11.1, as follows:**

**Sec. 16.1-11.1. State agency projects.**

(a) A state agency shall not undertake a project involving a land-disturbing activity unless (i) the state agency has submitted annual specifications for its conduct of land-disturbing activities which have been reviewed and approved by the State Department of Conservation and Recreation as being consistent with the state program or (ii) the state agency has submitted a conservation plan for the project which has been reviewed and approved by the department.

(b) The department shall not approve a conservation plan submitted by a federal or state agency for a project involving a land-disturbing activity (i) in any locality which has not adopted a local program with more stringent regulations than those of the state program or (ii) in multiple jurisdictions with separate local programs, unless the conservation plan is consistent with the requirements of the state program.

(c) The department shall not approve a conservation plan submitted by a federal or state agency for a project involving a land-disturbing activity in one locality with a local program with more stringent regulations than those of the state program unless the conservation plan is consistent with the requirements of the local program. If a locality has not submitted a copy of its local program regulations to the department, the provisions of section (b) of this section shall apply.

(d) The department shall have sixty (60) days in which to comment on any specifications or conservation plan submitted to it for review and its comments shall be binding on the state agency and any private business hired by the state agency.

(e) As on-site changes occur, the state agency shall submit changes in a conservation plan to the department.

(f) The state agency responsible for the land-disturbing activity shall ensure compliance with the approved plan or specifications.

**3. That this ordinance shall become effective on its passage.**

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

123L

**The Department of Community Development**  
**City Hall, Lynchburg, VA 24504** **434-455-3900**

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**To:** Planning Commission  
**From:** Zoning and Natural Resources Division  
**Date:** September 9, 2009  
**Re:** Erosion and Sediment Control Ordinance Amendments – Section 16.1

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**I. PETITIONER**

City of Lynchburg, Department of Community Development, Zoning and Natural Resources Division

**Representative:** Erin B. Hawkins, Environmental Reviewer, 900 Church Street, Lynchburg, Virginia 24504

**II. LOCATION**

N/A

**Property Owner:** N/A

**III. PURPOSE**

The purpose of this petition is to amend Section 16.1, *Erosion and Sediment Control [ESC] Ordinance* of the City Code to be consistent with the Code of Virginia.

**IV. SUMMARY**

- The *ESC Ordinance* amendments would make the ordinance consistent with the Code of Virginia by updating definitions, clarifying inspection frequency, defining plan requirements for state agencies and utility companies and revising language regarding enforcement.
- The City's *Comprehensive Plan 2002-2020* recommends the City continue improve development standards by implementing erosion and sediment controls based on state and local standards. (pg. 12.9)

**The Zoning and Natural Resources Division recommends approval of the Erosion and Sediment Control Ordinance amendments.**

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The City's *Comprehensive Plan 2002-2020* recommends the City continue to improve development standards by implementing erosion and sediment controls based on state and local standards. (pg. 12.9)
2. **Zoning.** N/A
3. **Board of Zoning Appeals (BZA).** N/A
4. **Surrounding Area.** N/A
5. **Site Description.** N/A
6. **Proposed Use of Property.** N/A
7. **Traffic, Parking and Public Transit.** N/A
8. **Stormwater Management.** N/A



9. **Emergency Services.** N/A
  10. **Impact.** The proposed amendments to the *ESC Ordinance* do not significantly change the current ordinance. The updates of the City's *ESC Ordinance* ensure compliance with the Code of Virginia by updating definitions, clarifying inspection frequency, defining plan requirements for state agencies and utility companies and revising language regarding enforcement.
  11. **Technical Review Committee.** N/A
- 

## **VI. ZONING AND NATURAL RESOURCES DIVISION RECOMMENDATION**

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of the amendments to Section 16.1, Erosion and Sediment Control Ordinance.**

This matter is respectfully offered for your consideration.



Erin B Hawkins  
Environmental Reviewer

pc: Mr. L. Kimball Payne, III, City Manager  
Mr. Walter C. Erwin, City Attorney  
Ms. Bonnie Svrcek, Deputy City Manager/ Acting Director of Community Development  
Mr. J. Lee Newland, City Engineer  
Ms. Cynthia L. Kozerow, Lynchburg Police Department  
Battalion Chief Greg Wormser, Fire Marshal  
Mr. Gerry L. Harter, Traffic Engineer  
Mr. Robert Drane, Building Commissioner  
Mr. William T. Martin, City Planner  
Mr. Robert S. Fowler, Zoning Administrator  
Mr. Keith Wright, Zoning Official  
Mr. Kent L. White, Senior Planner  
Mr. Jake Dorman, Environmental Reviewer

## **VII. ATTACHMENTS**

1. **Section 16.1, Erosion and Sediment Control Ordinance**

**MINUTES OF THE SEPTEMBER 9, 2009 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED. THERE WAS NO MEETING ON SEPTEMBER 23, 2009):**

- a. **Consideration of amending Section 16.1, *Erosion and Sediment Control Ordinance* of the City Code to conform to the Code of Virginia regarding erosion and sediment control. The proposed ordinance revisions would clarify and add definitions; amend civil penalty minimums and maximums for violations; clarify frequency of site inspection; provide the requirement that each project have a responsible land disturber; provide that utility, gas pipeline and railroad companies file erosion and sediment control specifications with the Virginia Soil and Water Conservation Board; provide project requirements for state agencies; and provide authority to apply for an inspection warrant. The revisions also propose clerical amendments to the existing ordinance.**

Ms. Erin Hawkins, Environmental Reviewer, addressed the commissioners with the following comments. The amendments proposed are to bring the City's existing ordinance up to the requirements of the Code of Virginia. Periodically, the City's ordinance is reviewed to see what updates need to be made. The City's ordinance has not been updated for a number of years. There are clarifications to definitions and requirements of state agencies and utility, gas pipeline and railroad companies. These are standard statewide applied regulations that apply to all projects. This is not changing any other type of City policies in regard to the *Erosion and Sediment Control Ordinance*. The City of Lynchburg does have a more restrictive ordinance than the State requires. The City regulates projects of a 1,000 square feet and greater rather than 10,000 square feet and greater.

Ms. Hawkins had a minor correction on page ten, item (e), in the next to last sentence. "County" needs to be replaced with "City."

Chair Hamilton asked for anyone else present to speak in favor of the amendments to the ordinance. No one came forward. She asked for anyone who wished to speak in opposition to the amendments to the ordinance and no one came forward. She closed the public hearing.

Chair Hamilton mentioned to Mr. Martin that they had talked about doing a full analysis of the definition sections of the City ordinances. We seem to be doing it piece by piece. Mr. Martin answered that the *Erosion and Sediment Control Ordinance* is separate from the *Zoning Ordinance*. Later in the agenda, the topic of the definitions section of the *Zoning Ordinance* will be discussed.

Commissioner Barnes asked a question about the definitions section pertaining to "land disturbing activity" and the list of items that are not considered a "land disturbing activity." Surface or deep mining and exploration or drilling for oil and gas are not considered such activities. Commissioner Barnes doubts that would be a problem in the City of Lynchburg, but he wondered why these activities were exempted. Those obviously disturb land considerably. Ms. Hawkins agreed but said those activities are regulated by the Department of Mines, Minerals and Energy. As long as Ms. Hawkins has been working in the field of erosion control, this has been a standard exemption since those activities are regulated by another agency.

Commissioner Swienton asked what other aspects of our City Code are stricter than the State Code besides the 1,000 square foot threshold versus 10,000 square foot threshold. Ms. Hawkins said that is the main difference, the 1,000 square foot threshold that triggers compliance with the ordinance. That requires more projects to be regulated than some of our surrounding areas; for example, Campbell County uses 10,000 square feet as its threshold.

Commissioner Swienton wondered if it would be easier to say that our ordinance will be identical to the State Code with the exception of the 1,000 square feet threshold versus the 10,000 square feet

threshold. The City could possibly avoid doing these rewrites over time if that is the primary difference. Ms. Hawkins thought that having our own code means that the City still has to reference and make sure that any amendments made are in conformance with the Code of Virginia. Keeping the ordinance in this format is completely suitable for the enforcement of everything that the City needs to do.

Commissioner Barnes pointed out on page four, number 11, the word "on" should be "or." Ms. Hawkins will make that correction.

On page eight, paragraph (c), Commissioner Barnes suggested scratching the words "except that" and replacing them with the word "and." The commissioners agreed with that suggestion, and Ms. Hawkins will make that correction.

Commissioner Barnes made a motion, which was seconded by Commission Worthington, that they recommend to City Council approval of the amendments to Section 16.1 *Erosion and Sediment Control Ordinance*, with the above corrections.

The motion passed by the following vote:

|              |                                            |   |
|--------------|--------------------------------------------|---|
| AYES:        | Barnes, Hamilton, Swienton and Worthington | 4 |
| NOES:        |                                            | 0 |
| ABSTENTIONS: |                                            | 0 |
| ABSENT:      | Hannon, Oglesby and Sale                   | 3 |

Chair Hamilton commended and thanked Ms. Hawkins for her work on these amendments.

## Erosion and Sediment Control Ordinance Amendments

## Section 16.1

September 9, 2009

PLEASE PRINT

[illegible]



# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 13, 2009**

AGENDA ITEM NO.: 22

CONSENT:

REGULAR: X

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: X

INFORMATION:

**ITEM TITLE: Amendment to Resolution No. R-09-103 Adopted by City Council on September 22, 2009 to Authorize Supplemental Interest Coupons for the General Obligation School Bonds, Series 2009, to be issued to the Virginia Public School Authority in connection with its Pooled Bond Sale under the American Recovery and Reinvestment Act of 2009 – Qualified School Construction Bond Program – Sandusky Middle School**

**RECOMMENDATION:** Adopt a resolution amending Resolution No. R-09-103 adopted by City Council on September 22, 2009 to provide for supplemental coupons bearing interest at a rate of not to exceed 2% per year.

**SUMMARY:** On September 22, 2009, the City Council adopted Resolution No. R-09-103 authorizing the issuance of not to exceed \$18,000,000 principal amount of City of Lynchburg, Virginia, General Obligation School Bonds, Series 2009 (the "Series 2009 Bonds"), and the sale of such Bonds to the Virginia Public School Authority (the "VPSA") in connection with its Pooled Bond Sale under the American Recovery and Reinvestment Act of 2009 - Qualified School Construction Bond Program to finance a portion of the cost of acquisition and construction of the Sandusky Middle School. At the time Resolution No. R-09-103 was adopted, it was contemplated that the Series 2009 would bear interest at the rate of 0% per year. Subsequent to the adoption of Resolution No. R-09-103, the City has been advised by the VPSA that supplemental interest coupons bearing interest at the rate of not to exceed 2% per year may be required in connection with the pricing of the VPSA's Bonds and, if so, the Series 2009 Bonds correspondingly would be required to have supplemental interest coupons bearing interest at a rate of not to exceed 2% per annum.

If it becomes necessary to include supplemental interest coupons in the bond issue, the City would reduce its borrowing to cover only the costs for Sandusky Middle School that were not accounted for in the recent General Obligation bond sale. The result would be interest costs that were still less than a Literary Loan but it would eliminate the transfer of previously issued debt to the Juvenile and Domestic Relations Court building.

**PRIOR ACTION(S):**

|                    |                                                                                                                 |
|--------------------|-----------------------------------------------------------------------------------------------------------------|
| February 19, 2008  | Lynchburg City Schools' Board approved the Literary Loan Application                                            |
| March 11, 2008     | Resolution #R-08-030 City Council approved the \$15,000,000 Five Year General Obligation Bond Anticipation Note |
| March 11, 2008     | Resolution #R-08-023 City Council approved the Literary Loan Application                                        |
| February 24, 2009  | Finance Committee                                                                                               |
| March 3, 2009      | Lynchburg City School Board meeting to approve submission of the VPSA application                               |
| March 24, 2009     | Resolution #R-09-012 City Council approved \$8,250,000 authorization for VPSA Bonds                             |
| September 22, 2009 | Finance Committee                                                                                               |
| September 22, 2009 | Resolution #R-09-103 City Council approved \$9,750,000 authorization for VPSA Bonds                             |

**FISCAL IMPACT:** Fund remaining costs for construction of Sandusky Middle School with potentially a 2% interest rate. Debt service will begin in FY 2011 with an estimated sixteen year amortization period anticipated at this time. Final debt service amortization will occur with the bond sale along with rating agencies' approvals.

**CONTACT(S):** Donna S. Witt, Director of Financial Services, 455-3968  
Barbara C. Hudson, Financial Professional IV, 455-4221

ATTACHMENT(S): City Council resolution authorizing the provision of not to exceed 2% supplemental interest coupons per annum for the General Obligation School Bonds to be sold to the Virginia Public School Authority.

REVIEWED BY: lkp

**RESOLUTION AMENDING RESOLUTION NO. 09-103, ENTITLED “RESOLUTION AUTHORIZING THE ISSUANCE OF A NOT TO EXCEED \$18,000,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION SCHOOL BONDS, SERIES 2009, OF THE CITY OF LYNCHBURG, VIRGINIA, TO BE SOLD TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY AND PROVIDING FOR THE FORM AND DETAILS THEREOF”, ADOPTED BY THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA, ON SEPTEMBER 22, 2009**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA:

SECTION 1. Findings and Determinations. The Council (the “Council”) of the City of Lynchburg, Virginia (the “City”), hereby finds and determines as follows:

(a) On September 22, 2009, the Council adopted Resolution No. 09-103, entitled “RESOLUTION AUTHORIZING THE ISSUANCE OF A NOT TO EXCEED \$18,000,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION SCHOOL BONDS, SERIES 2009, OF THE CITY OF LYNCHBURG, VIRGINIA, TO BE SOLD TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY AND PROVIDING FOR THE FORM AND DETAILS THEREOF”, for the purpose of authorizing the issuance, sale and delivery by the City of not to exceed \$18,000,000 principal amount of City of Lynchburg, Virginia, General Obligation School Bonds (the “Local School Bond”) to the Virginia Public School Authority (the “VPSA”).

(b) A copy of such Resolution No. 09-103, certified by the Clerk of Council, was filed in the Circuit Court on the City on September 28, 2009, in accordance with the provisions of Section 15.2-2607 of the Code of Virginia, 1950.

(c) Subsequent to the adoption of Resolution No. 09-103, the City has been advised by the VPSA that an amendment of Section 4 of Resolution No. 09-103 is needed to conform the terms of the Local School Bond to the terms of the VPSA Bonds by making provision for supplemental interest coupons, if necessary, bearing interest at a rate of not exceeding 2% per year.

SECTION 2. Amendment of Section 4 of Resolution No. 09-103. Section 4 of Section No. 09-103 is hereby amended to read in its entirety as follows:

SECTION 4. Details of the Local School Bond. The Local School Bond shall be dated the date of its issuance and delivery; shall be designated “General Obligation School Bond, Series 2009”; and shall mature on September 1 in the years (each a “Principal Payment Date”) and in the amounts (the “Principal Installments”) to be set forth on Schedule I attached to the form of the Local School Bond, subject to the provisions of Section 5 of this resolution. If and as necessary to conform the terms of Local School Bond to the terms of the VPSA Bonds, the Local School Bond may bear interest at a supplemental interest coupon rate(s) determined by the City Manager following the pricing of the VPSA Bonds; *provided* that no supplemental interest coupon rate shall exceed 2% per year.



SECTION 3. Filing of Resolution. The appropriate officers of the City are hereby authorized and directed to cause a certified copy of this resolution to be filed with the Circuit Court of the City.

SECTION 4. Effective Date. This resolution shall take effect immediately.

Adopted:

Certified: \_\_\_\_\_  
Clerk of Council

129LRes

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: ~~September 22, 2009~~ **October 13, 2009**

AGENDA ITEM NO.: 23

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

ACTION: **X**

INFORMATION:

ITEM TITLE: **Amendments to City Code, Article VIII of Chapter 25, Motor Vehicles and Traffic, Regarding Parking**

RECOMMENDATION: Approve amendments to the Lynchburg City Code, Article VIII, stopping and standing parking, containing Sections. 25-247 through 25-305

SUMMARY: On December 11, 2007 Council endorsed the Strategic Parking Plan recommended by parking consultant Carl Walker. One of the key recommendations was to convert on-street parking in Downtown to paid parking and to install full featured electronic parking meters, also known as pay stations. Staff will soon receive proposals for the provision of the equipment necessary to implement paid parking both off- and on-street. The equipment will consist of the pay stations and tools for electronic monitoring and enforcement.

Coincident with the preparation for paid on-street parking is the need to update the City Code sections that relate to parking in the Central Business District. On April 14, 2009 the Parking Authority requested that staff prepare draft recommendations to amend the City Code for review by the Authority. On July 28, 2009 City staff held a meeting to review and discuss suggested amendments to the City Code. All affected stakeholders reviewed the current code provisions for accuracy and consistency. That review indicated the need to update the current provisions to be consistent with current practices, to update fines to a more appropriate amount and to provide for paid parking.

Draft amendments were prepared and presented to the Parking Authority on August 11, 2009. On September 8, 2009 the Parking Authority recommended that amendments to the City Code be forwarded to City Council for its approval.

The Parking Authority recommended approval of the proposed amendments with an effective date of January 1, 2010 so that the changes can be communicated to the public and stakeholders.

PRIOR ACTION(S): As noted above. Council last amended Sec. 25-249 of the Code to increase the overtime parking fine from \$5.00 to \$10.00 in 1995. In November of 1997 Council amended Sec. 25-249 increasing the fine for parking in prohibited areas and loading zones from \$10.00 to \$20.00.

September 22, 2010, Council asked for clarification of a few areas. Changes have been made to address capitalization, to clarify ownership, and to designate the Central Business District and are highlighted on the attached ordinance. Furthermore, the entire Chapter 25 is attached for reference.

FISCAL IMPACT: Fine revenues will be used to offset costs of parking management activities and, if available, to provide amenities in the Central Business District.

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

ATTACHMENT(S): Proposed Ordinance; Article VIII of Chapter 25 of the City Code,

REVIEWED BY: lkp

## ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTIONS 25-247, 25-249, 25-250, 25-252, 25-256, 25-257.1, 25-258, 25-259, 25-260, 25-262.1, 25-265, 25-267, 25-269, 25-275, 25-278, 25-293, 25-297, 25-298, 25-302 AND 25-304, OF THE CODE OF THE CITY OF LYNCHBURG, 1981; TO AMEND THE CODE OF THE CITY OF LYNCHBURG BY ADDING THERETO NEW SECTIONS NUMBERED 25-247.1, 25-247.2, 25-270, 25-271 AND 25-305; AND, TO AMEND THE CODE OF THE CITY OF LYNCHBURG BY REPEALING SECTION 25-264, THE AMENDED, NEW AND REPEALED SECTIONS RELATING TO PARKING REGULATION AND ENFORCEMENT WITHIN THE CITY.

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

1. That Sections 25-247, 25-249, 25-250, 25-252, 25-256, 25-257.1, 25-258, 25-259, 25-260, 25-262.1, 25-265, 25-267, 25-269, 25-275, 25-278, 25-293, 25-297, 25-298, 25-302 and 25-304 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

### **Sec. 25-247. Restricted and no-parking areas.**

The city ~~traffic engineer~~ manager or his designee is hereby authorized and directed to determine and define street areas within which the volume of vehicular traffic is such as to require restrictions upon parking of vehicles; to classify vehicles with reference to parking; to designate the time, place and manner in which such vehicles may be allowed to park upon the highways; to make such rules and regulations as traffic conditions may require in various areas and under the varying conditions which may prevail at different times. A listing of such restrictions shall be maintained in the traffic engineering files. It shall be the duty of the traffic engineer, upon the promulgation of such regulations, and before the same shall become effective, to give such public notice thereof, by establishing and posting signs, or otherwise, as may be reasonably adequate to make clear to the operators of vehicles in "no-parking" or "restricted parking" areas, the existence, nature and requirements of such regulations. From and after the effective date of regulations imposed in any area by virtue of the provisions of this chapter, it shall be unlawful for any person to stop or park any vehicle in any restricted or prohibited area otherwise than in accordance with these regulations.

### **Sec. 25-249. Penalty for violation of division.**

Unless otherwise provided, any person violating the provisions of this division relating to overtime parking shall be punished by a fine of ~~ten~~ twenty dollars (\$~~10~~20.00) for each offense; and any person violating the provisions of this division relating to parking in prohibited areas and loading zones shall be punished by a fine of ~~twenty~~ thirty dollars (\$~~20~~30.00) for each offense.

### **Sec. 25-250. Stopping on highways—Generally.**

(a) No vehicle shall be stopped in such a manner as to impede or render dangerous the use of the street, alleyway or highway by others, except in the case of an emergency as the result of an accident or mechanical breakdown, in which case the emergency flashing lights of such vehicle shall be turned on if the vehicle is equipped with such lights and such lights are operating, and a report shall be made to the nearest police officer as soon as practicable and the vehicle shall be removed from the roadway to the shoulder as soon as possible and removed from the shoulder without unnecessary delay; and if such vehicle is not promptly

removed, such removal may also be ordered by a police officer at the expense of the owner if the disabled vehicle creates a traffic hazard.

~~(b) No person shall leave any vehicle, attended or unattended, upon the paved, improved or main-traveled portion of any highway, outside of the business or residence district, when it is practicable to leave such vehicle standing off the paved, improved or main-traveled portion of such highway.~~

~~(c)~~(b) Except upon one-way streets as provided in this chapter, and when actually loading or unloading merchandise as provided in Section 25-259, no vehicle shall be stopped except close to and parallel to the right-hand edge of the curb or roadway. In no instance shall such vehicle be parked with the rear wheels further than six (6) inches from the curb.

~~(d)~~(c) No vehicle shall be stopped at or in the vicinity of a fire, vehicle or airplane accident or other area of emergency, in such a manner as to create a traffic hazard or interfere with the necessary procedures of police officers, fire fighters, rescue workers or others whose duty it is to deal with such emergencies. Any vehicle found unlawfully parked in the vicinity of such fire, accident or area of emergency may be removed by order of a police officer or in the absence of a police officer, by order of the uniformed fire or rescue officer in charge at the risk and expense, not to exceed twenty-five dollars (\$25.00), of the owner of the vehicle if such vehicle creates a traffic hazard or interferes with the necessary procedures of police officers, fire fighters, rescue workers or others whose assigned duty is to deal with such emergencies. Vehicles being used by accredited information services, such as press, radio and television, when being used for the gathering of news, shall be exempt from the provisions of this section, except when actually obstructing the police officers, fire fighters and rescue workers dealing with such emergencies.

~~(e)~~(d) The provisions of this section shall not apply to any vehicle owned or controlled by the Commonwealth of Virginia Department of Highways and Transportation, or the city, while actually engaged in the construction, reconstruction or maintenance of highways.

#### **Sec. 25-252. To discharge cargo or passengers; school buses.**

No truck or bus, or part thereof, except a school bus or public transit bus, shall be stopped on the traveled portion of any highway for the purpose of taking on or discharging cargo or passengers, unless the operator cannot leave the traveled portion of the highway with safety. A school bus or public transit bus may be stopped on the traveled portion of the highway when taking on or discharging passengers ~~schoolchildren~~, but these stops shall be made only at points where it can be clearly seen for a safe distance from both directions.

#### **Sec. 25-256. Parking prohibited in specified places.**

(a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or where authorized by a traffic-control device, including official signs or pavement markings, in any of the following places:

- (1) On a sidewalk or city trail;
- (2) In front of a public or private driveway so as to block ingress or egress;
- (3) Within an intersection or traveled way;

- (4) Within fifteen (15) feet of a fire hydrant;
  - (5) On a crosswalk;
  - (6) Within twenty (20) feet of a crosswalk at an intersection;
  - (7) Within thirty (30) feet upon the approach to any flashing beacon, stop or yield sign or traffic-control signal located at the side of a roadway;
  - ~~(8) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings;~~
  - ~~(9)~~(8) Within fifty (50) feet of the nearest rail of a railroad grade crossing;
  - ~~(10)~~(9) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly signposted;
  - ~~(11)~~(10) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic;
  - ~~(12)~~(11) On the roadway side of any vehicle parked at the edge or curb of a street;
  - ~~(13)~~(12) Upon any bridge or other elevated structure upon a street or highway or within a tunnel;
  - ~~(14)~~(13) At any place where official signs and/or pavement markings prohibit parking;
  - ~~(15)~~(14) Between the street curb, or the edge of the paved portion of the roadway when there is no street curb, and the adjacent sidewalk;
  - (15) Between the street curb and the adjacent right-of-way line or sidewalk so as to cause the continual mounting and/or dismounting of the curbing.
- (b) No person other than a police officer shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful, or start or cause to be started the motor of any motor vehicle, or shift, change or move the levers, brake, starting device, gears or other mechanism of a parked motor vehicle to a position other than that in which it was left by the owner or driver thereof, or attempt to do so.

#### **Sec. 25-257.1. Parking on city property.**

The city ~~traffic engineer~~ manager or his designee is hereby authorized to establish regulations concerning the parking of vehicles on all property owned or leased by the city, including, pursuant to Section 25-267 of this code, the towing of vehicles parked on such property in violation of such regulations. He shall cause signs to be erected at or near each place to be so regulated sufficient to apprise an ordinarily observant person of such regulations. It shall be unlawful for any person to fail to comply with the requirements of such signs. The provisions of

this section shall apply to vehicles parked at the Lynchburg Regional Airport in violation of parking regulations.

**Sec. 25-258. Parking for certain purposes prohibited.**

(a) It shall be unlawful for any person to park or place any automobile, truck, trailer or other vehicle upon or in any street, alley or parkway for the purpose of selling or offering the same for sale or rent. No sign or lettering shall be attached or placed upon any automobile, truck, trailer or other vehicle parked in or upon any public street, alley, or parkway of the city indicating that such vehicle is offered for sale or for rent. It shall also be unlawful to park any vehicle upon any street in a business district from which any merchandise is being sold, except in the downtown business district by special permit.

(b) It shall be unlawful to stop a vehicle at any time upon the highway for the purpose of advertising any article of any kind, or to display thereupon advertisements of any article or advertisement for the sale of the vehicle itself.

**Sec. 25-259. Backing up to curbs.**

No vehicle shall be backed up to a curb, except during the time actually engaged in loading or unloading merchandise therefrom and shall not be positioned in such a manner as to block traffic. ~~provided, however, that on Main Street between Fourth and Thirteenth Streets, no vehicle shall be backed up to a curb for any purpose, without a special permit from the police division.~~

**Sec. 25-260. Angle or perpendicular parking.**

Notwithstanding any of the provisions of this chapter, the city manager or his designee may, when in his discretion the public interest so requires, provide for angle or perpendicular parking on any street, or portion thereof; provided, however, that such streets are marked so as to apprise an ordinarily observant person of the regulation.

**Sec. 25-262.1. Removal or concealment of parking enforcement identification marks.**

It shall be unlawful for any person to remove, alter or conceal any parking enforcement identification marks placed on any motor vehicle by any officer or employee of the city ~~Lynchburg police department~~ for the purpose of enforcing the parking restrictions contained in this article. Any person violating this section shall be punished by a fine of fifty dollars (\$50.00).

**Sec. 25-265. Manner of using loading zones.**

Where a loading and unloading zone has been set apart by the city manager or his designee in accordance with applicable provisions of this chapter, the following regulations shall apply with respect to the use of such areas:

(a) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zones are in effect. ~~All delivery vehicles, other than regular delivery trucks, using such loading zones shall be identified by the owner's or company's name in letters three (3) inches high on both sides of the vehicle.~~

(b) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers or bundles.

**Sec. 25-267. Removal and disposition of vehicles unlawfully parked on private or city property.**

As authorized by Section 46.2-1232 of the Code of Virginia, it shall be lawful for any owner, operator or lessee of any parking lot or parking area or space therein, or part thereof, or of any other lot or building, including the city, or authorized agent of the person having control of such premises, to have any motor or other vehicle, occupying such lot, area, space or building, or part thereof, without the permission of such owner, operator, lessee or authorized agent of the one having the control of such premises removed, by towing or otherwise, to a licensed garage for storage until called for by the owner or his agent; provided, that notice of such action shall be first or simultaneously therewith given to at least one (1) of the local law enforcement officers; provided further, that in the event of such removal and storage the owner of the vehicle involved shall be chargeable with and such vehicle may be held for a reasonable charge for its removal and storage. All businesses engaged in towing vehicles without the consent of their owners shall prominently display at their main place of business a comprehensive list of all their fees for towing, recovery and storage services, or the basis of such charges. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed, recovered or stored without his consent. However, notwithstanding the foregoing provisions of this section, if the owner of the trespassing vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner of the trespassing vehicle shall be liable for a reasonable fee not to exceed ~~twenty-five~~ fifty dollars (\$~~25~~50.00) in lieu of towing.

In lieu of having such vehicle removed by towing or otherwise, it shall be lawful for such owner, operator, lessee or authorized agent, including the city, to cause the vehicle to be immobilized by a boot or other device that prevents the vehicle from being moved by preventing a wheel from turning; provided such boot or other device is of a design that does no damage to the vehicle or wheel; and provided further, that the charge for the removal of such boot or device shall not exceed ~~twenty-five~~ fifty dollars (\$~~25~~50.00). In lieu of having such vehicle removed by towing or otherwise, or in lieu of causing the vehicle to be immobilized, it shall be lawful for such owner, operator, lessee or authorized agent to cause to ~~have request~~ request a duly authorized police officer to issue on such premises a notice of a violation of Section 25-257 of the City Code to the registered owner of such vehicle.

This section shall not apply to ~~police, fire or public health~~ city or state owned vehicles or where a vehicle shall, because of a wreck or other emergency, be parked or left temporarily upon the property of another.

**Sec. 25-269. Removal or immobilization of motor vehicles against which there are outstanding parking violations.**

(a) Whenever there is found parked upon the public streets or highways or public grounds of the city any motor vehicle against which there are three (3) or more outstanding, unpaid or otherwise unsettled parking violation notices or citations, such vehicle may, by towing or otherwise, be removed to another place for temporary storage and safekeeping by an officer or employee of the police department, or by any other person acting under the direction of such

officer or employee, or such vehicle may be immobilized in such manner as to prevent its removal or operation.

(b) It shall be the duty of any police officer or employee of the police department removing or immobilizing the motor vehicle, or under whose direction such vehicle is removed or immobilized, to inform as soon as practical the owner of the removed or immobilized vehicle of the nature and circumstances of the prior unsettled parking violation notices or citations for which the vehicle was removed or immobilized. In any case involving immobilization of a vehicle pursuant to this section, there shall be placed on such vehicle in a conspicuous manner, a notice warning that such vehicle has been immobilized and that any attempt to move the vehicle might damage it.

(c) The owner of an immobilized vehicle, or other person acting on the owner's behalf, shall be allowed at least twenty-four (24) hours from the time of immobilization to repossess or secure the release of the vehicle. Failure to repossess or secure the release of the vehicle within that time period may result in the removal of the vehicle to a storage area for safekeeping under the direction of a police officer or employee of the police department.

(d) The owner of such immobilized motor vehicle, or other person acting on the owner's behalf, may repossess or secure the release of the vehicle by payment of the outstanding parking violations notices or citations for which the vehicle was removed or immobilized and by payment of all reasonable costs incidental to the immobilization, removal and storage of the vehicle, and the efforts to locate the owner of the vehicle. Should the owner of the vehicle fail or refuse to pay such fines and costs, or should the identity or whereabouts of such owner be unknown and unascertainable, such motor vehicle may be sold in accordance with the procedures set forth in sections 46.2-12.13 and 46.2-12.17 of the Code of Virginia. Any personal property found in any unattended or abandoned motor vehicle, trailer, or semitrailer may be sold incident to the sale of the vehicle as authorized in this section.

(e) The owner or other person entitled to lawful procession of a removed or immobilized motor vehicle shall have the right to request a hearing before the city's manager ~~director of finance~~ or his designee in order to determine the validity of the removal or immobilization. A hearing must be requested in writing within fourteen (14) days after the motor vehicle is immobilized or removed. Administrative hearings will be held between 8:30 a.m. and 5:00 p.m. any weekday which is not a holiday. The hearing officer will review the circumstances and any evidence presented and decide whether just cause existed for the removal or immobilization of a motor vehicle. Anyone wishing to contest a removal or immobilization, should bring the outstanding parking violation notices or citations along with the vehicle registration and any other documentation to be presented to the hearing officer. The removal, immobilization and storage cost will be waived only if the hearing officer determines that the vehicle was improperly removed or immobilized. The hearing shall be in the form of an administrative proceeding rather than a judicial trial and the rules of evidence shall not apply. The decision of the designated hearing officer is final and is not subject to appeal.

(f) Nothing in this section shall be construed to deprive any person of their constitutional right to a hearing in a court of competent jurisdiction as to the outstanding parking violation notices or citations which led to the removal or immobilization of the motor vehicle.

(g) The provisions of this section shall apply to motor vehicles parked at the Lynchburg Regional Airport.



## **Sec. 25-275. Removal authorized.**

~~Whenever any motor vehicle, trailer or semitrailer is found on the public streets or public grounds unattended by the owner or operator and constitutes a hazard to traffic or is parked in such manner as to be in violation of law or whenever any motor vehicle, trailer or semitrailer is left unattended for more than ten (10) days upon any public property or privately owned property other than the property of the owner of such motor vehicle, trailer or semitrailer, within the city, or is abandoned upon such public property or privately owned property, without the permission of the owner, lessee or occupant thereof, or whenever any motor vehicle, trailer or semitrailer is stalled or rendered immobile as the result of adverse weather conditions or other emergency situations on any public roadway, any such motor vehicle, trailer or semitrailer may be removed for safekeeping by or under the direction of a police officer to a storage garage or area provided; however, that no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof. For purposes of this division it shall be presumed that such motor vehicle, trailer or semitrailer, or part thereof, is abandoned if (1) it lacks either: (a) a current license plate, or (b) a current county, city or town plate or sticker or (c) a valid state inspection certificate or sticker and (2) it has been in a specific location for four (4) days without being moved.~~

Whenever any motor vehicle, trailer, semitrailer, or part thereof (i) is left unattended on a public highway or other public property and constitutes a traffic hazard, (ii) is illegally parked, (iii) is left unattended for more than ten (10) days either on public property or on private property without the permission of the property owner, lessee, or occupant, or (iv) is immobilized on a public roadway by weather conditions or other emergency situation, such motor vehicle, trailer, semitrailer, or part thereof may be removed for safekeeping by or under the direction of a police officer.

A motor vehicle, trailer, semitrailer, and part thereof may not be removed from private property without the written request of the owner, lessee, or occupant of the premises. The person at whose request the motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer is removed from private property shall indemnify the city, against any loss or expense incurred by reason of removal, storage, or sale thereof. It shall be presumed that such motor vehicle, trailer, semitrailer, or part thereof is abandoned if it (i) lacks either a current license plate, or a valid state safety inspection certificate or sticker, and (ii) it has been in a specific location for four (4) days without being moved. As promptly as possible, each removal shall be reported to the police department and to the owner of the motor vehicle, trailer, or semitrailer. Before obtaining possession of the motor vehicle, trailer, semitrailer, or part thereof, the owner of the vehicle shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating the said owner. If the owner of the vehicle fails or refuses to pay the cost or if his identity or whereabouts is unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record with the office of the department of motor vehicles against the motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer, the vehicle shall be treated as an abandoned vehicle under the provisions of Article 1 of Title 46.2 of the Code of Virginia and may be sold in accordance with the procedures set forth in sections 46.2-12.13 and 46.2-12.17 of the Code of Virginia. Any personal property found in any unattended or abandoned motor vehicle, trailer, or semitrailer may be sold incident to the sale of the vehicle as authorized in this section.

**Sec. 25-278. Redemption by owner.**

The owner of any motor vehicle, trailer or semitrailer removed under the provisions of this division, before obtaining possession thereof, shall pay to the city all reasonable costs incidental to the removal, storage and location of such ~~owner~~ vehicle.

**Sec. 25-293. Designation of area.**

Should the city manager, based upon studies conducted by the city traffic engineer, ascertain that parking spaces on the streets within a particular residential area or distinct portion of such residential area, not less than the lesser of three hundred and sixty (360) feet or one city block, unless the street in such district is abutted by unimproved land, in which case said minimum lengths shall not apply, are used for the consistent parking of vehicles not belonging to the residents of the particular area to such an extent as to create congestion, excessive noise, air pollution, and cause the residents of such areas unreasonable burdens in gaining access to their residences and that through a petition to the city signed by the a majority of the contiguous property owners to the streets of such area, or portion thereof, desire the establishment of such area as a permit parking area, then the city manager shall establish such area as a permit parking district. The issuance of a permit does not guarantee an on-street parking space will be available.

**Sec. 25-297. Application for permit.**

Permanent residents within a permit parking district may apply to the ~~city collector~~ billings and collections division for a permit to park their vehicle(s) upon the streets or public ways of the permit parking district in which such applicant resides.

**Sec. 25-298. Permit fees.**

A fee of ~~three~~ fifteen dollars (\$~~3~~15.00) shall be charged each resident for the issuance of one (1) parking permit, and a fee of ~~three~~ fifteen dollars (\$~~3~~15.00) shall be charged each resident for each additional or replacement permit, such fee to be used by the city to defray the cost of the administration and enforcement of the provisions of this division.

**Sec. 25-302. Visitor passes.**

Each household shall receive ~~three (3)~~ two (2) visitor passes at no additional charge.

**Sec. 25-304 Permit parking in certain designated areas of church and court streets ~~business districts.~~**

(a) In order to protect the residents of certain designated areas of Church and Court streets ~~business districts~~ that do not have off street parking from unreasonable burdens in gaining access to their residence and in order to promote traffic safety and the peace, good order, comfort, convenience and welfare of the inhabitation of the city, the city finds that it is necessary to establish a system of permit parking for residents of business districts.

(b) For purposes of this section the term "resident" shall be deemed to mean a person that resides and maintains a place of abode within a business district and does not have off street parking for their vehicle.

(c) A resident in a business district that does not have off street parking for their vehicle may apply to the billings and collections division city collector for a parking permit to park their vehicle in the public streets adjoining their residence in the business district in which they live without regard to the normal restrictions on the length of parking time. Two (2) permit(s) shall be issued for each residential lot.

(d) The parking permit shall be displayed from the rear view mirror of the vehicle in such a manner that it may be viewed from the front and rear of the vehicle. When there is no rear view mirror the permit shall be displayed on the vehicle dashboard. The permit shall not be displayed from the rear view mirror while the vehicle is in motion. If the permit is not properly displayed the normal restrictions on the length of permitted parking time shall apply.

(e) A fee of ~~three~~ fifteen dollars (\$~~3~~15.00) shall be charged for each permit issued or each replacement permit. The fees will be used by the city to defray the cost of the Administration and enforcement of the provisions of this section.

(f) Permits issued under this section are valid only on the vehicle for which they are issued and shall be valid for a period of one (1) year.

(g) The person shall not transfer or allow another person to use or possess any parking permit issued to them or continue to use a permit after its termination or expiration or give false information upon application for the permit. Nor shall any person use a permit to park upon the public streets in any business district except for the public streets adjoining their residence.

(h) Any person violating any of the provisions of this section shall be punished by a fine of not more than two hundred fifty dollars (\$250.00) ~~guilty of a class 1 misdemeanor~~. In addition the parking permit of such person shall be terminated by the billings and collections division city collector.

2. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by adding thereto new sections numbered 25-247.1, 25-247.2, 25-270, 25-271 and 25-305 as follows:

#### **Sec. 25-247.1. Time zones.**

(a) "Time zone," as used in this division, refers to the areas designated by the city council or city manager in which the legal time limit for parking has been established and for which signage indicates the block time and limits of the zone. If there is parking available on both sides of the street in the designated time zone, both sides of the street are considered to be in the same time zone.

(b) Within a consecutive time period equal to the time limit posted, no person shall park a vehicle for longer than the posted time limit for the time zone or block.

(c) The provisions of this section shall apply between the hours designated by the city council or the city manager on all days, except Sundays or on the following holidays: New Year's Day, Martin Luther King Jr.'s birthday, President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and day after, Christmas Eve and Christmas Day or as otherwise designated by city council or the city manager.

**Sec. 25-247.2. Parking pay station.**

(a) No person shall park any vehicle in a parking space for a period of time in excess of the maximum time shown on the parking pay station for the parking space or indicated on signs in the block where the parking pay stations are located, or for a time period in excess of the time limits posted on the street or in a city parking facility.

(b) Within a consecutive time period equal to the time limit posted, no person shall park a vehicle for longer than the posted time limit for the time zone or block.

(c) The provisions of this section shall apply between the hours designated by city council or the city manager on all days, except Sundays or on the following holidays: New Year's Day, Martin Luther King, Jr.'s birthday, President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and day after, Christmas Eve and Christmas Day or as otherwise designated by city council or the city manager.

(d) In absence of other posted limits, parking pay stations shall be presumed to be in operation and require the deposit of the required parking fees between the hours of 7:00 a.m. and 5:00 p.m.

(e) No person shall deposit or cause to be deposited in a parking pay station any coin for the purpose of increasing or extending the parking time of any vehicle beyond the legal parking time.

(f) No person shall deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking pay station or sign installed under this division.

**Sec. 25-270. Construction parking permits.**

Construction parking permits are issued by the inspections division of the community development department. Permits will be issued to vehicle owners who are actively engaged in the construction project (plumbing/electrical contractors, etc.). Construction parking permits shall only be issued for vehicles that are used to transport equipment, tools and supplies used by the owner at the work site.

**Sec. 25-271. Construction dumpster permits.**

Dumpster permits are required in order to place dumpsters in on-street parking spaces or on the city's right-of-way. Permits are issued by the inspections division of the community development department.

**Sec. 25-305. Permit parking in the central business district (CBD).**

(a) In order to protect residents of the central business districts who do not have off-street parking from unreasonable burdens in gaining access to their residences and in order to promote traffic safety and the peace, good order, comfort, convenience and welfare of the inhabitation of the city, the city finds that it is necessary to establish a system of permit parking for residents of the central business district.

(b) Residents who live in the central business district (CBD—designated as that area of downtown

from Fifth Street to the Rt 29 Business Expressway and from Clay Street to the riverfront) or residential property owners may apply for a CBD residential parking permit. The permit will allow residents to park in an assigned city off street parking facility closest to their residence twenty-four hours (24) per day, seven (7) days per week. Approval will be based on parking spaces availability. The cost for the first permit shall be twenty-five dollars (\$25.00) per month. Each additional permit shall cost fifty dollars (\$50.00) per month. Proof of residence is required and maybe satisfied by a copy of a current lease/mortgage document reflecting the residential address, a valid Virginia driver's license reflecting the residential address or current vehicle registration.

(c) A resident shall not transfer or allow another person to use or possess any parking permit issued to them or continue to use a permit after its termination or expiration or give false information upon application for the permit. Nor shall any person use a permit to park upon the public streets in the central business district.

(d) Permits issued under this section are valid only on the vehicle for which they are issued and shall be valid for a period of one (1) year.

(e) Any person violating any of the provisions of this section shall be punished by a fine of not more than two hundred fifty dollars (\$250.00). In addition the parking permit of such person shall be terminated by the billings and collections division.

3. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended by repealing Section 25-264.

**~~Sec. 25-264. Exemption for jurors of parking limitations on certain streets.~~**

~~To facilitate the proper functioning of the general district and circuit courts of the city when in session, the city manager, or his duly authorized official, is authorized to issue to any person summoned for jury service, special exemption certificates which, when issued, would exempt the holder thereof from the provisions of the parking limitations posted on certain streets in the vicinity of the courthouse, to be designated by the city manager; and the city manager is further authorized and empowered to promulgate all necessary rules and regulations covering the issuance of such exemption certificates to effectuate such purpose. It shall be unlawful for any person to violate any rules and regulations promulgated hereunder.~~

4. That this ordinance shall become effective January 1, 2010.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

130LOrd

# Lynchburg City Code

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## Chapter 25 Motor Vehicles and Traffic

### ARTICLE VIII. STOPPING, STANDING AND PARKING\*

#### DIVISION 1. GENERALLY

##### **Sec. 25-247. Restricted and no-parking areas.**

The city ~~traffic engineer~~ manager or his designee is hereby authorized and directed to determine and define street areas within which the volume of vehicular traffic is such as to require restrictions upon parking of vehicles; to classify vehicles with reference to parking; to designate the time, place and manner in which such vehicles may be allowed to park upon the highways; to make such rules and regulations as traffic conditions may require in various areas and under the varying conditions which may prevail at different times. A listing of such restrictions shall be maintained in the traffic engineering files. It shall be the duty of the traffic engineer, upon the promulgation of such regulations, and before the same shall become effective, to give such public notice thereof, by establishing and posting signs, or otherwise, as may be reasonably adequate to make clear to the operators of vehicles in "no-parking" or "restricted parking" areas, the existence, nature and requirements of such regulations. From and after the effective date of regulations imposed in any area by virtue of the provisions of this chapter, it shall be unlawful for any person to stop or park any vehicle in any restricted or prohibited area otherwise than in accordance with these regulations.

##### **Sec. 25-247.1. Time zones.**

(a) "Time zone," as used in this division, refers to the areas designated by the city council or city manager in which the legal time limit for parking has been established and for which signage indicates the block time and limits of the zone. If there is parking available on both sides of the street in the designated time zone, both sides of the street are considered to be in the same time zone.

(b) Within a consecutive time period equal to the time limit posted, no person shall park a vehicle for longer than the posted time limit for the time zone or block.

(c) The provisions of this section shall apply between the hours designated by the city council or the city manager on all days, except Sundays or on the following holidays: New Year's Day, Martin Luther King Jr.'s birthday, President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and day after, Christmas Eve and Christmas Day or as otherwise designated by city council or the city manager.

**Sec. 25-247.2. Parking pay station.**

(a) No person shall park any vehicle in a parking space for a period of time in excess of the maximum time shown on the parking pay station for the parking space or indicated on signs in the block where the parking pay stations are located, or for a time period in excess of the time limits posted on the street or in a city parking facility.

(b) Within a consecutive time period equal to the time limit posted, no person shall park a vehicle for longer than the posted time limit for the time zone or block.

(c) The provisions of this section shall apply between the hours designated by city council or the city manager on all days, except Sundays or on the following holidays: New Year's Day, Martin Luther King, Jr.'s birthday, President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and day after, Christmas Eve and Christmas Day or as otherwise designated by city council or the city manager.

(d) In absence of other posted limits, parking pay stations shall be presumed to be in operation and require the deposit of the required parking fees between the hours of 7:00 a.m. and 5:00 p.m.

(e) No person shall deposit or cause to be deposited in a parking pay station any coin for the purpose of increasing or extending the parking time of any vehicle beyond the legal parking time.

(f) No person shall deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking pay station or sign installed under this division.

**Sec. 25-248. Ownership of vehicle presumption.**

In any prosecution charging a violation of any parking prohibition or restriction ordinance, regulation or rule, proof that the vehicle described in the complaint, summons or warrant was parked in violation of such ordinance, regulation or rule, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, as required by Code of Virginia, Chapter 3 (section 46.1-41 et seq.) shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred.

**Sec. 25-249. Penalty for violation of division.**

Unless otherwise provided, any person violating the provisions of this division relating to overtime parking shall be punished by a fine of ~~ten~~ twenty dollars (\$~~10~~20.00) for each offense; and any person violating the provisions of this division relating to parking in prohibited areas and loading zones shall be punished by a fine of ~~twenty~~ thirty dollars (\$~~20~~30.00) for each offense.

**Sec. 25-250. Stopping on highways—Generally.**

(a) No vehicle shall be stopped in such a manner as to impede or render dangerous the use of the street, alleyway or highway by others, except in the case of an emergency as the result of an accident or mechanical breakdown, in which case the emergency flashing lights of such vehicle shall be turned on if the vehicle is equipped with such lights and such lights are operating, and a report shall be made to the nearest police officer as soon as practicable and the vehicle shall be removed from the roadway to the shoulder as soon as possible and removed from the shoulder without unnecessary delay; and if such vehicle is not promptly removed, such removal may also be ordered by a police officer at the expense of the owner if the disabled vehicle creates a traffic hazard.

~~(b) No person shall leave any vehicle, attended or unattended, upon the paved, improved or main-traveled portion of any highway, outside of the business or residence district, when it is practicable to leave such vehicle standing off the paved, improved or main-traveled portion of such highway.~~

~~(e)~~(b) Except upon one-way streets as ~~provided in this chapter~~, and when actually loading or unloading merchandise as provided in Section 25-259, no vehicle shall be stopped except close to and parallel to the right-hand edge of the curb or roadway. In no instance shall such vehicle be parked with the near wheels further than six (6) inches from the curb.

~~(d)~~(c) No vehicle shall be stopped at or in the vicinity of a fire, vehicle or airplane accident or other area of emergency, in such a manner as to create a traffic hazard or interfere with the necessary procedures of police officers, fire fighters, rescue workers or others whose duty it is to deal with such emergencies. Any vehicle found unlawfully parked in the vicinity of such fire, accident or area of emergency may be removed by order of a police officer or in the absence of a police officer, by order of the uniformed fire or rescue officer in charge at the risk and expense, not to exceed twenty-five dollars (\$25.00), of the owner of the vehicle if such vehicle creates a traffic hazard or interferes with the necessary procedures of police officers, fire fighters, rescue workers or others whose assigned duty is to deal with such emergencies. Vehicles being used by accredited information services, such as press, radio and television, when being used for the gathering of news, shall be exempt from the provisions of this section, except when actually obstructing the police officers, fire fighters and rescue workers dealing with such emergencies.

~~(e)~~(d) The provisions of this section shall not apply to any vehicle owned or controlled by the Commonwealth of Virginia Department of Highways and Transportation, or the city, while actually engaged in the construction, reconstruction or maintenance of highways.



**Sec. 25-251. Same—Mail vehicles.**

The provisions of section 25-250(a) shall not apply to any rural mail carrier stopping on the highway while loading or unloading mail at a mailbox; provided that there be lettered on a sign securely attached to and displayed at the rear of such vehicle, in letters at least four (4) inches in height, the following:

CAUTION  
FREQUENT STOPS  
U.S. MAIL

Nor shall the provisions of section 25-250(a) apply to such mail carrier so stopped if, in lieu of such sign, the vehicle has, and is using, supplemental turn signals mounted at each side of the vehicle upon the roof. Between the lights on the assembly shall be mounted a sign with the words "U.S. Mail," which sign shall be yellow with black letters at least four (4) inches in height, and which light shall be of the type approved by the superintendent of state police. The lettered sign shall be folded down out of vision prior to the first stop on the route and following the last stop on the route.

Provided, further, that nothing in this section shall be construed so as to relieve any such mail carrier from civil liability for such stopping on any highway, if he is negligent in so doing, and if such negligence proximately contributes to any personal injury or property damage resulting therefrom.

**Sec. 25-252. To discharge cargo or passengers; school buses.**

No truck or bus, or part thereof, except a school bus or public transit bus, shall be stopped on the traveled portion of any highway for the purpose of taking on or discharging cargo or passengers, unless the operator cannot leave the traveled portion of the highway with safety. A school bus or public transit bus may be stopped on the traveled portion of the highway when taking on or discharging passengers ~~school children~~, but these stops shall be made only at points where it can be clearly seen for a safe distance from both directions.

**Sec. 25-253. Flares and other signals when vehicle disabled on highway after dark—Required.**

Whenever any bus, truck, trailer, house trailer or mobile home is disabled and stops upon any portion of the traveled portion of any highway in this city, except upon streets or highways which are artificially lighted at night, at any time during which lights are required upon motor vehicles by section 25-320, the operator of such bus, truck, trailer, house trailer or mobile home shall place or cause to be placed on the roadway three (3) red reflector flares or torches of a type approved by the superintendent. One of the flares or torches shall be placed in the center of the lane of traffic occupied by the disabled bus, truck, trailer, house trailer or mobile home

and not less than one hundred (100) feet therefrom in the direction of the traffic approaching in that lane, one not less than one hundred (100) feet from such bus, truck, trailer, house trailer or mobile home in the opposite direction and one at the traffic side of such bus, truck, trailer, house trailer or mobile home not closer than ten (10) feet from the front or rear thereof; provided, however, that if such bus, truck, trailer, house trailer or mobile home is disabled within five hundred (500) feet of a curve or crest of a hill, or other obstruction to view, the flares or torches in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than five hundred (500) feet from the disabled vehicle. Red reflectorized triangular warning devices of a type approved by the superintendent may be used in lieu of flares or torches.

**Sec. 25-254. Same—When red reflector flares or lanterns required.**

If any vehicle referred to in Section 25-253 is used for the transportation of flammable liquids in bulk, whether loaded or empty, or for transporting flammable gases, red reflector flares or red electric lanterns of a type approved by the superintendent shall be used. Such reflectors or lanterns shall be lighted and placed upon the roadway in the manner provided in section 25-253.

**Sec. 25-255. Same—When red flags required instead of flares, etc.**

During such time as lights on motor vehicles are not required red flags not less than twelve (12) inches both in length and width shall be used in place of flares, torches, reflectors or lanterns. The flags shall be placed upon the roadway in the manner prescribed in sections 25-253 and 25-254 for flares, torches, reflectors and lanterns, except that no flag shall be required to be placed at the side of such vehicle; but if the disablement of such vehicle continues into the period when lights on motor vehicles are required, flares, torches, reflectors or lanterns shall be placed as required by sections 25-253 and 25-254. Red reflectorized triangular warning devices of a type approved by the superintendent may be used in lieu of flags.

**Sec. 25-256. Parking prohibited in specified places.**

(a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or where authorized by a traffic-control device, including official signs or pavement markings, in any of the following places:

- (1) On a sidewalk or city trail;
- (2) In front of a public or private driveway so as to block ingress or egress;
- (3) Within an intersection or traveled way;
- (4) Within fifteen (15) feet of a fire hydrant;

- (5) On a crosswalk;
- (6) Within twenty (20) feet of a crosswalk at an intersection;
- (7) Within thirty (30) feet upon the approach to any flashing beacon, stop or yield sign or traffic-control signal located at the side of a roadway;
- ~~(8) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings;~~
- ~~(9)~~(8) Within fifty (50) feet of the nearest rail of a railroad grade crossing;
- ~~(10)~~(9) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly signposted;
- ~~(11)~~(10) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic;
- ~~(12)~~(11) On the roadway side of any vehicle parked at the edge or curb of a street;
- ~~(13)~~(12) Upon any bridge or other elevated structure upon a street or highway or within a tunnel;
- ~~(14)~~(13) At any place where official signs and/or pavement markings prohibit parking;
- ~~(15)~~(14) Between the street curb, or the edge of the paved portion of the roadway when there is no street curb, and the adjacent sidewalk;
- (15) Between the street curb and the adjacent right-of-way line or sidewalk so as to cause the continual mounting and/or dismounting of the curbing.
- (b) No person other than a police officer shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful, or start or cause to be started the motor of any motor vehicle, or shift, change or move the levers, brake, starting device, gears or other mechanism of a parked motor vehicle to a position other than that in which it was left by the owner or driver thereof, or attempt to do so.

**Sec. 25-257. Parking on private property.**

No person shall stand or park a vehicle on any private property or lot area without the express or implied consent of the owner thereof. Whenever signs or markings

have been erected on any lot or lot area, contiguous or adjacent to a street, thoroughfare or alley indicating that no vehicles are permitted to stand or park thereon, it shall be unlawful for any person to drive a vehicle across any curb or lot line or over any driveway from a street or alley into such lot or area for the purpose of standing or parking such vehicle, or for any person to stop, stand or park any vehicle in such property or lot area.

**Sec. 25-257.1. Parking on city property.**

The city ~~traffic engineer~~ manager or his designee is hereby authorized to establish regulations concerning the parking of vehicles on all property owned or leased by the city, including, pursuant to Section 25-267 of this code, the towing of vehicles parked on such property in violation of such regulations. He shall cause signs to be erected at or near each place to be so regulated sufficient to apprise an ordinarily observant person of such regulations. It shall be unlawful for any person to fail to comply with the requirements of such signs. The provisions of this section shall apply to vehicles parked at the Lynchburg Regional Airport in violation of parking regulations.

**Sec. 25-257.2. Repealed by Ord. No. O-97-236, 11-25-97.**

**Sec. 25-258. Parking for certain purposes prohibited.**

(a) It shall be unlawful for any person to park or place any automobile, truck, trailer or other vehicle upon or in any street, alley or parkway for the purpose of selling or offering the same for sale or rent. No sign or lettering shall be attached or placed upon any automobile, truck, trailer or other vehicle parked in or upon any public street, alley, or parkway of the city indicating that such vehicle is offered for sale or for rent. It shall also be unlawful to park any vehicle upon any street in a business district from which any merchandise is being sold, except in the downtown business district by special permit.

(b) It shall be unlawful to stop a vehicle at any time upon the highway for the purpose of advertising any article of any kind, or to display thereupon advertisements of any article or advertisement for the sale of the vehicle itself.

**Sec. 25-259. Backing up to curbs.**

No vehicle shall be backed up to a curb, except during the time actually engaged in loading or unloading merchandise therefrom and shall not be positioned in such a manner as to block traffic. ~~provided, however, that on Main Street between Fourth and Thirteenth Streets, no vehicle shall be backed up to a curb for any purpose, without a special permit from the police division.~~

**Sec. 25-260. Angle or perpendicular parking.**

Notwithstanding any of the provisions of this chapter, the city manager or his designee may, when in his discretion the public interest so requires, provide for angle or perpendicular parking on any street, or portion thereof; provided, however, that such streets are marked so as to apprise an ordinarily observant person of the regulation.

**Sec. 25-261. Parking vehicles without state license on highways.**

It shall be unlawful to park any vehicle having no current state license on any highway.

**Sec. 25-261.1. Repealed by O-95-242, 9-12-95)**

**Sec. 25-262. Parking prohibitions within certain areas.**

(a) No vehicle, other than a passenger vehicle, pickup or panel truck not exceeding an actual gross weight of seven thousand five hundred (7,500) pounds, shall be parked or left standing in any street of the city in any residential district thereof, for any purpose or length of time, other than for the unloading and delivery or pick-up and loading of merchandise, materials or passengers or while making service calls. Provided, however, that even when engaged in the above-described activities no oversized vehicle shall be parked upon a residential street for any period in excess of forty-eight (48) hours. This prohibition shall not apply to vehicles being used in connection with city projects for the construction, repair, maintenance, remodeling, alteration, grading or other improvement of city-owned property, public streets, public sewers or city-owned utility lines. Vehicles being used in connection with non-city utility and construction work may be allowed to park on residential streets for periods in excess of forty-eight (48) hours with the prior written permission of the city traffic engineer.

(b) No vehicle intended or designed to transport caustic, flammable, explosive or otherwise dangerous materials shall be permitted to be parked over-night on a residential street.

(c) During the time an oversized vehicle is temporarily parked on a residential street it must be parked in such a manner that it does not impede or render dangerous the use of the public street by others.

**Sec. 25-263. Repealed by O-95-242, 9-12-95**

**~~Sec. 25-264. Exemption for jurors of parking limitations on certain streets.~~**

~~To facilitate the proper functioning of the general district and circuit courts of the city when in session, the city manager, or his duly authorized official, is authorized~~

~~to issue to any person summoned for jury service, special exemption certificates which, when issued, would exempt the holder thereof from the provisions of the parking limitations posted on certain streets in the vicinity of the courthouse, to be designated by the city manager; and the city manager is further authorized and empowered to promulgate all necessary rules and regulations covering the issuance of such exemption certificates to effectuate such purpose. It shall be unlawful for any person to violate any rules and regulations promulgated hereunder.~~

**Sec. 25-265. Manner of using loading zones.**

Where a loading and unloading zone has been set apart by the city manager or his designee in accordance with applicable provisions of this chapter, the following regulations shall apply with respect to the use of such areas:

(a) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zones are in effect. ~~All delivery vehicles, other than regular delivery trucks, using such loading zones shall be identified by the owner's or company's name in letters three (3) inches high on both sides of the vehicle.~~

(b) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers or bundles.

**Sec. 25-266. Manner of using bus stops and taxicab stands.**

Where a bus stop or taxicab stand has been set apart by the city manager in accordance with the applicable provisions of this chapter, no person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading or unloading of passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

**Sec. 25-267. Removal and disposition of vehicles unlawfully parked on private or city property.**

As authorized by Section 46.2-1232 of the Code of Virginia, ~~It~~ shall be lawful for any owner, operator or lessee of any parking lot or parking area or space therein, or part thereof, or of any other lot or building, including the city, or authorized agent of the person having control of such premises, to have any motor or other vehicle, occupying such lot, area, space or building, or part thereof, without the permission of such owner, operator, lessee or authorized agent of the one having the control of such premises removed, by towing or otherwise, to a licensed garage for storage

until called for by the owner or his agent; provided, that notice of such action shall be first or simultaneously therewith given to at least one (1) of the local law enforcement officers; provided further, that in the event of such removal and storage the owner of the vehicle involved shall be chargeable with and such vehicle may be held for a reasonable charge for its removal and storage. All businesses engaged in towing vehicles without the consent of their owners shall prominently display at their main place of business a comprehensive list of all their fees for towing, recovery and storage services, or the basis of such charges. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed, recovered or stored without his consent. However, notwithstanding the foregoing provisions of this section, if the owner of the trespassing vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner of the trespassing vehicle shall be liable for a reasonable fee not to exceed ~~twenty-five~~ fifty dollars (\$~~25~~50.00) in lieu of towing.

In lieu of having such vehicle removed by towing or otherwise, it shall be lawful for such owner, operator, lessee or authorized agent, including the city, to cause the vehicle to be immobilized by a boot or other device that prevents the vehicle from being moved by preventing a wheel from turning; provided such boot or other device is of a design that does no damage to the vehicle or wheel; and provided further, that the charge for the removal of such boot or device shall not exceed ~~twenty-five~~ fifty dollars (\$~~25~~50.00). In lieu of having such vehicle removed by towing or otherwise, or in lieu of causing the vehicle to be immobilized, it shall be lawful for such owner, operator, lessee or authorized agent to cause to ~~have~~ request a duly authorized police officer to issue on such premises a notice of a violation of Section 25-257 of the City Code to the registered owner of such vehicle.

This section shall not apply to ~~police, fire or public health~~ city or state owned vehicles or where a vehicle shall, because of a wreck or other emergency, be parked or left temporarily upon the property of another.

#### **Sec. 25-268. Liability for damage to vehicles parked in free parking lot.**

(a) No action shall lie or proceeding be brought against any person conducting any business and maintaining a parking lot, at which free parking accommodations are provided for customers or employees of such business, when a motor vehicle is parked in such parking lot, for the total or partial loss of such motor vehicle by reason of theft or damage by any person other than the employee or for the total or partial loss of property left in such motor vehicle by reason of theft or damage by any person other than an employee.

(b) As used in this section, "free parking accommodations" means parking accommodations for which no specific charge is made and the patronage of the business by customers and the performance of the regular services for the business

by employees shall not constitute the payment of any consideration for the use of the parking accommodations.

(c) Nothing in this section shall relieve any person of liability resulting from his own wrongdoing.

**Sec. 25-269. Removal or immobilization of motor vehicles against which there are outstanding parking violations.**

(a) Whenever there is found parked upon the public streets or highways or public grounds of the city any motor vehicle against which there are three (3) or more outstanding, unpaid or otherwise unsettled parking violation notices or citations, such vehicle may, by towing or otherwise, be removed to another place for temporary storage and safekeeping by an officer or employee of the police department, or by any other person acting under the direction of such officer or employee, or such vehicle may be immobilized in such manner as to prevent its removal or operation.

(b) It shall be the duty of any police officer or employee of the police department removing or immobilizing the motor vehicle, or under whose direction such vehicle is removed or immobilized, to inform as soon as practical the owner of the removed or immobilized vehicle of the nature and circumstances of the prior unsettled parking violation notices or citations for which the vehicle was removed or immobilized. In any case involving immobilization of a vehicle pursuant to this section, there shall be placed on such vehicle in a conspicuous manner, a notice warning that such vehicle has been immobilized and that any attempt to move the vehicle might damage it.

(c) The owner of an immobilized vehicle, or other person acting on the owner's behalf, shall be allowed at least twenty-four (24) hours from the time of immobilization to repossess or secure the release of the vehicle. Failure to repossess or secure the release of the vehicle within that time period may result in the removal of the vehicle to a storage area for safekeeping under the direction of a police officer or employee of the police department.

(d) The owner of such immobilized motor vehicle, or other person acting on the owner's behalf, may repossess or secure the release of the vehicle by payment of the outstanding parking violations notices or citations for which the vehicle was removed or immobilized and by payment of all reasonable costs incidental to the immobilization, removal and storage of the vehicle, and the efforts to locate the owner of the vehicle. Should the owner of the vehicle fail or refuse to pay such fines and costs, or should the identity or whereabouts of such owner be unknown and unascertainable, such motor vehicle may be sold in accordance with the procedures set forth in sections 46.2-12.13 and 46.2-12.17 of the Code of Virginia. Any personal property found in any unattended or abandoned motor vehicle, trailer, or



semitrailer may be sold incident to the sale of the vehicle as authorized in this section.

(e) The owner or other person entitled to lawful procession of a removed or immobilized motor vehicle shall have the right to request a hearing before the city's ~~manager~~ ~~director of finance~~ or his designee in order to determine the validity of the removal or immobilization. A hearing must be requested in writing within fourteen (14) days after the motor vehicle is immobilized or removed. Administrative hearings will be held between 8:30 a.m. and 5:00 p.m. any weekday which is not a holiday. The hearing officer will review the circumstances and any evidence presented and decide whether just cause existed for the removal or immobilization of a motor vehicle. Anyone wishing to contest a removal or immobilization, should bring the outstanding parking violation notices or citations along with the vehicle registration and any other documentation to be presented to the hearing officer. The removal, immobilization and storage cost will be waived only if the hearing officer determines that the vehicle was improperly removed or immobilized. The hearing shall be in the form of an administrative proceeding rather than a judicial trial and the rules of evidence shall not apply. The decision of the designated hearing officer is final and is not subject to appeal.

(f) Nothing in this section shall be construed to deprive any person of their constitutional right to a hearing in a court of competent jurisdiction as to the outstanding parking violation notices or citations which led to the removal or immobilization of the motor vehicle.

(g) The provisions of this section shall apply to motor vehicles parked at the Lynchburg Regional Airport.

#### **Sec. 25-270. Construction parking permits.**

Construction parking permits are issued by the inspections division of the community development department. Permits will be issued to vehicle owners who are actively engaged in the construction project (plumbing/electrical contractors, etc.). Construction parking permits shall only be issued for vehicles that are used to transport equipment, tools and supplies used by the owner at the work site.

#### **Sec. 25-271. Construction dumpster permits.**

Dumpster permits are required in order to place dumpsters in on-street parking spaces or on the city's right-of-way. Permits are issued by the inspections division of the community development department.

**Secs. 25-272—25-274. Reserved.**

## DIVISION 2. REMOVAL OF UNATTENDED, ABANDONED, ETC., VEHICLES

### Sec. 25-275. Removal authorized.

~~Whenever any motor vehicle, trailer or semitrailer is found on the public streets or public grounds unattended by the owner or operator and constitutes a hazard to traffic or is parked in such manner as to be in violation of law or whenever any motor vehicle, trailer or semitrailer is left unattended for more than ten (10) days upon any public property or privately owned property other than the property of the owner of such motor vehicle, trailer or semitrailer, within the city, or is abandoned upon such public property or privately owned property, without the permission of the owner, lessee or occupant thereof, or whenever any motor vehicle, trailer or semitrailer is stalled or rendered immobile as the result of adverse weather conditions or other emergency situations on any public roadway, any such motor vehicle, trailer or semitrailer may be removed for safekeeping by or under the direction of a police officer to a storage garage or area provided; however, that no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof. For purposes of this division it shall be presumed that such motor vehicle, trailer or semitrailer, or part thereof, is abandoned if (1) it lacks either: (a) a current license plate, or (b) a current county, city or town plate or sticker or (c) a valid state inspection certificate or sticker and (2) it has been in a specific location for four (4) days without being moved.~~

Whenever any motor vehicle, trailer, semitrailer, or part thereof (i) is left unattended on a public highway or other public property and constitutes a traffic hazard, (ii) is illegally parked, (iii) is left unattended for more than ten (10) days either on public property or on private property without the permission of the property owner, lessee, or occupant, or (iv) is immobilized on a public roadway by weather conditions or other emergency situation, such motor vehicle, trailer, semitrailer, or part thereof may be removed for safekeeping by or under the direction of a police officer.

A motor vehicle, trailer, semitrailer, and part thereof may not be removed from private property without the written request of the owner, lessee, or occupant of the premises. The person at whose request the motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer is removed from private property shall indemnify the city, against any loss or expense incurred by reason of removal, storage, or sale thereof. It shall be presumed that such motor vehicle, trailer, semitrailer, or part thereof is abandoned if it (i) lacks either a current license plate, or a valid state safety inspection certificate or sticker, and (ii) it has been in a specific location for four (4) days without being moved. As promptly as possible, each removal shall be reported to the police department and to the owner of the motor vehicle, trailer, or semitrailer. Before obtaining possession of the motor vehicle, trailer, semitrailer, or part thereof, the owner of the vehicle shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating the said owner. If the owner of the vehicle fails or refuses to pay the cost or if his

identity or whereabouts is unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record with the office of the department of motor vehicles against the motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer, the vehicle shall be treated as an abandoned vehicle under the provisions of Article 1 of Title 46.2 of the Code of Virginia and may be sold in accordance with the procedures set forth in sections 46.2-12.13 and 46.2-12.17 of the Code of Virginia. Any personal property found in any unattended or abandoned motor vehicle, trailer, or semitrailer may be sold incident to the sale of the vehicle as authorized in this section.

**Sec. 25-276. Liability.**

The person at whose request a motor vehicle, trailer or semitrailer is removed from privately owned property under the provisions of this division shall indemnify the city against any loss or expense incurred by reason of removal, storage or sale thereof.

**Sec. 25-277. Notice generally.**

Each removal of a vehicle under the provisions of this division shall be reported immediately to the chief of police, who shall give notice to the owner of the motor vehicle, trailer or semitrailer as promptly as possible.

**Sec. 25-278. Redemption by owner.**

The owner of any motor vehicle, trailer or semitrailer removed under the provisions of this division, before obtaining possession thereof, shall pay to the city all reasonable costs incidental to the removal, storage and location of such ~~owner~~ vehicle.

**Sec. 25-279. Sale authorized.**

Should the owner of a vehicle removed under the provisions of this division fail or refuse to pay the costs of such removal and storage thereof, or should the identity or whereabouts of such owner be unknown or unascertainable after a diligent search has been made, and after notice to him at his last-known address and to the holder of any lien of record in the office of the state division of motor vehicles, the chief of police after holding the motor vehicle, trailer or semitrailer thirty (30) days and after due notice of sale, dispose of the same at public sale and the proceeds from such sale shall be forwarded by the chief of police to the city collector.

**Sec. 25-280. Value less than one hundred fifty dollars.**

If the value of any motor vehicle, trailer or semitrailer removed under the provisions of this division be determined by three (3) disinterested dealers or garagemen to be less than one hundred fifty dollars (\$150.00) which would be incurred by such advertising and public sale, it may be disposed of by private sale or junked.

**Sec. 25-281. Disbursement of proceeds from sale.**

The city collector shall pay from the proceeds of the sale of any motor vehicle removed under the provisions of this division the cost of removal, storage, investigation as to ownership and liens and notice of sale, and the balance of such funds shall be held by him for the owner of such vehicle and paid to him upon satisfactory proof of ownership.

**Sec. 25-282. Special fund.**

If no claim has been made by the owner of any motor vehicle, trailer or semitrailer removed and sold under the provisions of this division for the proceeds of such sale, after the payment of the cost of administering this division, the funds shall be deposited in a special fund established by the city for this purpose. Any such owner shall be entitled to apply to the city within three (3) years from the date of such sale and if timely application is made therefor, the city will pay the same to the owner without interest or other charges. No claim shall be made nor shall any suit, action or proceeding be initiated for the recovery of such funds after three (3) years from the date of such sale. This section shall not operate to deprive the city of other remedies available under law to obtain payment from the owner of unattended, abandoned or immobile vehicles for towing, storage or services rendered.

**Sec. 25-283. Contracts with private persons for removal, etc., of vehicles.**

The city manager shall have the power to enter into contracts with the owner or operator of garages or places for the removal or storage of vehicles referred to in this division. The contracts shall provide for the payment by the city of reasonable charges for the removal and storage of such vehicles, shall require such owners or operators to deliver such vehicles to the owners thereof or to their agents upon demand therefor upon furnishing satisfactory evidence of identity and ownership or agency, and that the owners or operators of such garages or places of storage will indemnify the owners of such vehicles for injury or damage thereto resulting from the negligent removal or storage thereof, and such owners or operators shall be required to provide themselves with adequate liability insurance to cover such indemnity.

**Secs. 25-284—25-289. Reserved.**

### **DIVISION 3. PERMIT PARKING**

#### **Sec. 25-290. Purposes of system.**

In order to reduce hazardous traffic conditions resulting from the use of streets within areas zoned for residential uses for the parking of vehicles by persons not residing therein; to protect those areas from polluted air, excessive noise, trash and refuse caused by the entry of such vehicles; to protect the residents of those areas from unreasonable burdens in gaining access to their residences; to preserve the residential character of those areas; to promote efficiency in the maintenance of those streets in a clean and safe condition; to preserve the value of the property in those areas, and to preserve the safety of children and other pedestrians in traffic safety, and the peace, good order, comfort, convenience and welfare of the inhabitants of the city; it is necessary to establish a system of permit parking.

#### **Sec. 25-291. Definition.**

For the purposes of this division, the term “resident” shall be deemed to mean a person who customarily resides and maintains a place of abode within the permit parking district, or who owns realty abutting a street or public way within such a district upon which a dwelling intended for human habitation is located.

#### **Sec. 25-292. Violations.**

(a) Any person violating the provisions of this division shall, upon conviction thereof, be punished by a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00) for each offense.

(b) In any prosecution charging a violation of this division, proof that the vehicle described in the complaint, summons or warrant was parked in violation of this ordinance, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, as required by the Code of Virginia, Chapter 3 (Section 46.1-41, et seq.). shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred.

(c) If any person transfers, or allows others to use or possess any parking permit issued to them, or gives false answers upon application therefor, or uses or continues to use such parking permit after termination or expiration thereof by expiration of time or operation of law or cessation of residence, or violates any of the terms, conditions, rules or regulations applicable to same, such person shall be guilty of a class 4 misdemeanor.

#### **Sec. 25-293. Designation of area.**

Should the city manager, based upon studies conducted by the city traffic engineer, ascertain that parking spaces on the streets within a particular residential area or distinct portion of such residential area, not less than the lesser of three hundred and sixty (360) feet or one city block, unless the street in such district is abutted by unimproved land, in which case said minimum lengths shall not apply, are used for the consistent parking of vehicles not belonging to the residents of the particular area to such an extent as to create congestion, excessive noise, air pollution, and cause the residents of such areas unreasonable burdens in gaining access to their residences and that through a petition to the city signed by the a majority of the contiguous property owners to the streets of such area, or portion thereof, desire the establishment of such area as a permit parking area, then the city manager shall establish such area as a permit parking district. The issuance of a permit does not guarantee an on-street parking space will be available.

#### **Sec. 25-294. Appeal from designation.**

Any resident of a permit parking district area may appeal the decision of the city manager to the city council. Notice of appeal shall be in writing and filed within thirty (30) days after the decision is rendered by the city manager.

#### **Sec. 25-295. Exceptions.**

The parking prohibitions of this division shall not apply to service or delivery vehicles which are being used to provide services to or make deliveries to residents of the permit parking district.

#### **Sec. 25-296. Permit required.**

Unless a parking permit, validly issued pursuant to regulations contained in or adopted pursuant to this division, be properly displayed, no vehicle shall be parked upon any street or public way within a permit district.

#### **Sec. 25-297. Application for permit.**

Permanent residents within a permit parking district may apply to the city collector billings and collections division for a permit to park their vehicle(s) upon the streets or public ways of the permit parking district in which such applicant resides.

#### **Sec. 25-298. Permit fees.**

A fee of ~~three~~ fifteen dollars (\$~~3~~15.00) shall be charged each resident for the issuance of one (1) parking permit, and a fee of ~~three~~ fifteen dollars (\$~~3~~15.00) shall be charged each resident for each additional or replacement permit, such fee to be

used by the city to defray the cost of the administration and enforcement of the provisions of this division.

**Sec. 25-299. Issuance.**

Upon proof that the applicant for a permit required by the provisions of this division is a resident of the permit parking district, a parking permit shall be issued for each vehicle owned by such applicant.

**Sec. 25-300. Duration.**

Permits issued under the provisions of this division shall be valid for a period of one year.

**Sec. 25-301. Nontransferable.**

A permit issued under the provisions of this division shall be personal, nonassignable and nontransferable. Each such permit shall be valid only for a specifically prescribed vehicle.

**Sec. 25-302. Visitor passes.**

Each household shall receive ~~three (3)~~ two (2) visitor passes at no additional charge.

**Sec. 25-303. Signs.**

The city manager or his duly designated representative shall cause appropriate signs to be placed upon all streets of the permit parking district, such signs to be of such character as to readily inform an ordinarily observant person of the existence of the parking prohibition within said district.

**Sec. 25-304 Permit parking in certain designated areas of church and court streets ~~business districts~~.**

(a) In order to protect the residents of certain designated areas of Church and Court streets ~~business districts~~ that do not have off street parking from unreasonable burdens in gaining access to their residence and in order to promote traffic safety and the peace, good order, comfort, convenience and welfare of the inhabitation of the city, the city finds that it is necessary to establish a system of permit parking for residents of business districts.

(b) For purposes of this section the term "resident" shall be deemed to mean a person that resides and maintains a place of abode within a business district and does not have off street parking for their vehicle.

(c) A resident in a business district that does not have off street parking for their vehicle may apply to the billings and collections division ~~city collector~~ for a parking permit to park their vehicle in the public streets adjoining their residence in the business district in which they live without regard to the normal restrictions on the length of parking time. Two (2) permit(s) shall be issued for each residential lot.

(d) The parking permit shall be displayed from the rear view mirror of the vehicle in such a manner that it may be viewed from the front and rear of the vehicle. When there is no rear view mirror the permit shall be displayed on the vehicle dashboard. The permit shall not be displayed from the rear view mirror while the vehicle is in motion. If the permit is not properly displayed the normal restrictions on the length of permitted parking time shall apply.

(e) A fee of ~~three~~ fifteen dollars (\$~~3~~15.00) shall be charged for each permit issued or each replacement permit. The fees will be used by the city to defray the cost of the Administration and enforcement of the provisions of this section.

(f) Permits issued under this section are valid only on the vehicle for which they are issued and shall be valid for a period of one (1) year.

(g) The person shall not transfer or allow another person to use or possess any parking permit issued to them or continue to use a permit after its termination or expiration or give false information upon application for the permit. Nor shall any person use a permit to park upon the public streets in any business district except for the public streets adjoining their residence.

(h) Any person violating any of the provisions of this section shall be punished by a fine of not more than two hundred fifty dollars (\$250.00) ~~guilty of a class 1 misdemeanor~~. In addition the parking permit of such person shall be terminated by the billings and collections division ~~city collector~~.

#### **Sec. 25-305. Permit parking in the central business district (CBD).**

(a) In order to protect residents of the central business districts who do not have off-street parking from unreasonable burdens in gaining access to their residences and in order to promote traffic safety and the peace, good order, comfort, convenience and welfare of the inhabitants of the city, the city finds that it is necessary to establish a system of permit parking for residents of the central business district.

(b) Residents who live in the central business district (CBD—designated as that area of downtown from Fifth Street to the Rt 29 Business Expressway and from Clay Street to the riverfront) or residential property owners may apply for a CBD residential parking permit. The permit will allow residents to park in an assigned city off street parking facility closest to their residence twenty-four hours (24) per day, seven (7) days per week. Approval will be based on parking spaces availability. The cost for the first permit shall be twenty-five dollars (\$25.00) per month. Each



additional permit shall cost fifty dollars (\$50.00) per month. Proof of residence is required and maybe satisfied by a copy of a current lease/mortgage document reflecting the residential address, a valid Virginia driver's license reflecting the residential address or current vehicle registration.

(c) A resident shall not transfer or allow another person to use or possess any parking permit issued to them or continue to use a permit after its termination or expiration or give false information upon application for the permit. Nor shall any person use a permit to park upon the public streets in the central business district.

(d) Permits issued under this section are valid only on the vehicle for which they are issued and shall be valid for a period of one (1) year.

(e) Any person violating any of the provisions of this section shall be punished by a fine of not more that two hundred fifty dollars (\$250.00). In addition the parking permit of such person shall be terminated by the billings and collections division.

**Secs. 25-306—25-309. Reserved.**

#### **DIVISION 4. PARKING FOR PERSONS WITH DISABILITIES**

##### **Sec. 25-310. Parking in spaces reserved for persons with disabilities; penalty.**

(a) No vehicles other than those displaying disabled parking license plates, organizational removable windshield placards, permanent removable windshield placards, or temporary removable windshield placards issued under §46.2-1241 of the state code, or DV disabled parking license plates issued under subsection B of §46.2-739 of the state code, shall park in any parking spaces reserved for persons with disabilities.

(1) No person without a disability that limits or impairs his ability to walk shall park a vehicle with disabled parking license plates, organizational removable windshield placards, permanent removable windshield placards, temporary removable windshield placards, or DV disabled parking license plates issued under subsection B of §46.2-739 of the state code in a parking space reserved for persons with disabilities that limit or impair their ability to walk except when transporting a disabled person in the vehicle.

(2) A summons or parking ticket for the offense may be issued by law-enforcement officers or uniformed law-enforcement department employees without the necessity of a warrant's being obtained by the owner of any private parking area.

(3) Parking a vehicle in a space reserved for persons with disabilities in violation of this section shall be punishable by a fine of one hundred dollars (\$100.00).

(b) No person shall use or display an organizational removable windshield placard, permanent removable windshield placard or temporary removable windshield placard beyond its expiration date. A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00).

(c) Organizational removable windshield placards, permanent removable windshield placards and temporary removable windshield placards shall be displayed in such a manner that they may be viewed from the front and rear of the vehicle and be hanging from the rearview mirror of a vehicle utilizing a parking space reserved for persons with disabilities that limit or impair their ability to walk. When there is no rearview mirror, the placard shall be displayed on the vehicle's dashboard. No placard shall be displayed from the rearview mirror while a vehicle is in motion. A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00).

(d) In any prosecution charging a violation of this section, proof that the vehicle described in the complaint, summons, parking ticket, citation, or warrant was parked in violation of this section, together with proof that the defendant was at the time the registered owner of the vehicle, shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.

(e) No violation of this section shall be dismissed for a property owner's failure to comply strictly with the requirements for disabled parking signs set forth in §36-99.11 of the state code, provided the space is clearly distinguishable as a parking space reserved for persons with disabilities that limit or impair their ability to walk.

#### **Sec. 25-310.1. Adoption of state law.**

Pursuant to the provisions of Title 46.2 of the Code of Virginia (1950) as amended, all of the provisions and requirements of Sections 46.2-1240, 46.2-1247, 46.2-1248, 46.2-1249, 46.2-1250, 46.2-1251, 46.2-1252 and 46.2-1253 of the Code of Virginia (1950) as amended, and in effect on July 1, 1997, are hereby adopted and made a part of this division and this chapter as fully as though set out and are hereby made applicable within the city. It shall be unlawful for any person, within the city, to violate or fail, neglect or refuse to comply with any section of the Code of Virginia which is adopted by this section. Pursuant to the provisions of Section 1-12.39:2 of the Code of Virginia, future amendments to the sections of the Code of Virginia, that are incorporated in this section are also automatically incorporated by reference herein.

#### **Secs. 25-311—25-316. Reserved.**