// A regular meeting of the Council of the City of Lynchburg was held on the 12 day of October, 2010, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

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

Absent: 0

// City Manager Kimball Payne gave a brief overview stating that Council requested a report on the Deer Permit Kill Program, which more appropriately is called the Lynchburg Wildlife Management Program. Chief Animal Warden Faust was present to answer questions by Council.

Council Member Perrow asked Mr. Faust how the Deer Permit Kill program was working. Mr. Faust stated that the program has accomplished the purpose for which it was originally created. He explained that the ideal purpose of the program was to reduce the deer population. Mr. Faust went on to say that this program was not set up as a recreational program but to kill the deer.

Council Member Perrow also stated that one of the criticisms of the program is that it is not advertised enough, it does not appear on the Police Department's or the City's website and that landowners are confused on how to go through the process. Mr. Faust responded to Council Member Perrow's questions by stating that the program is advertised on the Gaming Commission's website and the State website and that each year it has to be updated with the Gaming Commission. Mr. Faust further stated that a big problem is that bow hunting permits are issued to landowners but often the bow hunters have chosen not to hunt on the property.

// Human Resources Director Margaret Schmitt gave a report on the Virginia Retirement System (VRS). Mrs. Schmitt stated that the Constitution of Virginia requires that the General Assembly maintain a retirement system and Title 51.1 of the State Code includes the requirements for localities to participate in VRS or have an equivalent program. Mrs. Schmitt also provided the City's history with the VRS.

Council Member Helgeson asked if some of the enhancements made to the VRS program by the City were irrevocable whereby Ms. Schmitt stated that each decision the City made regarding VRS were irrevocable decisions. Ms. Schmitt further stated that in addition to retirement income, it is the disability coverage which is a very significant benefit. Mrs. Schmitt went on to say that VRS' responses to the City's questions about cost drivers were:

- Proportion of retirees and actives who receive enhanced hazardous duty benefits (LEOS)
- Active employees are younger with more service and higher salaries
- Retirees are younger with higher months of service and higher salaries
- Salary growth substantially exceeded assumptions: 3-5% assumption vs 10–13% actual

Ms. Schmitt explained the additional benefits that public safety employees receive beyond the normal VRS benefits that other employees receive. The Public Safety employees for the City include police, fire and EMTs. Ms. Schmitt further stated that compared to other localities, the City is disproportionately heavy in Public Safety which is the most expensive group receiving these benefits.

Mrs. Schmitt stated that there is no precedent for withdrawing from VRS and would require:

- General Assembly action in two areas:
  - Establish the ability to withdraw
  - Remove requirement to have an equivalent program
- Legislation must include the method of transition such as:
  - Addressing the unfunded liability of $85.M
  - On-going benefits for current retirees and active employees

Other considerations are:

- Requires an analysis of the recruitment and retention impact, especially in Public Safety, of no longer participating in VRS
- Requires analysis and decisions about the type of plan to be offered, e.g. 457 plan contributions, IRA contributions, individual annuities, life insurance purchase, Health Savings Accounts, etc
- Actuaries must be contracted or employed to determine the cost of a new Plan
- A method must be established to fund a new Plan
- Investment professionals or staff responsibilities must be determined to ensure wise resource investments

During Council discussion, Council Member Perrow asked Council if they had a desire to pursue any major change on how the City is handling VRS? Is the City spending its resources efficiently by continuing to pursue this or are we going to accept what it is or are we going to try to make changes to the program? Several Council Members had suggestions regarding VRS program:

- having two separate plans
- get local area legislators involved
- “piggy back” off someone else
- collaborate with other municipalities
- find ways to reduce Lynchburg’s VRS costs
- initiate a short term disability program
- lobby for adjustments for VRS benefits

City Manager Kimball Payne stated that there are two questions; does the City want to initiative legislation on its own and how complex would that be or does the City want to have a general support position? Council Member Perrow suggested that the City modify its Legislative Agenda to take these issues into account.

// During roll call Council Member Cary stated that he attended the Dearing Street Neighborhood Watch Meeting and that everyone in attendance seemed to know where the drug house was located and the sooner the police can shut the house down on Early Street the better off we would be. There is also a house being used as a boarding house, there is an out-of-state owner who does not seem to be responsive, those are two real problem areas in that neighborhood that we need to follow through to help make it a much safer place for our citizens to live. Council Member Gillette asked City Manager Payne if he was aware of "The Healing Place", it's a model program for substance abuse recovery. Council Member Gillette stated that he has been contacted by an individual who is pushing for the development of a healing place model which puts regional centers in different localities and Lynchburg would be considered as one of those localities. It is not a local program and would not require local contributions but they are lobbying on the State level to get State support for them. The question was asked if that item could be added to the Legislative Agenda. Council Member Gillette further asked the City Manager if he could give it some consideration and report back to Council whether or not it is consistent with the goals of our Legislative Agenda.

// City Council recessed the meeting at 7:12 p.m.

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

The following Members were present:

Present:	Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Absent:		0

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

// Mayor Foster and Vice Mayor Johnson presented a Certificate of Recognition for Pink Week – National Breast Cancer Awareness Month.

// Copies of the minutes of the September 28, 2010 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Cary, Council by the following recorded vote approved the minutes as presented:

Ayes:	Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Noes:		0

// In the matter of Finance – General, Resolution #R-10-110 amending the FY 2011 Operating Budget and appropriating funds to reflect the carry forward of unexpended funds in FY 2010, as amended laid over from the September 28, 2010 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Cary, Council by the following recorded vote adopted the Resolution:

Ayes:	Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Noes:		0

// In the matter of Police – General, City Council Report #6 was considered. On motion of Council Member Gillette, seconded by Council Member Cary, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-111, as presented, amending the FY 2011 City/Federal/State Aid Fund budget and appropriating $33,075, with resources of $16,537 from the Bulletproof Vest Partnership 2010 Grant Program to purchase 52 replacement bulletproof vests for law enforcement officers:

Ayes:	Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Noes:		0

// In the matter of Police – General, City Council Report #7 was considered. On motion of Council Member Gillette, seconded by Council Member Cary, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-112, as presented, amending the FY 2011 City/Federal/State Aid Fund budget and appropriating $59,150, fully reimbursable, to purchase computer equipment/related software, licensing, training, and office equipment for the Police Department's Computer Evidence Recovery and Vice/Narcotics Units:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// In the matter of Commonwealth Attorney, City Council Report #8 was considered. On motion of Council Member Gillette, seconded by Council Member Cary, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-113, as presented, amending the FY 2011 City/Federal/State Aid Fund budget and appropriating $200,000, fully reimbursable, to support the domestic violence and intimate partner prosecution team:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// In the matter of Community Development – General, City Council Report # 9 was considered. On motion of Council Member Gillette, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-10-114, as presented, approving the renaming of an Existing Private Street "Research Lab Road" to "Hershey-Esbenshade Drive" and the renaming of an Existing Public Street "University Boulevard" to "Liberty University Drive:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// In the matter of Public Works – General, a public hearing was held regarding City Council Report #10 regarding authorizing the City Manager to convey approximately 0.064 acre of real property on Langhorne Road to the Trustees of Peaceful Baptist Church in exchange for real property from the church related to the construction of the Midtown Connector Project. Engineer J. P. Morris gave a brief summary of the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted Resolution #R-10-115, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// In the matter of Public Works – General, a public hearing was held regarding City Council Report #11 authorizing condemnation proceedings for thirteen (13) parcels of property for Phase I of the Midtown Connector Project. Engineering Project Manager J. P. Morris provided a brief explanation of the proposed request. Mr. Morris stated that he would give a brief report on each particular parcel. Mr. Morris stated that the objective is to have this project advertised for bids before the end of this calendar year. Mr. Morris further stated that Virginia Department of Transportation (VDOT) is on board with this request to get federal funds allocated. Mr. Morris also stated that this project will be constructed through the 2011, 2012 and

2013 calendar years and completion targeted for later part of 2013. Mr. Morris went on to say that this project extends from the Expressway up Kemper Street, follows Park Avenue from the Triangle Diner up to Miller Park and at Miller Park it takes a right turn and follows Langhorne Road up to Memorial Avenue with minor work across Memorial to the High School.

Mr. Morris stated that Glenn A. Trent Sr. & Jane M. Rigney-Trent have worked diligently with the City to make sure the sign replacement cost is correct and is still negotiating. There was no one else present who wished to speak to this item, and the public hearing was closed.

Council Member Helgeson made a general statement regarding the properties on Park Avenue that had bicycle paths included. Council Member Helgeson stated that he was apprehensive about the paths; that he can understand widening the road for vehicular traffic but was concerned about inclusion of the bicycle paths. In response to Council Member Helgeson's question regarding the bicycle paths, Mr. Morris stated that this is more than a roadway improvement project. Mr. Morris further stated that there are bicycle lanes along Park Avenue from Kemper Street intersection all the way up to the Miller Park vicinity. There are also pedestrian improvements along with vehicular and bicycle improvements. Mr. Morris went on to say that the bicycle lanes would only be on Park Avenue.

Council Member Perrow stated he was going to make comments relative to this one which would probably blanket all the other comments so he wouldn't have to comment individually on any of these properties. We need to move this process forward so we are not holding up construction and the public dollars that are tied up in this fund. What we are doing tonight is setting what the baseline of the value of the property is and that if no other agreement is reached, that value could be contested at a later date in the courts without holding up the process. Council Member Perrow went on to say he supports the condemnation of these properties.

Council Member Gillette stated that his comments were general comments that would apply to all of the properties. He further stated that he wanted everyone who is watching these proceedings to understand Council is not taking private property for the purposes of transferring it to another private owner in order that we might then have a profit generating entity come into our City. This is a legitimate public use and therefore he intends to support this series of public hearings as well. On motion of Council Member Gillette, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-10-116, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Noes:	0

// A public hearing was held regarding authorizing condemnation proceedings for John F. Nichols & Patricia H. Nichols - 1100 Kemper Street. Engineering Project Manager J. P. Morris gave a brief report on this property stating that this property is the old MAACO property. Mr. Morris stated that the reason there is no certificate of parcel satisfaction is because there is a lien on the property.

There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Cary, seconded by Council Member Gillette, Council by the following recorded vote to adopted Resolution #R-10-117, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Noes:	0

// A public hearing was held regarding authorizing condemnation proceedings for Patricia K. Burley, M. Reid & Barbara L. Crawley - 1825 12th Street. Engineering Project Manager J. P. Morris gave a brief report stating that there are title issues with this property. Mr. Morris stated that the deed was recorded in error and a deed of correction is being done by the property owner so the title can be corrected. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-10-118, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// A public hearing was held regarding authorizing condemnation proceedings for Reginald R. Yancey - 1804 Park Avenue. Engineering Project Manager J. P. Morris gave a brief summary stating the property owner had concerns regarding his parking. Mr. Reginald Yancey spoke in opposition stating all of the land behind his building and the parking lot behind his building would be taken away. Mr. Yancey went on to say that a sign in the back of the property was not mentioned, and there would not be ample parking to continue to operate his business.

After Council discussion, Council Member Helgeson stated he agreed with the issues raised by Mr. Yancey and he is concerned about the bicycle paths on Park Avenue. Council Member Helgeson further stated this could have been avoided if the bicycle paths were not there. In response to Council Member Helgeson's concern, City Manager Kimball Payne stated that to delete the bicycle paths now could cost at least a quarter of million dollars, delay the project six to ten months and require another public hearing. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-10-119, as presented:

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

// A public hearing was held regarding authorizing condemnation proceedings for Winfred Davis - 2001 Park Avenue. Engineering Project Manager J. P. Morris gave a brief summary regarding the property. Mr. Morris stated that a settlement was reached in good faith but when it was time to obtain a signature, the property owner would come up with a different number and a different requirement. Mr. Morris went on to say that at this time no signature had been obtained.

There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Nelson, Council by the following recorded vote adopted Resolution #R-10-120, as presented:

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

// A public hearing was held regarding authorizing condemnation proceedings for Courtney D. Brown, William C. Rountrey, Jr. - 2101 Park Avenue. Engineering Project Manager J. P. Morris gave a brief summary stating that the landowner has signed the option agreement to settle but the bank has not provided a certificate of satisfaction. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Gillette, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-10-121, as presented:

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

// A public hearing was held regarding authorizing condemnation proceedings for Michael D. Aloisi & Angela C. Aloisi - 2105 Park Avenue. Engineering Project Manager J. P. Morris gave a brief summary stating that the property owners have signed the option agreement to sell the City the right-of-way, but there is a problem with the title and it is the property owner's responsibility to get a clear title. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Nelson, Council by the following recorded vote adopted Resolution #R-10-122, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// A public hearing was held regarding authorizing condemnation proceedings for Joyce Ann Crawley - 2930 Langhorne Road. Engineering Project Manager J. P. Morris gave a brief summary stating that the City has met with the property owner and their legal counsel and the City has not received a written counter offer. Mr. Morris further stated that the property owner's counsel would like the City to purchase the property. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Cary, seconded by Council Member Nelson, Council by the following recorded vote adopted Resolution #R-10-1243, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// A public hearing was held regarding authorizing condemnation proceedings for PSA Properties – 2921 Langhorne Road. Engineering Project Manager J. P. Morris gave a brief summary stating that PSA Properties has a potential title issue and until the City can get a clear title it cannot be settled. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-10-124, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// A public hearing was held regarding authorizing condemnation proceedings for La Verne K. Nowlin - 2917 Langhorne Road. Engineering Project Manager J. P. Morris gave a brief summary of the request. Mr. Morris stated that the property owner was in agreement with the condemnation proceedings and further stated the bank has been asked to issue a certificate of satisfaction.

The property owner Ms. La Verne Nowlin spoke stating that she was neither in favor nor in opposition but had one concern, asking if she had to pay taxes on the money she would receive from the property. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-10-125, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// A public hearing was held regarding authorizing condemnation proceedings for Douglas F. Cline & Lisa W. Cline - 2908 Langhorne Road. Engineering Project Manager J. P. Morris gave a brief summary of the request. Mr. Morris stated that the property owner is cooperating and further stated that the bank has not issued a certificate of satisfaction at this time. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Cary, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-10-126, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// A public hearing was held regarding authorizing condemnation proceedings for Karen G. Berry – 2004 & 2020 Memorial Avenue; 2804 & 2810 Langhorne Road. Engineering Project Manager J. P. Morris gave a brief summary of the request. Mr. Morris stated that the City has been negotiating with the property owner providing a written offer to the owner. However, the City has not been able to come to terms with the property owner on a fee for settlement. The property owner's attorney spoke stating that the property owners are not in support or in opposition to this but believes the issues will be resolved through the condemnation process. Some of the issues are the elimination of one of the driveways to the property, the second and more important is the matter of compensation. The property is an income producing property, an investment property, and it is being taken and they do not believe they are being adequately compensated for their property. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-10-127, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// A public hearing was held regarding authorizing condemnation proceedings for David M. Johnston & Jayme D. Johnston - 1911 Park Avenue. Engineering Project Manager J. P. Morris gave a brief summary of the request. Mr. Morris stated that the property owner has signed the option agreement but further stated the bank has not provided a certificate of satisfaction at this time. The property owner Mr. Johnston stated that he wanted to make it absolutely clear that if the bank does not respond to the request that whatever happens, it only affects the land and not the building. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Cary, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-10-128, as presented:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// In the matter of Public Works – General, City Council Report # 12 was considered. Principal Engineer Dee Dee Conner gave a brief summary of the request to approve change orders exceeding the current contract value of $237,977.35 to new total cost of $272,213.35 for Change Orders #4 and #6, for costs relating to the addition of a large exterior sign, building waterproofing improvements, relocation of track lighting and miscellaneous items. Council Member Perrow, Physical Development Committee (PDC) Chair, stated that this item came before PDC. This motion required no second, and Council by the following recorded vote approved the Change Orders #4 and #6 as presented:

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

Noes: 0

// On motion of Vice Mayor Johnson, seconded by Council Member Gillette, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., Youth Services Citizens Board, Transit Company Board and Lynchburg Parking Authority pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended:

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

Noes: 0

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

// Vice Mayor Johnson 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 Helgeson, and Council by the following recorded vote adopted the motion:

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

Noes: 0

// In the matter of Appointments, and on nomination of Vice Mayor Johnson, seconded by Council Member Gillette, Council by the following recorded vote appointed Troy L. McHenry to serve on the Lynchburg School Board to fill an unexpired term ending June 30, 2012:

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

Noes: 0

On nomination of Vice Mayor Johnson, seconded by Council Member Gillette, Council by the following recorded vote appointed Cameron D. Patterson to serve on the Youth Services Citizens Board to fill an unexpired term ending June 30, 2012:

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

Noes: 0

On nomination of Vice Mayor Johnson, seconded by Council Member Gillette, Council by the following recorded vote re-appointed Christian H. DePaul and Janice Walker to serve on the Greater Lynchburg Transit Company Board for terms to expire October 31, 2013:

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

Noes: 0

// The meeting was adjourned at 10:35 P.M.

Interim Clerk of Council