LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **September 25, 2007**		AGENDA ITEM NO.: 6
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	
ITEM TITLE: **Public Library – Approval of Revised Internet Use Policy**		

RECOMMENDATION: Approve the Revised Internet Use Policy

SUMMARY: Section 42.1-36.1 of the State Code has been amended to require that the governing body of a library that receives State funding shall include in its Internet Use Policy provisions on activating a technology protection measure to filter or block Internet access to child pornography and obscenity and to block materials deemed harmful to juveniles. The Policy must also include a provision for disabling the technology protection measure at the request of a patron in instances of *bona fide* research or other lawful purposes. The library's Internet Use Policy has been revised to include these provisions.

PRIOR ACTION(S): On July 13, 1999, City Council approved the library's Internet Use Policy.

FISCAL IMPACT: none

CONTACT(S): Lynn Dodge, 455-6330

ATTACHMENT(S): Lynchburg Public Library Revised Internet Use Policy

REVIEWED BY: lkp

LYNCHBURG PUBLIC LIBRARY
INTERNET USE POLICY
Approved by Lynchburg City Council, July, 1999
Revised September, 2007

The Lynchburg Public Library is pleased to offer access to information sources through the Internet. It offers this service as part of its *Mission* "to serve as a center for education, information, recreation and culture." The Library strives to inform, enrich and empower every person in our community by creating and promoting barrier free access to a vast array of ideas and information and by supporting an informed citizenry, lifelong learning and a love of reading. Services are provided through print and multimedia materials and the appropriate use of technology and innovative programs.

Because the Internet is a global electronic network of information, the Library cannot regulate the nature or content of the information accessed. The Library cannot protect users from information that they might find offensive. Not all information on the Internet is accurate, current or complete. Library users are encouraged to exercise critical judgment in evaluating the validity of information accessed via the Internet. If a user has concerns about the quality or content of a site, he/she should contact the original producer/developer of that site.

~~ACCESS BY YOUTH~~

~~The responsibility for what minors, i.e. children under age 18, read or view on the Internet rests with their parents or guardians. Librarians cannot act in the place of parents in providing constant care and supervision of children as they explore the Internet. Filters are provided on youth PC's to help parents supervise their children's use of the Internet.~~

Access to the Internet and its resources is provided equally to all library users. Parents and/or guardians are advised to supervise their minor children's (under age 18) use of the Internet.

In compliance with Section 42.1-36.1 of the Virginia State Code, the City of Lynchburg has installed filters on all public and staff computers for the purpose of filtering Internet access to child pornography and obscenity and to block materials deemed harmful to minors. The filter may be disabled by the city Information Technology staff for *bona fide* research or other lawful purposes, as determined by library staff.

PROHIBITED BEHAVIORS

Any use of library computers and/or Internet access by patrons or staff that interferes with activities of the library, it users or its network is strictly prohibited. Prohibited behaviors are:

Accessing obscenity and pornography
Accessing materials harmful to minors
Copyright violations
Harassing, bullying, libeling or slandering
Violation of software licensing agreements
Violation of another user's privacy
Destruction or damage of equipment
Disruption or unauthorized monitoring of electronic communications
Accessing gambling sites or using library computers for gambling

SANCTIONS

Library staff is responsible for ensuring this Policy is enforced. The use of computers will be monitored by Library staff. Violations of these policies can result in loss of Internet privileges and may be subject to prosecution by local, state and /or federal authorities.

// A special meeting of the Council of the City of Lynchburg, recessed from August 14, was held on the 4th day of September, 2007, at 8:00 a.m., Fifth Floor, Human Services Building, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct City Council's annual retreat. The following Members were present:

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

Absent: 0

// Following a breakfast gathering, Mayor Foster welcomed everyone to the retreat and briefly reviewed the retreat agenda. Council Members outlined the goals and expectations for the retreat, i.e., begin and end on time, be flexible, a better understanding of each other, warm and fuzzy, and have fun.

// City Manager Kimball Payne provided an overview regarding the various retreat preparation documents.

// Council Members then discussed the performance measurement data which shows how Lynchburg compares to other Virginia localities and select localities outside the Commonwealth in a number of service areas, i.e., Code Enforcement, Fire and Emergency Medical Services, Fleet Services, Human Resources, Information Technology, Juvenile Services, Public Library, Police, Procurement, Public Works/Highway and Road Maintenance, Risk Management, and Refuse and Recycling. Following discussion, City Council asked staff to review the performance measurement research data regarding streets maintenance and also suggested that the performance measurement data be compared to the Citizens Survey results.

// Following a break, Council Members spent the remainder of the morning session discussing City Council's Rules of Procedure. Mayor Foster distributed some suggestions regarding participation at work sessions. Discussion focused on whether the current Rules of Procedure are serving the purposes of enabling the City government to transact business expeditiously and efficiently, whether there are sections that need to be removed or sections that need to be added to address work sessions, whether or not the rules should be revised and combined into a new document such as a set of bylaws establishing Council operations, and whether there are alternatives to Roberts Rules of Order in that Roberts Rules were developed for private assemblies and some of the rules are not well suited for the proceedings of local governments. Discussion also focused on televising the City Council work sessions and whether or not the work sessions would need to be moved to the Council Chamber in order for them to be televised. City Manager Payne stated that he would ask staff to determine costs associated with upgrading the audio/video in the Second Floor Training Room so that work sessions can either be televised live or recorded and shown at a later date. City Council also agreed to restore the three minute rebuttal time for the opposition in zoning petitions and agreed to some of the Mayor's suggestions for the work sessions. Following discussion, City Council asked the City Manager and City Attorney to draft revised Rules of Procedures for Council consideration at a later meeting.

// Following lunch, each Council Member identified ...

5 BIG THINGS THAT ARE OF CRITICAL IMPORTANCE FOR THE CITY TO BE GREAT

Mayor Foster

1. Economic Growth (Incentives, recruitment, support, workforce development)
2. Education System (Cooperation w/Lynchburg City Schools, higher education, alumni settlement)
3. Downtown Revitalization (Also 5th St. & Midtown, Centra partnership, housing blight)
4. Quality of Life (Public safety, services, trails, infrastructure, non-profits)
5. Destination Place (tourism, cultural arts)

Council Member Seiffert

1. Tourism – increase to $1.1M
2. Fiscal Accountability (Cost of Government v. ability)
3. Development (Townhouse market, impact fees, rebates/cost sharing, tax abatement)
4. Crime, gangs & illegal immigrants
5. GASB (over reach?)

Council Member Gillette

1. Inferiority complex ("We're no ______________") Boldness
2. Economic Development (Goals, Target markets, Downtown)
3. Housing Overbuild (townhomes, attachments, role of govt.?)
4. Infrastructure (CSO victory, sewering areas, 10-20 Years out)
5. CDBG Usage (Downtown?)

Council Member Garrett

1. Economic Development (Pillars; Commercial Retail?)
2. Destination Businesses
3. Heritage Tourism
4. Trust & Accountability (dispel distrust, engender, reaffirm)
5. Tradeoffs (5th Street sidewalks)

Council Member Johnson

1. Public Education (=> quality workforce)
2. Regionalism (trash, tourism, H_2O, destination)
3. WI/FI Community
4. Young Professionals (attract & retain, quality of life)
5. Inclusive Community

Council Member Helgeson

1. Government Focus (responsibility, public safety) Role?
2. Infrastructure (foundation v. enticement, facilitate private sector)
3. Fiscal Stress (alleviate) (balance)
4. Economic Development (Good job attraction, policies)

Vice Mayor Dodson

1. Fiscal Integrity (bond rating)
2. Schools (competition)
3. Economic Development (retail comp)
4. Public Safety (succession)
5. Parks & Recreation

// Council Members ranked the items and selected the top priority items as follows:

- Economic Development
- Tourism
- Fiscal Accountability
- Public Safety
- Infrastructure
- Education
- Development

// Council Members then ranked the top five priority items as follows:

#1 Economic Development
#2 Fiscal Accountability
#3 Education
#4 Infrastructure
#5 Public Safety

Council Members identified twenty-four items for action and following discussion agreed to the following four top priority items:

Priority 1. #9 Development -- explore impact fees; look at Section 24.1-31 50% cost sharing; review tax abatement program. (Schedule for October work session)

Priority 2. #4 Change IDA to EDA; review role/philosophy; talk to IDA; research legislative process; report back to City Council.

Priority 3. #2 Economic Development – Develop tourism authority with $1.1m budget. (Scheduled for September 25 work session)

Priority 4. #21 Prioritize and fast track housing policy plan, answering how much housing, what kind of housing, (cost type) where the housing is located. (Brief Council on components -- November work session?)

// Following a dinner break, Human Resources Director Margaret Schmitt provided an update regarding the Community Dialogue initiative. Financial Services Director Donna Witt provided a brief overview regarding the upcoming budget process.

// City Manager Kimball Payne ended the evening with a review of the nine action items:

1. Television City Council work sessions; live if possible; determine cost to outfit second floor for video.
2. City Manager and City Attorney to draft revised Rules of Procedures.
3. Schedule October work session overview of development/impact fees.
4. Talk to IDA; research legislative process; report back to City Council.
5. Develop Tourism Authority -- September 25 work session.
6. Brief Council on components/process for housing plan -- November work session.
7. Research on performance measurements on infrastructure -- what is background for those.
8. Show study circles video at September work session.
9. Have Charlene Montford come to work session to discuss "what is" a housing policy? What assumptions we would have to make before starting? Is there realistic way to generate a housing plan to reach those answers?

// The meeting was adjourned at 7:40 p.m.

Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 11th day of September, 2007, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Gillette gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

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

Absent: 0

// Copies of the minutes of the August 14 (two meetings), 2007 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of City Council, Resolution #R-07-104 amending the FY 2008 General Fund Budget and appropriating $4,993 to pay the 2007 National League of Cities (NLC) membership dues, laid over from the August 14, 2007 meeting, was again presented and read. Council Member Seiffert stated that the City has deferred millions of dollars of capital improvement projects due to lack of funding and that he could not support spending $4,993 for NLC membership since you would only save $265 on the conference registration by being a NLC member. Council Member Seiffert went on to say that this request should have come through the normal budget process and that he could not support taking the funds from the Reserve for Contingencies. Council Member Seiffert did note that he did not have any problem with Council Member Johnson attending the upcoming NLC conference and suggested that the NLC membership request be discussed during next year's budget process. Mayor Foster stated that she contacted previous Council Members who had attended NLC conferences and was told that NLC membership is of benefit to the City, and that she is particularly supportive of the youth component and would like to be able to have a delegation from the Mayor's Youth Council to attend a future conference. Council Member Johnson stated that he has benefited from attending the NLC conferences and has brought back various materials and literature for distribution to City Council. Council Member Garrett stated that the City is a member of the Virginia Municipal League and most of the Council Members do attend the statewide conference to be apprised of statewide and national issues and that he is not sure that it would be of enough benefit to spend almost $5,000 to save $265. Council Member Seiffert made a motion, seconded by Council Member Helgeson, to remove the item from the agenda and have it brought back for discussion during next year's budget process, and Council by the following recorded vote defeated the motion:

Ayes: Garrett, Helgeson, Seiffert 3

Noes: Dodson, Gillette, Johnson, Foster 4

On motion of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-01-104, amending the FY 2008 General Fund Budget and appropriating $4,993 to pay the 2007 National League of Cities (NLC) membership dues:

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Seiffert 3

// In the matter of Police - General, Resolution #R-07-105 amending the FY2008 City Federal/State Aid Fund budget and appropriating $25,000, fully reimbursable, for the purpose of the enhancement and promotion of traffic safety, laid over from the August 14, 2007 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Habitat for Humanity, Resolution #R-07-112 approving the sale of .0621 acre of City-owned property consisting of the rear portion of two lots at 1307 (Tax Map No. 009-24-012) and 1309 (Tax Map No. 009-24-021) Fifth Street to Rose Carter for $1,000, and approving a request by the Greater Lynchburg Habitat for Humanity for the City to donate approximately .0446 acre of City-owned property consisting of the rear residue of two lots at 1307 and 1309 Fifth Street to be used for the construction of a Habitat home, laid over from the August 14, 2007 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Budget, Resolution #R-07-114 amending the FY 2008 Budget and appropriating funds to reflect the carry forward of FY 2007 appropriations that were unexpended as of June 30, 2007 in the General, Technology, Museum, City Capital Projects, City Federal State Aid, Fleet, Community Development Block Grant, Home Investment Partnership, Asset Forfeiture, Sewer, Solid Waste, Solid Waste Capital Projects and School Capital Projects Funds and amend the FY2007 Budget and appropriating funds in the General Comprehensive Services Act, Solid Waste Management Operating and Capital Funds, laid over from the August 14, 2007 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Public Works - General, Resolution #R-07-118 amending the FY2008 - FY2012 Capital Improvement Program and appropriating $175,300 from the City Capital Projects Fund as supplemental funding for the replacement of the exterior stairway and stairway structure of the Mid-town Parking Deck at 9th and Commerce Streets, laid over from the August 14, 2007 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Community Planning – Historic District, a public hearing was held regarding City Council Report #7 regarding the appeal by Marty Donovan to a decision by the Historic Preservation Commission (HPC) regarding the denial of a Certificate of Appropriateness (COA) for installation of a black metal fence directly in front of his home at 2021 Rivermont Avenue. HPC Chair Hal Devening along with HPC Secretary Annette Chenault provided an overview regarding the decision by the HPC to deny a COA for the fence in front of 2021 Rivermont Avenue. Mr. Devening stated that the location of the fence is not in compliance with the Residential Historic Districts Guidelines and is not compatible with other fences along Rivermont Avenue. Mr. Marty Donovan provided an overview regarding all of the work that has been done on the house at 2021 Rivermont Avenue and stated that it was his understanding that the design of the fence had been approved and that a permit was not needed for the location of the fence. Mr. Donovan acknowledged that there was some misunderstanding on both sides regarding the location of the fence, but is asking that the fence remain in its current location to provide security for his elderly mother. Mr. Paul Kablick, Good Neighbor Fence Company, explained that it was also his understanding that the fence location had been approved, but now understands that the location approved by the HPC was on a design submitted by another fence company. In response to questioning, Mr. Donovan stated that he did not know of the design submitted by the other fence company and that he did not hire that company to either design or install the fence. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Helgeson stated that since Mr. Donovan has spent a considerable amount of money and time in renovating this property and since the fence is very attractive and will provide security for his elderly mother, that he would not like to see Mr. Donovan have to tear up the fence due to a misunderstanding between him and the HPC regarding the location of the fence. Some Council Members stated that although Mr. Donovan has done a great job on renovating this house, the fence was not approved by the HPC and is not in character with other properties along Rivermont Avenue and therefore should either be removed or moved back to the design approved by HPC. Other Council Members recognized that there was some disconnect between Mr. Donovan and the HPC, but that Mr. Donovan should have known that the design and location of the fence would need to adhere to the historic district guidelines. Council Member Johnson stated that he also lives in a historic district and that he is aware of the guidelines and procedure that he would need to follow if he chose to renovate his home. Following discussion, Council Member Helgeson made a motion to reverse the decision of the HPC and grant the Certificate of Appropriateness to Marty Donovan. The motion died for lack of a second. On motion of Vice Mayor Dodson, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-07-119, as presented, to uphold the decision of the HPC to deny the Certificate of Appropriateness to Marty Donovan concerning property at 2021 Rivermont Avenue:

Ayes: Dodson, Garrett, Gillette, Johnson, Seiffert, Foster 6

Noes: Helgeson 1

// In the matter of City Council, a public hearing was held regarding City Council Report #8 regarding amending the City Code by adding a new section that would require an affirmative vote of a majority of all of the members elected or appointed to City Council for all appointments to Boards and Commissions. City Attorney Walter Erwin explained that as a general rule a majority of the members of City Council constitute a quorum for the transaction of business, and a majority of a quorum may adopt ordinances and resolutions. Mr. Erwin went on to say that nothing prohibits a local governing body from placing stricter voting requirements upon itself than those imposed by State law and it is his opinion that City Council can adopt an ordinance providing that appointments to boards and commissions shall require a majority vote of all the members of Council. Five individuals spoke in favor of the change while three individuals stated that they did not see a need to change the current process. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Gillette stated that the idea stemmed from the June 26 appointment to the School Board by three members of City Council over the objections of Mayor Foster and Vice Mayor Dodson while both he and Council Member Johnson were absent. Council Member Gillette went on to say that the change should apply to all boards and commissions because the appointments are "extraordinarily important" and irreversible, and that the proposed amendment would not impede the appointment process because it does not change how many council members must be present, only how many votes are needed. Council Member Helgeson stated that the change is not necessary and that the June vote on the School Board appointment was done to comply with State law and that maybe the School Board process did need to be moved back to allow more time for City Council to consider these appointments. Council Member Seiffert stated that had he known prior to the closed meeting on June 26 that members of Council had asked for a delay in the School Board appointment, that he would have honored that request. Some Council Members commented that the proposed change might further encumber the appointment process while other Council Members stated that appointments are important enough to require a majority vote of Council. Following discussion, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #O-07-120, as presented, amending the City Code by adding a new section that would require an affirmative vote of a majority of all of the members elected or appointed to City Council for all appointments to Boards and Commissions:

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Seiffert 3

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #9 outlining the petition of Tree of Life Pentecostal Holiness Church for a Conditional Use Permit (CUP) at 1101 Greenview Drive to allow the expansion of church parking facilities in a R-1, Low-Density, Single-Family Residential District. City Planner Tom Martin provided a brief summary regarding the petition. Mr. Trent Warner, representing the petitioner, provided an overview of the project and asked that the requirement for the petitioner to install a directional island be removed as a condition of the CUP. Mr. Warner explained that the petitioner feels that a directional island at the eastern entrance is not necessary. There was no one else present who wished to speak to this item, and the public hearing was closed. City Planner Martin suggested a six month observance at the site to determine if a directional island is needed at the entrance. City Manager Kimball Payne stated that it should not be the petitioner's responsibility to install a roadway safety device and therefore the requirement for a directional island should be removed as a condition of the CUP. Mr. Payne went on to say that if staff determines that there is a safety problem at this entrance, then the City will install bollards until Greenview Drive is widened. In response to questioning, Mr. Warner stated that the petitioner is in agreement to complying with the stormwater management requirements outlined in Condition #3. Council Member Garrett suggested that language be added to that condition to clarify that the stormwater management requirements apply to Church property located in the City and County. Following discussion, City Council requested that Condition #2 be revised to read, "2. The eastern driveway shall be a "right in, right out' entrance only." and that Condition #3 be revised to read, "3. All stormwater management systems for any new impervious cover either in the City or in the County shall be designed and built to address both the quantity and quality of water being discharged from the church property to the standards set forth within the City of Lynchburg's Stormwater Management Ordinance." On motion of Council Member Garrett, seconded by Council Member Seiffert, Council by the following recorded vote adopted Resolution #R-07-121, as revised to include changes to Conditions #2 and #3, granting the Conditional Use Permit:

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

// In the matter of Community Planning – Historic Districts, a public hearing was held regarding City Council Report #10 regarding adopting the updated Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines. Historic Preservation Commission (HPC) Chair Hal Devening provided a brief summary regarding the request. HPC Secretary Annette Chenault informed of several minor clerical changes that would be made to the final documents. There was no one else present who wished to speak to this item, and the public hearing was closed. Some Council Members stated that they would like to have more time to review the new guidelines. Following discussion, it was the consensus of City Council to schedule this item for the October 9 Council meeting for action.

// In the matter of Airport - General, a public hearing was held regarding City Council Report #11 regarding authorizing the execution of a right-of-way and easement agreement with Appalachian Power Company granting access across City-owned property at the Lynchburg Regional Airport to install and maintain a power line. City Manager Kimball Payne 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. On motion of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-07-122, as presented, authorizing the execution of a right-of-way and easement agreement with Appalachian Power Company granting access across City-owned property at the Lynchburg Regional Airport to install and maintain a power line:

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

// In the matter of Public Works - General, a public hearing was held regarding City Council Report #12 regarding approving a request to the Commonwealth Transportation Board for a limited access control change on Route 501 between the Graves Mill Road Interchange and the Route 221/501 Interchange. Project Manager Tom Wilson provided a brief summary regarding the request. Mr. Frank Cox, a member of the project design team, spoke in support of the request. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Helgeson stated that he has concerns regarding a single point urban interchange (SPUI) at this location. In response to questioning, Mr. Wilson stated that this is the first step in a thirteen step approval process. On motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-07-123, as presented, to request the Commonwealth Transportation Board for a limited access control change on Route 501 between the Graves Mill Road Interchange and the Route 221/501 Interchange:

Ayes: Dodson, Garrett, Gillette, Johnson, Seiffert, Foster 6
Noes: Helgeson 1

// In the matter of Community Planning – Zoning Amendments, City Council Report #13 regarding the petition of McKenna Farms, LLC, to amend the Future Land Use Map from Low Density Residential to Office Use, to rezone approximately 2.95 acres from R-1 Low-Density, Single-Family Residential District to B-1C, Limited Business District (Conditional) and for a Conditional Use Permit at 5040 Boonsboro Road to allow the construction of a 4-building Cluster Commercial Development that includes a mix of residential, office and retail units was considered. City Planner Tom Martin provided a brief update regarding the petition, and stated that the petitioner handed him just prior to the meeting some additional proffers:

1. Eliminate 3rd story so that all buildings are 2 story;
2. Reduce size of back building;
3. Required parking in compliance with Code.
4. 12 units limit – 6 to retail and 6 to office;
5. Proffer that each retail/office condo be only 1,800 sq. ft. per business to ensure small businesses.

In response to Council questioning, City Attorney Walter Erwin stated that if City Council wanted to consider the new proffers that they would need to advertise and conduct a new public hearing to allow citizens an opportunity to comment on the additional proffers. Council Members discussed and decided that they were ready to vote on the petition as presented, and on motion of Council Member Gillette, seconded by Council Member Seiffert, Council by the following recorded vote rejected the additional proffers offered by the petitioner at tonight's meeting:

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

Council Members Helgeson and Johnson stated that this is a good project. Other Council Members stated that they could not support the petition, citing concerns regarding density, that the development is not in character with the neighborhood, that it would not be the best use of the land, concerns regarding the safety of the James River Day School students crossing the road to the shop, and the need to protect the residential character of the neighborhood. On motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote rejected the petition of McKenna Farms, LLC, to construct a 4-building Cluster Commercial Development at 5040 Boonsboro Road:

Ayes: Dodson, Garrett, Gillette, Seiffert, Foster 5

Noes: Helgeson, Johnson 2

// In the matter of Commonwealth Attorney, City Council Report #14 was considered. On motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-07-124, as presented, amending the FY2008 General Fund budget and appropriating $2,560, fully reimbursable from the remaining funds from the Lynchburg Exile Foundation, to the Commonwealth's Attorney office for training and mileage:

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

Noes: 0

// In the matter of Public Works - General, City Council Report #15 was considered. On motion of Council Member Seiffert, seconded by Vice Mayor Dodson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-07-125, as presented, amending the FY 2008 Solid Waste Management Fund budget and appropriating $3,713 to reflect the carry forward of unexpended funds for the Department of Environmental Quality Litter Control and Recycling Grant:

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

Noes: 0

// In the matter of Industrial Development Authority, City Council Report #16 was considered. On motion of Council Member Seiffert, seconded by Vice Mayor Dodson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-07-126, as presented, amending the FY 2008 General Fund budget and appropriating $20,000 from the Industrial Development Authority (IDA) to assist with the City's branding initiative:

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

Noes: 0

// In the matter of Parks and Recreation - General, City Council Report #17 was considered. On motion of Council Member Seiffert, seconded by Council Member Garrett, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-07-127, as presented, amending the FY 2008 Capital Project Fund budget and appropriating $260,000, fully reimbursable, for improvements to Riverside Park:

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

Noes: 0

// On motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and

Commissions, to conduct the performance evaluation of the City Manager, and for consultation with legal counsel and briefings by staff regarding probable litigation because consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the City 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, Seiffert, Foster 7
Noes: 0

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

// Council Member Helgeson made the following motion:

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

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

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

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

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

// In the matter of Appointments, and on nomination of Council Member Seiffert, Council by the following recorded vote re-appointed Thomas M. McGrath to serve on the Social Services Advisory Board for a term to expire September 30, 2011:

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

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Christina L. Harrison and Nancy S. Coursey to serve on the Social Services Advisory Board for terms to expire September 30, 2011:

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

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Troy W. Deacon to serve on the City Employees Appeal Board for a term to expire June 30, 2010:

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

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Deon Seltzer to fill an unexpired term on the City Employees Appeal Board ending June 30, 2009:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Evette L. Stamps to fill an unexpired term on the Dr. Martin Luther King, Jr./Lynchburg Community Council ending June 30, 2009:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed John M. Perry, Jr., to serve on the Lynchburg Redevelopment and Housing Authority Board for a term to expire September 30, 2011:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote re-appointed Robert L. Bashore, Timothy W. Holt, Leighton S. Houck, Cindy M. Thomas and Stuart J. Turille to serve on the Lynchburg Business Development Centre Board for terms to expire September 30, 2010:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote re-appointed Bonnie Svrcek to serve on the Lynchburg Transit Company Board for a term to expire October 31, 2010:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Donald W. May and Janice Walker to serve on the Lynchburg Transit Company Board for terms to expire October 31, 2010:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Lee Beaumont to fill an unexpired term on the Lynchburg Transit Company Board ending October 31, 2009:

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

Noes: 0

// The meeting was recessed at 12:15 A.M. on September 12 to September 25, at 1:00 P.M., to conduct a work session regarding several items.

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Clerk of Council