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// A regular meeting of the Council of the City of Lynchburg was held on the 10th day of September, 2019 at 4:00 p.m. in the Council Chamber, City Hall, Treney Tweedy, President, presiding. The following Members were present:

Present: Mary Jane Dolan, Jeff Helgeson, J. Randy Nelson, E. J. Turner Perrow, Sterling A. Wilder,	
Beau Wright, Treney Tweedy	7
Absent:	0

// In the matter of Community Development, Zoning Amendments, Short-term Rentals, Agenda Item #1, Mr. Kent White summarized where Council has reached agreement to this point. Short-term rentals (STRs) are permitted by right in all zoning districts except Institutional 1 and Industrial 1, 2 and 3. Buildings used as STRs must meet building code. Owner occupancy is required in R-C and R-1 zoning districts. Existing non-owner occupied units would be grandfathered. Details will follow. Buildings used as STRs in R-C and R-1 must retain the appearance of a home and no additional parking spaces are required.

The City will sign a voluntary collection agreement with Airbnb for lodging tax, which is estimated to generate \$84,000 in City revenue annually. The Commissioner of Revenue will work with hosts that list on other platforms to remit taxes. Operators must register STRs by July 1, 2020. Those that do not register will be charged a \$500 penalty. The City may revoke unit approval for three ordinance violations related specifically to the STR use (trash, occupancy, etc.) within a three-year period.

Mr. Tom Martin commented that at its August 13th meeting, Council had directed staff to remove the owner occupancy requirement from the R-2, Low-Medium Density Single-Family District. He clarified for Council that there are three single-family districts. R-C, which are single-household detached dwelling on a minimum 10-acre lot, R-1, same on 15,000 square foot minimum lots and R-2, same on 10,000 square foot minimum lots. If R-2 is removed, neighborhoods such as Wildwind, Blue Ridge Farms, Phillips Circle, Willow Bend, Woodland, Riverside, Perrymont, Fort Hill and Tyreeanna would not have the owner occupancy requirement. Staff wanted to clarify that is Council's intent to not have the owner occupancy requirement apply to the R-2 district. Councilmember Nelson said he did not have any objection and Councilmember Perrow indicated he thought it was Council's intent.

Councilmember Wright asked the other councilmembers why R-2 would be excluded and not also R-1. He is not sure fundamentally what the difference would be and the reason for treating them differently. Councilmember Helgeson thought that was a change in Councilmember Wright's position from the last meeting. Councilmember Helgeson does not see the benefit in the owner occupancy requirement even in the R-1 district. There is no requirement for owner occupancy when a unit is rented long term. When a unit is rented long term, there is more of a possibility for trouble.

Vice Mayor Dolan thinks they voted on this last time and wondered if it is going to be rehashed. Councilmember Helgeson said this is when the rubber meets the road. Mr. Martin indicated staff wanted to be sure they understood what they voted on at their last meeting. The districts can get confusing and staff wanted Council to understand that R-2 is a single-household district and not to get confused that the 2 means duplex. Mayor Tweedy said it was her understanding that the owner occupancy requirement was for all single-family districts. Vice Mayor said in a perfect world she would have included R-2 but she acquiesced and removed it because otherwise she did

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not think it would have passed. Councilmember Perrow noted that Council has already voted on this item. Mayor Tweedy would like to discuss it again and made a motion to reconsider. The motion was seconded by Councilmember Nelson. The motion passed by the following vote:

AYES:	Dolan, Nelson, Tweedy, Wilder, Wright	5
NOES:	Helgeson, Perrow	2

Councilmember Nelson was originally glad to see R-2 pulled out but now acknowledges the only difference between it and R-1 is the lot size. He cannot identify anything tangible or theoretical that would make a smaller lot have some different qualifications than a larger lot. We are looking at keeping the density lower and the traffic count lower and keeping the number of persons coming and going lower when a district is zoned exclusively for residential purposes. They are preventing the districts from having a commercial character so there is peace and tranquility. The lot size is somewhat irrelevant to the things that would qualify why we want to have residential neighborhoods and not inject commercial activities into those places. He does not see any reason to differentiate between the three single-household districts when requiring the property to be the primary residential dwelling of the owner if it is going to be used as an STR.

Mayor Tweedy noted that when she looks at property values and turnover of properties, some of these are more affordable properties that could potentially be used for commercial use more so than the larger lots. She does not think it is fair to those neighborhoods that they might be turned into “hotel” neighborhoods. She does not like the idea that some communities would have this thrust upon them just because of their lot size. She thinks that more affordable properties for this type of business would be in the neighborhoods where they have excluded owner occupancy. She would like to include R-2 for the sake of those neighborhoods.

Councilmember Wright noted that if R-2 is included that those owners that are already operating STRs would be grandfathered in. There was consensus that they would be included.

Councilmember Helgeson noted that years ago there was another topic dealing with digital billboards and Council was told they needed to enact a sign ordinance right away. Fear was put out there that they would be a distraction and would cause accidents and the City would look like Las Vegas. Later people realized that it was totally bogus and all the pushed concerns were actually fictitious and inflated. Council realized they were duped and he is seeing this lived out again. He reminded them there were only 11 complaints over the entire City of 23,000 to 25,000 housing units. They are looking at adopting something before they understand it rather than looking at how this could be beneficial. Councilmember Helgeson noted that people had come to stay in Lynchburg at Airbnbs during Hurricane Dorian. He thinks they are going to look back on this and say is this something that we really wanted to squash or did we really want to fan that flame? He likes the idea of getting \$84,000 in revenue without doing anything and without micromanaging. He thinks they should be encouraging more people to come to Lynchburg and spend more money in our businesses. The people that stayed here during the hurricane were delighted that we had options and they had options. Let’s be a welcoming City and figure out how we can do this while protecting neighborhoods.

Councilmember Perrow noted he is familiar with Fort Hill and Wyndhurst. There is a lot of rental property in those neighborhoods. It seems conflicting to him that owners can rent out their properties long term in these areas

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but we are going to require owner occupancy if it is rented short term. He met someone in the Fort Hill neighborhood who told him the problem in neighborhoods is the long-term rentals because there is no incentive for the owner to keep the property up. If it is a short-term rental, there is a constant pressure for upkeep and making it look better. This man argued that STRs are better for the aesthetics of a neighborhood. Councilmember Perrow does not think we should burden this because it sends a conflicting message. There is no prohibition on long-term rentals anywhere in the City and he does not think we should prohibit STRs. He would rather err on the side of liberty than restrict it too tightly. They can always revisit the issue if the need arises.

Councilmember Perrow made a motion to strike the owner occupancy requirement in all districts. The motion was seconded by Councilmember Helgeson. Councilmember Helgeson gave an example of an older couple that is renting out a property in the Cornerstone area for some additional income. They rented it long term and had trouble with trash, noise, neighbors and upkeep. They found they could rent it for ten nights a month and make the same amount of money. Their neighbors are happier because there is no one there on the other days of the month.

Councilmember Nelson said he does not disagree with much of what Councilmembers Helgeson and Perrow are saying with regard to liberty and the benefits of STRs. Councilmember Helgeson is focused on how we are restricting them but we are not restricting them. We are just restricting how they are conducted in certain areas where we will permit them but with some greater limitations than in other places. He asked if there is language in the ordinance that will allow infrequent use. Mr. Martin said that is not in the current draft. Mr. White explained that when Council made the motion to do the collection agreement it was regulated through whether or not someone offered that provision or not. Council will be discussing whether or not to have a registration process but for now the thought process was to just collect lodging tax when someone used Airbnb. That self regulates the whole infrequent need. Councilmember Nelson said he is referring to someone that only wants to rent out their home for a weekend and does not want to have to pay the registration fee. Mr. White said they will be discussing that later and if Council wants to provide an exemption, they can certainly discuss it.

Councilmember Nelson reiterated that we have to acknowledge that we designate certain neighborhoods as single-household districts for a reason. His understanding through the decades is that there are certain amenities and benefits that we want to prevail and exist in those residential areas. There is the frequency of persons who are not residents of that neighborhood coming and going and the volume of traffic that otherwise do not have any reason or investment in that neighborhood. He is concerned with the noise that might be caused by larger volumes of people coming and going and the absence of tranquility and peace and quiet where people want to be able to retreat and be with their families. Zoning ordinances have developed over the past century and that is why we see the benefits of residential neighborhoods having certain higher restrictions for an owner. To say that we should not restrict an owner's use of his property—we do it all the time and there are good public purpose reasons for doing it. STRs are commercial activities. If the owner does not live there, it is to generate revenue pure and simple. For those reasons, it is totally contrary to why we want to establish residential neighborhoods. He thinks they are on good and solid ground to reasonably require the residence to be the owner's principal residence in R-1, R-2 and R-C.

Councilmember Helgeson thinks the end result is the same whether a person rents out his home for a year to one person or 365 days a year to 365 different people. If they forbid long-term rentals in R-1 districts, all else being

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equal, it would be the same whether you rented it long-term or short-term. If we are going to say it is a commercial enterprise, we need to be consistent.

Councilmember Nelson does not agree that a long-term rental is a commercial enterprise. He thinks it is a revenue generating activity. It does not have all the other elements of a commercial activity such as volume of non-residents or persons from outside the neighborhood frequently coming and going on a regular basis. With a long-term rental, you have one family there for a long period of time and in all respects appears to be the same sort of activity as an owner who lives there. He thinks that is a significant distinction.

Vice Mayor Dolan said it is about three things—maintaining the integrity of neighborhoods, not destroying the fabric of the neighborhoods and the security of families who bought homes in neighborhoods hoping to raise their families in a secure environment. She thinks it is a very important factor that they are missing that families should be able to know who is living in their neighborhoods in order to feel secure to have their children playing outside.

Councilmember Wright said this is complicated and really challenging. He agrees they should require owner occupancy in R-2 if they are going to require it in R-C and R-1. He acknowledged Vice Mayor's Dolan point that people are worried about transiency in their neighborhoods. Some people view owner occupancy as a bulwark to mitigate the risk posed by transiency. We have long-term rentals in neighborhoods and we really have no assurances when we move into a neighborhood as to who our neighbors are going to be. He thinks that there are other risks to neighborhoods that are probably far greater than STRs. He thinks the owner has a big incentive to keep the property nice and the renter has an incentive as well to be a good guest because they are also being reviewed. He thinks that right now their touch should remain as light as possible and they should not overregulate until and if we see real problems emerge. He worries that it might be too much too soon before we really know what the effect might be.

Councilmember Wilder noted that he has received comments on both sides in emails. He agrees with Councilmember Wright's point that we should not overregulate them. He is a little torn and could go either way. He agrees with Vice Mayor Dolan that a person wants to know who is in their neighborhood and you want to feel safe. There is not a lot of parking in his neighborhood and there was a parking issue when someone had an Airbnb down the street. He has not heard complaints about long-term rentals on his street but has heard them about STRs due to the lack of parking on his street.

Mayor Tweedy wanted to have the discussion because she thinks it is an equity issue between neighborhoods. People that have the larger lots can have the better quality of life. This is the latest greatest revenue generating opportunity in our social society. Are we going to have a conversation on long-term renting as well. Long-term rentals that are not being kept up in a neighborhood are making it difficult for homeowners to sell their homes. If we are going to hold one set accountable, we need to hold others accountable. Owners not keeping up their long-term rentals is a problem, particularly in some R-2 communities. Homeowners that want to turn over their properties are being affected because we are not having the conversation about long-term rentals. The issue is coming into this debate and for her, it is about equity. It can be brought back in the future if we see that it is not growing as much as we thought or there is compliance and there are people that really want to expand. For now, she thinks we owe it to the people that did buy into a quality of life equity across the City.

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Councilmember Helgeson noted that a lot of this is theoretical and this polices itself both in terms of the host and the renter. Everyone cares about themselves and their property. When we are looking at how we can really improve and build wealth in the community we need to remember the house in Daniels Hill that was \$22,000 and 14 complaints was bought and fixed up. There have been no complaints since and its value went over to over \$210,000. We really have to pull out what is fictitious versus what is factual. If we have trouble later, we can always bring the issue back again. He thinks that we are shooting ourselves in the foot by not allowing the growth to happen. If it can be rented out long-term without owner occupancy, he does not see how you can say it has to be owner occupied to rent it out short-term.

Councilmember Perrow does not think there are really any politics on this issue. It is really about how one feels about the issue. He is very concerned about the integrity of our neighborhoods and has certainly taken that into consideration. When Councilmember Nelson was talking about the exceptions, it will be terribly complicated to write that into the ordinance. Let's keep it simple and open and flexible and if we have problems, we can react and tighten it up over time instead of trying to anticipate all the problems. Regarding Mayor Tweedy's point about equity, taking out the owner occupancy requirement will be treating everyone the same. A person already has the right to rent their property long term and this will make it all the same by allowing them the option of renting it out short term. It would make it consistent and consistency is important.

With regard to R-C, he has interpreted it as some highly cherished and protected area that is maybe more restrictive than R-1. For him, R-C is actually the optimum place for STRs because it is a minimum ten acre lot. It is highly appealing to people that just want to get away. He would approve the Airbnb revenue idea and just let it go at that, see what happens and respond as needed. It is completely unrelated now and he would like to let it go and react to problems and tighten it up as needed.

Councilmember Nelson commented that if we take the approach that we are going to adopt a "hands off" attitude and not impose higher restrictions and come back and impose higher restrictions, that is going to inevitably mean that everyone who is doing it now will be grandfathered in. He thinks that is a great problem than to put the restriction on now and take them off later. No one can complain about restrictions being relaxed but they certainly complain about them being imposed if we do not have them at an earlier stage.

With regard to the infrequent use, he thinks that only goes to whether or not they register. The provision would be if a person uses it for STR less than ten days, let's say, then the City is not going to pursue any enforcement against them because they do not need to register at all. If lodging tax is collected from Airbnb, that is separate from the registration fee. That is a fairly easy solution to the low level infrequent use.

Councilmember Helgeson noted that people in R-2 were not given notice and did not see this coming. That would be the worst thing they could do because there would be no advertisement or notice to those in R-2 that will have a right taken away from them. Mr. White clarified that it was advertised as owner occupancy in R-C, R-1 and R-2 originally. Councilmember Helgeson noted that it was removed at Council's last meeting. Mayor Tweedy would think that anyone who is operating one is watching the conversation. Mr. Martin clarified for them that their last meeting was not a public hearing. If it is changed, it is based on Council's discussion and not input from anyone.

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The vote on Councilmember Perrow's motion to remove the owner occupancy requirement in all districts passed by the following vote:

AYES:	Helgeson, Perrow, Wilder, Wright	4
NOES:	Dolan, Nelson, Tweedy	3

Mr. Martin wished to clarify for Council that when staff comes back with clarification on an issue that it not to be seen as duping them. Staff wanted to be sure Council understood the issue and what it was voting on.

Mayor Tweedy reiterated that she would like to see the issue of long-term rentals and the issues we are having with them to be brought back for discussion.

Mr. Martin noted that if they have removed all the owner occupancy requirements, there is really no reason to have a grandfathering clause in the ordinance.

Mr. Martin explained that they have given Council three options regarding occupancy standards. Option #1 (Planning Commission's recommendation) is no more than four unrelated individuals. If the occupants are all related, one unrelated person may occupy the unit. Option #2 (current occupancy standard) would be the same as above but with only three unrelated individuals allowed to occupy a unit. Option #3 (bed and breakfast standard) would be no more than three rooms with not more than two person per room in R-1, R-2 and R-C. In all other districts, the standard is not to exceed five rooms with no more than four persons per room. Mr. Martin noted that if Council goes with Option #3, conditional use permits for bed and breakfasts would no longer be necessary. There also may be parking issues which staff would have no way to address.

Councilmember Nelson asked Mr. Martin to substitute the word "owner" for "host" throughout the document to make the document less confusing. There was discussion about whether it should be the owner's representative that is given notice of violations. Councilmember Nelson said this can be covered during the registration process. The owner can designate a representative or managing agent to receive the notices but it is the owner that is in jeopardy and the notice needs to be directed to them in one way or another.

Councilmember Nelson had a question about the transferability of ownership in paragraph h. Mr. Martin said that since they have done away with the owner occupancy requirement, there is no need for grandfathering and this paragraph will be struck from the ordinance.

Councilmember Nelson likes Option #1 for the occupancy standards. Option #2 could be problematic for the reasons Mr. Martin stated. Option #2 does not allow for two couples to stay in a STR together.

Councilmember Helgeson noted it is difficult to anticipate every nuance and allow for it. These options make assumptions of how many rooms are in a house and treats them the same whether it is a 1,200 square foot bungalow or a 10,000 square foot estate. If he were renting out his property short term, he would make sure they are not bringing a family of ten people that will destroy his house because it is his property. He would like to err on the side of freedom and the free market can decide. If there is a problem with noise, we have a noise ordinance. He does not how they can prospectively come with language that satisfies every nuance. By the time the Zoning Administrator can investigate an occupancy complaint, the people will have left.

Councilmember Perrow asked how vacation communities handle this issue and Mr. Martin said it is all over the place. Mr. Martin said they looked at 27 localities, including First Cities. 17 currently have STR ordinance

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requirements. 15 of those limit occupancy; three limit by number of bedrooms. The maximum number of guests varies by locality. Seven is the average; six is the median and six is the mode. Councilmember Perrow is specifically interested in vacation communities' ordinances because they are really talking about vacation visitors primarily or people escaping natural disasters. Councilmember Perrow remembers when they used to get multiple bed and breakfast conditional use permit requests a year. Airbnb is really taking over that business and he agrees that if they use Option #3 they will not need the conditional use permit requirement for a bed and breakfast. He would think that Option #1 is the minimum standard they should be considering so it will allow for two couples to travel and rent a STR together. Councilmember Perrow wondered what is driving the STR market in Lynchburg. Hopefully once we enter into the agreement with Airbnb we can see the volumes and correlate the volumes to what is happening during that period. He would lean toward more freedom and Option #3 but could be convinced to go with Option #1.

Mr. Martin noted that prior to the 1990s, the City allowed more than three unrelated people. A previous Council changed that because of the number of college students in residences. Mr. Martin noted that while there were 11 complaints reference for STRs, the number one complaint that the Zoning Administrator receives is still regarding the number of unrelated occupants in a unit. He would ask them to be hesitant about increasing it much beyond the four that staff and the Planning Commission are recommending, especially with no parking requirements. Councilmember Perrow pointed out that can be required under the conditional use permit process and Mr. Martin said that is the reason for the conditional use permit process plus the neighborhood gets a chance to come and speak to Council.

Vice Mayor Dolan said we are not a beach or golf destination and Lynchburg does not want to be that. She thinks Option #1 gives them some protection.

Councilmember Wright agreed with Vice Mayor Dolan and made the motion to approve Option #1. The motion was seconded by Councilmember Nelson. Councilmember Wright thinks it has been amply covered and he is loath to lift that restriction right now.

Councilmember Helgeson pointed out that allowing more people in a seven-bedroom house, for example, would mean that it could rent for more money and generate more lodging tax revenue for the City. Restricting the number of people will restrict the amount of lodging tax generated for the City. He thinks they will be short changing themselves and they is not what they want to do. They want to generate as much revenue as they can from tourism and outsiders coming to the City to spend money.

Councilmember Nelson would agree that this is to some degree a "cookie cutter" approach. He does not think he is in a position to try and come up with a formula that is geared to the square footage and all of the nuances of all the dwellings in Lynchburg. He thinks they have to have a standard and do the best with it. He pointed out that this is only referring to unrelated persons. There could be twenty people in a seven-bedroom house if they are all related. They will be the big houses that were built in a different era for single families or newer large suburban homes that will most likely get rented by an entire family for a wedding or other event.

Councilmember Perrow thinks this provision will be largely ignored just like it is across the City but it does give the Zoning Administrator something that he can enforce if there is a problem. He just does not have a better

option to present so he is going to rely on the work of the Planning Commission. If four is too restrictive or not restrictive enough, he would be open to revisiting the issue.

Councilmember Helgeson thinks the related issue will come down to how far back you want to go to prove that you are related. He does not know how they will be able to enforce something that says you have to have your birth certificate or DNA testing or a marriage license. He does not know how this can be enforced and he would like to have laws that are enforceable and clear. He does not think it is appropriate to have something out there just so they can be heavy handed on someone if the need arises. Councilmember Nelson noted there were only 11 complaints on STRs and does not think it is going to be a big problem. Councilmember Helgeson would like them to say they are open for business and think about unintended consequences. He would like to see more people improving properties.

Mr. Martin thinks people will find a way to do long-term rentals and classify them as STRs. That will create a very big issue but staff will have to deal with it if it happens. Mr. Martin thinks owners will try to enter into short-term contracts with students in order to get more people into a unit. Councilmember Helgeson pointed out that there is currently zero lodging tax for a long-term renter. If they want to enter into short-term leases, there will be lodging tax generated for the City. Mr. Martin said there will be nothing dictated as to how much a person has to charge a night in order to get the extra person. Staff will go forward and see how it works out.

Councilmember Wright's motion to approve Option #1 occupancy standard passed by the following vote:

AYES:	Dolan, Nelson, Perrow, Tweedy, Wilder, Wright	6
NOES:	Helgeson	1

Mayor Tweedy did not want to cut anyone off but hoped Council could be a little more expedient so they could get to Items #2 and #3 on the agenda.

Mr. Mitch Nuckles came forward to discuss the registration fee. He thanked Council and staff for the diligence they have shown to this topic. With regard to vacation rentals, most of those are done by management companies. Virginia Beach and Smith Mountain Lake are two examples and those management companies were already collecting and remitting the lodging tax. If the City signs an agreement with Airbnb, Airbnb will remit the lodging tax to the City and the Commissioner of Revenue will be left with the other operations that are operating under different platforms. The registry will be there to support staff to ensure we have fairness and equity among all the rental units. He went over the table showing the amounts they estimate they will collect with a \$50, \$100 or \$150 registration fee. This is based on an estimated 63 percent collection rate suggested by the third party. Mr. Nuckles said this is the first month that Airbnb has remitted the sales tax to the Department of Taxation. There were approximately 3,600 rooms in Lynchburg rented through Airbnb alone for the month of July. The City would receive between \$21,000 and \$22,000 for the month of July.

Councilmember Helgeson thinks this is the easiest solution and with a registration program there will be a lot of staff time involved. We would then not have to worry about how they are going to exempt people who do it infrequently. At \$77 a night, someone will not make any money if they have to pay a \$150 registration fee and they only rent out their unit for a weekend once a year. He does not know why they would put a fixed rate on someone for something that is beneficial to the community and the City. Collecting the lodging tax from Airbnb should be

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enough to cover any extra staff costs. There will be costs associated with the registration process that the City will not incur if they just collect the lodging tax from Airbnb. Councilmember Helgeson reminded them that Alexandria thought it was going to get \$100,000 in lodging tax in a year and received \$350,000. He would like them to let this thrive and let as many people do it as possible. Councilmember Helgeson made a motion to enter into an agreement with Airbnb to collect lodging tax but require no registration fee. The motion was seconded by Councilmember Perrow.

Councilmember Perrow does not know why they would impose a registration fee that will not even cover the cost of staff time. They would have to increase the fee over \$150 to recoup what Mr. Nuckles is estimating to be staff costs. He realizes this may mean some lost lodging tax revenue but it will take a lot of work to collect lodging tax from someone who rents out their home a few times a year on a different platform.

Mr. Nuckles indicated that the main purpose for a registry program was to be able to enforce the occupancy requirement. Mr. White explained that state code allows a locality, if it has a registration program, to enforce the “three strikes” rule that has moved forward from Council’s last discussion. We need the third party program to identify the locations of the rentals. Councilmember Perrow would still like to have no registration program or fee and if they need to enforce the “three strikes” rule later on, a registration program can be implemented later. Councilmember Helgeson noted they will be collecting enough lodging tax from Airbnb to cover the cost of a third party monitoring program.

Councilmember Helgeson noted they do not want to discourage people from using Airbnb. If there is a registration fee, they might choose to use a different platform to avoid the registration program and the City will collect no lodging tax from the other platform. Vice Mayor Dolan wondered why someone would use Airbnb and Councilmember Helgeson said because most of them are using it already and they like the service.

Councilmember Nelson asked if this is meant to be a one-time registration process or will it have to be renewed every year. Staff is recommending an annual registration. Mr. Nuckles asked Mr. White to speak to that and indicated that his purpose in getting the third party monitoring service is to have fairness and equity among everyone doing STRs. Mr. White said the annual registration process will give them a point in time snapshot of who is doing STR. The registration fee was to offset staff costs. Councilmember Nelson does not know why the City would charge a fee each year if nothing about the unit changed. Mr. White gave them staff costs to start up the program and they do think staff costs will go down over time. Maintaining the registration program does require staff time but it is difficult to tell how much until we see the overall volume. Councilmember Nelson would suggest they have a one-time registration fee and it only has to be paid if the owner changes or some other piece of critical information changes. For him, the registration process is important in order for them to know who is operating STRs for the safety of the guests as well as the need to contact a responsible host or owner or managing party if there is a problem with the property. If they have not registered, that is guesswork for the fire department or the police department or first responders.

Mr. White noted that they were asked to try and provide staff costs. Collecting an annual fee or a one-time fee or no fee at all are certainly all options for Council to consider. The registry does not require that you do a registration fee. Mr. Nuckles said it is very important to his office that they be able to keep up with whether or not a

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person is still doing the activity. Councilmember Nelson noted that if there is a one-time registration process and nothing changes, his staff can presume that they are still doing the activity year in and year out. Mr. Nuckles said that would be correct.

Councilmember Wilder asked if staff had a recommendation. Mr. White said they had initially suggested collecting lodging tax and a no fee registry program. Councilmember Helgeson noted that is the motion on the table. Councilmember Wilder asked Mr. Nuckles if that will give him the information he needs. He said as long as the numbers reported to the Department of Taxation match up with what they can see from the third party monitoring service, they should be in pretty good shape.

Councilmember Wright asked if this fee will be for one structure or for multiple units at a property. For example, someone could rent out the top floor as an STR and the bottom floor as an STR. Mr. Martin indicated that in order to do multiple units (an auxiliary dwelling), the property would have to be owner occupied. Mr. Martin indicated that the importance of having the host compliance list is to know where all the STRs are located. Only Airbnb remits the lodging tax to a locality. In order to be equitable, which Council has mentioned, they need the list to contact the ones that use a different platform such as VRBO or Craigslist and get them to remit the lodging tax. Councilmember Wright asked for clarification that they are talking about one structure. Mr. White said they would like to say it is for one structure but they will have to look at how removing the owner occupancy requirement has affected accessory dwellings. No matter what they decide to do in terms of a registration program or fee or any combination, they still need the third party service. Councilmember Wright favors what Councilmember Nelson has suggested—a one-time registration fee. There could be an annual registration process but not a fee. He is in favor of a one-time \$150 registration fee.

Councilmember Wilder asked for clarification from Mr. Nuckles as to whether or not his office needs the registration program. Mr. Nuckles said he needs the information from the third party. Councilmember Helgeson suggested the \$13,000 for the third party program can come from the lodging tax collected from Airbnb. Mr. Nuckles said there is also the \$10,000 in staff costs that has been included in the City's \$51,000 estimated annual costs. Councilmember Perrow asked if they have the \$51,000 cost even if no fee is collected. Mr. White indicated yes.

Councilmember Nelson noted that Airbnb might remit the taxes but does not remit the identity of the owner or the property location. Mr. Nuckles said that is correct. The host compliance agency will let them know who is operating in the City and what platform they are using. Mr. Nuckles gave the example of Alexandria. The third party is telling them they have 500 units but Alexandria has only 280 reporting through Airbnb. The Commissioner there is looking at the other 220 and has 70 of them remitting taxes of less than \$10,000. It is a ton of effort but fairness and equity means a lot to most of us.

Councilmember Helgeson thinks the cleanest way without a lot of burden on our staff is to only collect the lodging tax through Airbnb and collecting no registration fee. Councilmember Helgeson restated that as his motion, which had previously been seconded by Councilmember Perrow. Mayor Tweedy clarified that there would also be no registry and called for a vote. The motion failed by the following vote:

AYES:	Helgeson, Perrow	2
NOES:	Dolan, Nelson, Tweedy, Wilder, Wright	5

Councilmember Nelson made a motion that there be a registry program implemented and a one-time registration fee of \$150. The registration fee only needs to be paid again if there is a change in ownership or some other circumstance of significance. The motion was seconded by Councilmember Wright.

Councilmember Helgeson noted that a person's first two nights (at \$77 a night) will be paid to the City and there is no de minimis exception as Councilmember Nelson had previously suggested. There will also be staff time to keep up with the registry. A person does not have to pay any fees when they rent their property out long term so he does not understand how this is equitable. He knows they try to generate revenue by collecting fees but he thinks they should be thankful of the revenue that will be coming in every month in additional lodging tax.

Vice Mayor Dolan suggested an amendment to the motion which would allow a person to register multiple properties for one \$150 registration fee. Councilmember Nelson said he had wanted to recognize the infrequent exemption and that would be seven days or less a year would require no registration at all. He modified his motion to include that exemption. Mr. White indicated that staff would have no idea how many nights a person rents a unit. Councilmember Nelson indicated the neighbors will know and it would come into failure to register rather than billing for registration. If there is such an innocuous activity associated with the activity, the City has no reason to go after that owner. Mr. White said they will have no way of knowing how many nights a person rents their unit without doing some pretty extensive research. Councilmember Nelson said if there is a problem and someone is renting their unit more than seven days a year, someone is going to bring that information to staff. He said it is the same of someone who has more than two yard sales a year. We do not go after them for sales tax. Mr. White would caution them because it will be very difficult. Their default would be that they would have to assume everyone is doing it seven days or less. They would have to tell us they are doing more or their neighbors would have to complain. It could also change year to year. Councilmember Nelson asked him if they feel it would be an enticement for fraud. Mr. White said if they start adding in exemptions that change every year, they will have no way to know how many nights a particular owner rented out a unit. Councilmember Nelson said if staff feels it is problematic, he is not going to include it but it does bother him. He thinks the City needs to be tolerant for circumstances such as accommodating someone during a natural disaster. Mr. White suggested they could reduce the fee or do a no fee registration. Councilmember Nelson would not want to reduce the fee because that puts the burden on all the taxpayers. He wants it to be equitable and those that play pay.

Mr. White suggested if a person is doing it infrequently and does not wish to pay the registration fee, they could just come off the list when billed.

Councilmember Nelson did like Vice Mayor Dolan's suggestion to have an owner register all their properties under one registration fee since the point is mainly to get the contact information and find out the locations.

Mayor Tweedy asked the Councilmembers left who wished to comment to keep their comments to a minimum because she would like to get through the entire agenda because staff has been sitting there for two hours already. She would like to get through all the items even if it means there is no break between the work session and the

regular session.

Councilmember Perrow noted that Airbnb has 90 percent of Lynchburg's market. He asked Mr. Nuckles if his office will be attempting to collect the lodging tax from the other 10 percent. Mr. Nuckles said they will set them up as any other transient provider and that person is really required to remit the lodging tax on a monthly basis.

Commissioner Perrow said the registration fee needs to be annual then to offset the cost of staff time. It will take a bunch of effort to keep up with all these STRs and where else is the money going to come from.

Mr. Nuckles asked for clarification on the seven-day exemption and Councilmember Nelson said he had withdrawn that provision because of staff's concerns. The second part addressing Vice Mayor Dolan's suggestion is part of the motion.

Councilmember Helgeson asked how staff will handle someone who decides to rent out their home to someone for a weekend for a hurricane even for instance. Mr. White said they will get a bill on July 1 because staff has been alerted that there was some activity. The host can decide to continue doing STR and pay the registration fee or they can decide not to do it again and not pay the registration fee. As long as staff sees that there is no more activity, there would be no issue. Councilmember Helgeson asked for clarification that they would not be in violation and Mr. White said they would not be if they decided not to continue being an STR host.

Councilmember Helgeson asked what the staff costs would be if they just cashed the check that Airbnb sends them each month and there is no registration program. Mr. White said there would be the cost for the Commissioner of Revenue staff time, the host compliance agency cost and the cost of any enforcement and costs for followup monitoring. He reminded them that if they do not do a registry program, they cannot enforce the "three strikes" rule. He thinks staff costs would still be around \$30,000 a year but that is a bit of a rough guess. Mr. White explained that it has always been staff's recommendation that the City would bear some of the cost because of the additional neighborhood protection the registry could provide. Councilmember Helgeson noted they have not even gotten to the discussion about the "three strikes" rule so they cannot adopt this ordinance today. Mr. White and Mayor Tweedy reminded him that they moved that item forward at their last meeting. Councilmember Helgeson noted that staff was asked to come back with some different language and there have been changes to the ordinance since the last meeting.

Mayor Tweedy would suggest they take a vote on the registration fee item and then come back for a discussion on the violations rule. She would like to get to the other two items on the agenda today and called for a vote on the motion on the table:

YES:	Dolan, Nelson, Tweedy, Wilder, Wright	5
NOES:	Helgeson, Perrow	2

Mayor Tweedy asked staff to bring back the "three strikes" violation piece to the next meeting and reiterated that she would like to discuss what they can do regarding long-term rentals and owners that are not keeping up their rental properties. Councilmember Perrow would like the City Attorney to participate in that conversation and be versed in what the City's statutory authority is on the matter.

// In the matter of Social Services Dashboard Presentation, Agenda Item #3, Council was in consensus to hear this item next and save the Capital Improvement Program item until last. Ms. Tamara Rosser was present to give a

presentation. The Virginia Department of Social Services (VDSS) operates under a state supervised, locally administered model. The state provides guidance and monitors local Department of Social Services performance. VDSS developed the dashboard for each Local Department of Social Services (LDSS). Lynchburg is in the Piedmont region and is classified as a level 3 (large) agency based on the number of employees. We are also considered a fully deviating agency, which means that its employees are City employees not State employees. Our local board is an advisory board appointed by City Council that is not considered an administrative board. The state has developed this dashboard and the information will be presented quarterly. The presentation is to provide City Council an over of the dashboard and identify some gaps in staffing that are key to meeting the mandated measures.

The data is divided into four areas: public assistance which are the benefits provided, family services measures, human resources and finance. The data also provides a trend analysis, as well as a snapshot in time. The dashboard is a work in progress and they are constantly looking at information to include and tweaking it but it was developed with input from lots of different people. The first thing she discussed was Medicaid assistance and the timeliness in which applications were processed. Their benchmark is timeliness of applications at least 97 percent of the time, which they did not meet. Another item they are measured on is the processing of Supplemental Nutrition Assistance Program (SNAP) applications both expedited and non expedited. They met the goal for those applications, fell just a little short on Temporary Assistance for Needy Families (TANF) and met the benchmark for child care applications.

Ms. Rosser commented that they are under constant review for errors and they had zero errors on SNAP applications for the period of time evaluated. The Medicaid error rate is in progress.

Ms. Rosser noted that the monthly percentages in red are where they did not meet their benchmarks. They are certainly challenged to meet the Medicaid application deadline. She commented that Virginia just expanded Medicaid a couple of years ago and that has challenged their timeliness. She mentioned that when the Virginia Case Management System (VCMS) is down, they cannot process applications but are still held to the same timeliness standards. Councilmember Perrow asked how often the system goes down and Mr. Preston Sellers, the Program Manager, indicated it goes down weekly and it varies from an hour to an entire day. They are at the mercy of the State to get it running again when it does go down.

Ms. Rosser noted that the SNAP requirement is a federal requirement. Mayor Tweedy asked if they have the staff to do the extra input when the system does come back on line. Ms. Rosser said she will get to the point of staffing. Councilmember Perrow said they can challenge it because it is a Virginia system. Councilmember Helgeson commented that there could be a bunch of people sitting there not doing work because they cannot, we don't want to hire more people. Having flex time might be a good solution. Ms. Rosser assured them that there is no downtime where staff has no work to do. When the system is down, they spend time getting files in order and scanning documents. Councilmember Helgeson thought the system being down is irrelevant then but she assured him it is still relevant because they are unable to input applications but still have to meet the requirements. Mr. Sellers noted that people are still coming into the office to fill out applications and there are many documents to scan because they are going to a paperless system.

Mayor Tweedy asked if there is a consequence of not meeting the standards. Ms. Rosser noted that the State of

Virginia is under federal sanction for SNAP errors for a point in time from 2018 to the tune of approximately \$3.6 million. Lynchburg had more errors than allowed and they are in correction mode. They had to submit a corrective action plan to the State. Although they had zero errors recently, the federal government is always behind and the sanction goes back to a point approximately a year ago.

She then discussed the foster care and child protective services dashboard. They did meet their goal for the first contact made after a call. Congregate care placements are really outside of their control. A slide showing the number of children in foster care shows that the number of children in foster care is growing but the number is very fluid. Vice Mayor Dolan asked about the number of foster care children over the age of 18 and Ms. Rosser said they can stay in foster care until they are 21.

Ms. Rosser said the reason they cannot meet the goal for first contact goes back to not having enough staff. They do really well with the mandated foster care visits. Councilmember Helgeson asked about the private companies such as the Patrick Henry Home. Ms. Rosser said they provide the home but staff is still responsible for making the foster care visits. Councilmember Helgeson said if staff did less, the private companies could do more. Ms. Rosser said the children are in the custody of the local DSS are staff is still responsible for making the monthly visit. Ms. Rosser said it does not matter if they are in a home or a private agency, DSS is their legal custodian. The private agencies are providing the homes and making sure they get to all their appointments and counseling sessions and everything else. Councilmember Helgeson asked if their requirements go down if someone else is providing the home and Ms. Rosser indicated the requirements do not go down. Mayor Tweedy clarified that the City may shirk its responsibility and go toward privatizing these visits or removing children from the home. Ms. Rosser said only the local DSS in conjunction with the courts to make those removals.

The benchmark for congregate care is to have less than 16 percent of your foster care children in congregate care but whether or not they go into congregate care is based on the child's needs. With regard to all the family services benchmarks, Ms. Rosser said there are a lot in the red but that is for third quarter. She has received preliminary fourth quarter numbers and can see where they are making some progress. However, they are going to be very challenged to meet the minimum standards with current staff.

With regard to Human Resources, they have 175 targeted positions identified in the state's local employee tracking system (LETS) and that is based on a number of statistical pieces of data for the City. As of August 2018, they had 141 filled positions. Councilmember Perrow noted that is a 20 percent vacancy rate and Ms. Rosser said that is correct and that is according to what is in the LETS system. Currently they have approximately 142 positions approved through the local budget process. Councilmember Perrow said he understands now that this is the state's idea of our vacancy rate. Councilmember Wright asked how many of the 142 budgeted positions are currently vacant and Ms. Rosser thought it was around four or five. Councilmember Helgeson would like to know what is the actual budgeted positions versus the budgeted positions that are vacant. He thinks that would be much more helpful to them in deciphering a nineteen percent vacancy rate.

Dr. Reid Wodicka said he can get them that information; however, the LETS system is telling them how many people they need in order to run the department efficiently versus the number of budgeted positions they have and we are probably lower than the LETS number. Councilmember Perrow noted that if our internal vacancy rate is de

minimis then our metrics should be a whole better too. Ms. Rosser said they can recruit because they do pretty well in terms of pay relative to the region but acknowledged that the work is hard. People also leave for any number of reasons. Mayor Tweedy said she hears that it is overworking a lot of people and they leave for other opportunities that may have less workload. If there is a difference of 30 positions at what point does the state hold us accountable to where we are short based on we have not funded the necessary positions. Councilmember Wright noted that if the state is saying we need an additional thirty positions to do the work, then it is no wonder people are stressed. He is glad to hear that we paying competitive wages.

Ms. Rosser explained that the dashboard data is only a piece of a very large puzzle of data, mandates, standards and reviews. Over the past years, positions have been eliminated while the responsibilities and mandates have increased. While we are making some progress, we will be challenged to meet the minimum standards with current staff. The consequences of not meeting standards may result in not receiving full reimbursement of funds or having to repay funds. They are paying overtime to meet these requirements and there is a physical and emotional toll on staff. It is not sustainable for the department to meet the minimum standards with the amount of staff they currently have. At some point the lack of meeting these requirements will hit the City in its pocketbook because it will result in penalties. The state is currently under sanction for not meeting these requirements and that trickles down to the localities.

Ms. Rosser thanked Council and mentioned that she had run through the information very quickly. She would welcome the opportunity to come back. She thanked her staff and said they are dedicated to keeping children safe and making sure citizens have the benefits to which they are entitled. She commends the staff for the work they do against some very tough situations. Mayor Tweedy would like her to come back and asked staff to get her on a future agenda. Councilmember Wilder noted that he has been a foster parent for 20 years and has seen the hard work of the social workers and case workers and thanked them for their dedication.

Councilmember Wilder noted that he has heard that people move to the City from the counties in order to get benefits. Ms. Rosser said every locality has its own DSS and they can get the same benefits in Campbell County or Bedford County as they can get in Lynchburg.

Dr. Wodicka said that there are 146 authorized positions, including public assistance. Ms. Rosser noted that if they hire a benefits program employee, they will not be given a full caseload for twelve months because of all the required training and details that come into making a determination for benefits. Mayor Tweedy asked where is the opportunity for innovation in the work of social services and how are we addressing our expectations of third party agencies. Ms. Rosser said there is a lot of innovative work being discussed as a result of the state being under this sanction. They are part of the state's process to develop a performance improvement plan to look at how we can do business differently and how we can partner differently. She is excited about the school task force because she is hoping that as a result of people coming together and looking at things differently that we can talk about how they can best partner with some of the high risk families and children that we all see. She is optimistic that they can have those conversations. They are always trying to do the work as efficiently as possible with the resources they have. Ms. Rosser said they took a look at the high risk areas and mapped it out and it seemed that these children were attending a couple of certain elementary schools. They would love to engage in a conversation on meaningful

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collaboration with some of our partners where we are sharing everything and everyone has a little bit of skin in the game. Mayor Tweedy thanked her for her presentation and said they look forward to her coming back.

Councilmember Helgeson suggested they get to the Capital Improvement Program item at a later date. He thinks they should have meaningful discussion about the item. The other councilmembers seemed to favor that idea and it was decided to have roll call. Mayor Tweedy asked if delaying this item will affect anyone and Dr. Wodicka said it was an informational item only.

// In the matter of Roll Call, Councilmember Wright did not have any items. Councilmember Wilder announced a partnership with Economic Development and KDC 1, an employer on Florida Avenue. They are holding a job fair at the Jubilee Center on Saturday, September 14 from 11:00 a.m. to 2:00 p.m. There are 200 open positions. There will be activities for the family and a free lunch. Mayor Tweedy mentioned it is #hirelynchburg. Vice Mayor Dolan had no items. Councilmember Nelson commended Police Chief Ryan Zuidema for being only one of 23 fellows of the inaugural class of members of the Civil Society Fellowship. It is a three-year term and he is clearly being recognized for his skill set and leadership to solve community problems in America. Councilmember Perrow wished to recognize the Rotary Club of Forest who set up the Field of Honor at Automated Conveyor Systems. There are 1,200 flags representing a service member and it runs from September 1 through September 14. It was a very nice and well attended event and it is remarkable to see when you drive by it on Old Graves Mill Road. They play taps every night at 7:00 p.m. Councilmember Helgeson noted that the library for World War I and II veterans is recording and scanning documents to put in the archives. Mayor Tweedy mentioned that there was a tour of two apartment buildings on Rivermont Avenue today, the former Seven Hills School and the former Garland Rodes School. She thanked all of the staff and community organizations for the Get Downtown event. Main Street Renewal will begin Monday, September 16. Please understand that we are going through change but we are trying to make it as the least inconvenience as possible. She thanked staff for working with our businesses and residents.

// The meeting was recessed at 7:06 p.m.

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

// The following members were present:

Present:	Mary Jane Dolan, Jeff Helgeson, J. Randy Nelson, E. J. Turner Perrow, Sterling Wilder, Beau Wright, Treney Tweedy	7
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Absent:		0
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// Vice Mayor Dolan gave the Invocation, followed by the Pledge of Allegiance.

// In the matter of Recognitions, Mayor Tweedy, along with Chief Zuidema, recognized the following officers for receiving the Valor Award for an occurrence event that happened on August 27, 2019: Officers Miles Davis, Nathan Godsie., Nick Kirby, Thomas Sawyer, Roy Young and K9 Arko. She read a statement of what happened on that day and thanked them for their service. She said Council is honored to recognize them this evening. Councilmember Perrow commented that the officers never cease to amaze him. He thanked them from the bottom of his heart for all they have done and will continue to do for the City.

// Copies of the minutes of the August 13, 2019 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Councilmember Perrow, seconded by Councilmember Wilder, by the following

recorded vote approved the minutes as presented.

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright 7

Noes: 0

// In the matter of Budget, Resolution #R-19-060, laid over from the August 13, 2019 meeting, was again presented and read, on motion of Councilmember Perrow and seconded by Councilmember Wilder, the FY 2019 City/Federal/State Aid Fund Budget was amended and \$21,293 was appropriated with resources from the Virginia Wireless E-911 Services Board FY 2019 Public Safety Answering Point (PSAP) Grant Program, which was used to replace aging computer equipment for 12 Computer Aided Dispatch (CAD)

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright 7

Noes: 0

// In the matter of Budget, Resolution #R-19-061, laid over from the August 13, 2019 meeting, was again presented and read, on motion of Councilmember Perrow and seconded by Councilmember Wilder, the FY 2019 City/Federal/State Aid Fund Budget was amended and \$103,920 was appropriated with resources of \$51,960 from the Virginia Office of Emergency Medical Services – Rescue Squad Assistance Fund (FSAF) and \$47,297 from the FY 2020 General Fund Fire Department Budget and \$4,666 from the General Fund Fire Equipment Assigned Fund Balance to purchase three LifePak 15 cardiac monitors for the Fire Department.

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright 7

Noes: 0

// In the matter of Budget, Resolution #R-19-061, laid over from the August 13, 2019 meeting, was again presented and read, on motion of Councilmember Perrow and seconded by Councilmember Wilder, the FY 2019 City/Federal/State Aid Fund Budget was amended and \$103,920 was appropriated with resources of \$51,960 from the Virginia Office of Emergency Medical Services – Rescue Squad Assistance Fund (FSAF) and \$47,297 from the FY 2020 General Fund Fire Department Budget and \$4,666 from the General Fund Fire Equipment Assigned Fund Balance to purchase three LifePak 15 cardiac monitors for the Fire Department.

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright 7

Noes: 0

// In the matter of Budget, Resolution #R-19-062, laid over from the August 13, 2019 meeting, was again presented and read, on motion of Councilmember Perrow and seconded by Councilmember Wilder, the FY 2019 City/Federal/State Aid Fund Budget was amended and \$15,1213 was appropriated with resources from a grant from the Library of Virginia to preserve Deed Book JJ, 1884, Marriage Bonds A – L, 1835 – 1840 and Marriage Bonds J – Z, 1825 – 1834 at the Lynchburg Circuit Court Clerk’s Office.

Ayes: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright 7

Noes: 0

// In the matter of Community Development, Conditional Use Permits, Agenda Item #9, a public hearing was held regarding the petition of BHC Rhodes for a conditional use permit at 128 Old Courthouse Turnpike to allow the construction of a utility equipment shelter to support a fiber optic network in an R-4, High Density Residential District. Mr. Tom Martin gave a summary of the report. There was no one to make a presentation or to speak in

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favor or against the petition. Mayor Tweedy closed the public hearing portion of the petition. Councilmember Perrow wanted to know what it meant to support long haul equipment. Mr. Martin said it is a building and the fiber optics will boost a signal. Councilmember Perrow thinks it is a good use for a pretty unattractive space and it will generate some communications and real estate taxes. They cannot consider that in the conditional use permit but it is nice to know. He made the motion to approve the conditional use permit, which was seconded by Vice Mayor Dolan and passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

// In the matter of Community Development – Zoning Amendments, Agenda Item #10, a public hearing was held regarding the petition of JB Property Group, LLC to rezone approximately sixty-nine thousandths (0.069) of an acre located at 1004 Court Street from B-1, Limited Business District to B-4C, Urban Commercial District (Conditional) to allow uses permitted in the B-1, Limited Business District, and/or up to four (4) residential units in the existing building.

Councilmember Nelson commented that he represented the owner in the purchase of this property and will be abstaining from the discussion and vote. Mr. Tom Martin summarized the report for Council. Ms. Amy Seipp of Accupoint Surveying came forward to represent the petitioner. She explained the petition is pretty straightforward and commends Mr. Baker for saving this structure from dilapidation. He has started some exterior repairs and it is already seeing improvement. He would like to start with two residential units and may add two more units later. It fits the adjacent properties and is a good use for the structure. There was no one who wished to speak either in favor or in opposition to the petition and the public hearing portion of the petition was closed.

Vice Mayor Dolan and Councilmember Wright both felt it is a good use of the property. Councilmember Wright made a motion to approve the rezoning. The motion was seconded by Vice Mayor Dolan. Councilmember Perrow asked if it is a conditional rezoning because of the one proffer. Mr. Martin said that is correct and it limits the commercial uses to B-1, which is what the property is currently zoned. Councilmember Perrow he has property interest on Court Street but thinks this is a further indication of the changing use of Court Street. He believes the City should consider looking at the zoning of Court Street. He will not say anymore because he feels it would be improper.

Ayes:	Dolan, Helgeson, Perrow, Tweedy, Wilder, Wright	6
Nyes:		0
Abstentions:	Nelson	1

// In the matter of City Code, Zoning Amendments, Agenda Item #11, a public hearing was conducted regarding the consideration of amending Zoning Ordinance Section 35.2-11.3, Applications concerning proffers. Amendments will conform to the provision of Va. Code Ann. Section 15.2-2303.4, effective July 1, 2019. Mr. Tom Martin explained this will keep our code in line with the state code. The language was drafted by the City Attorney. The language gives more protection to the City in that when the proffers are signed and submitted that is evidence that they are reasonable and appropriate. There was no one who wished to speak in favor or opposition to the petition and the public hearing portion of the petition was closed. Councilmember Perrow made a motion to approve the

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amendment. The motion was seconded by Councilmember Nelson. Councilmember Perrow said he is not surprised Mr. Erwin wrote this and it does give the City more protection. When the developer or whomever signs off on the proffer, they cannot contest it in the future, which was a risk that was posed earlier. The motion passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

// In the matter of Public Works, Agenda Item #12, a public hearing was held regarding the consideration of an amended lease of City owner property at 901 Church Street to Community Appointed Special Advocate of Central Virginia (CASA) to increase the leased space. Ms. Gaynelle summarized the request. CASA started leasing space on the first floor in 2012 and made \$20,000 in improvements to the building. The City waived the \$12,000 in annual rent in lieu of a \$12,000 annual contribution. They are requesting 880 additional square feet that was formerly occupied by the City health nurse. She checked with City staff to see if there was any use for this space. This building has some very sensitive occupation on the 2nd and 3rd floors so we will be very picky as to who we put in this building. This is a perfect fit.

Ms. Allison Stronza, the Exective Director of CASA was present to represent the request. She thanked the City for its support over the years. They have increased their staff and are overcrowded. This space would be very helpful to them. They have served more than 4,700 children in the past 30 years. All the counties they serve are supporting them financially with the exception of Appomattox. They will be requesting funding from them. Many of the counties support them with free rent or office space, phone and internet. Lynchburg is their headquarters and where most of their staff is located. There was no one who wished to speak in favor or in opposition to the petition and the public hearing portion of the petition was closed.

Councilmember Wright made a motion to approve the request. The motion was seconded by Councilmember Nelson. Councilmember Wright said CASA is an incredible organization doing really important work. He likes the idea of offering them additional support, especially since Ms. Hart has said they are a perfect fit for the space. Mayor Tweedy noted this was reviewed by the Physical Development Committee (PDC). Councilmember Perrow noted that PDC did recommend approval of this request. This is a government services building that has sensitive components to the tenants that occupy the space. We would not rent out the space to just anyone and we are only talking about 800 square feet, which would be hard to rent out anyway. You cannot isolate this space by utilities so it is a cost we are already carrying. They provide a great service to the City and it seemed to be just and worthwhile and fair.

Councilmember Nelson noted that his second was not required but CASA certainly provides a very strategic, positive and critically needed service to the courts, DSS, children and our families. That location is right next to the courthouses, so it is a perfect site.

Councilmember Helgeson asked Ms. Stronza what percentage of the children served are from Lynchburg. Ms. Stronza provided some numbers from last fiscal year that indicated Lynchburg has the second highest number of children served after Bedford County. In response to a question from Councilmember Helgeson, Ms. Stronza said they receive \$12,000 a year from Bedford County and free office space.

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The motion passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

// In the matter of City owned property (Lynchburg Regional Airport), Agenda Item #13, a public hearing was conducted regarding the request of Virginia Department of Transportation (VDOT) for easements and additional right-of-way and Appalachian Power Company for agreements for utility poles along Route 29 on City owned property (Lynchburg Regional Airport) in Campbell County. Mr. Mark Courtney summarized the request for Council. The easements and right-of-way are necessary in order to accommodate a new bridge that VDOT will be constructing on northbound Route 29. Most of it is located on a 0.96 acre parcel owned by the City and used for the detention basin for half of the terminal parking lot. There will be a pole relocated and one that is added and another right-of-way in order to accommodate a wider road for VDOT as part of a new bridge. The airport has worked with VDOT and City staff and has no objection to it and has negotiated an acceptable offer. They need one more FAA approval; most of them have already been accomplished. There was no one who wished to speak in favor or in opposition to the petition and the public hearing portion of the petition was closed.

Councilmember Perrow noted that PDC reviewed this request this morning. This is a de minimis amount of land associated with this transfer, however, he commended the director and staff for negotiating a decent compensation for this acquisition. It took a significant amount of staff time and the amount they negotiated seems commiserate with that time. Councilmember Perrow on behalf of the PDC made a motion to approve the request. The motion passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

// In the matter of Budget, General Fund, Agenda Item #14, consideration of introducing a resolution to amend the FY 2019 General Fund budget and appropriate \$1,415,217 with resources from the Assigned Fund Balance Health Insurance Reserve, Mr. James Lowe provided a summary of the request. He said this is the second year in which we have come up short in our estimated expenditures for the health fund. Last year the rates for the cost share for employees were increased. One of the challenges is that the health care is a calendar year and is not in sync with our fiscal year. They have met and come up with a strategy to remedy that but for the time being, we do come up short.

Councilmember Helgeson is sure there are things that could be implemented instead of waiting another year or a fiscal year. This is not good news by any means when we see our reserves being depleted and there will still be a shortfall. He has brought this up before that when we have emergencies we need to plan as best we can and not spend everything. As a Council, he hopes they will recognize that when they have reserve funds, there is always something that comes up.

Councilmember Perrow asked what the budgeted amount was for health insurance. Ms. Donna Witt said it was approximately \$13 million. Ms. Svrcek indicated that we have had two bad claims years in a row, which is very unusual. They had a conference call yesterday with our health consultant to talk about how we can remedy this in the future. Ms. Svrcek asked him to find a third party auditor to audit our claims because we know there have been billing issues. She also wants to educate the employees to be health advocates for themselves. She is challenged by

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seeing medical bills and explanations of benefits coming daily and she is confident many of the City's employees are as well.

Councilmember Perrow thinks they should have a longer term conversation about the level of reserve that we hold. Ms. Svrcek agreed. Councilmember Perrow noted we are tapping everything here and this is very bad news. Ms. Svrcek said it is very difficult to predict. Councilmember Perrow noted their back is against the wall and clarified they are dumping the entire reserve into the general fund. Councilmember Perrow moved the resolution and it was seconded by Councilmember Wilder. Councilmember Wilder asked if it is normal for them to use their reserve. Ms. Svrcek said it is unusual for them to have had two bad claims years in a row. She wants them to dig deeper into what is going on behind all of this. Ms. Svrcek projects increases for January 2020 and January 2021 to help build the reserves and there will be additional costs to the employees and to the City.

Councilmember Nelson asked if there is any indication at this point in the fiscal year as to whether we are going to have another bad year. Mr. Lowe said that the national trend has been about a ten percent increase per year. Our trend for the past three years since we have been with Anthem has been around 4.6 percent. We do not anticipate a bad year but there is always a lag behind us as to what claims you have and data and history. It is early in the fiscal year and he cannot assure them it will be a better year at this point. Councilmember Nelson said it should be interesting to see what the consultant has to say.

Councilmember Helgeson asked if Ms. Svrcek thinks claims have been paid that should not have been paid. Ms. Svrcek said she thinks it is worth a second look by a professional auditor. He asked if Anthem does the administration of claims and Ms. Svrcek said yes. He asked if we pay the claims because we are self insured and Ms. Svrcek said that is correct. Mr. Lowe said we pay an administrative fee each month whether or not that contract member has any expenses incurred or not. Anthem does the processing of claims and we pay the claims. Councilmember Helgeson doubts that Anthem is asking for payment of claims that they should not. Mr. Lowe said they would like to think that Anthem is very reputable and professional in the adjudication of the claims. We have had personal experiences where it causes us to question the appropriate adjudication of the claims. Councilmember Helgeson asked if there is anything they could regarding the design of the plan. Mr. Lowe said they have tweaked the plan significantly in the past few years but do not plan on doing that in the coming year. Councilmember Helgeson thinks they should do some kind of tertiary analysis of the plan in light of spending all the reserve money.

Councilmember Wilder thinks they can look at some of that during the audit. He asked when they review to see if they are on target for the year. Mr. Lowe said that during the sixth month of the plan year they look at that claims experience to start projecting toward the next year.

Short of having some competition for health care, which Councilmember Helgeson strongly encourages, he did note that UVA had seen where more claims were being paid than should have been paid. Hopefully we can look at the providers as far as the charges because he hopes we are not being overbilled. He is glad they are looking at it.

The motion passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

// In the matter of City Code, Agenda Item #15, Solid Waste Collection and Disposal, Council considers adopting an ordinance to amend Section 212.3.31 of the City Code to reflect the decal fees approved by City Council as part of the Adopted FY 2020 Operating Budget. Ms. Hart explained the increase in the fees from \$40 to \$55 for a 32-gallon can and from \$80 to \$110 for a 64-gallon can. The City Code needs to be changed to reflect these fees.

Councilmember Wilder made a motion to approve the ordinance, which was seconded by Vice Mayor Dolan. Councilmember Helgeson thought this was rolled pretty quickly. People got notices that prices went up 37 percent and only have 15 days to pay it. He received a lot of calls. Ms. Hart explained the notices went out the end of August and they are due on September 18. That is in order to receive them by October 1. You can buy them on line, which is actually the department's preferred way of people buying them. They started a public relations campaign in July and there was a water bill insert as well.

The motion passed by the following vote:

Ayes:	Dolan, Nelson, Perrow, Tweedy, Wilder, Wright	6
Noes:	Helgeson	1

// In the matter of Public Works, Agenda Item #16, Council considered a resolution to approve a change order for \$45,378 for the completion of the demolition phase of the Police Department Headquarters project. They have found an additional 4,200 cubic yards of contaminated soil and found three more underground storage tanks. They had unit prices in the contract to protect the City from additional costs.

On behalf of the Physical Development Committee, Councilmember Perrow noted they are disappointed to see it exceeding the 25 percent threshold but staff did a good job when they bid the work to include the unit prices. If that were not the case, this change order would likely have been a whole lot more. Whenever you are dealing with remediation and underground tanks and demolition of a building that has been there for decades, you do not know what you are going to find. PDC recommended approval and the good news is the rest will be new construction and the unknowns are out of the way. Councilmember Perrow made the motion on behalf of PDC to approve the change order. Councilmember Helgeson asked about the additional approximately \$250,000 left over from the Bluffwalk money that he suggested be put toward this building. Ms. Svrcek said that is still coming back to them for consideration. He thinks that is good that they will have that money to help pay for this change order. The motion passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

// In the matter of Budget, CSA Fund, Council considered a resolution to amend the FY 2019 CSA Fund budget to appropriate \$75,000 in additional funding for increases in the CSA program, specifically increases in special education placements in private day schools and residential special education facilities with resources from the CSA fund balance and the Virginia Department of Education. Ms. Rosser explained they saw a 22 percent increase in the special education day placements from 2018 to 2019. No additional general fund dollars are required. She explained CSA funds are state funds with a local match. Our match would be \$20,000 coming from the CSA fund balance.

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Councilmember Wright made a motion to approve the resolution, which was seconded by Vice Mayor Dolan. He thanked Ms. Rosser and her team again for their hard work and the motion passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

// On motion of Councilmember Wilder, seconded by Councilmember Perrow, Council by the following recorded vote elected to hold a closed meeting to discuss appointments to the Building Code Appeals Board, Business Development Center Board, Economic Development Authority, Redevelopment & Housing Authority and Social Services Advisory Board and for discussion and consideration of the City Manager's and the City Attorney's performance evaluations, pursuant to Section 2.2-3711(A.) (1) of the Code of Virginia.

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

On nomination of Councilmember Perrow, seconded by Councilmember Helgeson, Council by the following recorded vote reappointed Mark Smith to serve on the Building Code Appeals Board for a term ending September 30, 2023:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

On nomination of Councilmember Perrow, seconded by Councilmember Helgeson, Council by the following recorded vote reappointed Brandon Baber, Michael Forren and Maurice Preston and appointed Kamal Darden, Corey Davis, Pavlina Dirom, Graham Evans, Samuel Howe, Daniel Lee and Cheryl Valentine to the Business Development Centre Board for terms to expire September 30, 2022.

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

On nomination of Councilmember Perrow, seconded by Councilmember Helgeson, Council by the following recorded vote appointed Andrew Mueller to serve on the Economic Development Authority to fill an unexpired term to end June 30, 2021:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

On nomination of Councilmember Perrow, seconded by Councilmember Helgeson, Council by the following recorded vote reappointed Sarah Ploch to serve on the Redevelopment and Housing Authority with a term to expire September 30, 2022:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

On nomination of Councilmember Perrow, seconded by Councilmember Helgeson, Council by the following recorded vote reappointed James Polk, Jr. and Timothy Griffin and appointed Joan Rowe to serve on the Social Services Advisory Board with terms to expire September 30, 2022:

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Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

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

Councilmember Perrow 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 Councilmember Helgeson, and Council by the following recorded vote adopted the motion:

Ayes:	Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Wright	7
Noes:		0

// The meeting was adjourned at 10:00 P.M.

Clerk of Council