

// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of September, 2009, at 5.00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

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

Noes: 0

// On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote elected to hold a closed meeting to conduct the performance evaluation of the City Manager and for consultation with legal counsel, or briefings by staff, concerning the case of *John Romano v. City of Lynchburg, et als.*, because consultation or briefing in an 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, Perrow, Foster 7

Noes: 0

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

// Council Member Johnson made the following motion:

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

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

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

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

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

Noes: 0

// Mayor Foster read the following statement:

City Council completed its annual review of Kimball Payne's performance as City Manager and has instructed me to make the following statement.

Council is fully aware of the ongoing litigation regarding freedom of speech issues and does not believe that it would be appropriate to comment on, or attempt to influence that court proceeding. We have, however, completed our annual evaluation of the City Manager's performance and we continue to have confidence in Kimball Payne's ability to carry out his assigned duties with quality and proficiency. We are convinced that Mr. Payne will continue his commitment to ongoing quality improvement efforts both in his

own performance and that of all our city employees, and we believe that he will continue to lead city staff in a professional manner.

// City Council recessed the meeting at 7:26 p.m.

// City Council reconvened the meeting at 7:30 p.m. Council Vice Mayor Dodson gave the Invocation, followed by the Pledge of Allegiance.

// Copies of the minutes of the July 14 (two meetings), 2009, meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// Copies of the minutes of the August 3, 2009 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// Copies of the minutes of the August 11 (two meetings), 2009 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of Parks & Recreation – General, Resolution #R-09-073 amending the FY 2010 City Capital Project Fund budget and appropriating \$208,519, fully reimbursable, for improvements to Riverside Park, laid over from the August 11, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Fire – General, Resolution #R-09-074 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$16,600, fully reimbursable, to purchase equipment for the Fire Department's Hazardous Materials Response Team, laid over from the August 11, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Fire – General /Life Saving Crew, Resolution #R-09-075 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$40,150, fully reimbursable, to purchase eleven laptop/notebook computers, nine computers for the Lynchburg Fire Department and two for the Lynchburg Life Saving Crew, laid over from the August 11, 2009 meeting, was again presented and read, and on

motion of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Fire – General, Resolution #R-09-084 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$24,125, with \$11,226 reimbursement, to purchase a monitor/defibrillator for the Lynchburg Fire Department, laid over from the August 11, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Police/Emergency Communications, Resolution #R-09-085 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$235,915, fully reimbursable, to add three new Communication Specialist positions to the Emergency Communications Center, laid over from the August 11, 2009 meeting, was again presented and read, and on motion of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Parks & Recreation – Riverside Park, Resolution #R-09-086 amending the FY 2010 City Capital Projects Fund budget and appropriating \$125,000, fully reimbursable, to construct a sprayground in Riverside Park, laid over from the August 11, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Commonwealth's Attorney, City Council Report #10 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-088, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$3,500, fully reimbursable, to conduct workshops on family violence and assist special populations:

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

Noes: 0

// In the matter of Commonwealth's Attorney, City Council Report #11 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-089, as presented, amending the FY2010 City/Federal/State Aid Fund budget and appropriating \$52,682, fully reimbursable, to hire a part-time Community Safety Liaison:

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

Noes: 0

// In the matter of Taxes, City Council Report #12 was considered. On motion of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-090, as presented, amending the FY 2010 General Fund budget and appropriating \$15,584 to refund an overpayment of erroneously paid business license taxes by the Floor Show, Inc. for the calendar years 2006, 2007, 2008 and 2009:

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

Noes: 0

// In the matter of Police – E911, City Council Report #13 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-091, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$115,069, fully reimbursable, to replace aging equipment, provide training, purchase Automatic Vehicle Location (AVL) software, purchase additional Computer Aided Dispatch (CAD) packages, and perform network improvements:

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

Noes: 0

// In the matter of Library – General, City Council Report #14 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-092, as presented, amending the FY 2010 General Fund budget and appropriating \$2,500, fully reimbursable, to fund a temporary employee in the Lynchburg Public Library:

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

Noes: 0

// In the matter of Library – General, City Council Report #15 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-093, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$5,200, fully reimbursable, to purchase personal computers and related hardware for the Downtown Branch Library:

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

Noes: 0

// In the matter of Parks & Recreation – General, City Council Report #16 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-094, as presented, amending the FY 2010 City Capital Projects Fund budget and appropriating \$58,000, fully reimbursable, to complete a site specific environmental assessment and remediation plan for the former Allen Morrison property:

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

Noes: 0

// In the matter of Community Development – Engineering, City Council Report # 17 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following

recorded vote adopted Resolution #R-09-095, as presented, to participate in the Virginia Department of Transportation (VDOT) Revenue Sharing Program for an allocation of \$1,000,000 to fund the Kemper Street Bridge and Interchange Improvement Project:

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

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Noes:

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// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #18 outlining the petition of Trinity Episcopal Church for a Conditional Use Permit (CUP) to allow the construction of a 1,433 square foot addition to the existing church and a future parking area in an R-2, Low-Medium Density Single-Family Residential District, at 104 Walnut Hollow Road. City Planner Tom Martin provided a brief summary regarding the petition, stating that the Planning Commission recommended approval of the CUP. Mr. Russell Nixon, with Nixon Land Surveying, LLC, representing the petitioner, outlined the request and asked for approval. 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 Garrett, Council by the following recorded vote adopted Resolution #R-09-096, as presented, granting the Conditional Use Permit:

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

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Noes:

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// In the matter of Public Works – Street Vacation, a public hearing was held regarding the adoption of an Ordinance to vacate a paper street known as Barker Street located between Talbot Street and 2707 and 2705 Memorial Avenue. City Planner Tom Martin provided a brief summary regarding the request and informed that all the adjoining property owners have signed the petition to vacate this paper street. Mr. Thomas Brooks, with Acres, Inc., representing the petitioner, outlined the request and asked for approval. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to Council questioning, City Attorney Walter Erwin stated that the State Code determines how the vacated paper street is to be divided among the adjoining property owners. Council Member Johnson, Physical Development Committee (PDC) Chair, stated that this item came before the PDC and made a motion to approve the street vacation. The motion required no second, and Council by the following recorded vote adopted Ordinance #O-09-097, as presented, vacating a paper street known as Barker Street:

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

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Noes:

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// In the matter of Community Planning – General, a public hearing was held regarding adopting the “Wards Road Pedestrian and Bicycle Study” as part of the City of Lynchburg Comprehensive Plan 2002-2020. City Planner Tom Martin presented an overview regarding the Wards Road Pedestrian and Bicycle Study. Mr. Martin stated that the primary goal of the study is to provide for the safety of pedestrian and bicycle traffic in the area. Mr. Martin explained that these modes of transportation will increase once

tunnels under the Norfolk & Southern railroad are installed by Liberty University in the spring of 2010. Mr. Martin went on to say that the Planning Commission recommended approval of the plan because:

- The Plan agrees with the *Comprehensive Plan* which recommends “priorities for improvements to the transportation system should be based on safety considerations; existing deficiencies; multimodal and environmental considerations; physical economic, and policy constraints; contribution to quality urban design; required right of way needs; level of service; and appropriate system continuity
- The Plan agrees with the Comprehensive Plan which recommends “include alternative transportation modes in the Transportation Master Plan (TMP), including pedestrians, bikeways, trails and transit.

Mr. Lee Beaumont, Liberty University, spoke in support and urged City Council to approve the Plan. Mr. Beaumont explained that this is a safety issue for the Liberty University students who travel on Wards Road. There was no one else present who wished to speak to this item, and the public hearing was closed. Several Council Members agreed that something needed to be done on Wards Road to address the safety issues relating to the Liberty University students who regularly cross Wards Road to reach area businesses. In response to Council questioning, Mr. Beaumont stated that Liberty University will be spending approximately \$1.2 to \$1.4 million to construct the pedestrian tunnel that the students will use to access Wards Road. Mr. Beaumont also stated that the construction of the tunnel will be coordinated with the implementation of the Plan. Council Members expressed support for the Concept Plan. In response to questioning, City Manager Kimball Payne stated that the Plan will be implemented in phases and that the City will apply for Transportation Enhancement and other safety grants from the Virginia Department of Transportation (VODT). Mr. Payne noted that Congressman Goodlatte was in support of this project and that Senators Webb and Warner have also been briefed regarding the project. Mr. Payne went on to say that this project could be phased into the Capital Improvements Plan (CIP) during the annual budget process. Some Council Members asked the City Manager to find funding for the Plan as soon as possible. On motion of Council Member Gillette, seconded by Council Member Helgeson Council by the following recorded vote adopted Resolution #R-09-098, as presented, approving the Wards Road Pedestrian and Bicycle Study as part of the Lynchburg Comprehensive Plan 2002-2020:

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

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Noes:

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// In the matter of City Code, a public hearing was held regarding City Council Report #21 regarding amending Sections 35.1-25 and 35.1-11.11 of the Zoning Ordinance pertaining to parking requirements for residential, commercial, institutional and mixed uses. City Planner Tom Martin provided a brief summary regarding the proposed amendments to the Zoning Ordinance. Mr. Martin stated that the Planning Commission initiated amendments to the Off Street Parking and Loading section of the Zoning Ordinance on March 11, 2009, and that the primary goal of the proposed amendments is to reduce the amount of required off street parking. Mr. Martin explained that reducing the amount of required off street parking will help transition the City to a market driven needs approach, encourage infill and

redevelopment, preserve land and reduce environmental impacts. Mr. Martin went on to say that in addition to reducing required off street parking, the proposed amendments provide for:

• Shared parking agreements	• Reduction of required spaces when mass transit is available
• Parallel parking spaces	• Reduction of required spaces for mixed uses

Mr. Martin stated that the Planning Commission recommended approval of the amendments because:

- The amendments agree with the *Comprehensive Plan* which recommends “amending existing development ordinances to ensure clarity, ease of interpretation, and administration, and effectiveness in promoting high quality development”.
- The amendments agree with the *Comprehensive Plan* which recommends “ensuring flexibility in zoning codes by identifying site, building, buffer, design and other code provisions that restrict development potential”.

Mr. Martin recommended two minor changes to Section 35.1-25, i.e., (g) ...in the form of shelters and/or benches...and (k)...is satisfactory to the city planner... Two individuals spoke in support of the proposed changes. There was no one else present who wished to speak to this item, and the public hearing was closed. Several Council Members spoke in support of the proposed changes stating that reducing the amount of required off street parking will allow more flexibility for developers. Council Member Perrow stated that he would like to see porous pavement be included in Section 35.1-25 (d), but agreed that this change could be brought back to City Council at a future date. In response to Council Member Perrow’s question, Council Member Gillette informed that parking requirements for “on street” loading berths will be included in the proposed Parking Ordinance which will be coming to City Council later this month. On motion of Council Member Helgeson, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #0-09-099, as amended, amending Sections 35.1-25 and 35.1-11.11 of the Zoning Ordinance pertaining to parking requirements for residential, commercial, institutional and mixed uses:

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

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Noes:

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// In the matter of Budget FY 2010, a public hearing was held regarding amending the FY 2010 Operating Budget and appropriating funds to reflect the carry forward of unexpended funds in FY 2009. Director of Financial Services Donna Witt provided a brief summary regarding the request. One individual spoke in support. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-100,

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September 8, 2009

as presented, amending the FY 2010 Operating Budget and appropriating funds to reflect the carry forward of unexpended funds in FY 2009:

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

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Noes:

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//The meeting was adjourned at 9:13 P.M.

Clerk of Council