// A regular meeting of the Council of the City of Lynchburg was held on the 11th day of August, 2009, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Johnson gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

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

Absent: 0

// In the matter of Community Planning – Historic Preservation, Resolution #R-09-064 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $10,000, fully reimbursable, to provide a Preservation Virginia training workshop for the Historic Preservation Commission and staff, laid over from the July 14, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Police - General, Resolution #R-09-065 amending the FY 2010 Fleet Fund budget and appropriating $251,447, with resources from Fleet Services' surplus auction, to purchase ten replacement police vehicles, laid over from the July 14, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Finance – Bonds, Resolution #R-09-070 amending the FY 2010 General, Water, Sewer and Airport Funds' Operating Budgets for funding of $188,991, $110,170, $58,438 and $1,659, respectively, for expenses associated with the issuance of the FY 2010 General Obligation Public Improvement Bonds, laid over from the July 14, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Budget, Resolution #R-09-071 amending the FY 2010 General Fund, Juvenile Detention Fund, Water Fund, Sewer Fund, Airport Fund and Fleet Fund budgets and appropriating funds to restore the 3% salary reduction to all City employees, laid over from the July 14, 2009 meeting, was again presented and read, and on motion of Vice Mayor Dodson, seconded by Council Member Garrett, 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 and Recreation – General, City Council Report #5 was considered. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-09-072, as presented, to support an application for a Virginia Recreation Trails Program grant in the amount of $100,000 to construct the trail system in Ivy Creek Park:

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

// In the matter of Parks & Recreation – General, City Council Report #6 was considered. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-073, as presented, amending the FY 2010 City Capital Project Fund budget and appropriating $208,519, fully reimbursable, for improvements to Riverside Park:

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

// In the matter of Fire – General, City Council Report #7 was considered. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-074, as presented, 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:

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

// In the matter of Fire – General, City Council Report #8 was considered. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-075, as presented, 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:

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

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #9 outlining the petition of Peakland United Methodist Church for a conditional use permit to allow the construction of a columbarium wall at 4434 Boonsboro Road in an R-1, Low Density Single-Family Residential District. City Planner Tom Martin provided a brief summary regarding the petition. Ms. Elizabeth Austin, 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. Council Member Garrett read the following statement: "In addition to serving on City Council, I am also a member and serve as a trustee at the Peakland United Methodist Church. However, I do not receive a financial interest or benefit from my involvement with the Church and therefore I do not have a conflict of interest in this manner. Even though I serve as a member of City Council and as a member and trustee at the Peakland United Methodist Church, I am able to participate in this matter fairly, objectively and in the public interest. Therefore I will participate in the discussion of and vote on this matter." On motion of Council Member

Garrett, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-09-076, as presented, granting the Conditional Use Permit:

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

Noes: 0

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #10 outlining the petition of J.M.U., LLC, to amend the Future Land Use Map for 1700 Graves Mill Road from an Office use to a Medium Density Residential use and for a Conditional Use Permit (CUP) to allow the construction of 50 townhouses with associated parking and amenities in a B-1, Limited Business District. City Planner Tom Martin stated that on May 13 the Planning Commission recommended denial of an earlier request by the petitioner for the construction of seventy-five (75) townhouses. Mr. Martin explained that on June 23 City Council received a revised concept plan for the project that reduced the number of proposed units from seventy-five (75) to fifty (50) townhouses; relocated the remaining units to the end of the private driveway; removed a portion of the proposed drive, a stream crossing, seventy-five (75) parking spaces, a stormwater detention basin, the townhouse units with lower level garages and the walking trail; and preserved a five (5) acre wooded portion of the property on the northern side of the Tomahawk Creek tributary. Mr. Martin went on to say that City Council determined that the proposed changes were significant and referred the petition back to Planning Commission for consideration whereby it was approved by them on July 22. Mr. Martin also noted that this matter was mistakenly advertised for a public hearing on September 8, 2009, counter to Council's direction that it be reconsidered on August 11 and that once the error was discovered, the public hearing was re-advertised and notices sent advising of the August 11 consideration. Mr. Martin explained that some stakeholders indicated that they made vacation plans based on the earlier notice and would not be present on August 11 and that they were advised that any comments they wish to forward would be read into the record. Mr. Martin went on to say that while Council should proceed with the scheduled public hearing, it has at least two options for bringing this matter to closure: (1) close the public hearing after comment on August 11 and take action; or (2) continue the public hearing to September 8 and then take action. Mr. Rick Read, Coldwell Banker, stated that the petitioner has made some significant sacrifices to address the concerns of the neighborhood and to address the traffic concerns expressed earlier by Council. Mr. Read explained that the number of units has been reduced and that the petitioner has agreed that the rear five acres adjoining the residential neighborhood would remain undeveloped. Mr. Read also noted that even though no through road was ever planned to go into Maple Hills, the new design further assures that this should not be a concern for the neighborhood. Mr. Read went on to say that with the reduction of units no traffic study would be required and that there would be no need for a turn lane. Mr. Ed Ewers, James C. May & Associates, stated that there are two existing apartment buildings in front of this project on Graves Mill Road and that this project would be complimentary to the existing multi-family use. Mr. Ewers also noted that the only way in and out of this project will be via Graves Mill Road and that the access will be upgraded so that it meets the Virginia Department of

Transportation (VDOT) standards. Mr. John O'Keefe, one of the property owners, stated that the property has been on the market for the past seven years and that the only interest they have received is for townhome development. Mr. Jay Parker, spokesperson for the Maple Hills Subdivision, spoke in opposition to the petition stating the a townhome community on the proposed site would be an encroachment on their quality of life, a detriment to their property values, and an infringement on their right to own homes in the type of community they choose—not in a community that is forced on them. Mr. Parker went on to say that the City is already oversaturated with vacant, unsold townhomes, expressed concern regarding the future extension of the road into the Maple Hill Subdivision, and noted that the property already corresponds perfectly with the City's plan for development in the area. Seven residents of the Maple Hills Subdivision also spoke in opposition to the proposed development citing similar concerns. There was no one else present who wished to speak to this item, and the public hearing was closed. Several Council Members commented that to respond to neighborhood concerns the developer has reduced the number of units by one-third, has removed any possibility of a future connector road into the Maple Hills Subdivision, and has agreed that the five acres adjoining the neighborhood shall not be developed. They also noted that the Planning Commission did recommend approval. Other Council Members questioned whether this project is a compelling reason to change the current use of the property, especially in light of the concerns expressed by the Maple Hills neighborhood. They also expressed safety concerns regarding the additional traffic on Graves Mill Road, especially without a left turn lane, and expressed a belief that the property could be developed as currently zoned. In response to questioning, Mr. Martin stated that City Council cannot require the developer to put a deed restriction on the property. Mr. Martin went on to say that he spoke with Mr. Hartless who stated that he would be willing to consider a fifteen year deed restriction on the five acres adjoining the Maple Hills subdivision. City Attorney Walter Erwin explained that even though City Council cannot impose a deed restriction, if the developer is willing to offer a deed restriction then City Council can accept the offer and include it as a condition to the approval of the CUP. Mr. Mark Hartless indicated that the developer is willing to offer a fifteen year deed restriction on the parcel adjoining the Maple Hills subdivision. City Attorney Erwin stated that Condition #5 can be added to the Resolution to approve the CUP as follows: "It is mutually agreed by JMU, LLC and the City that the City's approval of the conditional use permit is contingent upon a deed restriction being placed on the 4.96 acre parcel prohibiting its development for a period of 15 years. The failure to comply with this condition shall render the granting of the conditional use permit null and void." On motion of Council Member Perrow, seconded by Council Member Helgeson, Council by the following recorded vote adopted Ordinance #0-09-077, as presented, amending the Future Land Use Map for 1700 Graves Mill Road from an Office use to a Medium Density Residential use:

Ayes: Dodson, Garrett, Helgeson, Perrow 4

Noes: Gillette, Johnson, Foster 3

On motion of Council Member Perrow, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-09-078, as amended by adding condition #5, granting the Conditional Use Permit:

Ayes: Dodson, Garrett, Helgeson, Perrow 4

Noes: Gillette, Johnson, Foster 3

// In the matter of Community Development, a public hearing was held regarding the 2009/2010 Annual Action Plan for Community Development Block Grant (CDBG) and HOME Programs. City Manager Kimball Payne stated that at the earlier work session, City Council approved the allocations for the 2009/10 CDBG and HOME Program funds and that one of the requirements from the Department of Housing and Urban Development (HUD) is for City Council to authorize the submission of the Annual Action Plan to HUD. Mr. Payne explained that the fiscal year 2009/2010 Plan describes allocations, objectives, activities, and performance measures for the City and links the goals and objectives of the 2005-2010 Consolidated Plan to the Annual Plan. Mr. Payne went on to say that the Plan also includes the 2009/10 CDBD and HOME Program allocations approved at the earlier work session. There was no one present who wished to speak to this item, and the public hearing was closed. Council Member Helgeson still voiced concern regarding the increase in funding for City Administration and the need to increase funding to the Housing Authority spot blight program. Council Member Perrow stated that since Council voted earlier to approve the allocations that he would vote in favor of the Plan. In response to questioning, City Manager Payne stated that he would provide to CDAC a copy of the final Action Plan that is submitted to HUD. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote approved the 2009/2010 Annual Action Plan for CDBG and HOME Programs for submission to the Department of Housing and Development:

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

Noes: Helgeson 1

// In the matter of Public Works - Street Vacations, a public hearing was held regarding City Council Report #12 regarding a request from St. Augustine Properties to vacate an unopened portion of Price Street between Kemper Street and Tazewell Avenue. City Planner Tom Martin provided a brief summary regarding the request. Mr. Tommy Brooks, 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. 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-09-079, as presented, vacating an unopened portion of Price Street between Kemper Street and Tazewell Avenue:

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

Noes: 0

// In the matter of Public Works – Street Vacations, a public hearing was held regarding City Council Report #13 regarding the vacation of a portion of Kings Drive and approving the dedication of 0.162 acres of Kings Drive as a portion of a public street. City Planner Tom Martin provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. 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-09-080, as presented, approving the vacation of a portion of Kings Drive:

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

Council Member Johnson, Physical Development Committee (PDC) Chair, made a motion to approve the street dedication. The motion required no second, and Council by the following recorded vote adopted Resolution #R-09-081, as presented, approving the dedication of 0.162 acres of Kings Drive at the terminus of Kings Drive at 114 Kings Drive as a portion of a public street:

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

// In the matter of Public Works – Street Vacations, a public hearing was held regarding City Council Report #14 regarding the vacation of a portion of the public right-of-way at the northern corner of 2617 Lakeside Drive and to relinquish any interest the City may acquire by virtue of said vacation to WCI., L.C. Real Estate Manager Steve Lawson provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #O-09-082, as presented, vacating a portion of the public right-of-way at the northern corner of 2617 Lakeside Drive and relinquishing any interest the City may acquire by virtue of said vacation to WCI, L.C.:

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

// In the matter of Property, a public hearing was held regarding City Council Report #15 regarding the disposition of a property right, i.e. the right to repurchase property known as “The Galleria,” located at 915 Main Street, in 2059 for $75. City Manager Kimball Payne stated that the land on which the Galleria was built was donated by the City to the developer of the project and that the deed contains two provisions whereby the City retained certain rights with respect to the property. Mr. Payne explained that the first provision provides for a “first right of refusal” to the City in the event that someone makes an offer to purchase the property and that City Council waived this right in 2005 with respect to an earlier purchase. Mr. Payne went on to say that the second provision in the deed allows the City to repurchase the property for $75 after seventy-five years, i.e., in 2059. Mr. Payne stated that Lynchburg Community Action (Lyn-CAG) has purchased the property and has asked that the repurchase provision be waived since the repurchase provision is an issue raised by the bank, Mr. Payne also noted that at some point it will provide a disincentive for an owner to provide routine maintenance to the building. Mr. Payne explained that the value for the repurchase provision is determined to be no more than $15,000 once the time value of money is calculated and that in return for waiver of the repurchase provision, Lyn-CAG has proposed that the City’s annual contribution to the maintenance of the Galleria property be reduced by $2,000 for the next fifty years. Dr. James Mundy, Lyn-CAG Executive Director, 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. Council Member Helgeson expressed concern regarding relinquishing the City's right to repurchase the property for $75 especially since City funds were used to purchase the property and stated that if this right is relinquished, the minimum the City should accept should be the amount the City paid for the property, i.e., $186,000. Council Member Helgeson also noted that if the City is going to relinquish this right for a new owner, then it should also be relinquished for the current owner. In response to questioning, City Manager Payne did note that the City would still retain its permanent access right for an entrance via this building into City Hall. Some Council Members noted that the City will be receiving a $2,000 reduction in the City's annual contribution to the maintenance of the Galleria property for the next fifty years, that the current owner did not request the City to relinquish this right, and that the City will continue to receive real estate taxes on the property. On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-09-083, as presented, waiving the right to repurchase property known as "The Galleria," located at 915 Main Street, in 2059 for $75:

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

Noes: Helgeson 1

// In the matter of City Council, Tulane Patterson personally invited Council Members to an Age Wage Summit in the fall. Mr. Patterson explained that the event will be sponsored jointly by Lynchburg College, the Central Virginia Area Agency on Aging, and the Consortium on Aging, a partnership of area companies serving the aged. Mr. Patterson went on to say that once a date has been set for the Summit, personal invitations will be sent to each Council Member.

// In the matter of Community Planning – General, City Council Report #17 regarding amending Chapter 12, Natural Systems, of the City's Comprehensive Plan 2002-2020 was considered. Environmental Reviewer Erin Hawkins provided a brief summary regarding the changes. Council Member Johnson made a motion, seconded by Council Member Gillette, to approve the amendment to the Comprehensive Plan. Several Council Members stated that they would like more time to review the changes and suggested that this item be deferred to a future work session. Council Member Perrow made a substitute motion, seconded by Council Member Helgeson, to defer this item to a future work session, and Council by the following recorded vote approved the substitute motion:

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

Noes: 0

// In the matter of Fire – General, City Council Report #18 regarding 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 was considered. Council Member Helgeson, Finance Committee (FC) Chair, stated that this item came before the FC and made a motion to approve the request. The motion required no second, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-084, as presented, 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:

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

Noes: 0

// In the matter of Police/Emergency Communications, City Council Report #19 regarding 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 was considered. Council Member Helgeson, Finance Committee (FC) Chair, stated that this item came before the FC and made a motion to approve the request. The motion required no second, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-085, as presented, 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:

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

// In the matter of Parks & Recreation – Riverside Park, City Council Report #20 regarding amending the FY 2010 City Capital Projects Fund budget and appropriating $125,000, fully reimbursable, to construct a sprayground in Riverside Park was considered. Council Member Helgeson stated that he still had some concerns regarding the City's maintenance costs for the sprayground. Council Member Garrett commented that this is a good example of public/private partnership. On motion of Council Member Garrett, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-086, as presented, amending the FY 2010 City Capital Projects Fund budget and appropriating $125,000, fully reimbursable, to construct a sprayground in Riverside Park:

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

// In the matter of City Council, City Council Report #21 regarding amending City Council's Rules of Procedure relating to regular meetings and work sessions was considered. Council Member Helgeson stated that he did not think that the City Council meeting schedule should change to accommodate one member of City Council, noting that all members have to rearrange their personal schedules in order to fulfill the responsibilities of their office. Some Council Members commented that the change will make it easier for working citizens to run for City Council, that eliminating the afternoon meeting will give Council Members more time to focus on their private jobs, and it will also give the City staff more flexibility to schedule public hearings as there will now be two 7:30 p.m. meetings. On motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted Resolution #R-09-087, as presented, amending City Council's Rules of Procedure relating to regular meetings and work sessions:

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

// The meeting was adjourned at 10:34 P.M.

Clerk of Council