// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of August, 2017, at 7:30 P.M. in the Council Chamber, City Hall, Joan Foster, President, presiding. Council Member Wilder gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

Present: Dolan, Helgeson, Nelson, Perrow, Tweedy, Wilder, Foster 7
Absent: 0

// Mayor Foster and Vice Mayor Tweedy received a plaque of recognition for sponsorship of the Virginia Commonwealth Games.

// Mayor Foster and Vice Mayor Tweedy presented in Certificate of Recognition of the New Historic Marker Commemorating the Birthplace of the Virginia Teachers Association.

// Mayor Foster and Vice Mayor Tweedy presented a Certificate in Recognition of the Downtown 2040 – Downtown Lynchburg Master Plan.

// Copies of the minutes of the April 25, 2017 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Perrow, seconded by Council Member Wilder, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// Copies of the minutes of the May 9, 2017 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Perrow, seconded by Council Member Wilder, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// Copies of the minutes of the July 11, 2017 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Perrow, seconded by Council Member Wilder, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of Police Department, Resolution #R-17-062 to amend the FY 2018 General Fund Police Department budget and appropriate $139,091 carryforward from the FY 2017 General Fund Police Department budget to adjust salaries of Police Officer II, Police Officer III, Sergeant, and Lieutenant as presented to City Council on July 11, 2017, was again presented and read, and on motion of Council

Member Perrow, seconded by Council Member Wilder, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Community Development, a public hearing was held regarding City Council Report #5 to receive comments on the FY 2018 Community Development Block Grant and HOME Program FY 2018 Annual Action Plan and adopt a Resolution approving the FY 2018 Annual Action Plan. Grants Manager Melva Walker provided a summary of the request. The U.S. Department of Housing and Urban Development (HUD) requires the City as a recipient of Community Development Block Grant program funds to prepare and submit an Annual Action Plan for the 2015-2020 Five Year Consolidated Plan. This plan outlines the needs, goals, and development, including housing and non-housing areas. The grant administrative team has prepared the 2018 Fiscal Year Plan and it includes all of the required components. Only one written comment was submitted. Ms. Walker went on to say any comments submitted tonight will be included in the package sent to HUD. Two speakers asked Council to continue supporting (Denise Crews with Lynchburg Community Action Group and Jeff Smith with Rush Homes) low-income housing and organizations supporting this population in the City. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Wilder, Council by the following recorded vote adopted Resolution #R-17-063, as presented, approving the FY 2018 Community Development Block Grant and HOME Program and the FY 2018 Annual Action Plan:

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

Noes: 0

// In the matter of Community Development - Zoning Amendments, a public hearing was held regarding City Council Report #6 outlining the petition of Hotel Acquisitions 3 TPS, LLC, to rezone approximately one and fifty-six hundredths (1.56) acres from I-3, Heavy Industrial District to B-5, General Business District to allow the construction of a mixed-use building containing a hotel and apartment units at 4634 Murray Place. City Planner Tom Martin provided a brief summary of the petition. The subject property is Employment II uses on the City's Future Land Use Map. Employment II uses are intended for light and heavy manufacturing, research and development, and large-scale offices. However, restaurant, hotel, and business service uses are also appropriate. The property currently contains a 14,000 square foot building constructed in 1969. This building would be demolished if the rezoning is approved. If the property is rezoned it would be redeveloped as a seven story building including 101 hotel units and 22 apartment units. The apartment units would be restricted to no more than three unrelated tenants. The submitted plan shows 123 parking spaces and a nearby bus stop. A traffic study was not required by City Engineers. The Planning Commission did conduct a public hearing on June 14, 2017 and recommended approval of the rezoning petition. Mr. Mike Gestwick, Project Manager with Pike Development asked Council to approve the rezoning petition. There was no one else present who wished to speak to this item, and the public hearing was closed. Council expressed the following questions and concerns regarding this property: Council Member Helgeson posed questions about the mixed use property to determine how much of the space must be allocated to the business given the industrial zoning area. He also posed questions about the roads, increased car traffic, and the impact on nearby businesses. City Planner Tom Martin answered the question, and said that if we change the zoning they only are required to have business on the first floor, and the six other floors could be apartments. There are no proffers that the developer offered stating they will only build a hotel or a percentage of hotel rooms to apartments, etc. Mr. Martin further stated that there was no site plan that was being proffered and this is rarely ever done. Council Member Nelson acknowledged the positive aspects of the project, but he also mentioned the new hotel would be in direct competition with neighboring hotels. In addition, he questioned how many people the project will employ as it is desirable to keep and attract higher paying jobs in the City. Council Member Wilder inquired about whether other businesses expressed reservations about the proposed rezoning and whether others have expressed interest in other uses. Mayor Foster asked the Developer/Owner, Mr. Gestwick, to address questions of concern posed by Council regarding the proposed project. The Owner expressed they are committed to the project and have already submitted a $60,000 deposit to secure a Marriott franchise license and they are working with local Marriott franchises as well. The developer asked for a rezoning without limitations, and the minority on Council tried to provide protection. Vice Mayor Tweedy also asked for more clarity on the hotel and apartment features of the project. Mr. Gestwick stated that 22 is the maximum number of apartments for the project. In addition, Vice Mayor Tweedy asked how they arrived at the conclusion that the market could take the additional 100 rooms. Mr. Gestwick stated the company did a study in terms of occupancy rates, etc., which is used to get a loan. Council Member Nelson asked if there are other places in the City that could be used without rezoning. Mr. Gestwick responded the adjacent property owners are supportive of this location. City Attorney Walter Erwin explained at this point the developer cannot offer proffers to Council. Council Member Perrow asked how the delay would impact the project start date.

Mr. Gestwick expressed the project would be delayed by six months. Council Member Nelson made a motion, seconded by Council Member Perrow to table this item until the developer added proffers stating they would only be building a hotel and a few apartments. The motion to table this item failed by the following recorded vote:

Ayes: Helgeson, Nelson, Perrow 3

Noes: Dolan, Tweedy, Wilder, Foster 4

On motion of Vice Mayor Tweedy, seconded by Council Member Dolan, Council by the following recorded vote adopted Ordinance #O-17-064, as presented, granting the petition of Hotel Acquisitions 3 TPS, LLC, to rezone approximately one and fifty-six hundredths (1.56) acres from I-3, Heavy Industrial District to B-5, General Business District to allow the construction of a mixed-use building containing a hotel and apartment units at 4634 Murray Place:

Ayes: Dolan, Tweedy, Wilder, Foster 4

Noes: Helgeson, Nelson, Perrow 3

// In the matter of Community Development - Zoning, a public hearing was held regarding City Council Report #7 outlining the petition of Workman Oil for a Conditional Use Permit (CUP) to allow fill within the floodplain at 4012 and 4014 Wards Road and to allow the construction of a retail and restaurant space with a drive-through. City Planner Tom Martin introduced Dylan Bishop, an interim in Community Development who provided an overview of the CUP request, stating that this CUP is to allow fill within the floodplain and to facilitate a drive-through lane for a new retail and restaurant building. Mr. Bill Berkley with Berkley-Howell & Associates, representing Workman Oil, asked Council to approve the CUP. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Nelson, seconded by Council Member Wilder, Council by the following recorded vote adopted Resolution #R-17-065, as presented, granting the Conditional Use Permit to allow fill within the floodplain at 4012 and 4014 Wards Road and to allow the construction of a retail and restaurant space with a drive-through:

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

Noes: 0

// In the matter of Community Development - Zoning Amendments, a public hearing was held regarding City Council Report #8 regarding the petition of Tacoma, Inc. to amend the Future Land Use Map (FLUM) from Neighborhood Commercial and Low Density Residential to Community Commercial and to rezone approximately one and fifty-three thousandths (1.053) acres from R-2, Low-Medium Density Residential and R-3, Medium Density Residential to B-3C, Community Business District (Conditional) to allow the construction of a restaurant with a drive-through and associated parking at 1000, 1002 and 1004 Dandridge Drive. Tom Martin, City Planner provided an overview of the FLUM and to rezoning request. Mr. Bill Berkley with Berkley-Howell & Associates, representing Tacoma, Inc. asked Council to grant the FLUM. There was no one else present who wished to speak to this item, and the public hearing was closed.

On motion of Council Member Perrow, seconded by Council Member Wilder, Council by the following recorded vote adopted Resolution #R-17-066, as presented, amending the Future Land Use Map of the Comprehensive Plan 2013-2030 for a certain area located at 1000, 1002 and 1004 Dandridge Drive from Neighborhood Commercial and Low Density Residential to Community Commercial:

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

Noes: 0

On motion of Council Member Perrow, seconded by Council Member Wilder, Council by the following recorded vote adopted Ordinance #O-17-067, as presented, changing a certain area located at 1000, 1002 and 1004 Dandridge Drive from R-2, Low-Medium Residential District and R-3, Medium Residential District to B-3C, Community Business District (Conditional):

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

Noes: 0

// In the matter of Community Development, a public hearing was held regarding City Council Report #9 regarding the petition of Tacoma, Inc., to vacate a portion of right-of-way located along Old Forest Road, adjacent to the property at 1000 Dandridge Drive. The portion proposed for vacation contains approximately eight hundredths (0.08) of an acre. Tom Martin, City Planner gave a summary of the request for the petition for Tacoma, Inc. Mr. Bill Berkley with Berkley-Howell & Associates, representing Tacoma, Inc. asked Council to vacate a portion of right-of-way located along Old Forest Road. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Perrow, Chair of the Physical Development Committee (PDC), stated that the request was considered by the PDC and made a motion to approve the request. The motion did not require a second, and Council by the following recorded vote adopted Ordinance #O-17-068, as presented, granting the petition of Tacoma, Inc., to vacate a portion of right-of-way located along Old Forest Road, adjacent to the property at 1000 Dandridge Drive. The portion proposed for vacation contains approximately eight hundredths (0.08) of an acre:

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

Noes: 0

// In the matter of City Council, Report #10 was considered. City Manager Bonnie Svrcek mentioned the President of the Lynchburg Hillcats requested this waiver. The Hillcats will be hosting its first home playoff game on September 8, 2017. The President of the Lynchburg Hillcats, Mr. Christopher Jones is requesting this waiver. He is requesting the normal rule that states fireworks should commence by 10:00 P.M. be waived until 11:00 P.M. only for this game. After Council discussion on this matter, Council Member Helgeson made a motion, seconded by Council Member Nelson to deny this waiver to the Lynchburg Hillcats not to allow fireworks to commence no later than 11:00 P.M. on Friday, September 8, 2017. Several of their concerns were:

- City has a noise ordinance
- Imposing on the neighbors in this area with noise so late at night
- Good policy in place, would like to stay with the original policy
- Will not violate the neighborhood
- Franchise agreement - should abide by the agreement

Council Member Perrow made a substitute motion, seconded by Council Member Dolan to replace the motion to deny the waiver to the Lynchburg Hillscats. The substitute motion passed:

Ayes: Dolan, Perrow, Tweedy, Wilder, Foster 5

Noes: Helgeson, Nelson 2

Council Member Perrow made a motion, seconded by Council Member Dolan to grant a waiver to the Lynchburg Hillcats for this time only to allow fireworks to commerce no later than 11:00 P.M. on Friday, September 8, 2017. Council by the following recorded vote adopted Resolution #R-17-069, as presented, to grant a waiver to the Lynchburg Hillcats to allow fireworks to commence no later than 11:00 P.M. on Friday, September 8, 2017 in the event of a rain or fog delay or the game has gone into extra innings:

Ayes: Dolan, Perrow, Tweedy, Wilder, Foster 5

Noes: Helgeson, Nelson 2

// In the matter of City Assessor, City Council Report #11 was considered. On motion of Council Member Perrow, seconded by Council Member Nelson, Council by the following recorded vote adopted Ordinance #0-17-070, as amended, to amend and reenact Sections 36-177 and 36-177.1 of the Code of the City of Lynchburg, 1981, the amended sections relating to the partial exemption of Real Estate Taxes for certain rehabilitated, renovated or replacement structures:

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

Noes: 0

// In the matter of Budget, City Council Report #12 was considered, to adopt a Resolution concerning the issuance of not to exceed $33,500,000 principal amount of the General Obligation Public Improvement Refunding Bonds, Series 2017. On motion of Council Member Perrow, seconded by Council Member Dolan, Council by the following recorded vote adopted Resolution #R-17-071, as presented, authorizing the issuance of not to exceed $33,500,000 principal amount of General Obligation Public Improvement refunding Bonds, Series 2017:

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

Noes: 0

On motion of Council Member Perrow, seconded by Council Member Dolan, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-17-072, as presented, amending the FY 2018 General, Water, and Sewer Funds' Adopted Budgets and appropriating $169,000, $130,000, and $26,000, respectively, with resources from the refunding bond proceeds for a total of $325,000 for estimated issuance costs:

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

Noes: 0

// In the matter of City Council, City Council Report #13 was considered. On motion of Council Member Wilder, seconded by Council Member Dolan, Council by the following recorded vote adopted Resolution #R-17-073, as presented, readopting City Council's Rules of Procedure which contain Council's schedule of regular meetings and work sessions for the upcoming year:

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

Noes: 0

// On motion of Council Member Wilder, seconded by Council Member Nelson, Council by the following recorded vote elected to hold a closed meeting for: (i) the discussion and consideration of prospective candidates for the Towing Advisory Board pursuant to Section 2.2-3711(A.)(1) of the Code of Virginia; and, (ii) consultation with legal counsel and briefings by staff members concerning the case of Jacquelin Goard v. Crown Auto, Inc., and others, because discussion in an open meeting would adversely affect the negotiating or litigating posture of the City ,and consultation with legal counsel and staff members regarding specific legal matters requiring the provision of legal advice, specifically, the discussion of legal matters related to the appointment of and qualifications for members of the Lynchburg School Board, pursuant to Section 2.2-3711(A.)(7) of the Code of Virginia.:

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

Noes: 0

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

// Council Member Wilder 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 Nelson, and Council by the following recorded vote adopted the motion:

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

Noes: 0

// In the matter of Appointments, and on nomination of Council Member Perrow, seconded by Council Member Dolan, Council by the following recorded vote reconfirmed appointments for Kendall Craft, Melissa Foster and Jeff Nichols to serve on the Towing Advisory Board for terms to expire December 31, 2018:

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

Noes: 0

// In the matter of Appointments, and on nomination of Council Member Perrow, seconded by Council Member Dolan, Council by the following recorded vote appointed Warren McCormick to serve on the Towing Advisory Board to fill an unexpired term ending December 31, 2018:

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

Noes: 0

On nomination of Council Member Perrow, seconded by Council Member Dolan, Council by the following recorded vote appointed Timothy Clements, Donald W. Irby, James Hall, Daniel J. Laslie, and Charles Cramer, Jr., to serve on the Towing Advisory Board for terms to expire December 31, 2020:

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

Noes: 0

// The meeting was adjourned at 11:05 P.M.

Clerk of Council