

// A regular meeting of the Council of the City of Lynchburg was held on the 28th day of June, 2011, at 4:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

Present: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster

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Absent:

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// City Manager Kimball Payne gave an overview of the Central Virginia United Soccer Club, Inc. (CVC) Agreement Amendment. Mr. Payne stated that last June 2010, Council approved an amendment to the agreement between CVU and the City regarding the soccer complex located on Route 501 just east of Lynchburg. Mr. ~~Payne~~ Payne further stated that the amendment provided for the construction of two artificial turf fields in lieu of four natural grass fields and established a ten year window for repayment of the original loan, starting July 1, 2012. Mr. Payne went on to say that CVU is asking that the agreement be further amended in the two following aspects:

- CVU would build three natural grass fields instead of two artificial turf fields, taking advantage of a favorable environment for procuring contractor services; and
- The City would agree to take a second deed of trust position on the property until the construction loan for the new fields is repaid.

Mr. Payne stated that it should be noted that when the soccer complex was originally acquired by CVU's predecessor organization, the City was in a second deed of trust position until the debt to the original property owner was satisfied. Before Council's discussion Council Member Nelson stated that he no longer was involved with CVC and he can now participate in the discussion and vote on this item. After Council discussion, on motion of Council Member Nelson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-11-078, as presented, approving the Central Virginia United Soccer Club, Inc. Agreement Amendment:

Ayes: Cary, Gillette, Johnson, Nelson, Foster

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Noes: Helgeson, Perrow

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Vice Mayor Johnson left the meeting at 4:50 p.m. to attend the retirement reception for Superintendent Dr. Paul McKendrick which was held between 4:00 p.m. until 6:00 p.m.

// Economic Development Director Marjette Upshur gave an update on the Arts & Cultural District. Ms. Upshur stated that the update included the creation of the Arts & Cultural Project Grant, designed to support arts and culture-related activities in the District. Ms. Upshur further stated the update will also include the presentation of a "Vision Plan" for the District, developed by a District stakeholder group.

// Assistant to the City Manager Leslie King, along with Simone Hamilton and Everett Heath members of the Advisory Board, provided an update on Many Voices – One Community, Community Dialogue on Race & Racism (MVOC). Ms. King stated that in 2007, the MVOC, Community Dialogue on Race and Racism initiative began with the leadership of a working group comprised of City employees and other leaders throughout the community. Ms. King went on to say that this group successfully organized over 50 study circles with over 1300 participants. As a result of the first round of study circles, action groups were formed to implement the ideas generated in study circles. Ms. King further stated that in 2008, the

working group transitioned to an advisory board which was endorsed by City Council to begin leading the efforts of the Community Dialogue on Race & Racism. MVOC continues to engage the community in study circles, action groups and to support organizations with similar missions as MVOC within the community. The mission of MVOC is to create a racially equitable community where race and/or ethnicity are not predictors of success in any aspect of life and where public policies, institutional practices and social structures no longer favor one group over another. MVOC is dedicated to making racial equity a reality in our community. Ms. King gave a report on the progress, outcomes and future activities of MVOC. Some of MVOC's future activities include: a community-wide update to inform the public about the group's progress which is being planned for September 2011, obtaining 501c(3) tax-exempt status and offering experimental Study Circles in the Fall.

// Human Resources Director Margaret Schmitt provided a summary of the Line of Duty Act Funding. Ms. Schmitt stated that the Line of Duty Act was created in 1966 to provide a death benefit to public safety employees killed in the line of duty. Ms. Schmitt further stated the Act has been amended over the years to expand the benefits, most notably to add the continuation of health care benefits. The public safety employees include law enforcement and correctional officers, firefighters, EMTs, paramedics and volunteer fire and rescue personnel. These benefits are in addition to others provided by the Virginia Retirement System (VRS) group life insurance and the public safety death benefits provided by the federal government. Ms. Schmitt went on to say in the 2010 session of the General Assembly, the budget conference committee introduced a budget amendment to shift the cost of the Line of Duty Act from the general fund of the state to the local governments. This amendment passed the General Assembly and the shift in costs became effective July 1, 2010. Ms. Schmitt explained that effective July 1, 2010, a Trust Fund was created in VRS to pay the FY 2011 costs of approximately \$9,500,000. The Trust Fund borrowed from the VRS Life Insurance program to fund the FY 2011 costs. These funds must be paid back to the life insurance fund starting in FY 2012. Ms. Schmitt went on to explain that the Line of Duty benefits is administered by the State Department of Accounts and claims are normally investigated by the State Police. The payments for benefits are now being made from the Line of Duty Trust Fund. Ms. Schmitt stated to Council that effective July 1, 2011, all local governments must either:

- 1) Start paying the Line of Duty Trust Fund at the currently advertised rate of \$233.89 per eligible paid employee and \$58.47 per eligible volunteer. If this option is chosen, the local government has until June 30, 2012 to opt out of the Trust Fund or the decision becomes irrevocable; or
- 2) Opt out of the Trust Fund and self-fund the benefit.

After Council discussion, on motion of Council Member Helgeson, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-11-079, to opt out of the Trust Fund and self-fund the benefit:

Ayes: Cary, Gillette, Johnson, Nelson, Perrow, Foster

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Noes:

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Absent: Johnson

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// During roll call Council Member Helgeson stated he would like further discussion on the Lynchburg Real Estate Analysis report that he presented at the June 14 meeting regarding the investments in downtown and how well those investments are actually paying off for our citizens. Council Member Helgeson would like to bring this item to a future work session. Mayor Foster stated possible additional information regarding meal taxes, etc. Council Member Gillette stated that last Saturday was a great activity at the prospective location of our new dog park, making a film that puts the friends of the Lynchburg dog park in the running for a grant for construction costs and Council Member Gillette wanted to encourage everyone to vote for our film. Council Member Gillette further stated people can go to the City's website and find the link where to vote because this is going to be national voting and the film that gets the greatest number of votes will actually win the money. You can vote once a day, every day, so vote early and vote often. Council Member Cary stated that he had three items: 1) would like a copy of the Lynchburg Real Estate Analysis report that Council Member Helgeson passed out at the last meeting and Council Member Nelson did not receive a copy (who was not present at the council meeting). 2) the Cary children were in town and they are all going to Waterside tonight for pizza so they are downtown and enriching City coffers and 3) made a comment that it was unfortunate the Lynchburg City School Board held a retirement reception during City Council's scheduled work session for Superintendent Dr. Paul McKendrick. How easy it would have been to have the reception from 3:00 p.m. to 6:00 p.m. this would have afforded Council Members that wish to attend an opportunity to stop by and wish Dr. McKendrick well. Dr. McKendrick is a good man; he has done good things for the City school system despite that fact that he and I have had our differences, I like him and I wish him well. That said, in doing it this way, Lynchburg City Schools has sent a very clear message to Council and it's not one that builds better relationships and I think that is unfortunate. Council Member Nelson stated he had two items: 1) City Council, City Staff, Administration and so many people in the Lynchburg community have been very gracious and generous in their expressions of condolences and sympathy about the death of my mother and on behalf of myself and my family I want to publicly say thank you for those expressions of prayers and thoughts. They were very meaningful to my father, to me and to my family. 2) In March 2010, Mr. Robert Cary came before Council, as a representative of Virginia Department of Transportation (VDOT), explaining about the plans for the Route 460/29 Tyreeanna Project, and the plans to close the crossovers and construct the "jug handle". As of this date, the jug handle is complete, the crossovers are in the process of being closed, and the residents along with Council are still waiting for Mr. Cary to give statistics as to why the decision was made. I would like City staff to look into this matter. Council Member Cary stated that he has a meeting with ~~Mr. Cary, VDOT representative, on Thursday, June 30 at 11:00 a.m.~~ Mr. W.E. Clark, III, on Thursday, June 30, at 11:00 a.m., who has emailed Council with concerns about VDOT changes in this area. Mr. Cary Clark will be giving me a tour so I can see first hand what he is talking about. ~~Mr. Cary stated that one crossover had been closed that had been generating the most accidents.~~ I will let Council know what I find out after Thursday. Council Member Perrow would like an update on implementation of downtown Master Plan costs and benefits.

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

Commissions, i.e., Youth Services Citizens Board, City Employees Appeal Board, Central Virginia Community College Board, Zoning Appeals Board, Dr. Martin Luther King, Jr./ Lynchburg Community Council, Economic Development Authority Board, Museum Advisory Board, Lynchburg Business Development Centre, Historic Preservation Commission and Regional Tourism Board; pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster 6

Noes: 0

Absent: Johnson 1

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

// Council Member Helgeson made the following motion:

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

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

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

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

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster 6

Noes: 0

Absent: Johnson 1

// In the matter of Appointments, and on nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Teresa Billingsley, to serve on the Youth Services Citizens Board for a term to expire June 30, 2014:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster 6

Noes: 0

Absent: Johnson 1

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Clark K. Jefferson and Kaleb Matson to serve on the Youth Services Citizens Board for terms to expire June 30, 2014:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster 6

Noes: 0

Absent: Johnson 1

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Jacqueline Renee Eubanks-Lyons to serve on the Youth Services Citizens Board to fill an unexpired term ending June 30, 2012:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Dianne M. Mills to serve on the City Employees Appeal Board for a term to expire June 30, 2014:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Mylas A. Jackson to serve on the City Employee Appeal Board to fill an unexpired term ending June 30, 2012:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Vivian S. Brown to serve on the Central Virginia Community College Board for a term to expire June 30, 2015:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Veronica W. Callaham to serve on the Dr. Martin Luther King, Jr. /Lynchburg Community Council for a term to expire June 30, 2014:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Ronald G. Kidd, Jr. to serve on the Economic Development Authority Board for a term to expire June 30, 2015:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed John B. Arnold, Laura B. Crumbley, Elizabeth D. Hutter and Florence A. Perrow to serve on the Museum Advisory Board for terms to expire June 30, 2014:

Ayes: Cary, Gillette, Helgeson, Nelson, Foster	5
Noes:	0
Abstain: Perrow	1
Absent: Johnson	1

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Kay Butterfield and W. Scott Smith to serve on the Historic Preservation Commission for terms to expire June 30, 2014:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Lynn Fairchild Martin, Debby Ruffin and Greg Starbuck to serve on the Regional Tourism Board for terms to expire June 30, 2014:

Ayes: Cary, Gillette, Helgeson, Nelson, Perrow, Foster	6
Noes:	0
Absent: Johnson	1

// City Council recessed the meeting at 6:10 p.m.

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

The following Members were present:

Present: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Absent:	0

Council Member Nelson gave the Invocation, followed by the Pledge of Allegiance.

// Mayor Foster and Council Member Gillette presented a Certificate of Recognition to Addison Elizabeth Walker for Distinguished Young Woman of Virginia (formerly known as the Junior Miss Pageant) for 2011.

// Copies of the minutes of the June 14, 2011 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: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Noes:	0

// In the matter of Police – General, Resolution #R-11-070 amending the FY 2011 City/Federal/State Aid Fund budget and appropriating \$16,040, fully reimbursable, to purchase a license plate reader (LPR) for criminal law enforcement use only, laid over from the June 14, 2011 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: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Noes:	0

// In the matter of Police – Emergency Communications, Resolution #R-11-071 amending the FY 2011 City/Federal/State Aid Fund budget and appropriating \$85,554, fully reimbursable, to assist in financing the planning process of upgrading the regional radio system, laid over from the June 14, 2011 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: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster

7

Noes:

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// In the matter of City Code/Community Development – General, a public hearing was held regarding City Council Report #10 regarding amending the Zoning Ordinance by adding Section 35.1-20.1, Inspection Warrants. City Attorney Walter Erwin gave a summary of the request. There were 19 individuals that spoke in opposition regarding this item. Some of their concerns were rights as a home owner and this was unconstitutional. There was no one else present who wished to speak to this item, and the public hearing was closed.

After Council discussion, Council Member Helgeson made a motion and seconded by Council Member Perrow to deny the Zoning Inspection Warrants. Council Member Nelson stated that he had some changes and would like to add it to the ordinance that has been presented. First, the warrant would be brought only to a judge; the tenant and the occupant would have to have notice that the petition is being brought; a five days notice the City wants to present a warrant to a judge and give the tenant or property owner the opportunity to appear or file some objection as to why the warrant should not be issued; judge decide if there is still probable cause for the warrant to be issued; the City then has to send at least a five day notice before the date of the time of the inspection; notice mailed to the owner and posted on the door of the premises advising that at a certain time or within a period of time, on a certain day there will be an inspection only specified for certain types of offenses; those offenses that directly involve either a non-permitted use or excessive occupancy and no other zoning violation; if occupant refuses entry that is not a basis for forced entry; and if inspection is denied then that would be a basis for a separate charge. Council Member Nelson stated based on his observations and thoughts, I would like to make a substitute motion that the revisions to the ordinance be enacted by Council at this time. Council Member Helgeson stated that in light of the fact that Council Member Nelson had made amendments to the motion, and what is before us is clearly a decision, if you like this motion that is on the table right now and if you don't like that motion, you can vote against that motion and then bring up under the normal due process proper advertising, and send it back to the Planning Commission with the new language. Council Member Gillette stated this is a substitute motion, which has not been seconded, so you can't discuss whether or not you even want to vote for it. After referring to the City Attorney for clarification to the substitute motion, Vice Mayor Johnson seconded the substitute motion. City Attorney Erwin stated that the substitute motion replaces the original motion and that motion has to be acted on first. Council Member Gillette offered an amendment that we would hold this over until the August meeting after having the final, formal wording put forth in a way that can be viewed by the public and at that point take this item up again at our August scheduled Council meeting. Council Member Nelson accepted the change offered

by Council Member Gillette and Vice Mayor Johnson seconded the motion. City Manager Payne stated if I could attempt to clarify the motion so there is no confusion about it. The substitute motion would be to bring forth Council Member Nelson's language for public exposure and consideration through a public hearing before City Council on August 9th and then Council could act as it sees fit after receiving that input.

So the proposed new language would be publicized, advertise for a public hearing before Council who would make available for anybody who wanted to see it and Council would deal with it as it sees fit. Mayor Foster called for a vote up or down on the substitute motion; Council by the following recorded vote adopted the substitute motion:

Ayes: Gillette, Johnson, Nelson, Foster

4

Noes: Cary, Helgeson, Perrow

3

Mayor Foster called for a vote on the substitute motion with the friendly amendment; Council by the following recorded vote adopted the motion with the friendly amendment:

Ayes : Gillette, Johnson, Nelson, Foster

4

Noes: Cary, Helgeson, Perrow

3

// The meeting was adjourned at 9:30 P.M.

Clerk of Council