AGENDA ITEM #: 4

// A regular meeting of the Council of the City of Lynchburg was held on the 11th day of June, 2019 at 7:30 P.M. in the Council Chamber, City Hall, Treney Tweedy, President, presiding. The following Members were present:

Present:	MaryJane Dolan, Jeff Helgeson, J. Randy Nelson, Beau Wright, Treney Tweedy	5
Absent:	E. J. Turner Perrow, Sterling A. Wilder,	2

// Councilmember Nelson gave the Invocation, followed by the Pledge of Allegiance.

// Copies of the minutes of the May 28, 2019 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Councilmem Wilder, seconded by Vice Mayor Dolan by the following recorded vote approved the minutes as presented:

Ayes:	Dolan, Helgeson, Nelson, Tweedy, Wright	5
Noes:		0
Absent:	Perrow, Wilder	2

// In the matter of Public Comment, Mr. Salvatore Monastra and Mr. Larry Fink addressed Council regarding passing a resolution to fly the POW/MIA flag wherever the American flag is flown on City buildings. Mr. Monastra mentioned that Bedford County has recently passed a resolution to fly the POW/MIA flag on its flagpoles. Mr. Fink mentioned that a previous City Council passed a resolution to place a POW/MIA bench at the airport. It lets the men and women being deployed know that we will not forget them. Mayor Tweedy commented that the matter will be taken under advisement by Council.

// In the matter of Community Development, Grants, a public hearing was held to receive comments regarding the City of Lynchburg's Substantial Amendment No. 1 to the Community Development Block Grant (CDBG) Program Year 2018/Fiscal Year (FY) 2019 Annual Action Plan. The purpose of the substantial amendment is to add a new project utilizing unspent Bluffwalk Section 108 Loan proceeds totaling $1,250,000 for the design of the new Lynchburg Police Department headquarters. Ms. Melva Walker gave a presentation mentioning that the public hearing is required because the budget will be increased by more than 25 percent and a new project is proposed. With the appropriation of these funds tonight, there will be $200,093 remaining in the Section 108 loan repayment account and the funds are currently earmarked to be used for a future affordable housing project or projects. Ms. Walker noted that staff has not received any comments from the public notice that was posted in the News & Advance and on

the City's social media page.

There was no one to make a presentation or to speak either in favor or against the proposal and Mayor Tweedy closed the public hearing portion of the petition. Councilmember Helgeson asked if there is a reason that the $200,000 needs to stay in the account for a future affordable housing project. Ms. Svrcek noted that in her proposed FY2020 budget she had proposed that they use part of the Bluffwalk funding for a future affordable housing project because affordable housing is one of Council's goals for this year. These funds need to be used in a CDBG eligible census tract and that is the reason for Ms. Svrcek's recommendation. Councilmember Helgeson asked if the full amount could be used for the police station. Ms. Svrcek said it could be but there would have to be another public hearing. Councilmember Helgeson made a motion to approve the proposal as presented, which was seconded by Councilmember Wilder.

Councilmember Helgeson would like staff to hold another public hearing as quickly as possible to earmark the $200,000 for the design of the police station. We have plans for something that is needed versus earmarking the money for something hypothetical.

Councilmember Nelson thinks there is no question that this is a very positive circumstance that Bluffwalk, LLC was able to repay these funds and that they are using the funds for the new police station. He would like to know if staff has a position on whether or not the CDAC should review this proposal because funds were not allocated to community projects 18 years ago or so and instead went to pay interest for the Bluffwalk development. This year there was not enough money to go around to all the community nonprofits who were applying. The representation was made that if additional funds were identified they would be made available and technically he thinks these are new funds. Ms. Svrcek said there was no requirement from HUD that this needed to go to CDAC. Since we are looking for funding for the police station, staff just made a judgement call. Ms. Svrcek commented that the community had an opportunity to comment at the public hearing. Frankly, she could have gone either way in terms of taking it to CDAC and it was a judgment call. Councilmember Nelson thanked her and said she had answered his question.

The motion passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Tweedy, Wright	5
Noes:		0
Absent:	Perrow, Wilder	2

Councilmember Helgeson made a motion that staff advertise the $200,000 in available funds for a public hearing to give CDAC and the public a chance to weigh in on the use of the funds for the police station or other community projects. The motion was seconded by Councilmember Nelson. Councilmember Wright asked if the entire amount could have been earmarked for the design of the police station. Ms. Svrcek said it could have been but she knew affordable housing was a priority of Council and she does not have a funding source for it. She thought $200,000 would be a good place to start whether it is an incentive or a match for a grant. Mayor Tweedy mentioned that they did receive the affordable housing report from the housing collaborative. Community Development and the City Manager's office are working on taking a report back to the housing collaborative on best practices from other cities. Ms. Svrcek said it will be brought to Council at its August work session.

Councilmember Nelson asked if staff could notify CDAC that there will be another public hearing. The members can give their feedback to staff or come to the public hearing. This would be done in lieu of calling a formal CDAC meeting. Ms. Svrcek noted that request. Councilmember Wright wondered if they should wait to hold the public hearing until Council has received the report on affordable housing. Councilmember Helgeson would suggest they not wait because they know they need to design the police station. By the time they receive the report on affordable housing, there will be other funds available for both the police station and for some kind of affordable housing initiative. Ms. Walker said she needs to advertise the funds for a particular project so we will need to wait until Council has identified what project for which they would like the funds earmarked. Councilmember Helgeson noted that is why he is asking for the funds to be earmarked for the police station, so the public hearing can be held. CDAC or other members of the public can speak and ask for the funds or a portion of the funds to be put toward some other community project. The motion passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Tweedy, Wright	5
Noes:		0
Absent:	Perrow, Wilder	2

// In the matter of Community Development, Street Vacations, the public hearing regarding the

petition of The Rebkee Company to vacate ninety-two thousandths of (0.092) of an acre portion of Jackson Street was rescheduled to June 25, 2019, as it needs to go to PDC first and this morning's PDC meeting was rescheduled to June 25, 2019.

// In the matter of Community Development, Conditional Use Permits, a public hearing was conducted regarding the petition of Lynchburg Church of God Trustees for a conditional use permit at 428 Breezewood Drive to allow the use of an existing structure as church offices in an R-3, Medium-Density Residential District. Mr. Tom Martin, City Planner, gave a brief presentation on the project.

Pastor Mike Kirby of Passion Community Church, formerly Lynchburg Church of God, gave some remarks regarding the proposed use for the space, mentioning the church has been blessed with tremendous growth and asked for Council's approval of the petition. There was no one else that wished to speak in favor or in opposition. Mayor Tweedy closed the public hearing portio of the petition.

Councilmember Helgeson made a motion to approve the conditional use permit, which was seconded by Councilmember Wright. Councilmember Helgeson was glad to hear about the church's growth and was pleased to hear they are able to reach out to the community and children. It is what communities are about and he noted that he has seen the parking lot full when he has driven by the church. Councilmember Wright congratulated the pastor on the growth of the church and said he is excited to vote for the petition. The motion passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Tweedy, Wright	5
Noes:		0
Absent:	Perrow, Wilder	2

// In the matter of Community Development, Zoning Amendments, a public hearing was held regarding the petition of Oaklink, LLC to rezone approximately thirty-nine (39) acres at 207, 301, 305, 400, 401, 405, 408, 409, 411, 412, 415, 416, 417, 420, 421, 424, 425, 428, 429, 432 and 436 Preserve Drive, 100, 101, 102, 103, 104, 104A, 105, 106, 107, 108, 109, 110, 111 and 112 Clopton Court to remove a previously approved proffer requiring the construction of a left turn lane from Link Road onto Preserve Drive. Mr. Martin gave a brief presentation and highlighted the fact that the petitioner submitted a traffic study showing the left turn lane is not warranted. The City Engineer concurs with that conclusion. The petitioner is also proffering to

reduce the total number of housing units from 78 to 59. Staff has an issue with removing the proffer at this time because the moving of the Verizon poles will no longer be paid for by Verizon. Staff does not want the City to have to pay for moving the poles or for there to remain two sets of poles in the area. The petitioner has indicated in an email that they intend to pay for the removal of the poles.

Mr. Dick Schoew of Oaklink, LLC explained that the owners felt that the addition of two lanes at the entrance to the Preserve would create a really tough left-hand turn for cars coming out of the Preserve. He also pointed out that there is never any delay in getting into the Preserve.

There was no one else that wished to speak in favor or in opposition to the petition and the public hearing was closed. Councilmember Helgeson asked why seven years has gone by and the turn lane has not been constructed. Mr. Martin indicated it was tied to a certain phase of the development and the developers are just reaching that phase at this point. Mr. Martin stated that staff's concern is that there are two sets of utility poles and does not want to see the City have to pay for the relocation of the Verizon poles. The petitioner is working on having the poles removed; however, there is no full assurance at this time that they are going to do so. Councilmember Helgeson would not think it wise to remove the only bargaining chip they have at this time until they know that the petitioner is going to pay for the poles to be removed. The latest estimate the petitioner received from Verizon was between $10,000 and $15,000. Councilmember Helgeson noted that is a whole lot less than what the petitioner would have to pay for a left turn lane. Councilmember Helgeson suggested the item be tabled until we can get the assurance from the petitioner that they will pay for the removal of the poles.

Vice Mayor Dolan commented that she would hate to see a left turn lane. She would like to see a crosswalk installed at Boonsboro and Link Roads.

Councilmember Wright would like to see the developer agree to pay for the removal of the poles if Verizon declines to remove the poles at Verizon's expense. Mr. Erwin indicated they cannot amend any language tonight. They can table the matter and reminded them they have up to twelve months to vote on a rezoning request. If Council wanted the developer to construct the turn lane, it would have to bring an action compelling them to do so and the City certainly has not had any discussions about doing that. He suggested a motion to postpone the item pending the removal of the utility poles might be the best course of action. Councilmember Helgeson made a motion to that effect, which was seconded by Councilmember Wright.

Councilmember Nelson asked Mr. Schoew if this motion would prejudice the developer in any way. Mr. Schoew would like to pay Verizon for the work and have it put on Verizon's books. They would like to start construction before winter and pointed out it can be a slow wait if you are not one of Verizon's priorities. They have been assured that they should be able to wrap this up and get it on Verizon's books within the next week to ten days.

Councilmember Nelson said his experience is that collisions do not generally occur in the straight stretch of road. They occur at one of the corners farther up Boonsboro Road or at the top of Royal Boulevard. Sometimes downed trees do hit the utility lines though and he would think that it would be in Verizon's best interest to move the lines further to the east away from the path of a falling tree. Mayor Tweedy suggested Mr. Schoew let Mr. Martin know when the job has been worked out with Verizon and the petition will be brought back to Council at that time. Mr. Erwin clarified that there would be no need for another public hearing. The motion passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Tweedy, Wright	5
Noes:		0
Absent:	Perrow, Wilder	2

// In the matter of Community Development – Zoning Amendments, a public hearing was held regarding the petition of Josh Lee, Troutspring to amend the Future Land Use Map from Low Density Residential to Medium Density Residential and to rezone approximately 5.91 acres located at 1306 Laxton Road from R-1, Low-Density Residential to R-3C, Medium-Density Residential (Conditional) and for a conditional use permit to allow the development of the property as 40 townhomes. Mr. Tom Martin gave a brief presentation e and highlighted the changes to the concept plan since Council conducted a public hearing on this matter on December 11, 2018. The petitioner has reduced the number of proposed townhomes from 50 to 40 and added an additional ingress/egress access point on Enterprise Drive.

Mr. Josh Lee was present to address Council. He hoped that adding another access point and reducing the number of units has addressed Council's concerns and in particular those raised by Councilmember Perrow. He mentioned that the development group is also the owners of the property at this point. They have reached out to the neighbors, especially two that were in opposition and spoke at the December 11, 2018 meeting. He does not see them here tonight. They also added more trees to the buffer between their development and Wyndhurst. They have

tried to bring forth a responsible development and keep in mind what they are doing for the community.

Mr. Patrick Morris of 435 Laxton Road came forward to speak. He is an adjacent neighbor of the property. He is pretty excited about what Mr. Lee is doing when he thinks about what could be done on the property. He did some research on Mr. Lee's company and it looks like a good company and he thinks the development is going to look nice and be a good addition to the community.

Mr. Thomas Day who owns a townhouse at 1000 Enterprise Drive came to speak in opposition to the petition. His concern is with traffic because there are two schools across the street from the development,as well as nearby Timberlake Road and many residential units in the area. He is also concerned that this sets a precedent for other rezonings to be approved in this area such as the vacant land behind Brookville High School.

Mr. David Mann came forward to speak in opposition to the petition. He thinks rezoning this to medium density goes against all the planning and foresight that was put into planning this area, which is supposed to be low density single-family residential. It will also change the character of the area from single-family to much denser residential. There are likely to be a good amount of students in these townhomes with more cars that will create more daily trips.

Mr. Lee came back for a rebuttal. He pointed out that there is a townhouse community across the street from this project with approximately 30 units. When they reduced their number from 50 to 40 townhomes, they kept that community in mind as well as the Wyndhurst elements and tried to stay in line with those developments. He feels their product is in line with what is in the area as opposed to a large apartment building or something of that nature.

Mr. Andy Klepac of Hurt & Proffitt came forward to speak about the traffic. VDOT reviewed and concurred with the results of the traffic study. They went a little above and beyond the warrants as far as providing turn lanes and tapers. They have reduced the number of units by 20 percent and added another access point. His professional opinion is that any detrimental impacts have been mitigated by the revisions that have been made and the traffic study determined that there were no appreciable impacts resulting from the development. Mayor Tweedy closed the public hearing portion of the petition.

Councilmember Helgeson said he does not think he has heard a reason why the zoning should be changed from R-1. He appreciates the changes the developer has made but is still not

convinced that this is good since there are neighbors who bought into a single-family neighborhood knowing this property was zoned R-1. Councilmember Helgeson would suggest they table this petition until Councilmember Perrow can be present as he had expressed concerns and this is in his ward.

Vice Mayor Dolan wondered if it should be sent back to the Planning Commission for further review since the concept plan has changed. Councilmember Helgeson does not want to see the developer have to spend any more money. If they do not like this plan, there is no point in sending it back to the Planning Commission.

Councilmember Wright had a question for Mr. Martin regarding the three decisions before them. Mr. Martin said they can decide to deny or approve the Future Land Use Map amendment. If they decide to approve the FLUM amendment, then the petitioner has submitted a proffer for the conditional rezoning. Then if the rezoning is approved, there are two conditions provided by staff for consideration for the conditional use permit. Councilmember Wright asked the developer and engineer how they were able to design the Enterprise Drive access and how it had been changed so easily. Mr. Lee explained that they were able to put in the access when they removed a row of townhomes and shifted everything more toward the Laxton Road side. They were then able to meet the cut in to the median that exists on Enterprise Drive. It may not be in their best interest from a fiscal standpoint but it makes sense for the community. They also wanted to show Council that they were willing to work with them on the project.

Councilmember Nelson noted that his two concerns about the higher density and an additional access point have both been significantly addressed. He thinks Councilmembers Perrow and Wilder should have a voice in this vote if that is not unduly burdensome to the developers. Mayor Tweedy agreed that this property is in Councilmember Perrow's ward and he should have a vote. It was clarified for Mr. Lee that it will automatically be put on June 25, 2019's agenda and he would not have to resubmit anything. Councilmember Nelson made a motion to table this item until the June 25, 2019 meeting. The motion was seconded by Councilmember Nelson and passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Tweedy, Wright	5
Noes:		0
Absent:	Perrow, Wilder	2

// In the matter of City Code, Consideration of adopting an ordinance amending Sections 7-7,

7-33, and 7-34 of the City Code pertaining to Animal Care and Control, Mr. Walter Erwin explained that these sections need to be changed in order to bring the language into line with State Code changes that will go into effect on July 1, 2019. In order for the City to adopt local ordinances, they have to be consistent with State Code.

Councilmember Wright made a motion to adopt the language as proposed by the City Attorney. It was seconded by Vice Mayor Dolan and passed by the following vote:

Ayes:	Dolan, Helgeson, Nelson, Tweedy, Wright	5
Noes:		0
Absent:	Perrow, Wilder	2

// The meeting was adjourned at 8:45 p.m.

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Clerk of Council