

// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of June, 2010, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

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

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Absent:

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// City Manager Kimball Payne gave a brief overview of the request regarding the proposed policy to License the Use of the City Logo. Mr. Payne stated that the City had received a request from a gift shop that was located at the Holiday Inn to use the City logo for placement on souvenir merchandise. Mr. Payne stated that the City's practice in the past has been not to allow the use of the City Logo because it's a copyrighted symbol. Mr. Payne went on to say that the City does not have a policy in place and it is appropriate to ask Council's input. Mr. Payne went on to say the City is concerned about improper use of the logo. Communications and Marketing Director JoAnn Martin stated that surveys were sent out to organizations and so far there has not been a City that allows the commercial use of their logo. Ms. Martin did state that the City does allow the Visitor's Center and non-profit organizations to use the logo if the City is co-sponsoring an event or a program they are doing and the City does allow some businesses to use the logo if the City is contracted with them. Ms. Martin also asked Council to decide if there should be a usage policy and what that policy should be. Council Member Gillette asked if there was any reason why the City couldn't take merchandise that the City is already producing through the Tourism program and sell it at wholesale to another store and allow them to sell it which would give the City complete control over how it looks. Ms. Martin responded that it was a possibility. Council Member Gillette stated that he was wondering if the City wanted to control how the logo was used and how it appears on an item rather than licensing the logo to another organization that creates its own merchandise and the City could wholesale out our merchandise to private stores and then they could resell it at profit then the City would have absolute control over what the item looks like. Ms. Martin responded the problem with that is it would take a lot of staff time in doing that, storing the items, having to keep up with what different shops have and what they want to sell. Council Member Perrow stated that when he sees someone wearing a t-shirt with a City logo he thinks it is a City of Lynchburg employee, someone he can talk to and asked questions. Council Member Perrow asked if there could be a derivative of the official logo that could be marketed. Ms. Martin replied that if it was Council's pleasure one could be designed. Council Member Johnson stated that the logo was already being used and sees it as an opportunity for small businesses who would like to come in and pay some fees to the City and if it doesn't work then Council has the right to withdraw the contract. Mayor Foster stated that she wanted to do something commercially where the City could design a logo and let small businesses and the Visitor's Center to use. Council Member Helgeson stated the problem with that is that anyone could design something a little bit different then they could use it. Council Member Helgeson went on to say that what people want is to use the official logo.

Mr. Payne stated that this should be handled administratively and not a legislative process, in that way Council would not have to deal with appeals or complaints. Council Member Nelson stated that he liked

the idea but that it needed some work and that there were people waiting on their decision. Council Member Nelson moved that City Council delegate to the City Manager and staff the authority to address the issue that has been raised on this request, and move forward and to further investigate an overall policy to deal with future actions dealing with the City logo. Council Member Johnson seconded the motion. After further discussion Council by the following recorded vote passed the motion:

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

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Noes:

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// City Manager Kimball Payne gave a brief overview of the Attendance Standards for Council Appointed Boards and Commissions stating that on the application there is a statement that says Council requires appointees to attend at least 75% of the yearly committee meetings. The word "yearly" is on the applications and also on other documents that the City provides to appointees. Mr. Payne stated routinely when Council reviews appointments Council is looking at a 3 year experience in which is a typical term and there is no real mechanism in place when you appoint a person and they just don't attend meetings in year one. Mr. Payne went on say currently there have been three instances where there have been some concerns raised about people who have not been meeting the 75% yearly requirement. Mr. Payne further stated that once Council has given its feedback moving forward with a draft policy for Council's consideration and adoption would be written. Council Member Helgeson stated that Council should not be micromanaging attendance. Mr. Payne stated that a request was received from the Tourism Board asking for action to be taken because a member has not been attending meetings at all, which the Board is operating with less than a full Board and request that something be done. Mr. Payne stated that there was no procedure in place to deal with that request at this time. Mr. Payne went on to say that there are different rules established by State Code. Council Member Helgeson asked what the differences are. City Attorney Walter Erwin explained that City Council-created Boards and Commissions; Council has the absolute right to remove those appointments whenever Council wishes. Council has to decide how and when they wish to exercise that right. For State created Boards and Commissions even though the State allows local governments to make those appointments, their authority to remove appointees depends on what the State Code says. It does say that in the Community Services Board Council can remove an appointee if they are not doing a good job after giving them a hearing; for the Planning Commission it says that Council can remove an appointee for malfeasance in office or if they do not attend a certain number or miss a certain number of meetings; for the School Board there is no removal powers; for a State-created Board and Commission whether or not Council can do anything about poor attendance depends upon the sections of the State Code that set up that Commission. Mr. Erwin went on to say that he had received a complaint from the Library about a member not attending meetings. Mr. Erwin explained that the Board wanted Council to deal with that issue before the full three year term was ended so they could have a full functioning Board. Council Member Helgeson stated that Council may want to deal with this simply on a complaint basis with regard to Council-created Boards and Commissions. Council Member Gillette stated that Council should make it clear at the outset when a person is appointed that Council expects that appointee to be there for at least 75% of the meetings. One possibility is to say that Council

expects 75% attendance during the term of your appointment and at least 2/3rds or 66% attendance in any given year, if not then action should be taken in that year. This would only apply to Council-appointed Boards and Commissions and not the ones appointed by State law. Vice Mayor Dodson stated that Council does not look over most Boards and Commissions. Vice Mayor Dodson raised the question regarding the Planning Commission, stating that sometimes the Planning Commission hardly has a quorum and the Tourism Board is also having issues. Vice Mayor Dodson went on to say that some type of checks and balances should be put into place. Council Member Gillette stated that the solution to bringing all of this together is to say Council expects 75% attendance. Council Member Gillette stated that if the body as a group votes for action against one of its members for failure to meet that 75% then Council will respond to that issue. The Board has to act as a body and vote to ask Council to deal with an attendance issue and then leave the threshold at 75% and Council would only respond when there was a concern and there have been times when people have asked for a suspended status. Mayor Foster asked do we need a motion on this. Mr. Payne stated that he has Council's direction and a policy will be drafted and brought back to Council for adoption and then would be shared with each Board appointees.

// Council Member Gillette received complaints regarding Hollywood Video "going out of business" signs in the City's right of way and asked the City Attorney to contact Hollywood Video and remind them of our sign ordinance. Council Member Helgeson asked about the Parking Ticket Report stating that before there were 3,000 parking tickets issued and its now down to 800 and wanted to know what could be done about the downtown parking situation and felt it was eye opening to see that report and that Council may want to look at that again. Vice Mayor Dodson stated that the Peaks View Park sign off the northwest expressway is covered with foliage and also the sign is worn out. Mayor Foster announced that the Mayor from Bramwell, West Virginia visited the City and presented a proclamation to the City talking about our commonality which was that the poet Anne Spencer had spent her childhood in Bramwell, West Virginia. Mayor Foster also spoke about the new regulations for parking downtown stating that a citizen had come into the Council/Manager's Office and was not aware that there is a new regulation in place that even though you move your car you must move it beyond a certain footage from where you were the first time and if you don't you will receive a ticket. Mayor Foster asked if that was correct, and has the public been informed about that. In answering the questions regarding parking, City Manager Kimball Payne indicated the Parking Manager Norman Hale had talked with the citizen and found out that in fact the citizen did know about the rules and had to move the vehicle to the next spot over to avoid the restriction. Mr. Payne stated that the code does say you have to be parked outside of that parking zone and explained this will go away when pay stations are put on the street. Mr. Payne went on to say there were a series of stakeholder meetings held downtown regarding parking. The regulations for parking did not go into effect until January 2010 to give the citizens ample time to learn about the new parking regulations. Mayor Forster stated that the City Manager had an item to bring before Council. City Manager Kimball Payne gave Council an update on the project that the City and Liberty University were doing. Mr. Payne stated that a public hearing will be held on Thursday night at 6:00 p.m., June 10, 2010 at the IT building

regarding the design of the Wards Road Pedestrian Improvements Project. That project is basically designed and will be at 90% design documents by June 15th. Mr. Payne explained that a grant from Virginia Department of Transportation (VDOT) A VDOT had been applied for to help pay for some of the improvements in the corridor an in anticipation that the City would be successful in getting that grant. In the meantime, the City has not received the grant and this has delayed the construction start up time. A series of discussions with Liberty University was held. It had been anticipated that Liberty would be getting a permit from the railroad for the tunnel and the permit has not been granted. The City and Liberty has agreed to delay the bidding for this project until next spring. There are several alternatives being explored, the Tunnel is still on the table assuming Liberty gets a permit from the railroad, but the other alternative that they have expressed an interest in exploring is: (1) bridge the entire Wards Road corridor from the Liberty Campus over the railroad track and across Wards Road with a bridge and an elevator system. There are concerns with what that might cost; and (2) would be like a hybrid, instead of going under the railroad tracks, we build a bridge and an elevator system over the railroad tracks at about the same location as the tunnel outlet, drop the pedestrians into the parking lot and then our project would be to continue to get them across Wards Road.

// City Council recessed the meeting at 6:03 p.m.

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

The following Members were present:

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

Absent: 0

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

// Mayor Foster and Vice Mayor Dodson presented a Certificate of Recognition to Virginia's Junior Miss 2010 – Brina Gabryel.

// Mayor Foster and Vice Mayor Dodson presented a Certificate of Recognition to the 2010 Hill Climbers recipients.

// Copies of the minutes of the May 25, 2010 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of Central Virginia Mental Health, City Council Report # 5 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote approved the appointment of Col. Parks H. Snead to the Central Virginia Services Board of Directors:

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

Noes: 0

// In the matter of Sheriff, City Council Report # 6 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution

#R-10-068, as presented, to re-appoint City Manager L. Kimball Payne, III and Police Chief Parks Snead to the Blue Ridge Regional Jail Authority Board:

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

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Noes:

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// In the matter of Fire – General, City Council Report #7 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-069, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$97,974 with resources of \$91,443 for a regional fire department training initiative:

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

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Noes:

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// In the matter of Community Planning – CDBG, a public hearing was held regarding City Council Report #8 regarding the FY 2011 Community Development Block Grant (CDBG) and HOME Programs Funds allocation. Acting Director of Community Development and Deputy City Manager Bonnie Svrcek provided a brief summary of the CDBG and Home Program Funds. Ms. Svrcek stated that the City was in its thirty-six years (36) of being a Community Development Block Grant Entitlement Community and seventeen (17) with the HOME program. Ms. Svrcek went on to say that the total CDBG projects funding for FY 2011 is \$1,049,262.10 and the HOME Program total funding for FY 2011 is \$459,516.32. Eight (8) individuals spoke in support of the following projects: Miriam's House, Camp Kum-Ba-Yah, The Gateway House, Inc., Lynchburg Neighborhood Development Foundation (LNDF) – Hilltop Homes, LNDF Tinbridge Hill New Construction, Interfaith Outreach Association, YWCA – Town Center, Smart Beginnings, Lynchburg Redevelopment and Housing Authority. Six (6) individuals spoke expressing their concerns regarding the funding request for the following projects: PRIS, PLC, C. Street Zion Baptist Church, Hill City Football and Cheerleading. There was no one else present who wished to speak to this item, and the public hearing was closed. Mayor Foster announced that a work session would be held on June 22.

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #9 outlining the petition of Old Forest Road Baptist Church for a Conditional Use Permit (CUP) to allow the construction of a church pavilion/recreational facility in an R-5, High Density Multi-Family Residential District at 3630 Old Forest Road. City Planner Tom Martin provided a brief summary regarding the petition, stating that the Planning Commission recommended approval of the CUP. Mr. Charlie Hesse a member of Old Forest Road Baptist Church 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 Johnson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-10-070, as presented, granting the Conditional Use Permit:

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

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Noes:

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// In the matter of Community Planning – Zoning Amendments, a public hearing was held regarding City Council Report #10 regarding the petition of Gary Case to amend the Future Land Use Map from Resource Conservation to Office use and to rezone 25.04 acres from R-C, Resource Conservation District to B-1C, Limited Business District (Conditional) to allow the construction of office buildings and other uses permitted in a B-1, Limited Business District at 101 Peggy Bowen Drive and 126 Nationwide Drive. City Planner Tom Martin gave a brief overview of the request stating that the Planning Commission at its February 10, 2010 meeting recommended denial of the petition at that time. Mr. Martin went on to say that since the Planning Commission public hearing the petitioner has voluntarily amended the submitted proffers to limit building heights to 55 feet, and to place a conservation easement on 23 acres. The conservation easement would insure that this property would remain in a natural state; however the petitioners would reserve the right to access utilities and discharge stormwater into this area if needed. Mr. Martin stated that the Zoning Ordinance provides that proffers may be offered and considered by Council if they are submitted in writing by the petitioner. The Planning Commission has not considered the revised proffers. Mr. Martin stated that the petitioner conducted a neighborhood meeting on June 1 at the Sandusky Elementary School. Primary concerns voiced by citizens included the protection of the view from the existing neighborhoods, stormwater management and the potential for increase flooding to the creeks. Since the plan is conceptual final engineering and design of stormwater management facilities have not been completed, however City Code requires the treatment of stormwater for quality and also requires the detention of 2 and 10 year storm events to meet pre-development conditions. Due to the location of the property within the Blackwater Creek watershed, release of the peak stormwater discharge in accordance with principles of low impact development may also be a viable alternative. Mr. Bill Jamerson and Mr. Gary Case representing the petitioner gave a brief presentation in support of the petition and asked Council for approval. Five individuals spoke in favor of the petition for Council approval. Twenty-three (23) individuals spoke in opposition to the petition stating the following reasons: environmental impacts on college lake, flooding and erosion, wetland impact, property value, impact on Sandusky residents, building on steep slopes, rehabilitation of buildings and use vacant buildings instead of constructing new buildings, and stormwater management. There was no one else present who wished to speak to this item, and the public hearing was closed. After Council discussion it was decided that this item would be placed on the June 22 work session.

// At the beginning of Agenda Item #11, City Manager Payne asked to address the previous public hearing and requested that Council not close the previous public hearing in case there are additional proffers offered by the developer. Mr. Payne stated he wanted to keep the previous public hearing open in case there are additional proffers that can be received and commented on. Council Member Perrow made a motion to leave the prior public hearing open and be continued to the next meeting, seconded by Council Member Helgeson and Council by the following recorded vote left the previous public hearing (City Council Report #10 regarding the petition of Gary Case to amend the Future Land Use Map from Resource Conservation to Office use and to rezone 25.04 acres from R-C, Resource Conservation District to B-1C, Limited Business District (Conditional) to allow the construction of office buildings and other uses

permitted in a B-1, Limited Business District at 101 Peggy Bowen Drive and 126 Nationwide Drive) open.

// In the matter of Community Planning – General, a public hearing was held regarding City Council Report #11 regarding consideration of adopting amendments to "Chapter 14 Transportation" of the City of Lynchburg Comprehensive Plan 2002-2020. There was no one present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #O-10-071 amending "Chapter 14 Transportation as presented:

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

Noes: 0

// In the matter of Public Works – General, City Council Report # 12 was considered. On motion of Council Member Helgeson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-10-072, as presented, approving the renaming of a private street from "Ericsson Drive" to "Evans Boulevard":

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

Noes: 0

// In the matter of Public Works – General, City Council Report # 13 was considered. On motion of Council Member Helgeson, seconded by Council Member Nelson, Council by the following recorded vote adopted Resolution #R-10-073, as presented, to support a \$1.0 million grant application to Virginia Department of Transportation (VDOT) to compete in the Revenue Sharing Grant Program:

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

Noes: 0

// In the matter of Human Resources – General, City Council Report #14 was postponed due to time constraints until June 22 work session.

// Council Member Helgeson made a motion not to go into closed session. Motion died for lack of a second. On motion of Vice Mayor Dodson, seconded by Council Member Johnson, 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, Region 2000 Local Government Council, Zoning Appeals Board, Dr. Martin Luther King, Jr./Lynchburg Community Council, Economic Development Authority, Museum Advisory Board, Sister City Liaison, Transit Company Board, Lynchburg Parking Authority, Historic Preservation Commission, Lynchburg Regional Airport Commission and Regional Tourism Board; and for discussion and consideration of candidates for the position of the Clerk of Council, respectively, pursuant to Section 2.2-3711(A)(1), of the Code of Virginia (1950), as amended:

Ayes: Dodson, Gillette, Johnson, Nelson, Foster 5

Noes: Helgeson, Perrow 2

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

// In the matter of Appointments, Council Report #15 was considered. On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Barry K. Armstrong and Diane S. Swain to serve on the Youth Services Citizens Board for terms to expire June 30, 2013:

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

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Walter M. Fore, Jr., to serve on the Youth Services Citizens Board for a term to expire June 30, 2013:

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

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Troy W. Deacon and Bryan E. Tiller to serve on the City Employees Appeal Board for a terms to expire June 30, 2013:

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

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Patricia R. Lovern to serve on the Zoning Appeals Board for a term to expire June 30, 2015:

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

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Patricia D. Price to serve on the Dr. Martin Luther King, Jr./Lynchburg Community Council for a term to expire June 30, 2013:

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

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Mark Varah and Massie G. Ware, Jr. to serve on the Economic Development Authority for terms to expire June 30, 2014:

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

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Robert B. Craighill, Michael R. Doucette, Langhorne L. McCarthy, J. Marie Waller and Sandra S. Whitehead to serve on the Museum Advisory Board for terms to expire June 30, 2013:

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

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On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Bert Dodson, Jr., to serve on the Sister City Liaison to fill an unexpired term ending December 31, 2011.

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Neil W. Bohnert and Gary E. Harvey to serve on the Historic Preservation Commission for terms to expire June 30, 2013:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote appointed Bert Dodson, Jr. to serve on the Lynchburg Regional Airport Commission for a term to expire December 31, 2013:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote re-appointed Paul A. Heckman to serve on the Regional Tourism Board for a term to expire June 30, 2013:

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

Noes: 0

// 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: Dodson, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7

Noes: 0

// The meeting was adjourned at 12:24 A.M.

Interim Clerk of Council