// An additional scheduled meeting of the Council of the City of Lynchburg was held on the 20th day of April, 2010, at 4:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct a work session regarding the FY2011 Budget. The following Members were present:

Present: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster 6

Absent: Johnson 1

// City Manager Kimball Payne stated that the response to the two questions that had previously been asked by Council were furnished to them. The questions included an updated list of occupied positions that would be impacted based on the adjustments that have been proposed and actually might only affect 4 or 5 people. Mr. Payne explained that there have already been some internal movements around with some of the positions that might be eliminated and will continue to work on that to minimize the impacts. Mr. Payne explained that information was also included on a bonus option in response to the question regarding the pay adjustment scenarios with a cost of 1%. Mr. Payne stated that another question that was asked was about the Tourism Program. The Tourism Report was sent to Council along with a CD that included files on the Annual Report which was due by May 1 and the compilation of all the quarterly reports from ’09 up to the present. Mr. Payne went on to say that from the calendar year ’09, it included Fiscal ’10 Budget and the Marketing Plan with the overall description of the program. Mr. Payne stated that the program does not include two things: one is the performance measures for the program, which should be furnished to Council before July 1. Secondly, Mr. Payne explained if Council does approve the additional funding to the Tourism Program and the Tourism Program wishes to spend that money in Calendar year ‘10, Tourism will need to revise their ‘10 budget which will need to be provided to the City. Mr. Payne went on to say if the Tourism Program does not intend to spend the additional money until year ’11 which is based on a calendar year, then Tourism will show Council how they would spend that additional money in calendar year ’11 budget. Mr. Payne stated that the information that was furnished on the CD satisfies the requirement of the contract.

// City Manager Kimball Payne stated that direction from Council was needed to proceed and prepare the budget ordinance which will require two readings at the May 11th and May 25th meetings for the final adoption of the Fiscal 2011 Budget. Mr. Payne stated that the final decision of the Budget needed to be made so that the Budget document could be put together with a little lead time. Mr. Payne went on to say that the recommendations made seem to be accepted. Mr. Payne stated that there are still some questions unresolved about the salary adjustments, Point of Honor hours and Youth Programs. Following discussion, and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote accepted the staff revenue adjustments and the staff expenditure adjustments with the exception of Debt Service Reserve, Marketing Funds, the reopening of the Branch Library full time and the School Board adopted budget:

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

Noes: 0

Absent: Johnson 1

// Council Member Johnson arrived at the meeting at 4:49 p.m.

// During Council discussion Council Member Helgeson stated there are several items still in the budget that could be addressed, we need to take into consideration our taxpayers. Council Member Helgeson went on to say when we look at this different amount here with the debt service reserve plus the balance, there is a possibility we could actually lower the real estate tax rate by 3 cents this year, there is an easy possibility we could do that. Council Member Helgeson explained that last year taxes were raised $2.4M dollars and everywhere across the country property values were declining, which put a huge burden on the backs of our taxpayers. Council Member Helgeson stated that the other element of concern that had not been addressed is consolidating services with the schools.

// Following discussion on the tax reduction Council Member Helgeson made a motion to set the tax rate back at $1.02, seconded by Council Member Perrow and after further discussion, the motion was defeated:

Ayes: Helgeson, Perrow	2
Noes: Dodson, Gillette, Johnson, Nelson, Foster	5

// During Council discussion, Council Member Helgeson stated that his concern with the School is that taxpayers needed a tax break and that if you look at what the City is required – local funding figure is compared to what the City actually contributes there is a disparity. Council Member Perrow stated that the Schools Budget has been significantly reduced by the State and could not justify cutting the School Budget any further. Council Member Perrow made a motion to fund the schools recommended by staff and seconded by Vice Mayor Dodson. During discussion Council agreed to take each item on the list and vote on each one separately. Council by the following recorded vote agreed to fund the schools budget as recommended by staff:

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

// During Council discussion, Council Member Helgeson stated that in the citizen's survey one of the highest recommendations is to reduce taxes; funding the Marketing initiative would not support this citizen request. Council Member Helgeson also stated we should be looking at this as trade offs. A few items that are left to cover are two staff or unfunded police officers. The $50,000 could actually or probably be used for two staff or police officers. Council Member Helgeson went on to say that we need to prioritize. Vice Mayor Dodson discussed the $50,000 for the Marketing Fund. Communications and Marketing Director JoAnn Martin explained the differences between the Travel and Tourism Programs and the Marketing Program with the City. Council Member Johnson made a motion, seconded by Vice Mayor Dodson, and Council by the following recorded vote agreed to continue with the $50,000 for the Marketing Program with the City:

Ayes: Dodson, Gillette, Johnson, Nelson, Foster	5
Noes: Helgeson, Perrow	2

// Council Member Gillette stated that the reason not to keep the branch library open on a full-time basis is because there may be some other priorities that we need to spend the extra dollars on given the restrictions in our budget right now part time for the branch library is probably the most rational way we could use that money. Council Member Perrow stated that with the private partnership it would be good to match what they have done so he was in support of funding the branch library part-time. Council Member Gillette made a motion to maintain the downtown branch library open on a part-time basis, accepting the $20,000 offer from the Friends of the Library and adding to that approximately $29,000 in order to maintain the branch library on a part-time basis. Council Member Johnson seconded that motion. Council Member Helgeson stated that he will support that motion, it being a reasonable solution. After further Council discussion on the matter, Council Member Johnson made a substitute motion that the branch library be opened full time, seconded by Vice Mayor Dodson, and Council by the following recorded vote adopted the substitute motion to keep the downtown branch library open on a full time basis:

Ayes: Dodson, Johnson, Nelson, Foster	4
Noes: Gillette, Helgeson, Perrow	3

// During Council discussion, Council Member Helgeson stated he would not be supporting the Point of Honor on a full time basis because the expenditures are much more than the revenue. The museum budget total is about $362,000 of which paid revenue, actual paid admittance for admission are about $20,000. Council Member Helgeson went on to say it would be pretty hard to run a business that has expenditures of $362,000 and you only get $20,000 a year at the gate for admissions. Several Council Members also stated that with promotion of the City through Marketing and the Tourism program it is important to keep the Point of Honor open full time for potential visitors. Council Member Gillette made a motion to maintain sufficient levels of funding in order to maintain Point of Honor full time, seconded by Vice Mayor Dodson. After discussion Council by the following vote agreed to maintain funding for Point of Honor on a full time basis:

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

// Vice Mayor Dodson made a motion to leave the Community Market closed on Monday's, seconded by Council Member Gillette and Council by the following vote agreed to leave the Community Market closed on Monday's:

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

// Council Member Johnson asked about restoring the youth program at the Main Library and made a motion to maintain the program at the current level of funding, seconded by Vice Mayor Dodson. During Council discussion, Council Member Gillette was in favor of the youth programming but had concerns about disproportionately funding the Library in comparison to other city departments. Council Member Gillette explained that this is not a vote against the youth programming but there is a compelling reason to maintain 99% percent funding for the library system in this budget year. Council Member Helgeson stated that other departments are being cut 10%, some of these items were mentioned before as good ways to show some fiscal responsibility. Council Member Helgeson went on to say that it is counter productive to keep on spending to have less than a 1% cut in their overall budget and Council by the following vote agreed to restore the youth program at the Main Library:

Ayes: Dodson, Johnson, Nelson, Foster	4
Noes: Gillette, Helgeson, Perrow	3

// Vice Mayor Dodson discussed bonuses for city employees and made a motion to fund bonuses for City employees, seconded by Council Member Gillette who also wanted to add a friendly amendment which was not accepted by Vice Mayor Dodson. During Council discussion, Council Member Perrow was concerned about the timing of the bonuses for City employees and the best time suited may be in the second quarter of the upcoming fiscal year. Council Member Perrow went on to say that by waiting until the second quarter would see if there are changes in the Revenues and would like to see the use of the fund balance for this one time money to support the bonuses to City employees. Council Member Helgeson stated that over the past several years income has declined, cost of living also has declined and the taxes do nothing but continue to go up. Council Member Helgeson went on to say that this is the wrong time and a way should be figured out to be able to give back to some of our taxpayers. Appreciating what our city employees have done, Council Member Helgeson stated that we also have a significantly high unemployment rate right now and the unemployment rate has been increasing. Council Members Helgeson and Perrow stated they would not support this motion. After further discussion, Council by the following recorded vote agreed to give bonuses to City employees:

Ayes: Dodson, Gillette, Johnson, Nelson, Foster	5
Noes: Helgeson, Perrow	2

// Council Member Gillette made a motion that the remaining funds go into Debt Service Reserve, seconded by Vice Mayor Dodson. After discussion Council Member Helgeson requested that some of the funds be designated to filling 2 police positions. Council Member Gillette offered a friendly amendment putting $1,000,000 into Debt Service Reserve and the remaining $110,291 could be put into Reserve to deal with public safety positions. Council will have to act in the future to actually designate the funds to a particular position. Council Member Helgeson made a substitute motion to fill the 2 police positions allowing the cadets to attend school in July. Council Member Johnson would not agree with that motion. After further discussion Council Member Gillette made an amendment to his motion to alter the motion, that rather than say to support 2 sworn police officers that it would support 2 public safety officers and therefore leave open the possibility for City Manager to be able to discuss with the department heads. The motion was seconded by Vice Mayor Dodson. After discussion on the motion, Council by the following recorded vote agreed to amend the motion:

Ayes: Dodson, Gillette, Nelson, Foster	4
Noes: Helgeson, Johnson, Perrow	3

Council Member Gillette stated that the motion is now amended and still may end up with 2 police officers being the first to be funded. This will give the City Manager some time to discuss this with department heads before coming back to Council with a proposal. Council by the following recorded vote adopted the motion:

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

Noes: 0

// Council Member Gillette made a motion to take the remaining $1M dollars and put into a Debt Service Reserve, seconded by Vice Mayor Dodson. During Council discussion, Council Member Helgeson suggested that the $1M would be better used giving citizens a tax break this year instead of setting up a Debt Service Reserve. Council by the following recorded vote adopted the motion:

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

Noes: Helgeson, Perrow 2

// The meeting was adjourned at 7:38 P.M.

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Interim Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 27th day of April, 2010, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

Present: Dodson, Helgeson, Nelson, Perrow, Foster	5
Absent: Gillette, Johnson	2

// In the matter of Subdivisions, City Council Report #1 was considered. City Planner Tom Martin gave a brief update on the amendments to the Subdivision Ordinance. Mr. Martin stated that a work session on the Subdivision Ordinance amendments was held on April 13 and during staff presentation it was indicated that the ordinance would need to be re-advertised due to changes to one section of the ordinance. Mr. Martin explained after further review, staff determined that the initial advertisement was valid and that additional advertisement and a subsequent public hearing are not required. Mr. Martin went on to say that the following items also have been addressed since the work session on April 13.

(1) A link to the proposed ordinance revisions was placed on the main page of the City's web site;

(2) A copy of the Subdivision Ordinance Committee was forwarded to each member of Council;

(3) The last sentence of Section 24.1-38 was corrected to reference the City Engineer instead of the City Planner may require a bona fide estimate of cost improvements and determine the surety bond;

(4) The effective date of the ordinance has been changed to July 1, 2010; and

(5) A clause has been included within the ordinance that any plats filed prior to that time would be subject to the ordinance that is in existence now. On motion of Council Member Perrow, seconded by Council Member Nelson, Council by the following recorded vote adopted Ordinance #0-10-034, as presented, amending certain sections of the Subdivision Ordinance:

Ayes: Dodson, Helgeson, Nelson, Perrow, Foster	5
Noes:	0
Absent: Gillette, Johnson	2

On motion of Council Member Perrow, seconded by Council Member Nelson, Council by the following recorded vote adopted Ordinance #0-10-035, as presented, amending Sections 35-101, 35-108 and 35-111 of the City Code relating to the naming of streets:

Ayes: Dodson, Helgeson, Nelson, Perrow, Foster	5
Noes:	0
Absent: Gillette, Johnson	2

// Council Member Johnson arrived at 5:40 p.m. during agenda item #2.

// Financial Services Director Donna Witt provided a brief summary regarding the FY2010 Third Quarter Budget Adjustments. Ms. Witt explained it was necessary to amend the FY 2010 Adopted Budget and appropriate funds to implement revenue, expenditure, and transfer adjustments as identified for the General Operating, City/Federal/State Aid, City Capital Projects, Regional Airport Operating, Fleet Services, Asset Forfeiture, Comprehensive Services Act, Sewer Operating, Sewer Capital Projects, and School Operating Funds. Ms. Witt went on to say that this year the adjustments were summarized in the Agenda Summary section and then attached the details. Ms. Witt explained each item that was on the list

// In the matter of Airport - General, a public hearing was held regarding City Council Report #6 regarding approving a lease agreement with Centra Health for a 6,000 square foot area of City-owned property at Lynchburg Regional Airport.

Council Member Gillette read a statement that he would not participate in the discussion regarding Centra Health because of a conflict of interest.

Airport Manager Mark Courtney provided a brief summary of the request. Mr. Courtney went on to say that the Lynchburg Regional Airport Commission recommended approval for the lease agreement. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Helgeson, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-10-036, as presented, approving a lease agreement with Centra Health for a 6,000 square foot area of City-owned property at Lynchburg Regional Airport:

Ayes: Dodson, Helgeson, Johnson, Nelson, Perrow, Foster 6
Noes: 0
Abstain: Gillette 1

// In the matter of Finance - Bonds, a public hearing was held regarding City Council Report #7 regarding the issuance of $15,000,000 General Obligation Public Improvement Bond Anticipation Notes (BANS). Financial Services Director Donna Witt provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Helgeson, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted Resolution #R-10-037, as presented:

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

On motion of Council Member Helgeson, seconded by Vice Mayor Dodson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-038, as presented, amending the FY 2010 General Fund Adopted Budget and appropriating $10,125 from the General Fund Reserve for Contingencies for seventy-three percent (73%) of the re-authorizing costs:

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

// In the matter of Budget, a public hearing was held regarding City Council Report #8 regarding amending the FY 2010 Third Quarter Adopted Budget and appropriating funds to implement revenue, expenditure and transfer adjustments. Financial Services Director Donna Witt provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Helgeson, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting Ordinance #O-10-039, as presented, amending the FY 2010 Third Quarter Adopted Budget and appropriating funds to implement revenue, expenditure and transfer adjustments:

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

// In the matter of Housing Authority, City Council Report # 9 was considered. City Manager Kimball Payne explained that this item came before Council on March 23 and at that time the matter was postponed for 30 days, or until April 27, to give the owner time to respond. Mr. Payne went on to say that the condition of the property has remained the same and there has been no repairs done to the property located at 416 Pine Street. On motion of Council Member Perrow, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-10-040, as presented, approving a request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 416 Pine Street under Section 36-19.5 of the Code of Virginia:

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

Noes: 0

// In the matter of City Code, City Council Report #10 was considered. Economic Development Director Marjette Upshur gave a brief summary of the request to approve an ordinance establishing an Arts & Cultural District. Ms. Upshur explained that State Code permits localities to create Arts & Cultural Districts to provide incentives to attract and grow arts and cultural organizations. Ms. Upshur went on to say that the attraction and growth of artists and cultural organizations will further revitalize Lynchburg's historic downtown, creating an "entertainment cluster" and adding jobs and increase an important element in Community Livability. Council Member Johnson made a motion to approve the ordinance establishing an arts and cultural district with the new boundaries, seconded by Council Member Perrow. After some discussion Mayor Foster made a friendly amendment to the motion to change the language in Sec. 13.1-10 (b) by adding after aesthetic "or other infrastructure" and Council Member's Johnson and Perrow accepted the friendly amendment and Council by the following recorded vote adopted Ordinance #0-10-041, as amended, establishing an Arts and Cultural District:

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

Noes: 0

// In the matter of Finance - Bonds, City Council Report # 11 was considered. Financial Services Director Donna Witt provided a brief summary regarding the request. Council Member Helgeson, Finance Committee (FC) Chair, stated that this item came before the FC and made a motion to approve the request. The motion required no second, and Council by the following recorded vote adopted Resolution #R-10-042, as presented, reauthorizing a reallocation of $1,079,395 of Proceeds from the Public Schools Capital Projects to Public Buildings Capital Projects Category:

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

Noes: 0

// In the matter of Finance - Bonds, City Council Report # 12 was considered. Financial Services Director Donna Witt gave a brief summary regarding the request. Council Member Helgeson, Finance Committee (FC) Chair, stated that this item came before the FC and made a motion to approve the request. The motion required no second, and Council by the following recorded vote adopted Resolution #R-10-043, as presented, authorizing the issuance of not to exceed $12,000,000 principal amount of General Obligation Public Improvement Refunding Bonds, Series 2010:

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

Noes: 0

Council Member Helgeson, Finance Committee (FC) Chair, stated that this item came before the FC and made a motion to approve the request. The motion required no second, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-044 as presented, amending the FY 2010 General, Water and Sewer Funds' Adopted Budgets and appropriating $97,645, $23,687 and $28,868, respectively, with resources from the refunding bond proceeds for a total of $150,200 for estimated issuance costs:

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

Noes: 0

// The meeting was adjourned at 8:32 P.M.

Interim Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 11th day of May, 2010, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

Present: Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 6

Absent: Dodson 1

// Vice Mayor Dodson arrived at 5:05 p.m.

// City Planner Tom Martin provided a summary report of the proposed amendments to Chapter 14, Transportation of the Comprehensive Plan 2002-2020. Mr. Martin stated that the City of Lynchburg Comprehensive Plan 2002-2020 recommends continuous monitoring and updates of the Plan to insure it "has not simply been put on the shelf". Mr. Martin explained that the Plan specifically identifies positive and negative effects that new development and redevelopment have on the City and recommends that policies be designed to maximize City-wide economic development strategies and determine if code changes will meet these objectives without negative impacts on environmental sensitivity, cultural resources and surrounding land uses. Mr. Martin explained the three revisions in the Transportation Plan:

- Guiding Principles – the plan should be established to provide a vision for the City's transportation policies and to support decision making.
- Access Management - process of providing and managing access to development while preserving the regional flow of traffic in terms of safety, capacity and speed.
- General Text Edits – focus on Long Range Transportation Plan (LRTP), Six Year Improvement Program (SYIP) and Transportation Improvement Plan (TIP).

Council Member Perrow stated several concerns regarding the Plan…

- changing the wording from "fiscally realistic" to "fiscally responsible"
- being more business friendly by putting the development where it is needed and then routing the bus lanes to that development.
- Do we really want to define the future land use map around the current or future transit service? Or should the current or future transit service be defined around the future land use map?

Council Member Helgeson stated that he would like to have the school bus system in the document because of the frequent stopping and starting of the school buses.

After the discussion with Council, it was the consensus of Council to make corrections and then proceed with advertising for a public hearing.

// During roll call Council Member Helgeson questioned the pretty high turnover in the downtown parking enforcement stating that there has been a significant difference and requested the number on parking tickets that were issued before the Parking Management program and then parking tickets after. Council Member Gillette congratulated the citizens of the City of Lynchburg for pulling off a productive and incident free election last week. He did not get any calls from constituents about problems anywhere. He also congratulated Mayor Foster, Council Member Nelson and welcomed Council Member Elect Cary to Council. Council Member Perrow expressed congratulations for a job well done to the Electoral Board, poll workers and the Registrar's office on the May 4th election. Council Member Perrow also asked staff about moving to annual assessments. Council Member Johnson again asked about the welcoming signage in the White Rock Hill Neighborhood. Vice Mayor Dodson stated that two police officers from our Sister City of Glauchau, Germany will be visiting Lynchburg from May 17 – 26, 2010. Mayor Forster discussed the Swearing In Ceremony for new Council Members, the Organizational Meeting and School Board Appointments. On the consensus of Council the Organizational Meeting was set for July 9th at 1:00 P.M. in Council Chamber. The Swearing in Ceremony and School Board Appointments dates were not selected at the meeting.

// On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote elected to hold a closed meeting for discussion and consideration of the acquisition of real property for a public purpose, the Midtown Connector Project, pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, because discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City as permitted by Section 2.2-3711(A)(3), respectively, Code of Virginia (1950), as amended:

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

Noes: 0

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

// Council Member Johnson 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 Perrow, and Council by the following recorded vote adopted the motion:

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

Noes: 0

// City Council recessed the meeting at 6:50 p.m.

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

// The following Members were present:

Present: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster 6

Absent: Johnson 1

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

// Mayor Foster presented a proclamation for John Stewart Walker Realtor Day.

// Copies of the minutes of the April 20, 2010 meeting, having been previously furnished Council. Council Member Helgeson asked to pull the April 20 minutes from the agenda.

// Copies of the minutes of the April 27, 2010 meeting, having been previously furnished Council. Council Member Helgeson asked to pull the minutes of April 27 minutes from the agenda.

// In the matter of Finance - Bonds, Resolution #R-10-038 amending the FY 2010 General Fund Adopted Budget and appropriating $10,125 from the General Fund Reserve for Contingencies for seventy-three percent (73%) of the re-authorizing costs, laid over from the April 27, 2010 meeting, was again presented and read, and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Budget, City Council Report #7 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #0-10-039, as presented, amending the FY 2010 Third Quarter Adopted Budget and appropriating funds to implement revenue, expenditure and transfer adjustments:

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

// In the matter of Finance - Bonds, Resolution #R-10-044 amending the FY 2010 General, Water and Sewer Funds' Adopted Budgets and appropriating $97,645, $23,687 and $28,868, respectively, with resources from the refunding bond proceeds for a total of $150,200 for estimated issuance costs, laid over from the April 27, 2010 meeting, was again presented and read, and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Public Works - General, City Council Report #9 was considered. On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-045, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $744,000, with resources of $500,000 in Federal funding for replacement of the HVAC system at the Public Library and to perform building energy audits/energy efficiency upgrades to City buildings:

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

// In the matter of Budget/City Council, City Council Report #10 was considered. On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-046, as presented, amending FY 2010 General, Fleet, Regional Juvenile Detention Center, Airport, Water and Sewer Funds Adopted budget and appropriating $509,184, for a staff bonus to be paid on the July 1, 2010 pay date:

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

// In the matter of Schools - School Board, a public hearing was held to receive input from citizens regarding appointments (or reappointments) to vacancies that will exist June 30 in each of the three (3) School Board representational districts. Mayor Foster read into the record the names of the current School Board members whose terms will expire on June 30: District 1, Mary Ann Barker; District 2, Darin L. Gerdes, who is not willing to serve again; District 3, Albert L. Billingsly. Mayor Foster then read into the record the names of volunteers who have applied to-date to serve on the School Board: District 1 – Anne L. Alfieri, Elizabeth Marsh, and Bryan E. Tiller; District 2 – Jenifer R. Poore and Jettie Marie Waller; District 3 there were no volunteers. The following candidates spoke before City Council to communicate their interest and present their credentials and qualifications to serve on the School Board – Mary Ann Barker, Albert Billingsly, Jenifer R. Poore and Jettie Marie Waller. Three individuals spoke in support of Jettie Marie Waller; two individuals spoke in support of Jenifer R. Poore. There was no one else present who wished to speak. Council Members discussed and reached consensus to continue the public hearing until the May 25 meeting to allow more time for citizens to apply for the positions on the School Board.
On motion of Council Member Perrow, seconded by Council Member Helgeson, Council by the following recorded vote continued the public hearing until May 25 to allow more time to receive names of volunteers:

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

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #12 outlining the petition of Mount Carmel Baptist Church Trustees for a Conditional Use Permit (CUP) to allow the construction of a church parking lot in an R-3, Medium Density Two-Family Residential District at 807, 811 and 817 Norwood Street. City Planner Tom Martin provided a brief summary regarding the petition, stating that the Planning Commission recommended approval of the CUP. Mr. Ed Ewers, with James C. May and Associates, representing the petitioner, outlined the request and asked for approval. There was one individual, Ms. Cynthia Coles that spoke in support of the request. There was no one else present who wished to speak to this item and the public hearing was closed. On motion of Council

Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-10-047, as presented, granting the Conditional Use Permit:

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

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #13 outlining the petition of Redeemer Presbyterian Church for a Conditional Use Permit (CUP) to adopt a master plan that would allow the future construction of a church sanctuary, classroom space, parking additions, recreational and maintenance facilities in an R-1, Low Density, Single-Family Residential District at 2021 and 2025 Mimosa Drive. City Planner Tom Martin provided a brief summary regarding the petition. Mr. Martin stated that the Planning Commission originally conducted a public hearing on October 14, 2009 and requested that the petitioner provide additional detailed information regarding stormwater management, parking layout, grading and construction limits. Mr. Martin went on to say with those items being addressed the Planning Commission recommended approval of the CUP. Ms. Mary Ellen Goodlatte, an attorney representing the Redeemer Presbyterian Church, outlined the request and asked for approval stating that the request for the CUP is to expand the existing sanctuary and add additional parking spaces to the facilities at 2025 Mimosa Drive. There were four individuals that spoke in support of the petition. There was no one else present who wished to speak to this item and the public hearing was closed. On motion of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-10-048, as presented, granting the Conditional Use Permit:

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

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #14 regarding a request from the Lynchburg Redevelopment and Housing Authority (LRHA) for authorization to pursue acquisition of blighted property at 516 Polk Street under Section 36-19.5 of the Code of Virginia. LRHA Manager Connie Snavely provided a brief summary regarding the request. There was no one else present who wished to speak to this item and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-10-049, as presented, approving a request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 516 Polk Street under Section 36-19.5 of the Code of Virginia:

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

// In the matter of Housing Authority, City Council Report # 15 was considered. City Manager Kimball Payne explained that Resolution #R-09-066 adopted July 14, 2009 authorizing Lynchburg Redevelopment and Housing Authority (LRHA) to pursue acquisition of blighted property at 517 and 521 Winston Ridge Road to clarify that both structures are on the same lot and are also shown as 519 and 521 Winston Ridge Road on City tax map parcel 108-09-022, under Section 36-19.5 of the Code of Virginia.

On motion of Council Member Perrow, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-10-050, as presented, approving a request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 519 and 521 Winston Ridge Road under Section 36-19.5 of the Code of Virginia:

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

// Council Member Johnson arrived at 9:03 p.m. during agenda item #16.

// In the matter of FY2011 Budget/CIP, City Council Report #16 regarding the FY 2011 Budget and Capital Improvements Program was considered. City Manager Kimball Payne stated that the budget resolutions incorporate all of the budget changes requested by City Council. Council Member Perrow stated that he was supporting this because it is a balanced budget with no increases, there are no apparent tax increases, the size of government has been reduced and increased productivity and given bonuses to staff. Council Member Helgeson stated that he was not voting for this resolution because he believes we could have tightened up our belts a little more; Council Member Helgeson went on to say that we needed to recognize the physical stress on taxpayers, and that there were several items that needed to be looked at. Vice Mayor Dodson stated that there were a lot of localities that had bigger problems and a lot of work was done by Council and staff and put into this budget and it was the best we could do, particularly with the state cuts and believes it's a fine budget. On motion of Council Member Gillette, seconded by Council Member Nelson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-051, as presented, adopting the FY 2011 General Fund Operating Budget (excluding External Service Provider expenditures) and appropriating $177,893.783 for this budget:

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

// On motion of Vice Mayor Dodson, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-052, as presented, adopting the FY 2011 Mandated and Contractual External Service Providers Budget and appropriating $6,946,888 for this budget:

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

// On motion of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-053, as presented, adopting the FY 2011 Central Virginia Area Agency on Aging Budget and appropriating $15,000 for this budget:

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

// On motion of Vice Mayor Dodson, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-054, as presented, adopting the FY 2011 Central Virginia Community College Board and Related Operations Budget and appropriating $1,831 for this budget:

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

Noes: 0

// On motion of Vice Mayor Dodson, seconded by Council Member Nelson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-055, as presented, adopting the FY 2011 Court Appointed Special Advocate Budget and appropriating $12,000 for this budget:

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

Noes: 0

// On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-056, as presented, adopting the FY 2011 Region 2000 Economic Development Council Budget and appropriating $82,250 for this budget:

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

Noes: 0

// On motion of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-057, as presented, adopting the FY 2011 Robert E. Lee Soil & Water Conservation District Budget and appropriating $10,000 for this budget:

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

Noes: 0

// On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-058, as presented, adopting the FY 2011 Virginia Legal Aid Society Budget and appropriating $10,000 for this budget:

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

Noes: 0

// On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-059, as presented, adopting the FY 2010 Amazement Square Real Estate Tax Refund Budget and appropriating $5,302 for this budget:

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

Noes: 0

// Council Member Helgeson stated he was voting against this because it is not level funding as stated but because the state has lowered the requirements based on General Assembly action that we were giving more than was mandated, overexpending of the schools operating budget and the funds that they were going to have to fix the leaky roof at Heritage High School, this year we are budgeting for 1.9M dollars extra to go for capital improvements, and the increase in the local taxpayers contribution is the extra 2.5M dollars debt service for Sandusky Middle School. Vice Mayor Dodson stated that in his opinion this is level funding as far as operating for the schools in relation to the operations not counting the capital improvements. Council Member Perrow stated that last year's local contribution was $31,942,103, and this year we're giving the same amount and he is supportive of that because the State contribution declined significantly and its still a 10% cut in their operating fund but that in future years he will continue to support consolidating services between the City and the Schools and he was going to support this resolution. On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-060, as presented, adopting the FY 2011 School Operating Budget and appropriating $85,544,431 for this budget:

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

Noes: Helgeson 1

// On motion of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-061, as presented, adopting the FY2011 Greater Lynchburg Transit Budget and appropriating $6,527,524 for this budget:

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

Noes: 0

// On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-062, as presented, adopting all other FY 2011 Operating Fund Budgets and appropriating the sums for each fund:

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

Noes: 0

// Council Member Perrow pointed out that the City was not incurring a lot of new debt, that we would be tapping a letter of credit and felt that was a good thing. Council Member Helgeson stated that there were a lot of excellent things in this budget but was reluctant to vote for it because of traffic concerns that were not funded. Council Member Helgeson went on to say that he believes the priority on transportation should have been ahead of some of the other items in the CIP so he cannot support this at this time. On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-063, as presented, adopting the FY 2011 Capital Budget and appropriating $9,593,736 for the City Capital Projects Fund; $1,941,733 for the School Projects Fund; $2,355,000 for the Airport Capital Projects Fund; $4,885,000 for the Water Capital Projects Fund; and $12,500,000 for the Sewer Capital Projects Fund:

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

Noes: Helgeson 1

// On motion of Vice Mayor Dodson, seconded by Council Member Nelson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-064, as presented, approving the payment of monetary incentives, awards and bonuses to City employees under certain circumstances:

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

Noes: 0

// On motion of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-065, as presented, to set the personal property tax relief rate for the fiscal year beginning July 1, 2010 through June 30, 2011 at 54.68%:

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

Noes: 0

// On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote elected to hold a closed meeting for the discussion and consideration of prospective candidates for the position of the Clerk of Council pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended:

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

Noes: 0

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

// Council Member Johnson 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 9:44 P.M.

Interim Clerk of Council

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 25, 2010** AGENDA ITEM NO.: 18

CONSENT: REGULAR: **X** CLOSED SESSION: (Confidential)

ACTION: **X** INFORMATION:

ITEM TITLE: **Continuation of the Public Hearing Regarding School Board Appointments**

RECOMMENDATION:

To receive input from citizens regarding appointments (or reappointments) to vacancies that will exist June 30 in each of the three (3) School Board representational districts.

SUMMARY:

The Code of Virginia stipulates that Council may appoint only those nominees or applicants whose names have been considered at a public hearing. Following the public hearing City Council may either conclude the public hearing or continue it to the next meeting to allow more time for citizen input. The City Code requires that these appointments be made during the month of June; so therefore, no action may be taken on this matter except at the June 8 or June 22 meetings.

PRIOR ACTION(S): May 11, 2010, Public Hearing

FISCAL IMPACT:

None

CONTACT(S):

Valeria P. Chambers 455-3990

ATTACHMENT(S):

None

REVIEWED BY: lkp

060V

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 25, 2010** AGENDA ITEM NO.: 19

CONSENT: REGULAR: **X** WORKSESSION: CLOSED SESSION: (Confidential)

ACTION: **X** INFORMATION:

ITEM TITLE: **$14,410,000 Loan from the Virginia Clean Water Revolving Loan Fund**

RECOMMENDATION:
Conduct the required public hearing pursuant to Section 15.1-227.8(a) of the Code of Virginia for the issuance of $14,410,000 of Sewer Revenue Bonds and adopt a resolution authorizing the issuance of not to exceed $14,410,000 Sewer Revenue Bonds.

SUMMARY:
As part of the City's continuing program of combined sewer overflow (CSO) correction, applications are submitted in July of each year to the State Water Control Board for funding from the Virginia Clean Water Revolving Loan Fund (VCWRLF). On May 7, 2010, the State Water Control Board authorized a $13,100,000 VCWRLF zero percent (0%) interest loan. The resolution authorizes an issuance of not to exceed $14,410,000 to provide for debt issuance in excess of the $13,100,000 in the event future project bids exceed estimates available to date. The CSO separation and interceptor projects included in this loan are:

Design: Long-Term Control Plan/Model Update

Construction administration and inspection services:
CSO Project 1D3 (Belmont St., Blackford St., Cosby St., Victoria Ave., Rivermont Ave.)
Kemper Street Spur – Wiley Wilson
Kemper Street Spur – Norfolk Southern

Construction:
James River Interceptor Division 5 (Partial)
CSO Project 1D3 (Belmont St., Blackford St., Cosby St., Victoria Ave., Rivermont Ave.)
Kemper Street Spur

In order to accept the VCWRLF loan, the City is required to follow the requirements of the Public Finance Act of the Commonwealth of Virginia. This Act requires localities issuing long-term debt to conduct a public hearing and adopt a bond resolution to issue the debt so advertised.

PRIOR ACTION(S):
Adoption of the FY 2010-2014 Capital Improvements Program including receipt of a Virginia Clean Water Revolving Loan for Combined Sewer Overflow correction projects
Finance Committee, May 25, 2010

FISCAL IMPACT:
Issuance of up to $14,410,000 Sewer Revenue bonds secured by a pledge of the revenues from the sewer system as collateral for the loan.

CONTACT(S):
Donna Witt, Director of Financial Services, 455-3968

ATTACHMENT(S):
Resolution

REVIEWED BY: lkp

A RESOLUTION OF THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA, AUTHORIZING THE ISSUANCE OF NOT TO EXCEED FOURTEEN MILLION FOUR HUNDRED TEN THOUSAND DOLLARS ($14,410,000) PRINCIPAL AMOUNT OF REVENUE OBLIGATIONS OF THE CITY OF LYNCHBURG, VIRGINIA, IN THE FORM OF SEWER REVENUE BONDS OF THE CITY OF LYNCHBURG, VIRGINIA, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF CAPITAL IMPROVEMENTS TO THE SEWER SYSTEM OF THE CITY, A REVENUE-PRODUCING UNDERTAKING OF THE CITY, SUCH CAPITAL IMPROVEMENTS CONSTITUTING WASTEWATER TREATMENT FACILITIES WITHIN THE MEANING OF TITLE 62.1, CHAPTER 22, SECTION 62.1-224, OF THE CODE OF VIRGINIA, 1950; FIXING THE FORM, DENOMINATION AND CERTAIN OTHER DETAILS OF SUCH BONDS; PROVIDING FOR THE ISSUANCE OF SUCH BONDS TO THE VIRGINIA RESOURCES AUTHORITY ("VRA"), AS ADMINISTRATOR OF THE VIRGINIA WATER FACILITIES REVOLVING FUND, TO EVIDENCE THE BORROWING TO BE MADE BY SUCH CITY FROM VRA PURSUANT TO A FINANCING AGREEMENT BY AND BETWEEN VRA AND SUCH CITY; APPROVING THE FORM AND THE TERMS, CONDITIONS AND PROVISIONS OF SUCH FINANCING AGREEMENT AND AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY THEREOF; AND APPOINTING THE DIRECTOR OF FINANCIAL SERVICES AS REGISTRAR AND PAYING AGENT FOR SUCH BONDS

WHEREAS, in the judgment of the Council (the "Council") of the City of Lynchburg, Virginia (the "City"), it is desirable to authorize the issuance of not to exceed Fourteen Million Four Hundred Ten Thousand Dollars ($14,410,000) principal amount of revenue obligations of the City in the form of Sewer Revenue Bonds to provide funds to pay the cost of capital improvements to the sewer system of the City, a revenue-producing undertaking of the City, such capital improvements constituting wastewater treatment facilities within the meaning of Title 62.1, Chapter 22, Section 62.1-224, of the Code of Virginia, 1950;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA:

SECTION 2. Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950, the same being the Public Finance Act of 1991, for the purpose of providing funds to pay the cost of capital improvements to the sewer system of the City, a revenue-producing undertaking of the City, such capital improvements constituting wastewater treatment facilities within the meaning of Title 62.1, Chapter 22, Section 62.1-224, of the Code of Virginia, 1950, there are authorized to be issued not to exceed Fourteen Million Four Hundred Ten Thousand Dollars ($14,410,000) principal amount of revenue bonds of the City to be designated "City of Lynchburg, Virginia, Sewer Revenue Bonds" (the "Bonds"). The Bonds shall bear the series designation "Series 2010" or such other series designation as shall be determined by the City Manager or the Deputy City Manager.

SECTION 3. The Bonds shall be issued to the Virginia Resources Authority ("VRA"), as administrator of the Virginia Water Facilities Revolving Fund (the "Fund"), pursuant to the terms, conditions and provisions of, and to evidence the borrowing to be made by the City from VRA under, a Commitment Letter (the "Commitment Letter"), from VRA to the City, and a Financing Agreement (the "Financing Agreement"), by and between VRA, as administrator of the Fund, and the City, as the Borrower thereunder. The City Manager or the Deputy City Manager is hereby authorized and directed to execute and deliver to VRA a Commitment Letter and a Financing Agreement in such forms as the City Manager or the Deputy City Manager executing the same shall approve upon the advice of counsel (including the City Attorney and Bond Counsel to the City), such approval to be conclusively evidenced by the execution and delivery thereof by the City Manager or the Deputy City Manager. In accordance with the terms, conditions and provisions of the Commitment Letter and the Financing Agreement, as the same may be amended from time to time, the Bonds shall have a term of not exceeding the term provided for in the Financing Agreement as executed, shall bear interest at the rate of zero per centum (0%) per annum and shall mature on such dates (*provided* that the final maturity date of the Bonds shall not be later than thirty-five (35) years after the dated date of the Bonds) and in such principal amounts as shall be specified in the definitive form of the Financing Agreement and the form of the Bond attached to the definitive form of the Financing Agreement as Exhibit A.

SECTION 4. The revenues of the sewer system of the City are irrevocably pledged to the punctual payment of the principal of the Bonds as the same become due and payable, and the Bonds shall be secured solely by and payable solely from such revenues. The Bonds shall be secured on a parity basis with the City's "Existing Parity Bonds" set forth in Appendix F to the definitive form of the Financing Agreement.

The City Council hereby covenants with and for the benefit of the registered owners of the Bonds that so long as any Bond shall remain outstanding the rates, rents, fees or other charges for the services and facilities furnished by, or for the use of, or in connection with the revenue-producing undertaking of the City consisting of the sewer system of the City shall be fixed and maintained at the level that will produce sufficient revenue in each year to satisfy the rate covenants set forth in the Financing Agreement, to pay the cost of operation and administration of such sewer system, the cost of insurance against loss by injury to persons or property and the principal of the Bonds when due and payable and to provide reserves for such purposes.

SECTION 5. The Bonds shall be executed, for and on behalf of the City, by the manual or facsimile signature of the Mayor or the Vice Mayor of the City and shall have the corporate seal of the City impressed thereon, attested by the manual or facsimile signature of the Clerk of Council or Interim or Deputy Clerk of Council of the City, and shall be authenticated with the manual or facsimile signature of the Director of Financial Services of the City.

The Bonds shall be in substantially the form set forth as Exhibit A to the definitive form of the Financing Agreement.

The Director of Financial Services is hereby appointed as the Registrar and Paying Agent for the Bonds.

SECTION 6. The City hereby covenants and agrees that it will not directly or indirectly use or permit the use of any of the proceeds of the Bonds or any other of its funds in such manner as would, or enter into, or allow any other person or entity to enter into, any arrangement, formal or informal, that would, or take or omit to take any other action that would, if the Bonds bore interest, cause such interest to be includable in gross income for federal income tax purposes or to become a specific item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. The City hereby covenants and agrees to perform all duties imposed upon it by the Non-Arbitrage Certificate and Tax Compliance Agreement or similar agreement executed by the City in connection with the issuance of the Bonds (the "Tax Compliance Agreement"). Insofar as the Tax Compliance Agreement imposes duties and responsibilities on the City, including the payment of any arbitrage rebate in respect of the Bonds, it shall be specifically incorporated by reference into the Financing Agreement.

SECTION 7. The City Manager, the Deputy City Manager, the Director of Financial Services, the City Attorney and other appropriate officers and employees of the City shall take all actions as shall be necessary to carry out the provisions of this Resolution.

SECTION 8. All resolutions in conflict herewith are, to the extent of such conflict, repealed. This Resolution shall constitute the "Local Resolution" as such term is defined in Section 1.1 of the Financing Agreement.

SECTION 9. The Clerk of Council or Interim or Deputy Clerk of Council is hereby directed to file a copy of the Resolution, certified by such Clerk of Council or Interim or Deputy Clerk of Council to be a true and correct copy hereof, with the Circuit Court of the City.

SECTION 10. The members of the Council and all officers, employees and agents of the City are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Bonds and any such action previously taken is hereby ratified and confirmed.

SECTION 11. This Resolution shall take effect upon its adoption.

Adopted:

Certified: ______________________________
Interim Clerk of Council

057L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 25, 2010** AGENDA ITEM NO.: 20

CONSENT: REGULAR: **X** WORK SESSION: CLOSED SESSION: (Confidential)

ACTION: **X** INFORMATION:

ITEM TITLE: **Update the exemptions to the City's Meals Tax**

RECOMMENDATION: Adoption of the attached ordinance so the exemptions from the meals tax that are set forth in Section 36-254.3 of the City Code will be consistent with the exemptions in the Virginia Code.

SUMMARY: The City's meals tax ordinance was adopted on May 22, 1979 as part of the City's 1979-80 budget and became effective on July 1, 1979. The ordinance provides that all food and beverages prepared for immediate consumption, whether consumed on the seller's premises or elsewhere, are subject to the meals tax unless "specifically exempted" from the tax. The exemptions to the meals tax are contained in Section 36-254.3 of the City Code. A recent review of the provisions of the Virginia Code regulating local meals taxes revealed that the Virginia Code has been amended to add some additional exemptions. In light of the amendments to the Virginia Code, it is appropriate to amend Section 36-254.3 of the City Code so the exemptions in the City Code will be consistent with the exemptions in the Virginia Code.

PRIOR ACTION(S): Section 36-254.3 of the City Code was last amended on July 1, 2000.

FISCAL IMPACT: Undetermined but expected to be minimal since City practices are already consistent with State Code.

CONTACT(S): Walter C. Erwin 455-3973 or Mitchell W. Nuckles 455-3871.

ATTACHMENT(S): An ordinance to amend Section 36-254.3.

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 36-254.3 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTION RELATING TO THE VARIOUS EXEMPTIONS TO THE CITY'S MEALS TAX.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Section 36-254.3 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 36-254.3. Exemptions; limits on application.

(a) The tax imposed under this ordinance shall not be levied on factory prepackaged candy, gum, nuts and other items of essentially the same nature served for on or off-premises consumption.

(b) The tax imposed under this ordinance shall not be levied on the following items when served exclusively for off-premises consumption:

(1) Factory prepackaged donuts, ice cream, crackers, nabs, chips, cookies and other items of essentially the same nature, except when sold as part of a meal.

(2) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on premises consumption (e.g. a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.

(3) Alcoholic and nonalcoholic beverages sold in factory sealed containers, except when sold as part of a meal.

(4) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

(5) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. §2012, as amended, and federal regulations adopted pursuant to that act, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, nonfactory sealed beverages and ice cream. This subsection shall not affect provisions set forth in subparagraphs (d) (3), (4) and (5) hereinbelow.

(c) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(d) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:

(1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.

(2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees, when the food and beverages are sold in a dinning hall or cafeteria or included as part of a student's tuition or as part of an employee's pay.

(3) Food and beverages for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States.

(4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof and the spouses and children of such persons. Food items that are sold to members of the general public in a cafeteria are subject to the prepared food tax.

(5) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.

(6) Food and beverages sold on an occasional basis, not exceeding ~~two (2)~~ <u>three (3)</u> times per calendar year, by a nonprofit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes.

(7) Food and beverages sold through vending machines.

<u>(8) Churches that serve meals for their members as a regular part of their religious observances.</u>

<u>(9) Age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.</u>

<u>(10) No blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and located on property acquired and used by the United States for any military or naval purpose shall be required to collect and remit meals taxes.</u>

<u>(11) That portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal or that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the sales price.</u>

(e) Meals sold or purchased under nonprofit nutrition programs for the elderly qualifying under 42 U.S.C. Section 3030(e) thru (g), as amended, as administered by the Office of Aging of the Commonwealth of Virginia, shall not be considered as sales of food under this division.

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified: ______________________________
Interim Clerk of Council

058L