A G E N D A

City Council Meeting of May 13, 2008
Council Chamber-----7:30 P.M.

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GENERAL POLICY REGARDING PUBLIC PARTICIPATION AT CITY COUNCIL MEETINGS

The City Council agenda is divided into three sections.

COUNCIL WILL HEAR PUBLIC DISCUSSION ON NEW BUSINESS ITEMS.

CONSENT AGENDA: This section includes routine items. All items may be approved by one vote.

PUBLIC HEARINGS: This section includes all public hearings as required by law or as Council may direct.

Procedure:

- Staff will make a presentation.
- For Zoning petitions, the applicant or his or her representative shall have ten (10) minutes to make a presentation.
- Comments will then be solicited from those in favor.
- Comments will then be solicited from those in opposition.

During the public hearing there shall be a time limit of three (3) minutes for each individual speaker. If the speaker represents a group, there shall be a time limit of five (5) minutes. A speaker representing a group shall identify that group at the beginning of his or her remarks. A group may have only one spokesperson.

After public comments have been received, for zoning petitions the applicant or the representative of the applicant, at his or her discretion, may respond with a rebuttal. There shall be a five (5) minute time limit for rebuttal.

Upon the conclusion of public comments or the applicant's rebuttal the public hearing will be closed and the matter referred to Council for deliberation.

GENERAL BUSINESS: This section includes general items of "new business" except where denoted by an asterisk (*). Person(s) may speak to items of "new business" as follows: individuals--up to 3 minutes; or group spokesperson--up to 5 minutes. A representative of a civic or governmental organization, of a Council appointed board or commission, or of a similar organization who is making a report or presentation to City Council may have up to ten (10) minutes to make such report or presentation. Once Council has heard a presentation from a citizen or organization on a particular subject, the citizen or organization may not make another presentation on the same subject within six (6) months of the first presentation, except by a majority vote of the members of Council present and voting.

After public discussion is complete on an item, City Council will go into business session and public participation will be ended.

If you are planning to speak before City Council, please state your name and address for the record. If you are uncomfortable with giving your address publicly, you can state your name, whether or not you are a resident of the City of Lynchburg, and then leave your address with the Clerk of Council after you speak.

City Council may make exceptions to these rules at its discretion.

Prior to a meeting, any questions which citizens may have regarding any item on the agenda may be addressed to City Council or the City Administration. The following numbers are provided for the convenience of the citizens:

CITY COUNCIL 455-3995 MAYOR 455-3995 CITY MANAGER 455-3990

A reasonable charge may be made for copying and other activities related to responding to long and involved inquiries.

> CITIZENS OFTEN EXPRESS CONFLICTING AND DIVERSE POSITIONS REGARDING SPECIFIC ISSUES UNDER CONSIDERATION. TO ENCOURAGE CITIZEN PARTICIPATION AND TO AVOID INTIMIDATION TO PERSONS WHO MAY EXPRESS SOMETIMES UNPOPULAR OPINIONS, APPLAUSE, CHEERS, OR JEERS FROM THE AUDIENCE ARE NOT PERMITTED. WHEN APPEARING BEFORE CITY COUNCIL CITIZENS MAY NOT ENGAGE IN PERSONAL ATTACKS ON OTHERS, ENGAGE IN DISRUPTIVE BEHAVIOR, USE PROFANITY OR VULGAR LANGUAGE, PROMOTE PRIVATE BUSINESS VENTURES OR CAMPAIGN FOR PUBLIC OFFICE.

- **PREVIOUSLY DISCUSSED AND/OR CONSIDERED BY CITY COUNCIL--NO PUBLIC COMMENT WILL BE HEARD.**

C 0 N S E N T A G E N D A

#1. Consideration of approving the minutes of the April 8, 2008 (two meetings) meetings.

#2. Consideration of approving the minutes of the April 15, 2008 meeting.

#3. Consideration of approving the minutes of the April 17, 2008 meeting.

#4. Consideration of approving the minutes of the April 22 (two meetings) meetings.

#5. Consideration of introducing a Resolution amending the City/Federal/State Aid fund budget and appropriating $400,000, fully reimbursable, to continue the Domestic Violence Prosecution Unit program.
(File: Commonwealth's Attorney) #R-08-_____

P U B L I C H E A R I N G

#6. Public hearing 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.
(File: Schools- Board - #5)

#7. Public hearing to receive input regarding the 2008/09 allocation of $1,007,647 in Community Development Block Grant (CDBG) and $472,719.29 in HOME Program funds.
(File: Community Planning – CDBG - #19)

#8. Public hearing to receive public input regarding the adoption of a Resolution to approve the reallocation of $40,273 in FY 2006-07 HOME Program funds for the rehabilitation of the Shalom Apartments.
(File: Community Planning – CDBG - #19) #R-08-_____

#9. Public hearing regarding the petition of Hernan and Guadalupe Garces for a conditional use permit at 1 Vista Avenue to allow the operation of a bed and breakfast with up to 3 guest rooms as part of an existing residence in an R-2, Low-Medium Density Single-Family Residential District.
(File: Community Planning – Zoning - #4) #R-08-_____

#10. Public hearing regarding the petition of Quaker Memorial Presbyterian Church for a conditional use permit at 5810 Fort Avenue to allow the expansion of church parking facilities in an R-2, Low-Medium Density Single-Family Residential District.
(File: Community Planning – Zoning #4) #R-08-_____

#11. Public hearing regarding adopting an Ordinance amending Section 35.1-45 of the City Code relating to flood hazard districts.
(File: City Code) #O-08-_____

#12. Public hearing regarding adopting an Ordinance authorizing the City Manager to sign an amendment to the cable television franchise agreement with Ntelos, changing the terms and conditions such that Ntelos is treated the same as Comcast.
(File: CATV) #O-08-_____

#13. Public hearing to authorize the issuance of $14,200,000 principal amount of revenue obligations in the form of Sewer Revenue Bonds to pay the cost of capital improvements to the sewer system.
(File: Finance – Bonds - #2) #R-08-_____

#14. Public hearing regarding amending the FY 2008 Budgets and appropriating funds to implement revenue, expenditure and transfer adjustments for the General Fund Operating, City/Federal/State Aid, Asset Forfeiture, Regional Airport, Airport Capital Projects, Fleet Services, Solid Waste Management, Solid Waste Capital, Water Operating, Water Capital Projects, Sewer Operating, Sewer Capital Projects, School Operating, School Capital Projects, Regional Juvenile Detention, City Capital Projects and Comprehensive Services Act Funds.
(File: Budge FY 2008) #O-08-_____

G E N E R A L   B U S I N E S S

#15. Consideration of adopting a Resolution approving the issuance of bonds not to exceed $5,600,000 through the Economic Development Authority of Amherst County, Virginia (EDA), for Randolph College.
(File: IDA) #R-08-_____

#16. Consideration of adopting a Resolution to establish a Local Sesquicentennial Committee and designating Greg Starbuck, Executive Director of the Historic Sandusky Foundation as liaison to coordinate with the Virginia Sesquicentennial of the American Civil War Commission.
(File: City Council) #R-08-_____

#17. Consideration of adopting a Resolution to approve the public street dedication and naming of “Wheatland Court” in the Ivy Creek Farm Subdivision off Link Road.
(File: Community Planning – General #1) #R-08-_____

#18 A: Consideration of introducing a budget ordinance adopting the FY 2009 General Fund Operating Budget (excluding External Service Provider expenditures) and appropriating $178,430,834 for this budget. #O-08-_____

B: Consideration of introducing a budget ordinance adopting the FY 2009 Mandated and Contractual External Service Providers Budget and appropriating $6,505,875 for this budget. #O-08-_____

C: Consideration of introducing a budget ordinance adopting the FY 2009 Central Virginia Area Agency on Aging Budget and appropriating $15,000 for this budget. #O-08-_____

D: Consideration of introducing a budget ordinance adopting the FY 2009 Central Virginia Community College Board and Related Operations Budget and appropriating $1,834 for this budget. #O-08-_____

E: Consideration of introducing a budget ordinance adopting the FY 2009 Court Appointed Special Advocate Budget and appropriating $12,000 for this budget. #O-08-_____

F: Consideration of introducing a budget ordinance adopting the FY 2009 Dr. Martin Luther King, Jr./Lynchburg Community Council Budget and appropriating $5,000 for this budget. #O-08-_____

G: Consideration of introducing a budget ordinance adopting the FY 2009 Region 2000 Economic Development Council Budget and appropriating $82,250 for this budget. #O-08-_____

H: Consideration of introducing a budget ordinance adopting the FY 2009 Robert E. Lee Soil & Water Conservation District Budget and appropriating $10,000 for this budget. #O-08-_____

I: Consideration of introducing a budget ordinance adopting the FY 2009 Virginia Legal Aid Society Budget and appropriating $10,000 for this budget. #O-08-_____

J: Consideration of introducing a budget ordinance adopting the FY 2009 School Operating Budget and appropriating $94,773,891 for this budget. #O-08-_____

K: Consideration of introducing a budget ordinance adopting the FY2009 Greater Lynchburg Transit Budget and appropriating $6,268,268 for this budget. #O-08-_____

L: Consideration of introducing a budget ordinance adopting all other FY 2009 Operating Fund Budgets and appropriating the sums for each fund. #O-08-_____

M: Consideration of introducing an ordinance adopting the FY 2009-2013 Capital Improvement Program. #O-08-_____

N: Consideration of introducing an ordinance adopting the FY 2009 Capital Budget and appropriating $27,881,658 for the City Capital Projects Fund; $1,478,520 for the Schools Capital Projects Fund; $1,300,000 for the Airport Capital Projects Fund; $6,972,000 for the Water Capital Projects Fund; and $18,225,000 for the Sewer Capital Projects Fund. #O-08-_____

O. Consideration of introducing an ordinance approving the payment of monetary incentives, awards and bonuses to City employees under certain circumstances. #O-08-_____

P. Consideration of introducing an ordinance to set the personal property tax relief rate for the fiscal year beginning July 1, 2008 through June 30, 2009 at 52.94%. #O-08-_____
(File: FY2009 Budget/CIP)

#19. Consideration of a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., School Board pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended.

// A special meeting of the Council of the City of Lynchburg, recessed from April 1, was held on the 8th day of April, 2008, at 1:00 P.M., Council Chamber, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct a work session regarding the FY2009 Budget and 2009-2013 Capital Improvements Program. The following Members were present:

Present: Garrett, Gillette, Helgeson, Johnson, Foster 5

Absent: Dodson, Seiffert 2

// City Manager Kimball Payne announced that the Revised Revenues and items included on "The List" would be scheduled for discussion at the April 15 work session.

// Mr. Payne provided an update regarding proposed State budget cuts and its impact on the City of Lynchburg. Mr. Payne informed that the 2008 State budget bill requires a $50 million reduction in state aid to local governments in both FY2009 and FY2010. Mr. Payne explained that localities were provided with a list of certain state aid to local government programs which included an estimate of the general fund amount for each program that each locality could expect to receive from the state and that the amounts listed for these programs will serve as the basis for calculating each locality's share of the $50 million. Mr. Payne noted that the Department of Planning and Budget is not required to release the locality-by-locality listing until August 1, and that the August 1 listing will serve as the basis for the amount each locality will be required to reduce their state aid. Mr. Payne went on to say that localities were provided with three options, i.e., (1) to take the total savings out of one program on the list, (2) reduce multiple state aid programs on a proportional basis or by a specified percentage reduction, or (3) reimburse the Commonwealth in aggregate for their share of the savings. Mr. Payne went on to say that localities will be required to make their election by August 30 and that if option 3 is elected a locality will be required to make payment to the state by January 9, 2009. Mr. Payne did note that any reductions to programs that involve regional entities have been spread to localities with the exception of regional jails. Mr. Payne stated that he would have more information regarding the $50 million State budget reduction at its next work session.

// Financial Services Director Donna Witt provided an overview regarding the remaining budget categories listed in "Other Funds."

// City Engineer Lee Newland provided an update regarding the condition of the D Street Bridge, explaining that the bridge has been closed based on information received from a firm hired to inspect the bridge's structural lode capacity. Mr. Newland went on to say that the next step would be to procure an engineering firm to design the replacement of the bridge. In response to questioning, Mr. Newland stated that the projected cost for bridge replacement is $2.5 million with an estimated 2 year timeframe for construction. City Manager Kimball Payne informed that staff would be conducting neighborhood meetings regarding the closure and future replacement of the bridge.

// Public Works Director Dave Owen provided an overview regarding Lynchburg's Transportation Maintenance Program.

// City Manager Kimball Payne provided a brief overview regarding projects in the FY2009 - FY2013 Capital Improvements Program (CIP). Council discussion focused on the City's infrastructure needs and neighborhood street improvements, Johnson Health Center capital needs, Atlanta Avenue/Harvard Street interchange, replacement of the D Street Bridge, funding for the Fifth Street Corridor, the Odd Fellows Road Extension, funding for Parks and Recreation programs, and funding for the Heritage High School renovation project. Council Member Gillette, Chair of the Community Development Advisory Committee (CDAC), stated that he is seeking guidance from City Council regarding whether or not to ask CDAC to set aside in the upcoming Community Development Block Grant (CDBG) program this year's Section 108 loan payment (principal and interest) and interest payment for the Bluffwalk project. Council Member Gillette explained that last year Bluffwalk failed to make the payment to the City on the HUD loan and that the City made the payment of $257,000 using funds set aside in the CIP for Downtown. Council Member Gillette went on to say that since CDBG funds were used to guarantee the HUD loan, it would seem appropriate to set aside the Section 108 loan payment (principal and interest) and interest payment in the upcoming CDBG program as security in case Bluffwalk does not make the payment again this year. Council Member Gillette noted that if the loan payment is made by Bluffwalk, then the CDBG funds set aside for the loan payment could be reprogrammed at a later date for other eligible CDBG projects. In response to questioning, City Manager Kimball Payne stated that the City is seeking every legal option available to recover those funds, with interest, from Bluffwalk Center. Council Member Gillette also questioned if City Council wanted the Committee to program an amount comparable to last year's loan payment of $257,000 towards an eligible CDBG project that is currently included in the City's CIP, thereby freeing up the CIP funds for other CIP projects. Following discussion, Council Members were agreeable to giving the Committee the go ahead to pursue these two opportunities.

// The meeting was adjourned at 4:34 p.m.

Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of April, 2008, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Johnson gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

Present: Garrett, Gillette, Helgeson, Johnson, Foster 5
Absent: Dodson, Seiffert 2

// Lynch's Landing Executive Director Angela Hamilton announced that the City has received the Virginia Main Street Private Investment Award.

// City Council recognized and presented a proclamation to the Lynchburg Fire Department in recognition of its 125th anniversary.

// Copies of the minutes of the March 18, 2008 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote approved the minutes as presented:

Ayes: Garrett, Gillette, Helgeson, Johnson, Foster 5
Noes: 0
Absent: Dodson, Seiffert 2

// In the matter of Police - General, Resolution #R-08-037 amending the FY 2008 General Fund and appropriating $5,000, fully reimbursable, for the purchase of personal protective equipment in the Police Department, laid over from the March 25, 2008 meeting, was again presented and read, and on motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

Ayes: Garrett, Gillette, Helgeson, Johnson, Foster 5
Noes: 0
Absent: Dodson, Seiffert 2

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #3 outlining the petition of the Lynchburg Regional Chamber of Commerce to rezone approximately 1.9 acres at 310 and 312 Border Street from B-3C, Community Business District (conditional) to B-3C, Community Business District (conditional) to amend previously approved proffers and allow the use of an existing building, as well as two future additions, for B-3 uses. City Planner Tom Martin provided a brief summary regarding the petition. Gary Case, of Gary Case & Company, representing the petitioner, 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 Garrett, seconded by Council Member Helgeson, Council by the following recorded vote adopted Ordinance #0-08-041, as presented, granting the rezoning petition:

Ayes: Garrett, Gillette, Helgeson, Johnson, Foster 5
Noes: 0
Absent: Dodson, Seiffert 2

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #4 outlining the petition of Cornerstone Community Church for a Conditional Use Permit (CUP) to allow the construction of 18,200 square foot church and associated parking in an R-1, Low Density, Single-Family Residential District, at 519, 521 and 525 Old Graves Mill Road. City Planner Tom Martin provided a brief summary regarding the petition. Mr. Martin did note that based on subsequent review, the City's Transportation Engineer has determined that the condition for the right-turn lane is no longer warranted and that staff is recommending that City Council consider amending condition #4 by deleting the right-turn lane and adding language that would require that a larger turning radius be constructed to approximately thirty-five (35) feet so that vehicles do not have to slow down significantly to make the right turn into the site. Mr. Robert Walker, WW Associates, representing the petitioner, outlined the request and asked for approval. Mr. Walker explained that the petitioner agrees with the change to condition #4. Two individuals 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 Helgeson, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-08-042, as amended to reflect the change to condition #4 recommended by staff, granting the Conditional Use Permit:

Ayes: Garrett, Gillette, Helgeson, Johnson, Foster	5
Noes:	0
Absent: Dodson, Seiffert	2

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #5 outlining the petition of Tom DeWitt to amend the Future Land Use Map (FLUM) from Low Density Residential and Employment 2 to Medium Density Residential, to rezone 46.52 acres from I-3, Heavy Industrial District to R-3C, Medium Density, Two-Family Residential District and for a Conditional Use Permit (CUP) to allow the construction of 190 townhouses (for sale) with associated parking and amenities at 903 and 903A Wiggington Road. City Planner Tom Martin provided a brief summary regarding the petition, explaining that FLUM recommends a combination of Resource Conservation, Low Density Residential and Employment 2 uses for the subject property. Mr. Martin went on to say that the proposed Medium Density Residential land use is incompatible with adjacent land use designations and zoning and the City's Economic Development Office and the Industrial Development Authority agree that the property has the potential for office and industrial development. Mr. Martin went on to say that the Planning Commission is recommending denial of the FLUM amendment, the rezoning and the conditional use permit requests. Mr. Martin did note that on April 4 the petitioner presented an additional proffer for consideration by Council – "We hereby proffer that the final plat for this project will show a twenty (20) foot wide pedestrian and recreational use easement. This easement will generally follow the walking trail, in the "RC" zone along Ivy Creek, as shown on the site plan for this property by Perkins and Orrison, dated March 6, 2008. This plat and other appropriate instrument(s) to be recorded will note that this easement is for pedestrian and recreational use by Parkside Villas Property Owners and the City of Lynchburg or its assigns. This proffer shall not prevent the developer from installation of walking trails, establishing stormwater management facilities and utilities as required." In response to questioning, City Attorney Walter Erwin stated that the State Code does allow additional proffers to be offered after the Planning

Commission meeting as long as the proffer is not a substantial change to the petition. Mr. Tom DeWitt along with Mr. Russ Orrison provided an overview regarding the petition, explaining that the proposed townhomes would be a good use for this property. Mr. Ken McBride, Project Manager for Parkside Villas, Mr. Richard Moose, representing the owner of the property to be rezoned, and Dr. Tom Shahady of Lynchburg College spoke in support of the petition. Mr. Freeman Russ, Jr., representing some of the adjoining property owners, spoke in opposition to the petition citing concerns regarding increased traffic, speeding, hazardous roadway/driveway to this property, and the negative effect to properties if this portion of Wiggington Road is widened. There was no one else present who wished to speak to this item, and the public hearing was closed. Some Council Members commented that this is an extensive project and due to the vast amount of documentation and information presented at tonight's public hearing, that they would like more time to consider the rezoning request. Council Member Garrett stated that he did have some questions, but that he would like to have all members of Council present to hear the answers. Council Member Gillette made a motion, seconded by Council Member Johnson, to continue the discussion of this issue to May 13, and Council by the following recorded vote approved the motion:

Ayes: Garrett, Gillette, Helgeson, Johnson, Foster	5
Noes:	0
Absent: Dodson, Seiffert	2

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #6 outlining the petition of M.B. Long to rezone approximately 1.66 acres at 7426 Timberlake Road from R-C, Resource Conservation District and R-3, Medium Density, Two-Family Residential District to R-4C, Medium-High Density, Multi-Family Residential District (Conditional) and for a conditional use permit to fill within the 100-year floodplain to allow the construction of an access road for an apartment complex. City Planner Tom Martin provided a brief summary regarding the petition. Mr. Martin explained that the petition is to rezone 1.66 acres and for a conditional use permit to allow fill within the one hundred year floodplain for the construction of an access road that would provide access to Timber Ridge Apartments, Phase II. Mr. Martin stated that the petition agrees with the Zoning Ordinance in that fill is permitted within the limits of the one hundred floodplain with approval of a conditional use permit by City Council. Mr. Martin went on to say that the Federal Emergency Management Agency (FEMA) will require that the flood model section for Dreaming Creek be updated and submitted as a Letter of Map Revision for any phase of the project that requires fill within the one hundred year floodplain. Mr. Tom Crowe of PEDCOR stated that since City Council's original approval in February 2007, the petitioner has looked at different ideas regarding access to Timber Ridge Apartments, Phase II, in lieu of the proposed bridge that would connect Phase I to Phase II. Mr. Crowe explained that although they have a legal right to utilize the access to Phase II through the parking lot between Bethelem Lutheran Church and Timberlake Funeral Home for construction and for their permanent means of ingress/egress, it was their intent to find something less objectionable to both of those business uses. Mr. Crowe went on to say that the petitioner feels that the proposed road mitigates the environmental impacts along Dreaming Creek since they are reducing deforestation because the bridge proposal required taking down trees and the access road will not, and that the access road will also have less impact on wetlands, the existing intermittent stream and on the base flood elevation. Dr. Tom Shahady of Lynchburg College urged City Council to be mindful of the environmental impact that the proposed road would have on the existing stream and wetlands. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Helgeson stated that he could not support the request to fill in the floodplain and adding an additional access point onto an already heavily traveled Timberlake Road, and made a motion to deny the petition. Council Member Garrett seconded the motion. Council Members discussed the pros and cons of an access road versus construction of a bridge to connect Phase I and Phase II. Council Member Garrett expressed concerns regarding having two separate access points onto Timberlake Road and stated that he would prefer the original proposal that would allow for joint access between the two phases and only one ingress/egress on Timberlake Road. In response to questioning, City Traffic Engineer Gerry Harter stated that the original intent was to try and provide joint access between the two properties so that if and when a traffic signal does go up at Dreaming Creek and Roundelay Road, that both the Vistas and Timber Ridge would have access. Mr. Harter explained that PEDCOR was willing to do this, but that the Vistas were not ready to participate. Mr. Martin also noted that the proposed bridge would be located in a floodway and if the bridge was closed, then access to the residents living in Phase II would be cutoff, not only for vehicular traffic but also for emergency vehicles. Council Member Johnson made a substitute motion, seconded by Council Member Gillette, to approve the rezoning request, and Council by the following recorded vote adopted Ordinance #0-08-043, as presented, rezoning approximately 1.66 acres at 7426 Timberlake Road from R-C, Resource Conservation District and R-3, Medium Density, Two-Family Residential District to R-4C, Medium-High Density, Multi-Family Residential District (Conditional):

Ayes: Gillette, Johnson, Foster	3
Noes: Garrett, Helgeson	2
Absent: Dodson, Seiffert	2

On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-08-044, as presented, granting the conditional use permit to fill within the 100-year floodplain to allow the construction of an access road for an apartment complex:

Ayes: Gillette, Johnson, Foster	3
Noes: Garrett, Helgeson	2
Absent: Dodson, Seiffert	2

// In the matter of Community Planning – Zoning/City Code, a public hearing was held regarding City Council Report #7 regarding amending Section 35.1-17, Amendments, of the Zoning Ordinance to remove the requirement that the Planning Commissions recommendations regarding rezoning petitions shall be submitted within thirty (30) days of the Planning Commission's hearing to the City Council. City Planner Tom Martin provided a brief summary regarding the request, explaining that when rezoning petitions are scheduled for the second Planning Commission meeting of each month, the thirty day requirement results in the petition having to be scheduled for the next City Council meeting. Mr. Martin went on to say that the proposed amendment as recommended by the Planning Commission would change the thirty day requirement to sixty days. City Manager Kimball Payne did note that there is no time requirement for conditional use permits. There was no one else present who wished to speak to this item, and the public hearing was closed. Several Council Members commented that removal of the time limit would allow time for the Planning Commission minutes to be approved before being forwarded to Council with the rezoning petitions. Council Member Garrett stated that he would still like to keep some reasonable amount of time requirement included in the zoning ordinance. Following discussion, and on motion of Council Member Helgeson, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #O-08-045, as amended, amending Section 35.1-17 of the City Code to remove the requirement that the Planning Commissions recommendations shall be submitted within thirty days of the hearing to the City Council:

Ayes: Gillette, Helgeson, Johnson, Foster	4
Noes: Garrett	1
Absent: Dodson, Seiffert	2

// In the matter of City Code/Water/Sewer, a public hearing was held regarding City Council Report #8 regarding adoption of an Ordinance to amend the City Code relating to water and sewer rates. Utilities Director Tim Mitchell 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 Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #O-08-046, as presented, amending the City Code relating to water and sewer rates:

Ayes: Garrett, Gillette, Johnson, Foster	4
Noes: Helgeson	1
Absent: Dodson, Seiffert	2

// Council Member Gillette stated that one of the Committees being considered in the closed meeting is the Central Virginia Community Services Board and since he has a contract with that organization, he plans to excuse himself from participating in the discussion and voting on the appointment to this Board.

// Mayor Foster questioned if City Council wanted to postpone the closed meeting due to the absence of two Council Members. On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote elected not to hold a closed meeting for considering appointments to Council-appointed Boards and Commissions, i.e., Board of Building Code Appeals and Community Services Board:

Ayes: Garrett, Gillette, Johnson, Foster	4
Noes: Helgeson	1
Absent: Dodson, Seiffert	2

// The meeting was recessed at 9:55 P.M. to April 15, at 1:00 P.M., to conduct a work session regarding the FY2009 Budget.

Clerk of Council

// A special meeting of the Council of the City of Lynchburg, recessed from April 8, was held on the 15th day of April, 2008, at 1:00 P.M., Council Chamber, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct a work session regarding the FY2009 Budget. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Seiffert, Foster 6

Absent: Johnson 1

// Council Member Johnson joined the meeting at 1:16 p.m.

// City Manager Kimball Payne provided an update regarding proposed State budget cuts and its impact on the City of Lynchburg, explaining that the 2008 State budget bill requires a $50 million reduction in state aid to local governments in both FY2009 and FY2010. Mr. Payne informed that the City has received documentation from the State Department of Planning and Budget that shows a draft locality-by-locality listing of both the estimated base and the speculative reduction for selected aid to locality programs that would yield the required $50 million reduction. Mr. Payne went on to say that localities were provided with three options, i.e., (1) to take the total savings out of one program on the list, (2) reduce multiple state aid programs on a proportional basis or by a specified percentage reduction, or (3) reimburse the Commonwealth in aggregate for their share of the savings, and that localities will be required to make their election by August 30. Mr. Payne noted that if option 3 is elected, a locality will be required to make payment to the State by January 9, 2009. Mr. Payne did note that any reductions to programs that involve regional entities have been spread to localities with the exception of regional jails. Council agreed to defer a decision regarding which option to select pending more information from the State.

// Council Members reviewed the items listed in a document entitled “Balancing the FY2009 Budget”, and following discussion, City Council reached consensus to …

1) Not add back the funding for the Juvenile Services/Youth Counselor certification ($4,000).

2) Not fund the Juvenile Services Prevention Specialist position ($49,222).

3) Not fund this year the $339,000 for the five additional Police Officers and equipment. Council did note that during last year’s budget process, funding for seven additional Police Officers was approved.

4) Fund the Firefighter recruit position ($49,704). City Council asked the City Manager to determine the funding source for this position.

5) Fund the remaining amount needed for the additional 1% for staff compensation ($92,000).

6) Not approve the Johnson Health Center Capital donation ($250,000). City Council discussed meeting with the Johnson Health Center representatives later this year to talk about their funding request in conjunction with next year’s budget process.

7) Not fund the Public Access Playback ($50,000).

City Manager Kimball Payne stated that the budget proposal would add the D Street Bridge in the Capital Improvements Program. City Manager Payne went on to say that staff would update the “Balancing the FY2009 Budget” document and bring back to City Council at the April 22 work session the final budget numbers, including the source of funding for the Firefighter recruit position.

// The meeting was recessed at 3:25 p.m. to April 17, 2:00 p.m., Council/Manager Offices, City Hall, to conduct interviews with District III School Board candidates.

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Clerk of Council

// A special meeting of the Council of the City of Lynchburg, recessed from April 15, was held on the 17th day of April, 2008, at 2:00 P.M., Third Floor Committee Room, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct interviews of candidates interested in serving as the District III representative on the Lynchburg School Board. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Absent: 0

// Council Member Johnson read the following statement: I have a contract to do business with the husband of a School Board candidate. However, the annual income from the contract is less than $10,000 so I do not have a conflict of interest as defined under the Virginia Conflict of Interests Act. Even though I have a contract with the candidate's husband, I am able to participate in the discussions of the candidate's qualifications for a position on the School Board fairly, objectively and in the public interest. Therefore, I will participate in and vote on this matter.

// On motion of Council Member Gillette, 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 and specifically to conduct interviews of candidates seeking to serve as the District III representative on the Lynchburg School Board pursuant to Section 2.2-3711(A) (1) of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Garrett, Gillette, Johnson, Seiffert, Foster 6

Noes: Helgeson 1

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

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

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// The meeting was recessed at 4:20 p.m. to April 22, 1:00 p.m., to conduct a work session regarding several items.

Clerk of Council

// A special meeting of the Council of the City of Lynchburg, recessed from April 17, was held on the 22nd day of April, 2008, at 1:00 P.M., Council Chamber, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct a work session regarding several items. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Absent: 0

// City Manager Kimball Payne presented a revised "Balancing the FY 2009 Budget" document to reflect City Council's direction at the April 15 work session. Mr. Payne stated that staff has identified funding to cover the $49,704 for the Firefighter recruit position.

// In response to questioning regarding replacement of the bridge recently loss to fire, City Manager Payne stated that plans are to leave the road in its current condition and not to replace the bridge at this time. Mr. Payne explained that the bridge replacement is in the Midtown Project, which is expected to start within the next 12-18 months, and that the replacement of the bridge needs to be consistent with the project. Mr. Payne went on to say that he would prefer to use federal dollars instead of local dollars for the bridge replacement. Mr. Payne also stated that staff can provide City Council with an update regarding the Midtown Project at the May work session.

// Financial Services Director Donna Witt provided an overview regarding the FY2008 Third Quarter Budget Adjustments. Ms. Witt stated that the public hearing regarding the Third Quarter Adjustments is scheduled for the May 13 Council meeting.

// City Manager Kimball Payne stated that City Council at its March 25 work session deferred action regarding the School Board Volunteer Selection Process until this meeting to allow Council Member Gillette an opportunity to craft a hybrid proposal, as follows:

1. Applicants' resumes and/or applications, redacted of personal information such as address, phone number and email address, will be made available to the public throughout the process.

2. Each Council member may submit one question, in writing, to be compiled into a single document and delivered to the candidates when they submit their names for consideration. The content of these questions will be made available to the public.

3. Candidates will be instructed to attend a public hearing during which they will each be given five minutes to address Council. During this public statement, candidates may express their interest in, and qualifications for, being on the School Board. Council will not interact with the candidates during this meeting, but will simply receive their comments. [Note- Applicants may currently attend the public hearing. I suggest that this be made a more formal requirement for application]. Each candidate will deliver his/her written responses to Council's written questions to the Clerk of Council at this public hearing.

4. Council will meet in closed session to determine, based on all of the written information, public hearing statements, and any other available information, a short list of candidates to invite for closed-session interviews with full Council.

5. Upon completion of the closed-session interviews, Council will come out of closed session and cast its vote in Council Chambers at an announced time. At that point, all written documentation from the process, including the written responses from the candidates, will be made available to the public.

Council Member Gillette stated that two extremely important but potentially contradictory values are in play as City Council considers the best method to attract, interview and select members of the Lynchburg School Board, i.e., transparency in government and our responsibility, as elected officials, to make decisions. Council Member Gillette went on to say that he did not believe that there are enough votes to adopt the hybrid proposal, but in order to put the proposal on the floor, made a motion to adopt the hybrid approach. Council Member Johnson seconded the motion in order to allow discussion of the proposal. Council Member Johnson stated that he thought the process City Council currently uses was a good process, but that if the process is changed whereas only a portion would be open to the public, then he could not support the proposal. Council Member Johnson went on to say that he could not support a quasi-transparency process, and that City Council needed to make the entire process open to the public or keep the current process. Council Member Garrett stated that he supported making the entire process open to the public. Council Member Helgeson stated that he has always supported a more open process. Vice Mayor Dodson stated that he would like to continue the current process. Council Member Seiffert stated that he could support the process if the interviews are taped and released to the public following the selection of the successful candidate(s). Council Member Helgeson did note that filming the interviews and releasing the video upon selection of the successful candidate(s) did make the process better than what is currently done. Council discussed further changes to the hybrid proposal, and following discussion Council Member Gillette made a friendly amendment by offering the following changes to the hybrid proposal – (1) leave #1 as is, (2) delete #2, (3) change #3 to read “Candidates will be ~~instructed~~ <u>invited</u> to attend a public hearing during which they will each be given ~~five~~ <u>three</u> minutes to address Council. During this public statement, candidates may express their interest in, and qualifications for, being on the School Board. Council will not interact with the candidates during this meeting, but will simply receive their comments~~. [Note- Applicants may currently attend the public hearing. I suggest that this be made a more formal requirement for application]. Each candidate will deliver his/her written responses to Council’s written questions to the Clerk of Council at this public hearing.~~”, (4) change #4 to read “Council will meet in closed session to determine, based on all of the written information, public hearing statements, and any other available information, a short list of candidates to invite for closed-session interviews with full Council <u>that will be filmed</u>”, and (5) change #5 to read “Upon completion of the closed-session, <u>filmed</u>

interviews, Council will come out of closed session and cast its vote in Council Chambers at an announced time. At that point, ~~all written documentation from the process, including the written responses from the candidates, will be made available~~ the video of the interviews will be released to the public." Council Member Johnson was agreeable to the friendly amendment changes to the hybrid proposal. The vote was called on the motion, and Council by the following recorded vote adopted the following School Board Interview Process:

1. Applicants' resumes and/or applications, redacted of personal information such as address, phone number and email address, will be made available to the public throughout the process.

2. Candidates will be invited to attend a public hearing during which they will each be given three minutes to address Council. During this public statement, candidates may express their interest in, and qualifications for, being on the School Board. Council will not interact with the candidates during this meeting, but will simply receive their comments.

3. Council will meet in closed session to determine, based on all of the written information, public hearing statements, and any other available information, a short list of candidates to invite for closed-session interviews with full Council that will be filmed.

4. Upon completion of the closed-session, filmed interviews, Council will come out of closed session and cast its vote in Council Chambers at an announced time. At that point, the video of the interviews will be released to the public.

Ayes: Gillette, Helgeson, Seiffert, Foster	4
Noes: Dodson, Garrett, Johnson	3

// During roll call, Council Member Helgeson stated that since public funds were used, he would like to call for an independent audit of the Bluffwalk project. City Manager Payne stated that he would be glad to asked Mr. Craddock to make the latest financial information available to Council. Vice Mayor Dodson distributed brochures from the Virginia Main Street Awards ceremony where the City and Lynch's Landing received awards for downtown revitalization.

// Council Member Gillette stated that Agenda Item #5 includes going into a closed session for several items, one of which is an appointment to the Community Services Board. Council Member Gillette stated that his company has a contract with Central Virginia Community Services of less than $10,000 and although he does not have a legal conflict, he would still like to abstain from voting on that one appointment. Council Member Gillette stated that he would participate in the other closed session items.

// Council Member Johnson read the following statement: "I have a contract to do business with the husband of a School Board candidate. However, the annual income from the contract is less than $10,000 so I do not have a conflict of interest as defined under the Virginia Conflict of Interests Act. Even though I have a contract with the candidate's husband, I am able to participate in the discussion of the candidate's qualifications for a position on the School Board fairly, objectively and in the public interest. Therefore, I will participate in and vote on this matter." Council Member Seiffert questioned if the candidate's husband was the sole owner or if the candidate was part owner of the business. Council Member Johnson stated that he was under the impression that the candidate's husband was the owner of the business, but that he did not know. Council Member Helgeson inquired if the candidate and her husband were joint owners, would that require a change in the statement. Council Member Johnson stated that irregardless of who owns the business, the contract is less than $10,000 and therefore does not meet the requirement of it being a legal conflict. City Attorney Walter Erwin stated that as long as the income is less than $10,000 a year and as long as Council Member Johnson does not have ownership in the business, it does not arise to legal conflict. Council Member Johnson stated that he did not own any part of the business.

// On motion of Council Member Gillette, 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., School Board, Board of Building Code Appeals, and Community Services Board, and for consultation with legal counsel and briefings by staff members concerning the cases of English Construction Company v. City of Lynchburg and W. C. English v. City of Lynchburg pursuant to Section 2.2-3711(A.)(1) and (7), respectively, of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, 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 Seiffert, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster	7
Noes:	0

// In the matter of Appointments, Vice Mayor Dodson made a motion, seconded by Council Member Johnson, to appoint Treney L. Tweedy to serve on the School Board to fill an unexpired term ending June 30, 2008. Council Members Helgeson, Seiffert and Garrett acknowledged that although both of the District III candidates had excellent qualifications, they were concerned that not enough time has elapsed between Ms. Tweedy's recent resignation from being an eight year employee of the School System to her now being in a governance position as a member of the School Board. The vote was called on the motion, and Council by the following recorded vote appointed Treney L. Tweedy to serve on the School Board to fill an unexpired term ending June 30, 2008:

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Seiffert 3

On nomination of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote appointed Barry E. Layne and Otto F. Schoufelder, to serve on the Board of Building Code Appeals for terms to expire September 30, 2011:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

On nomination of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote appointed Clyde T. Clark, Sr., to serve on the Community Services Board to fill an unexpired term ending December 31, 2009:

Ayes: Dodson, Garrett, Helgeson, Johnson, Seiffert, Foster 6

Noes: 0

Abstention: Gillette 1

// In response to questioning, City Council agreed to a request from Clerk of Council Patricia Kost to allow her time to contact existing applicants who have applied to serve on the School Board in order to ascertain if they were agreeable to releasing to the public all previously submitted documentation (which may contain personal information that they would not like to be made public) or if they would prefer to submit a new application form. Ms. Kost stated that the application forms and any attached documentation of the applicants who have applied to serve on the School Board would be made available to the public on May 13.

// The meeting was adjourned at 4:59 p.m.

Clerk of Council

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008**		AGENDA ITEM NO.: 5
CONSENT: **X**	REGULAR:	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	

ITEM TITLE: **U.S. Department of Justice award of a two-year supplemental grant to the Office of the Commonwealth's Attorney for the continuation of its Domestic Violence Prosecution Unit**

RECOMMENDATION: Adopt a resolution to amend the FY 2008 City/Federal/State Aid fund budget and appropriate $400,000 with resources from the U. S. Department of Justice grant to continue the Domestic Violence Prosecution Unit program to reduce instances of domestic violence in the community.

SUMMARY: The Office of the Commonwealth's Attorney has received an award of a federally funded two-year grant from the U.S. Department of Justice to continue its Domestic Violence Prosecution Unit (DVPU). The total grant award for the two-year period is $400,000 and will fund specially-trained prosecutors and investigators in a continued effort to reduce instances of domestic violence in the community. Initially formed in 1997, the DVPU's main purpose was, and remains to this day, to hold accountable those who engage in acts of domestic violence, sexual assault, and stalking, and to ensure that those who are victims of these crimes are treated with dignity and compassion throughout the entire criminal justice process.

Since its inception, the DVPU has prosecuted over 3,500 cases of domestic violence; 532 of such cases were prosecuted during the 2007 calendar year. In addition to the aggressive investigation and prosecution of domestic violence cases, a primary focus for the DVPU over the next two years will be the continuation and expansion of the multi-agency domestic violence Fatality Review Team. The Fatality Review Team will review and analyze domestic violence homicides in an effort to improve the systems and services currently available for victims of domestic assault, sexual assault, and stalking.

PRIOR ACTION(S): Finance Committee, May 6, 2008

BUDGET IMPACT: None – the grant is fully reimbursable and no local match is required.

Exit Strategy: The Commonwealth's Attorney's Office needs a minimum of 10 Assistant Commonwealth's Attorneys to effectively prosecute its existing caseload for the City. In the past, the OCA has relied on grant funding opportunities to ensure staffing levels are maintained at an acceptable level. If the domestic violence grant is not renewed by the closing of the grant period, the Office of the Commonwealth's Attorney will seek alternative funding sources to continue program efforts. Under the reality of current budget restraints, it is highly unlikely that the Commonwealth's Attorney's Office would seek funding from the City to continue its Domestic Violence Prosecution Unit, without exhausting all possible funding options first. Should no further funding be available at any level (Federal/State/Local), the Office will have no choice but to terminate its domestic violence program.

CONTACT(S): Michael R. Doucette, Commonwealth's Attorney, 455-3762

ATTACHMENT(S): Resolution; Grant award letter

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED that the City/Federal/State Aid fund budget is amended and $400,000 is appropriated with resources from the U. S. Department of Justice grant to continue the Domestic Violence Prosecution Unit program to reduce instances of domestic violence in the community.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

057L

OFFICE OF THE
COMMONWEALTH'S ATTORNEY FOR THE CITY OF LYNCHBURG
MONUMENT TERRACE BUILDING
901 CHURCH STREET
P.O. BOX 1539
LYNCHBURG, VIRGINIA 24505
(434) 455-3760
FAX (434) 846-5038
WWW.OCALYNCHBURG.COM

MICHAEL R. DOUCETTE
COMMONWEALTH'S ATTORNEY

September 14, 2007

Mr. Kimball Payne III
City of Lynchburg
900 Church Street
Lynchburg, VA 24504

Re: Project Number 2004-WE-AX-0036

Dear Mr. Payne

Please find attached a grant award document issued from the Department of Justice, Office on Violence Against Women. This award provides funding for the City of Lynchburg's Domestic Violence Prosecution Unit to continue to develop and strengthen effective responses to violence against women. The award period for this program initiative is January 1, 2008 through August 31, 2009. Per the award instructions please sign page 1 of 5 and initial the bottom right corner of pages 2 of 5, 3 of 5, 4 of 5 and 5 of 5.

If you have any questions or comments please contact me at 455-3770 or Mike Doucette at 455-3762.

Sincerely,

Donna Nash

Donna A. Nash

Department of Justice

Office on Violence Against Women

September 11, 2007

Washington, D.C. 20531

Mr. Kimball Payne III
City of Lynchburg
900 Church Street
Lynchburg, VA 24504

Dear Mr. Payne:

On behalf of Attorney General Alberto Gonzales, it is my pleasure to inform you that the Office on Violence Against Women has approved your application for funding under the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program in the amount of $400,000 for City of Lynchburg. This award provides the opportunity for recipients to develop and strengthen effective responses to violence against women. This grant award, made under the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program, is to encourage the treatment of domestic violence, sexual assault, dating violence and stalking as a serious violation of criminal law.

Enclosed you will find the award package. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact Anne M. Hamilton at (202) 353-2794. For financial questions, contact the Office of the Comptroller, Customer Service Center (CSC) at (800) 458-0786, or by email at ask.oc@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

Mary Beth Buchanan

Mary Beth Buchanan
Acting Director, Office on Violence Against Women

Enclosures

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008** AGENDA ITEM NO.: 6

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Public Hearing Regarding School Board Appointments**

RECOMMENDATION:

To conduct a public hearing 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 10 or June 24 meetings.

PRIOR ACTION(S):

None

FISCAL IMPACT:

None

CONTACT(S):

Pat Kost 455-3990

ATTACHMENT(S):

None

REVIEWED BY: lkp

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008**		AGENDA ITEM NO.: 7
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION:	INFORMATION: **X**	

ITEM TITLE: **PUBLIC HEARING REGARDING THE ALLOCATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME PROGRAM FUNDS**

RECOMMENDATION: Conduct a Public Hearing to receive public input regarding the 2008/09 allocation of $1,007,647.00 in Community Development Block Grant (CDBG) and $472,719.29 in HOME Program funds.

SUMMARY: The U.S. Department of Housing and Urban Development (HUD) funds the CDBG and HOME Programs. The City has available the following funds to use for eligible CDBG and HOME activities during the program year 2008/09.

CDBG AVAILABLE FUNDING SOURCES	**AMOUNT**
HUD Allocation	$874,982.00
Reprogrammed Funds	
Lead Program (2007)	50,000.00
Lead (Unspent 2005)	.80
College Hill (Unspent 2001)	.80
Lynchburg Historic Foundation (Unspent 2000)	2,663.40
Anticipated Program Income	80,000.00
Total CDBG Funding Available	**$1,007,647.00**

HOME AVAILABLE FUNDING SOURCES	**AMOUNT**
HUD Allocation	$423,133.00
Anticipated Program Income	7,800.00
Reimbursement to City	41,786.29
Total HOME Funding Available	**$472,719.29**

The following list of projects has been recommended for funding by the Community Development Advisory Committee.

CDBG PROJECTS RECOMMENDED FOR FUNDING
COMMUNITY DEVELOPMENT ADVISORY COMMITTEE

Section 108 Loan (Bluff Walk)	$325,772
Program Administration (City)	75,000
Program Administration (Lynchburg Redevelopment & Housing Authority)	50,000
Lynchburg Community Action Group Home Improvement Program	75,000
Lynchburg Neighborhood Development Foundation Pyramid Project	49,594
Lynchburg Redevelopment & Housing Auth. Spot Blight Abatement	80,000
5th Street Master Plan	100,000
Mary Bethune Nursery School - Building Improvements	50,000
Hunton-Randolph Community Center Renovations	30,000
Habitat for Humanity Building Assets Program	10,000
Rebuilding Together	40,000
Yoder Neighborhood Center Park Renovations	20,000
New Land Samaritan Inns, Inc. The Gateway	19,500
YWCA Domestic Violence Prevention Center	14,500
Rush Lifetime Homes, Inc. (Supportive Housing Program)	3,600
Miriam's House Special Needs Permanent Housing	14,500
Kum-Ba-Yah Scholarships	5,000
Amazement Square City Arts Mentoring Program/Mosaic Mural Project	3,000
White Rock After School Program	4,000
College Hill Enrichment & Education Project	3,481
New Land Job Readiness Training	5,000
Johnson Health Services Expansion Project	14,500
Foundation for Rehabilitation Equipment & Endowment (FREE)	5,200
United Way Success by 6	5,000
Boys and Girls Club	5,000
TOTAL CDBG PROJECTS	**$1,007,647**

HOME PROJECTS RECOMMENDED FOR FUNDING
COMMUNITY DEVELOPMENT ADVISORY COMMITTEE

Home Administration (City)	$43,000.00
LHRA Shalom Apartments	40,000.00
Lynchburg Neighborhood Development Foundation Homeownership	110,000.00
Lynchburg Community Action Group Rehabilitation	140,000.00
Habitat for Humanity Homeownership Program	35,000.00
Rush Lifetime Homes (Independence Housing)	54,886.29
LNDF Hilltop Homes	49,833.00
TOTAL HOME PROJECTS	**$472,719.29**

All CDBG and HOME funds will be expended in accordance with primary objectives of these programs. Further, the City estimates that over 70 percent of the total funds for 2008-2009 funding will benefit low/moderate income persons.

PRIOR ACTION(S): N/A

FISCAL IMPACT: N/A

CONTACTS:

Charlene Montford/ 455-3902
Gwendolyn Gillespie/ 455-3916

ATTACHMENT(S):

Description of 2008/09 CDBG and HOME Applications

REVIEWED BY: lkp

061L

City of Lynchburg

Brief Description of 2008-2009

CDBG and HOME Applications

Community Development Department
Grants Administration Division
April 11, 2008

Organization: Amazement Square/The Rightmire Children's Museum
Program: City Arts Mentoring Program/Mosaic Mural Project

$ request	$15,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	N
Funding Commitments	N
Resumes	Y
Prior Relative Activities	Y
Audit/Number of Copies	2 copies of Dec. 2006 and 2005
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Project Description

The grant will be allocated to the *City Arts Mentoring Program's* Mosaic Mural Project. *City Arts* was created in 2002 to help youth, particularity those from underserved communities, develop an understanding of various art forms, acquire specific artistic skills, and play an important role in the process of creating outdoor public art. They learn about teamwork and cross-cultural interaction. When the mural is complete it will be one of the largest mosaic murals in the Commonwealth. The museum is now prepared to begin the installation process for the main section of the mural.

The museum's outreach coordinators will visit public schools specifically looking for underserved groups. They will provide transportation to the students to ensure their ability to participate. The installation phase is scheduled for July 2008. Boys & Girls Club middle school students who participate will receive training to be facilitators for the project. The program will conclude in mid August 2008. Internship students will have the opportunity to demonstrate enthusiasm and professionalism during their internship period and will receive an honorarium for their efforts. They then will be offered work opportunities at the museum for the following summer or be recommended to other employment opportunities of their choice.

The CDBG funds will be used for supplies, materials and stipends for the participants.

Organization: Boys & Girls Club of Greater Lynchburg
Program: Summer Hope Program

$ request	$19,919.10
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	N
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	SAYS 2 IN ORIGINAL BINDER
Management Letter	N
Written Financial Procedures	N
Signed Statement	Y

Brief Description

Project Summer Hope is an annual program that offers the member of the *Boys and Girls Club of Greater Lynchburg* an educational recreational experience during the summer break that assists them in improving both academically and socially. The program is open to any child but is limited to the first 60 registrants. Members will learn various Microsoft software programs. Girls will receive a health, fitness, and self-esteem enhancement program. Reading programs are available through Genworth and Lynchburg Public Library. *Badges for Baseball* uses the unique on-field hook of baseball/softball in conjunction with the character education curriculum. *Healthy Choices/Healthy Children* uses team sports to promote health and character development. In 2007, club members planted a garden in conjunction with nutrition class to teach basic exercise and healthy snacks, as well as job training, recycling, arts and crafts. Field trips to historic places downtown, a skating field trip, and an annual trip to Smith Mountain Lake will also be part of the schedule.

The CDBG funds will be used for staff support and overhead to support this project.

Organization: Camp Kum-Ba-Yah, Inc.
Program: Scholarships for Kum-Ba-Yah; Never Turn a Child Away

$ request	$18,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Form 102 “VA Registration Statement for a Charitable Organization”
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/1
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	2 copies of December 2006 and 2005
Management Letter	N
Written Financial Procedures	N
Signed Statement	Y

Brief Description

Camp Kum Ba Yah provides a summer day camp facility for youth. The facility provides environmental education, recreational activities, food and nutrition and counseling.

CDBG funding is requested to provide scholarships to low income eligible children in need of a safe and well supervised environment during the summer in which to play and learn.

Organization: Central Virginia Area Agency on Aging, Inc.
Program: Senior Services Center/Central Kitchen Facility Phase I

$ request	$150,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	N
Support Letters/Amount	Y/4
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	Y/ 2 copies Sept. 2007; 2 copies Sept 2006
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

CVAAA with Meals on Wheels (MOW) are seeking to purchase, with the intent of renovating, an existing facility located at 501 12th Street to function as the location for a "central kitchen facility" where meals will be prepared for distribution to elderly and/or disabled clients of CVAAA or MOW. The joint operation will allow for more efficiency and quality control. In addition to being a kitchen, the building will also serve as housing for administration offices for MOW and central offices for CVAAA. There will be space after the renovation for a bulk food distribution operation. The local area Food Bank has expressed interest in relocating to this building as well. The building will be a sight for cooperative efforts and significant collaboration among several of the area's non-profits entities. The current objective is to obtain the fiscal resources necessary to purchase and renovate the facility, thereby reducing the overhead operating costs. Both CVAAA and MOW will invest funds initially; however, since both agencies have limited resources that are primarily focused on service delivery neither is capable of assets sufficient to purchase the building without a mortgage.

The CDBG funds will be used for acquisition of the land and building.

Organization: City of Lynchburg Parks and Recreation Department
Program: Yoder Neighborhood Center Park Renovations

$ request	$166,617
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	N/City Government
VA Sec. of State Cert.	N/City Government
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	N
Management Letter	N/City Government
Written Financial Procedures	N/City Government
Signed Statement	Y

Brief Description

The project will consist of overall exterior site improvements; resurfacing and striping of the existing basketball court, removal and construction of the half-court, new basketball goals, fence repair and replacement, parking lot surfacing improvements, sidewalk repair, new wrought iron fencing, new park benches and trash cans (with concrete pads), new drinking fountain and site lighting, playground equipment replacements, signage, landscaping, and fine seeding and grading.

Yoder Neighborhood Center serves residents of Census Tract 6, one of the poorest sections of Lynchburg. The center includes after school programs and summer camp programs.

Organization: College Hill Neighborhood School
Program: Enrichment and Education Project for Mothers and Preschoolers in Emergency and Transitional Housing

$ request	$22,465
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	N
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	1 copy June 2006; 1 of June 2007
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

College Hill Neighborhood School has operated since 2002. There is a 45% success rate among the adult "students" in achieving their goals of a GED or completing course work for other employment opportunities or careers. Within six (6) blocks of the CHNS there are three (3) shelters that provide short-tern housing for women and children, many with preschool age children that otherwise would not have the chance to attend a preschool program.

The proposal is to include women from the shelter into the Parent Education Program to prepare for their GED with individual tutors. They will also be able to use in-house job training software to prepare them for office jobs. Along with this opportunity there will be an after-school program for pre-school aged children of these women and a summer enrichment program with the dedication of two (2) spaces at the full-time pre-school. The time in pre-school programs will be short, but it will provide childcare while their mothers are studying or interviewing for jobs. At the same time, it will provide the children an opportunity for socialization, stimulation and stability.

The CDBG funds will be used for staff and overhead to support the activity.

Organization: City of Lynchburg
Program: Fifth Street Master Plan- Phase 1

$ request	$433,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	N/City Government
VA Sec. of State Cert.	N/City Government
Support Letters/Amount	N
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	N/City Government
Management Letter	N/City Government
Written Financial Procedures	N/City Government
Signed Statement	N/City Government

Brief Description

The requested CDBG funds will be used in conjunction with previously approved Capital Improvement funds to implement Phase I of the Fifth Street Master Plan which was adopted by the City Council on March 23, 2006.

The Fifth Street Corridor extends from Church Street to the Martin Luther King, Jr. Memorial Bridge. Fifth Street was once the home to thirty (30) businesses owned and operated by African Americans. The corridor has declined in activity and vibrancy in the past several years, but it is slowly reviving itself. The revitalization can be directly attributed to the community and City interest undertaken in the adoption of the Fifth Street Master Plan.

Phase I of the Master Plan centers on the interaction of Fifth Street and Federal Street. The streetscape improvements in this phase are designed to kick-off the revitalization process and create the place making center of the community. Phase I includes all the streetscape improvements from Jackson to Madison Streets, including the proposed roundabout. As part of the project a portion of a planned raw water line in Fifth Street will be coordinated with the Utilities Department. It will be capped until ready for use.

CDBG funding will be used to fund construction of the roundabout, construct sidewalk improvements and underground utilities between Jackson and Harrison Streets.

Organization: Diamond Hill Resource Center
Program: Diamond Hill Resource Center

$ request	$75,450
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y- LNDF as a partner provided
VA Sec. of State Cert.	Y LNDF as a partner provided
Support Letters/Amount	Y/4
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	N
Management Letter	N
Written Financial Procedures	N
Signed Statement	N

Brief Description

Diamond Hill Resource Center plans to renovate the Old Fire House Engine Company #2. It will provide a multi-purpose facility to serve the educational, cultural and economic needs of many of the low/moderate income citizens. The programs provided will include community wellness-screening programs, conferences, meetings and classes. Annual contributions will be given to many organizations throughout Lynchburg including Meals on Wheels, Lyn-CAG, Hunton YMCA, Food Bank, and many others. The center will also be an emergency site in case of national disaster for Dunbar Middle School and Grace Lodge.

The CDBG funds will be used for Renovation of Old Fire House Engine Co. #2.

Organization: Dunnam Rehab, LLC
Program: 307 7th St.

$ request	$68,373
CDBG or HOME	HOME
Electronic Copy	Y
501 (c) (3)	N
VA Sec. of State Cert.	N
Support Letters/Amount	N
Funding Commitments	N
Resumes	Includes years of experience and training
Prior Relative Activities	Y
Audit/Number of Copies	N
Management Letter	N
Written Financial Procedures	Includes job descriptions
Signed Statement	N

Brief Description

Dunnam Rehab wishes to provide quality housing at affordable rent to low-income families. This program will restore a building built in 1883 that has been vacant for many years. When the work is complete the property will include a 1 bedroom apartment, a 3 bedroom apartment, and a 4 bedroom apartment.

HOME funds will be used for rehabilitation of 307 7th Street.

Organization: Dunnam Rehab, LLC
Program: 1105 Fillmore St.

$ request	$82,154
CDBG or HOME	HOME
Electronic Copy	Y
501 (c) (3)	N
VA Sec. of State Cert.	N
Support Letters/Amount	N
Funding Commitments	N
Resumes	Includes years of experience and training
Prior Relative Activities	Y
Audit/Number of Copies	N
Management Letter	N
Written Financial Procedures	Includes job descriptions
Signed Statement	N

Brief Description

Dunnam Rehab wishes to provide quality housing at affordable rent to low-income families. This program will restore a beautiful home built in 1902 that has been vacant for many years. When the work is complete the property will include two 3 bedroom apartments.

HOME funds will be used for rehabilitation of 1105 Filmore Street

Organization: FREE- Foundation for Rehabilitation Equipment and Endowment
Program: FREE of Lynchburg

$ request	$52,160
CDBG or HOME	CDBG
Electronic Copy	N
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	2 from community members
Funding Commitments	Y
Resumes	Y
Prior Relative Activities	Y
Audit/Number of Copies	Y/2
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

FREE is designed to help recycle rehabilitative equipment donated by the community. These devices include: wheelchairs, walkers, canes, hospital beds, power wheelchairs, tub transfer benches, bedside commodes, and more. FREE gives new life to the equipment by sanitizing and inspecting. Individuals complete an application that gathers information regarding the individual's medical diagnosis, use of other devices, resources available to the individual for new equipment, and the referring physician's prescription/medical letter of necessity. Checking available insurances or other benefits of the person ensures that FREE does not duplicate resources the individual may already have available to them through Medicare/Medicaid/insurance. Volunteer rehabilitation seating specialists and trained medical professionals are available to assist in matching the right device to the individual.

CDBG funds will be used for salaries, equipment materials and office supplies.

Organization: Greater Lynchburg Habitat for Humanity
Program: Building Assets Program

$ request	$20,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/3 none with letterheads
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	1 copy for June 2006 and June 2007
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

The Building Assets Program is designed for low-income homeowners that need to save for home repair or home improvements projects. The program will support families in building a savings account to address specific home repairs or improvement projects. Program participants must make monthly savings deposits for a minimum of one (1) year; must participate in 12 hours of financial literacy classes; 12 hours of home maintenance classes; and provide 60 volunteer hours to GLHFH in order to earn Match Funds. The program is available to low-income families in the City of Lynchburg, as long as funds are available. Successful families will earn 4 to 1 match for their savings up to a certain amount (currently $2,000 per participant). The earned Match Funds are not transferred to the homeowner but paid to vendors for services or product rendered.

CDBG funds will be used for direct assistance to Building Assets Program participants.

Organization: Greater Lynchburg Habitat for Humanity
Program: Habitat for Humanity Homeownership Program

$ request	$90,000
CDBG or HOME	HOME
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	3 letterheads, 2 community members
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	1 copy for June 2007 and 2006
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

GLHFH offers low-income families' homeownership opportunities through community supported housing development. Upon qualifying as a potential Habitat homeowner, low-income families enter a Family Services Program. Families that partner with GLHFH are required to provide 300 sweat equity hours. Additionally, families must attend classes, work on the Habitat homes, and progress positively with their case plans. Once the house is complete and the family has fulfilled the requirements of the Family Service Program there is a dedication ceremony and a no-interest mortgage is negotiated between GLHFH and the family. At closing, families benefit from HOME funding through down-payment assistance to purchase their home.

HOME funds will be used for down payment assistance to the Home Ownership Program participants.

Organization: Hunton-Randolph Community and Jubilee Family Center
Program: Hunton-Randolph Community Center Renovations

$ request	$75,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/5
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	N
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Hunton-Randolph Community Center is requesting fund for the renovation of the community center located at the corner of 12th and Taylor streets. An estimate from Moore & Goldman Architects is available.

CDBG funds will be used for renovations of the community center.

Organization: Johnson Health Services
Program: JHS Expansion Project

$ request	$99,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	2 copies October 2005
Management Letter	Y
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Since JHS' opening in 1998 their patients have grown from about 1,000 to 14,000 in 2007. With the Health Department ceasing its primary case services for children, they are referring even more pediatric patients to the Johnson Health Center. There are an expected 4,000 new patients, and at least 700 children annually due to new births. To accommodate the influx of patients, JHC plans to relocate the pediatric practice and OB-prenatal practice to the Warthen building at 407 Federal Street. The grant will allow for the service expansion to get up and running.

CDBG funds will be used for the service expansion of the pediatric and OB-Prenatal practice, to include 12 pediatric examination rooms, 6 OB examination rooms, and new technological equipment.

Organization: Jubilee Family Dev.Center & Cent. VA Community College
Program: Jubilee STEM Center (Science, Technology, Engineering & Mathematics)

$ request	$100,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	1 copy June 2007 and 2006
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

The Jubilee Family Center strives to deliver programs to promote self-sufficiency and social responsibility to young people and their families. It consists of 3 phrases: Phase I-Academic Programming, Phase II-Athletic, and Phase III- Occupational Outreach Programming. Two of the newer programs include the Achievers Program and the Reentry Program.

STEM was developed to address the problem of unemployment and underemployment and expand the shrinking skilled labor pool in and around Lynchburg. The project seeks to improve participants' core academic skills so they are able to move on and master the "new literacy" skills necessary to compete in today's technology laden job market. The program is designed to steadily progress from academic training to career planning and job training and finally to internships and permanent employment. This building block program will match the target group with local employers whose labor pool has been reduced due to the lack of skilled workers in the "utilities" industry.

The CDBG funds will be used for staff and overhead associated with the program.

Organization: Lynchburg Area Center for Independent Living
Program: LACIL's Supported Employment Program

$ request	$45,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/5
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	Y/ 2 copies June 2006; 2 copies June 2007
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

LACIL assist persons with physical and mental disabilities achieve sustainable personal goals, while promoting community awareness. LACIL is developing a supported employment program. It will improve the quality of life for participants while addressing the job training needs of young adults who have completed their special education program provided by the public school system and are seeking sustainable, permanent employment. The goal is to provide participants with a Certification of Mastery of specific work skills Region 2000 retailers verify as necessary to be successful "on the job". It will also provide disability-awareness sessions for local businesses that will focus on tax credits for employers who employ individuals with disabilities. In addition, research related to the work quality of employees with disabilities in the workforce will be presented. Another LACIL goal will be to serve as a post-secondary school referral source for our local Department of Rehabilitative Services field office and area school system. This program will target but not be limited to those who are within one (1) year of leaving high school. The program will also open a store selling donated items from local merchants. The store will give the program participants the work experience typically needed in retail in Region 2000. Proceeds for the store will be used to sustain and expand the program to enhance already existing programs of LACIL. Each program participant will receive a small financial stipend for working in the store.

The CDBG funds will be used for staff support, rent, supplies and materials and stipends for participants.

Organization: Lynchburg Community Action Group, Inc.
Program: Home Improvement Program

$ request	$200,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	3 letterhead; 3 community members
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	1 copy Dec. 2006; 1 copy Dec. 2005
Management Letter	Y
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Lyn-CAG's home repair/rehabilitation/energy conservation program activities provide selective rehabilitation services designed to remove health and safety hazards from the homes of low-income homeowners who live in the City of Lynchburg and meet HUD income guidelines for CDBG programs. Typical requests for services include electrical, plumbing, structural and roof repair/replacement. Local licensed contractors provide these services. Lyn-CAG's weatherization activities provide energy saving measures, repairs, heating system repair/replacement and health and safety measures for eligible families. Conservation measures and home repairs are performed by Lyn-CAG's housing staff, while HVAC improvements, replacements and repairs are conducted by licensed HVAC contractors. The Agency Home Improvement Program anticipates providing services at an average cost of $5,625 to 80 low-income families during the 2008-2009 program year.

The CDBG funds will be used for weatherization and minor repair of homes owned by low income persons.

Organization: Lynchburg Community Action Group, Inc.
Program: Homeowner Occupied Rehabilitation Program/First-Time Homebuyer Program

$ request	$185,000
CDBG or HOME	HOME
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/5
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	1 copy for Dec. 2006; 1 copy Dec. 2005
Management Letter	Y
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Lyn-CAG's Homeowner Occupied Rehabilitation Program provides major rehabilitation services to Lynchburg LMI homeowners whose homes have been identified as substandard by City Inspections and/or Lyn-CAG. Major rehabilitation services include bringing all house systems into Code Compliance. This may include: plumbing, electrical, HVAC systems, safety systems, window and door systems, roof and gutter systems, structural systems, exterior and interior finishes, handicapped systems and lead remediation. The scope of work is developed by Lyn-CAG Housing staff and the rehabilitation work is done by professional licensed local contractors. Energy conservation improvements are performed by Lyn-CAG Energy Conservation Specialists. Major rehabilitation is planned for four (4) LMI homeowners and developing one (1) property for sale to an eligible LMI first-time homebuyer. The average cost per unit is $74,000

The HOME funds will be used for development fees ($27,750) and materials ($157,250).

Organization: Lynchburg Neighborhood Development Foundation
Program: Fifth Street- Corner Building: Predevelopment Phase

$ request	$88,500
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	3 letterheads; 3 community members
Funding Commitments	Y
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	1 copy for Dec. 2006 and 2005
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

LNDF acquired an option to purchase the lot at the SW corner of 5th and Federal last year in order to build upon the work that is underway at Pyramid Health Center next door. The mixed use three story building will provide 12 apartments (4, 3-bedroom units, and 8, 2-bedroom units) on the 2nd and 3rd floors, and three commercial spaces on the ground floor. The design will be urban and carry on the industrial theme at the Pyramid Motors building. The material will be masonry and glass. The auto entry to the property will be on 4th Street with parking along the side and behind the building. Parking will be shared with Pyramid Health Center next door during the day. The project is in pre-development stage. The timeframe anticipates exercising the option by the end of March and closing on the purchase of the property by June.

CDBG funds are sought to offset the costs required prior to obtaining interim and permanent financing and starting construction. The funds will be used for land acquisition ($62, 500) and soft costs ($26,000) associated with the purchase.

Organization: Lynchburg Neighborhood Development Foundation
Program: Pyramid Project

$ request	$150,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/3
Funding Commitments	Y
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	1 copy for the years ending Dec. 2006 and 2005
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

LNDF is planning to acquire and renovate the CW Warthen Building at 407 Federal Street. The building will become a medical facility housing two tenants. The construction contactor is CL Lewis and the plans include "green" elements such as solar power. The tenants will include Centra Health/PACE (**P**rogram of **A**ll-inclusive **C**are for the **E**lderly). PACE will occupy half of the building and Johnson Community Health Center (JCH) will occupy the other half of the building.

The CDBG funds will be used for acquisition ($50,000) and soft costs ($100,000) associated with this project.

Organization: Lynchburg Neighborhood Development Foundation
Program: Hilltop Homes

$ request	$165,000
CDBG or HOME	HOME
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/ 3 letterhead; 3 community members
Funding Commitments	Y
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	1 copy Dec. 2006 and 2005
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

The Hilltop Homes project will provide 15 renovated buildings and three new construction duplexes resulting in 32 affordable, quality rental units in downtown neighborhoods. Construction types include renovation of older houses, adaptive re-use of single family homes into apartments, and new construction duplexes with a number of sustainable development features. Work will be done in neighborhoods bordering on 12th Street and along Grace Street – College Hill and Diamond Hill, as well as sites on the others side of downtown, in Tinbridge Hill. The Virginia Community Development Corporation (VCDC) will partner with the project. Construction is planned to start in the fall of 2008 with staggered completion of buildings to extend through 2009.

The HOME funds will be used for predevelopment ($65,000), soft costs and reserves ($75,000) and legal syndication cost ($25,000).

Organization: Lynchburg Neighborhood Development Foundation
Program: Lynchburg Homeownership Fund

$ request	$260,000
CDBG or HOME	HOME
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/1
Funding Commitments	Y
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	1 copy Dec. 2006 and 2005
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Lynchburg Homeownership Fund is a combination of programs administered by LNDF that seek to create and support homeownership: Mortgage, Home Repair and Development Programs.

The HOME funds will be used for downpayment, home repair and housing developments costs.

Organization: Lynchburg Redevelopment and Housing Authority
Program: Technical Services and Administration

$ request	$161,696
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	N
VA Sec. of State Cert.	N
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	Y
Prior Relative Activities	Y
Audit/Number of Copies	2 copies of Dec. 2006; 2 of Dec. 2005; and a recapitulation of Administrative Expenses Fiscal Year 2008
Management Letter	N
Written Financial Procedures	N
Signed Statement	Y

Brief Description

Technical service includes oversight of loans. This consists of the collection of delinquent accounts, monitoring insurance coverage, negotiating payment plans and participating in foreclosures and deeds in lieu of foreclosure. Administrative cost includes: pro-rata share of salaries, benefits, travel, and communication.

CDBG funds will be used for oversight and administration of eligible programs.

Organization: Lynchburg Redevelopment and Housing Authority
Program: Rental Rehabilitation Grant Program

$ request	$150,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	N
VA Sec. of State Cert.	N
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	Y
Prior Relative Activities	Y
Audit/Number of Copies	2 copies of Dec. 2006; 2 of Dec. 2005; and a recapitulation of Administrative Expenses Fiscal Year 2008
Management Letter	N
Written Financial Procedures	N
Signed Statement	Y

Brief Description

The program is a resource to assist owners of rental properties to correct code violations, as well as an incentive to motivate owners to do the improvements. The program will include the same target areas as the City's Rental Inspection Program. LRHA reviews applications, and performs on-site inspections to determine the need for rehabilitation, as well as reviews documents to verify the cost of the work. LRHA will provide grants for half the cost of the work, or $5,000, whichever is less.

The CDBG funds will be used for 30 grants at $5,000 each.

Organization: The Housing and Development Corporation of Lynchburg
Program: Shalom Apartments Rehabilitation

$ request	$100,000
CDBG or HOME	HOME
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	N
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	2 copies of Dec. 2006; 2 of Dec. 2005; and a recapitulation of Administrative Expenses Fiscal Year 2008
Management Letter	N
Written Financial Procedures	N
Signed Statement	Y

Brief Description

The windows in the Shalom Apartments are the original windows installed in 1970. They allow moisture condensation to collect and this results in mold and mildew growing around the windowsills. The apartments also include electric baseboard heaters that are right below the windows. This lets out most of the heat. The HOME grant will fix the windows, all other deficiencies in the remaining two buildings, as well as replacing the inner-courtyard playground equipment. The playground equipment has not been replaced since the complex was built.

The HOME funds will be used for window replacement and other exterior and interior repairs.

Organization: Lynchburg Redevelopment and Housing Authority
Program: Spot Blight Abatement/ Acquisition

$ request	$216,730
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	N
VA Sec. of State Cert.	N
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	Y
Prior Relative Activities	Y
Audit/Number of Copies	2 copies of Dec. 2006; 2 of Dec. 2005 and a recapitulation of Administrative Expenses Fiscal Year 2008
Management Letter	N
Written Financial Procedures	N
Signed Statement	Y

Brief Description

Section 36-19.5 of the Code of Virginia allows a local housing authority and a local governing body to work together in identifying structures that are deteriorated and have a detrimental influence on surrounding properties. The program also allows the enforcement of housing codes.

The CDBG funds will be used for acquisition, disposition and soft costs.

Organization: Mary Bethune Academy, t/a Bethune Nursery School, Inc.
Program: Building Improvements-Phase III & Completion Phase II

$ request	$89,540
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/2
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	1 copy from December 2006
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Mary Bethune Academy is a non-profit United Way Agency seeking funds for improvements and revitalization to this City owned building. Although the building is owned by the City, the maintenance and upkeep are MBA's responsibility. Currently, MBA only serves children 2-5 years old, but parents of these children find it hard to bring their newborns and school age children to different day cares. The renovations will allow MBA to serve infants through school age children. As a non-profit agency serving primarily low income families, MBA has faced financial challenges over the years. The goal has been to offer affordable child care to struggling families striving for self-sufficiency.

The CDBG funds will be used for renovations to the facility.

Organization: Miriam's House, Inc.
Program: Special Needs Permanent Housing

$ request	$40,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/4 with letter heads; 3 from individuals who has experience with Miriam's House
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	1 copy from December 2006 and 2005
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Miriam's house is requesting CDBG funds to contribute to the cost of operating three (3) local permanent housing programs, including Shelter Plus Care, Cornerstone, and Rush Homes. There are currently 28 permanent housing units for disabled persons. Miriam's House provides case management services for all of these residents. In returning to mainstream society homeless persons are particularity fragile especially those recovering from substance abuses. While all three programs are HUD-supported programs for Supportive Housing Programs (SHP), only Cornerstone and Rush Homes receive funds for a portion of the costs. Shelter Plus Care does not receive any funds. Currently, Miriam's House provides for the gap in funding. The services include weekly visits by case managers, 24 hours-7 days a week on call support, money management, mental health assessment, medication monitoring, linkage to entitlement benefits such as Medicaid, Food Stamps and Social Security, employment counseling, parenting training and childcare, substance abuse recovery support and a host of other services specifically designed to maintain each resident in permanent housing.

The CDBG funds will be used for salaries and staff support.

Organization: New Land Industries, Inc.
Program: Job Readiness Training

$ request	$15,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y/ Receipt for registration fee
Support Letters/Amount	Y/1
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	Y/2
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

New Land Jobs works with many other programs to assist unemployed or underemployed adults. The program includes many activities to assist the individual; program orientation, personal and job skills assessments, agency and service referrals, resume and cover letter preparation, prior employment verification, on-line and hard copy job search assistance, on-line and hard copy job application completion, interview skills training, prospective employer research, job readiness training (time management, work ethics, appropriate dress and behavior, the work environment), job counseling, financial management training, job placement, and retention, as well as scholarship computer training courses on a regular basis (other students pay $25/class).

The CDBG funds will be used salaries, overhead and equipment.

Organization: Rebuilding Together Lynchburg
Program: Rebuild 2008-09

$ request	$80,000
CDBG or HOME	CDBG
Electronic Copy	N
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/4
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	N
Management Letter	N
Written Financial Procedures	N
Signed Statement	Y

Brief Description

Since its first year in 2000, Rebuilding Together Lynchburg has rehabilitated over 136 homes. The project for 2008-09 is to match skilled and unskilled volunteers with materials that the grants and donations buy. The volunteers do home repair work and/or home modifications in order to keep the family in their own home.

The CDBG funds will be used labor, materials, supplies, staff and overhead.

Organization: Rush Lifetime Homes, Inc.
Program: Independence Housing of Rush Homes

$ request	$60,000
CDBG or HOME	HOME
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/5
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	Y/ 1 copy June 2007; 1 copy June 2006
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Rush Homes, a Community Housing Development Organization (CHDO), will acquire and rehabilitate three (3) houses or duplexes in Lynchburg to provide up to five (5) affordable rental houses and/or apartments that meet the needs of families with disabilities and low incomes. Rush Homes will evaluate all aspects of the building including energy efficiency, exterior needs, infrastructure, and accessibility in developing alteration plans. It will add accessibility feature to a minimum of three (3) of the resultant houses/apartments for people with mobility impairments. Accessibility features include widened doorways, accessible bathrooms including roll-in showers, and entryways appropriate for people requiring wheelchairs for mobility. Rush homes will initiate acquisition once acquiring project funds.

The HOME CHDO funds will be used for housing rehabilitation/construction.

Organization: Rush Lifetime Homes, Inc.
Program: Supportive Housing Program

$ request	$3,600
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/5
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	Includes one copy of June 2007; one copy of June 2006 audit reports
Management Letter	Y
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Generally, a homeless family or person who acquires permanent housing without support is at high risk of returning to homelessness. HUD has established funds for a supportive services component in permanent housing programs, to address this issue. Rush Homes was awarded in 2001 the HUD Supportive Housing award. In carrying out this program Rush Homes rehabilitates housing to allow a former homeless person to have a home for less than 30% of their total income as well as receiving case management services provided by Miriam's House. The grant will be used to fill the gap in funding after HUD funds and tenant rents are used.

The CDBG funds will be used for outreach, case management, mental health services and related housing services.

Organization: United Way of Central Virginia

Program: Success By 6

$ request	$50,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	N
Support Letters/Amount	Y/4
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	1 copy for June 2007 and 2006
Management Letter	N
Written Financial Procedures	N
Signed Statement	N

Brief Description

Children learn more at a faster pace in the first few years than at any other time in life. Parents are a child's first and most important teacher. The goals of the Parent Program are to increase parent knowledge of early childhood development, improve parenting practices and to increase children's school readiness and school success. Low-income children are a year or more behind according to U.S. Department of Education. Rex the Resource Bus is the Success By 6 mobile resource unit that supplies parents with educational materials and resources on child development, parenting skills, how to find resources in the community, quality child care, kindergarten readiness skills and introduces families and children to the classroom environment. Gus the Learning Bus is a mobile preschool classroom. It provides children who do not attend formal early education programs an opportunity to have school half a day twice a week and actually learn in their own neighborhood on the bus.

The CDBG funds will be used to support the outreach programs that are geared toward educating the parents about the needs of the children in the areas of child development and school readiness.

Organization: White Rock Hill Education Center
Program: After School Program

$ request	$17,830.32
CDBG or HOME	CDBG
Electronic Copy	N
501 (c) (3)	Y
VA Sec. of State Cert.	N
Support Letters/Amount	N
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	N
Management Letter	N
Written Financial Procedures	N
Signed Statement	N

Brief Description

The White Rock Community Center provides assistance to children from the neighborhood by providing them with quality tutorial services which has shown to improve their grades as reported and commenting on their report cards. The White Rock Center also provides children with a nutritional meal which helps to stretch the food bill of families receiving AFDC.

The WRH Center is requesting funds for salaries and overhead for the After School Program.

Organization: New Land Samaritan Inns, Inc.
Program: The Gateway

$ request	$40,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	N
Support Letters/Amount	Y/3 letterheads; 1 without
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	2 copies Dec. 2006 and 2005
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

The Gateway provides transitional housing and supportive services to homeless men in recovery from drug and alcohol addiction, holding them accountable as they learn to make better choices and rebuild their lives. Many of the clients have children, a few are married. Studies show that the majority of the homeless population is single male, and that substance and alcohol abuse contributes to the cause of homelessness for 90% of the national homeless population. The Gateway is the only transitional shelter for men in Central Virginia. The Gateway provides housing for a maximum of 24 men at any given time. Residents must be at least 18 years of age and have successfully completed a 30 day alcohol or substance abuse treatment program or be willing to attend intensive out-patient treatment in order to be considered for enrollment. The Gateway anticipates serving 45 homeless men in recovery from alcohol and drug abuse in 2008-2009.

The CDBG funds will be used for staff and overhead.

Organization: YWCA of Central Virginia
Program: Town Center Elevator

$ requests	$40,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/4
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	Y/2
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Currently the YWCA Town Center building does not have an elevator and is not handicap accessible. There are five (5) floors in the building and the residence halls are located on the 3rd and 4th floors with the 17 foot ceilings this is a long walk up. With the elevator they will be able to provide for any handicapped resident and be compliant with the ADA in accommodating employees.

The CDBG funds will be used for the construction and installation of an elevator for the facility.

Organization: YWCA of Central Virginia
Program: YWCA Domestic Violence Prevention Center

$ request	$32,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	There is not audit available in this application but there is one in the YWCA Town Center Elevator application.
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

YWCA's DVPC protected 98 women and 83 children from abusive homes in 2007. The Children's Supervised Visitation Center protected 14 children from abuse or abduction through 1,221 monitored family visits. DVPC provides unfunded direct services to the City of Lynchburg through the police protocol for responding to domestic violence cases, the Court Services protocol during intakes, and Court Referrals to the Children's Supervised Visitation Center. The grant will provide for a portion of the YWCA Domestic Violence Program Director's salary and benefits as well as a portion of client transportation costs. For the past two (2) years DVPC has been transporting clients on behalf of the Office of the Commonwealth's Attorney without reimbursement.

The CDBG funds will be used for staff support, training and travel.

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008**		AGENDA ITEM NO.: 8
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION:	INFORMATION:	

ITEM TITLE: **PUBLIC HEARING REGARDING THE REALLOCATION OF 2006-07 HOME PROGRAM FUNDS**

RECOMMENDATION: Conduct a Public Hearing to receive public input regarding the re-allocation of $40,273 in HOME Program funds for the rehabilitation of the Shalom Apartments.

SUMMARY: The City allocated $40,273 of its FY 2006-07 HOME funds to the Housing and Development Corporation of Lynchburg, a nonprofit affiliate of the Lynchburg Redevelopment and Housing Authority (LRHA). These funds were designated for the rehabilitation of the property located at 713 Cabell Street in the Daniel's Hill Historic District which was sold prior to the receipt of the HOME grant funds. The LRHA is requesting that the $40,273 of HOME funds be re-allocated to the rehabilitation of three (3) buildings in the Shalom Apartment complex, which is managed by Lynchburg Covenant Fellowship, Inc. (LCF). The funds will be used to complete the repairs that are underway by LCF as well as address other existing deficiencies.

All HOME funds will be expended in accordance with primary objectives of the program.

PRIOR ACTION(S): The Housing Development Corporation of Lynchburg, on behalf of Shalom Apartments, applied for 2008-09 HOME Program funds in the amount $100,000. The project has been recommended for funding in the amount of $40,000 by the Community Development Advisory Committee. The Lynchburg Redevelopment and Housing Authority (LRHA) requested that the Community Development Department of the City of Lynchburg re-allocate the $40,273 unexpended 2006-07 HOME funds described above to the Shalom Apartment complex rehabilitation project.

FISCAL IMPACT: N/A

CONTACTS:

Charlene Montford/ 455-3902
Gwendolyn Gillespie/ 455-3916

ATTACHMENT(S): N/A

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that $40,273 of FY 2006-07 HOME Program funds be reallocated to the rehabilitation of three (3) buildings in the Shalom Apartment complex, which is managed by Lynchburg Covenant Fellowship, Inc. (LC).

Adopted:

Certified: ______________________________
Clerk of Council

062L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008**		AGENDA ITEM NO.: 9
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	

ITEM TITLE: **CONDITIONAL USE PERMIT (CUP) – Garces Bed & Breakfast at 1 Vista Avenue**

RECOMMENDATION: Approval of the requested conditional use permit petition.

SUMMARY: Hernan and Guadalupe Garces are petitioning for a conditional use permit to allow the operation of a bed and breakfast in an existing single-family home. The primary use of the home will remain a residence. Planning Commission recommended approval of the petition because:

- The Lynchburg *Comprehensive Plan* recommends a Traditional Residential use for this area. In addition to single-family residential homes, other uses may include small retail, personal service, office and restaurant uses compatible in scale with single-family residential homes.
- Petition agrees with the *Zoning Ordinance* in that tourist homes and bed and breakfast uses are permitted in an R-2, Low-Medium Density Single-Family Residential District with approval of a CUP by City Council.

PRIOR ACTION(S):

April 23, 2008: Planning Division recommended approval of the conditional use permit petition.

Planning Commission recommended approval (6-0, 1 Absent - Oglesby) of the CUP with the following conditions:

1. The property shall be developed in substantial compliance with the diagrammatic site plan dated April 10, 2008 and received by the Department of Community Development on April 10, 2008.
2. All exterior lighting will be glare-shielded and non-directional.
3. A maximum of three (3) guest rooms is permitted.

FISCAL IMPACT: N/A

CONTACTS: Charlene Montford/ 455-3902; Tom Martin/ 455-3909

ATTACHMENT(S):

Resolution
PC Report
PC Minutes
Vicinity Zoning Pattern
Vicinity Proposed Land Use
Watershed Location Map
Site Plan
Architectural Elevations
Photo Renderings
Speaker Sign-Up Sheet

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW THE OPERATION OF A BED AND BREAKFAST IN AN R-2, LOW-MEDIUM DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 1 VISTA AVENUE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Hernan and Guadelupe Garces for a Conditional Use Permit for use of the property at 1 Vista Avenue to allow for the operation of a bed and breakfast be, and the same is hereby, approved subject to the following conditions:

1. The property shall be developed in substantial compliance with the diagrammatic site plan dated April 10, 2008 and received by the Department of Community Development on April 10, 2008.
2. All exterior lighting will be glare-shielded and non-directional.
3. A maximum of three (3) guest rooms is permitted.

Adopted:

Certified: ____________________________

Clerk of Council

051L

The Department of Community Development

City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Planning Division
Date: April 23, 2008
Re: **CONDITIONAL USE PERMIT (CUP): Garces Bed & Breakfast at 1 Vista Avenue**

I. PETITIONER

Hernan & Guadalupe Garces, 5400 Southwest 134th Street, Miramar, FL 33027
Representative: Lynn Cunningham, Craddock Cunningham Architectural Partners, 10 9th Street, Lynchburg, VA 24501

II. LOCATION

The subject property includes one (1) tract totaling four and four tenths (4.4) acres at 1 Vista Avenue.
Property Owner: Hernan & Guadalupe Garces, 5400 Southwest 134th Street, Miramar, FL 33027

III. PURPOSE

The purpose of this petition is to allow for the operation of a bed and breakfast in an existing home with associated parking. The primary use of the home will remain a residence.

IV. SUMMARY

- Petition agrees with the *Comprehensive Plan* which recommends a Traditional Residential use in this area.
- Petition agrees with the *Zoning Ordinance* in that tourist homes and bed and breakfast uses are permitted in an R-2, Low-Medium Density Single-Family Residential District with approval of a CUP by City Council.

<u>The Planning Division recommends approval of the conditional use permit petition.</u>

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Traditional Residential use in this area. According to the plan, Traditional Residential areas encompass the City's older neighborhoods, generally built before World War II and before the City was zoned. Consequently, for many of the houses here, lot sizes, setbacks, and/or building heights do not conform to the standards of the City's residential zoning districts. Most of these neighborhoods are identified as Neighborhood Conservation Areas on the Plan Framework Map and are planned for further study for appropriate zoning changes, public investment and community building efforts. Infill residential development in these neighborhoods should be designed to complement the style and type of housing there and to utilize comparable setbacks, yards and building heights. Large new or expanded public and institutional uses are not appropriate for these areas unless they can be designed to blend into the existing urban fabric through landscaping or architectural treatments. Small retail, personal service, office and restaurant uses are often found within Traditional Residential neighborhoods. These uses may continue, although expansion is not recommended unless supported by a recommendation in a Neighborhood Conservation Area Plan. **(page 5.6)** The property falls within the Neighborhood Conservation Area of the Lower Rivermont Area. This area is rich in historic and cultural fabric, but also faces challenges of reinvestment and rehabilitation. Citizens in public meetings have expressed concerns regarding inappropriate infill development and teardowns, where the style and size of new construction does not blend well with the architectural character of existing homes on the block. Maintaining the existing housing stock and encouraging public and private investment that supports neighborhood character is

critical to neighborhood stabilization. **(page 4.7)** The proposed project fulfills one of the goals of the Neighborhood Conservation Area by encouraging the rehabilitation and renovation of older houses. The concept plan for the bed and breakfast includes a new second floor, attic and porch. The proposed architectural additions are in keeping with the context of the surrounding area and do not increase the footprint of the building. The plan also provides for additional landscaping and parking area screening to ensure its compatibility with the surrounding residences and businesses in addition to the preservation of the large trees.

2. **Zoning.** The existing R-2, Low-Medium Density Single-Family Residential District was established in 1978 with the adoption of the current *Zoning Ordinance*.

3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.

4. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:

   - On November 14, 2006, City Council approved Randolph-Macon Woman's College's petition for a conditional use permit to allow the construction of a gym expansion, studio theater, pool expansion and associated parking at 5 Quinlan Street, 136-155 Norfolk Avenue and 2500 Rivermont Avenue.
   - On August 13, 2002, City Council approved Randolph-Macon Woman's College's petition for a conditional use permit to allow college related offices and guest housing in an existing structure at 2615 Rivermont Avenue.
   - On May 8, 2001, City Council approved Rivermont Presbyterian Church's petition for a conditional use permit to allow the construction of two (2) building additions and associated parking at 2424 Rivermont Avenue.
   - On May 8, 2001, City Council approved Randolph-Macon Woman's College's petition for a conditional use permit to allow the construction of athletic fields on the existing campus at 2500 Rivermont Avenue.
   - On March 10, 1998, City Council approved George and Joanne Caylor's petition for a conditional use permit to operate a bed and breakfast for up to ten (10) guests in an existing structure and to provide parking for up to four (4) vehicles in an R-3, Medium Density Two-Family Residential District at 2460 Rivermont Avenue.
   - On August 12, 1997, City Council approved Rivermont Presbyterian Church's petition for a conditional use permit to allow the construction of two (2) parking lots at 2424 Rivermont Avenue.
   - On June 11, 1996, City Council approved Vernon and Patty Brewer's petition for a conditional use permit to operate a bed and breakfast for up to eight (8) guests in an existing structure in an R-4, Medium-High Density Multi-Family Residential District at 2601 Rivermont Avenue.
   - On April 3, 1996, petitioner's Joseph and Karen Lovell withdrew their petition for a conditional use permit to operate a bed and breakfast for up to eight (8) guests in an existing structure in an R-4, Medium-High Density Multi-Family Residential District at 2601 Rivermont Avenue.
   - On September 14, 1993, City Council approved Holy Trinity Lutheran Church's petition for a conditional use permit for the installation of a columbarium at 1000 Langhorne Road.
   - On July 10, 1990, City Council denied Reginald Barrack's petition for a conditional use permit to operate a bed and breakfast with three (3) guest rooms in an R-3, Medium Density Two-Family Residential District at 2450 Rivermont Avenue.

- On May 8, 1990, City Council approved Rivermont Presbyterian Church's petition for a conditional use permit to allow the construction of a building addition, two (2) play areas and associated parking at 2424 and 2426 Rivermont Avenue.
- On April 12, 1988, City Council approved M. Van and Carrie Lewis's petition for a conditional use permit to allow the construction of an educational facility with boarding capabilities at 1000 Villa Road.
- On November 11, 1986, City Council approved First Christian Church's petition for a conditional use permit to allow a building addition for classrooms and offices and a parking expansion at 3109 Rivermont Avenue.
- On August 13, 1985, City Council approved Rivermont Presbyterian Church's petition for a conditional use permit to allow the use of the church as a nursery school and the construction of a play area at 2424 and 2426 Rivermont Avenue.

5. **Site Description.** The subject property is bound to the north by single-family homes and church use, to the south by single-family and multi-family homes, to the east by single-family homes and Randolph College, and to the west by single-family homes and church use.
6. **Proposed Use of Property.** The purpose of this petition is to allow the operation of a bed and breakfast in an existing home with associated parking. The primary use of the home will remain a residence. In an R-C, Conservation District, R-1, Low Density Single-Family Residential District, and R-2, Low-Medium Density Single-Family Residential District, no more than three (3) rooms with no more than two (2) persons per room may be offered for guests in a bed and breakfast. However, in an R-3, Medium Density Two-Family Residential District, R-4, Medium-High Density Multi-Family Residential District and R-5, High Density Multi-Family Residential District, five (5) rooms with not more than four (4) persons per room are allowed. The proposed bed and breakfast will have three (3) rooms to comply with the requirement for an R-2, Low-Medium Density Single-Family Residential District. Landscaping will comply with the requirements of the City's *Zoning Ordinance*.
7. **Traffic, Parking and Public Transit.** The City's Transportation Engineer had no comments about the proposed parking expansion.

   Parking requirements for tourist homes and bed and breakfast uses are set at one (1) space for each room used for this purpose by the *Zoning Ordinance.* The three (3) proposed rooms would require three (3) parking spaces. The standard two and a half (2.5) parking spaces per dwelling unit will be required for the residential use. Combined, the required parking totals six (6) spaces. The existing driveway from Paxton Avenue will remain for family use and will lead to a small lot with three (3) spaces. Guests will enter from Vista Avenue and will be provided with three (3) spaces. This amounts to a total of six (6) provided spaces, thus meeting the requirement of City Code. The applicants have no expectation of the City for the maintenance of the Vista Avenue right-of-way that will serve as the main guest entry.

   Public transit is currently accessible in this area. The Greater Lynchburg Transit Company Routes 3C and 3D are available at the intersection of Rivermont Avenue and Vista Avenue, seven hundred and fifty (750) feet from the site.
8. **Storm Water Management.** New impervious areas will not exceed one thousand (1,000) square feet; as such, a stormwater management plan will not be required for the construction of the parking area. The existing soil road that will become the family driveway is well established. However, where tree removal occurs, minor grading will be required to repair the road bed. Family parking and the family driveway will receive a gravel base topped with decorative gravel. The guest parking area, already with a well established base, will be dressed up with decorative gravel. Any required work will be addressed prior to site plan approval.

9. **Emergency Services.** The City's Fire Marshal had no comments regarding the conditional use permit for the parking expansions.

   The City Police Department commented that the perimeter of the buildings and parking areas need to be well illuminated, using pole lights and/or wall mounted lights. These should be non-directional, glare shielded and of a tamper resistant housing. The guest parking area and sidewalk leading up to the house need very good lighting from pole lights and/or landscape lighting. A dusk to dawn pole light in the parking area would be beneficial, as would a dusk to dawn sensored light at all the exterior doorways. This would avoid the need to remember to turn lights on at night, as they would automatically come on at dusk.

   The revised plan notes that any new lighting will be glare shielded and non-directional; the final lighting layout will be determined during site plan review. Security lighting will be provided from guest parking to the main entry to ensure safe ingress and egress.

10. **Impact.** The proposed bed and breakfast will house three (3) guest rooms in an existing home that will remain primarily a residence. Traffic, parking and stormwater management concerns have all been addressed to the satisfaction of City staff, and the result is a project that would fit into the fabric of the existing neighborhood.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary concept plan on April 1, 2008. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Hernan and Guadalupe Garces' petition for a conditional use permit (CUP) at 1 Vista Avenue, subject to the following conditions:

1. **The property shall be developed in substantial compliance with the diagrammatic site plan dated April 10, 2008 and received by the Department of Community Development on April 10, 2008.**
2. **All lighting shall be glare shielded and non-directional.**
3. **A maximum of three (3) guest rooms is permitted.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Mr. J. Lee Newland, City Engineer
Ms. Cynthia L. Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal

Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Administrator
Mr. Kent L. White, Senior Planner
Mrs. Erin B. Hawkins, Environmental Planner
Ms. Lynn Cunningham, Representative

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**
2. **Vicinity Proposed Land Use**
3. **Watershed Location Map**
4. **Site Plan**
5. **Architectural Elevations**
6. **Photo Renderings**

MINUTES FROM THE APRIL 23, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

a. Petition of Hernan and Guadalupe Garces for a conditional use permit at 1 Vista Avenue to allow the operation of a bed and breakfast with up to 3 guest rooms as part of an existing residence in an R-2, Low-Medium Density Single-Family Residential District.

Mr. Martin addressed the commissioners with the following comments. This petition is for a bed and breakfast in an existing residence. Since the property is zoned R-2, only three guest rooms would be permitted with two guests per room. Parking requirements for the proposed use would be one parking space per guest room and 2.5 spaces for the residents. The primary use of the structure will remain a single-family home. A total of six parking spaces are being provided. Three are off a public driveway coming from Paxton Avenue and three are for the guest rooms off Vista Avenue. Surrounding land uses include a mixture of single-family and multi-family uses. The *Comprehensive Plan* recommends a Traditional Neighborhood use for the subject property, and the Planning Division recommends approval of the conditional use permit with conditions outlined in the report.

Ms. Lynn Cunningham with Craddock & Cunningham was available as the representative for the petition. She said that there are five bedrooms now on the second floor, but after renovations, there will be four. There is an attic with some bedrooms that will not change. The house will be completely renovated on the inside and the grounds will be enhanced and dressed up. Plantings need to be thinned out and dead growth cut down. The parking and driveways are either gravel now or will be enhanced with gravel. Mr. Hernan Garces was also present to answer any questions.

Chair Hamilton asked for anyone else to speak in favor of the petition and no one came forward. She asked for anyone present to speak in opposition to the petition and no one came forward. She closed the public hearing portion of the petition.

Commissioner Barnes asked which entrance would be used for deliveries. Ms. Cunningham answered that it would be the guest entrance, but that mainly Mr. and Mrs. Garces would be doing the grocery shopping for the bed and breakfast. Commissioner Barnes clarified that we are not talking about large trucks coming in and out, and Mr. Garces said that is correct.

Commissioner Worthington asked them if they had met with any neighbors. Mr. Garces said that he had and that they were very supportive. He had expressed to them that he would keep the place pretty much green like it is and having a rather a quiet operation. He had not spoken to everyone on the list, but had spoken to the immediate neighbors. One neighbor had said that three teenagers living in the house would generate more traffic than the guests of the bed and breakfast will.

Chair Hamilton asked them to talk about the work being done on the house in terms of how close the house is to the Rivermont historic district. Ms. Cunningham said that they have tried for state and national registry, but they are not quite at that level. They are also trying for local historic designation, but that seems iffy. They are trying to retain and preserve the house as it is; the only change they will be making to the exterior is adding to the porch on the second floor. There has been some discussion among members of the Historic Preservation Committee about whether or not the house is worthy of historic designation. Ms. Cunningham and Mr. Garces' contention is that if it weren't for politics the house would be in the historic district. Ms. Cunningham commented that it would be wonderful if the district could be expanded because that is the only thing that is going to save these homes. It gives the owners opportunities that would otherwise not be available to them. But just because the house won't stand on its own is possibly the problem. They were encouraged by the state to do this, but that is a two or three-year process, and the Garces need to go ahead and start moving. Ms. Cunningham summed it up by saying that this is how the discussion went, but the Historic Preservation Committee has not ruled on it yet. Commissioner Barnes asked the age of the house, and Ms. Cunningham said it was built in 1911. She also commented that although the exterior is a little understated, the interior is really beautiful. It was built as a summer home.

Commissioner Swienton commented that there are some steep slopes there, but that people might be interested to know about Mr. Garces' background. Mr. Garces said that he spent his last forty years working for local government in Miami-Dade County, Florida. He spent the last five years with the Department of Environmental Resources Management and doing all their work for five years before that. He is very much environmentally conscious, and anything he does to the property will be with that in mind.

Commissioner Barnes commented that this is an absolutely appropriate use for this property. He lives close to the property, and given the steepness of the property and its closeness to two creeks, this helps to keep this property as a low density/intensity use. He looks forward to Mr. Garces fixing up the property; it is a real gem.

Commissioner Sale also commented that this is a beautiful piece of property. Putting the time and the interest into it is an asset to Lynchburg—if not a commercial asset—certainly an asset to the community. He is very much in favor of this petition.

Commissioner Worthington made the following motion, which was seconded by Commissioner Swienton and passed by the following vote:

"That the Planning Commission recommends to City Council approval of Hernan and Guadalupe Garces' petition for a conditional use permit (CUP) at 1 Vista Avenue, subject to the following conditions:

4. **The property shall be developed in substantial compliance with the diagrammatic site plan dated April 10, 2008 and received by the Department of Community Development on April 10, 2008.**
5. **All lighting shall be glare shielded and non-directional.**
6. **A maximum of three (3) guest rooms is permitted.**

AYES:	Barnes, Hamilton, Hannon, Sale, Swienton and Worthington	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Oglesby	1

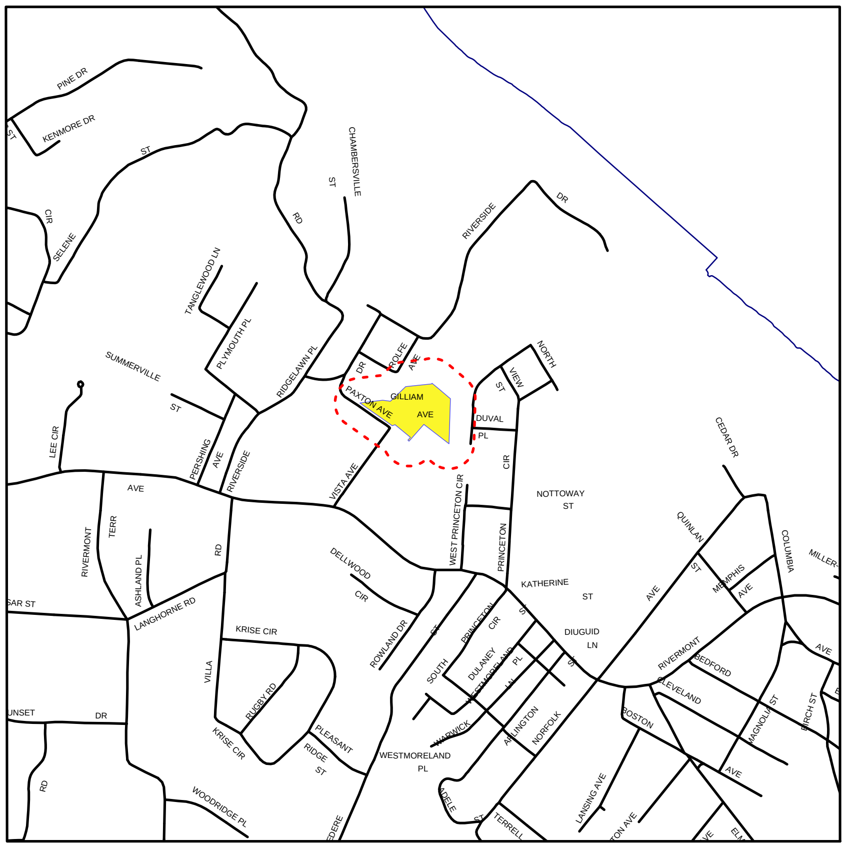
GARCES BED & BREAKFAST
1 Vista Avenue
Map # 0400-02-031
Conditional Use Permit Request
Petitioner: Lynn Cunningham/CCAP

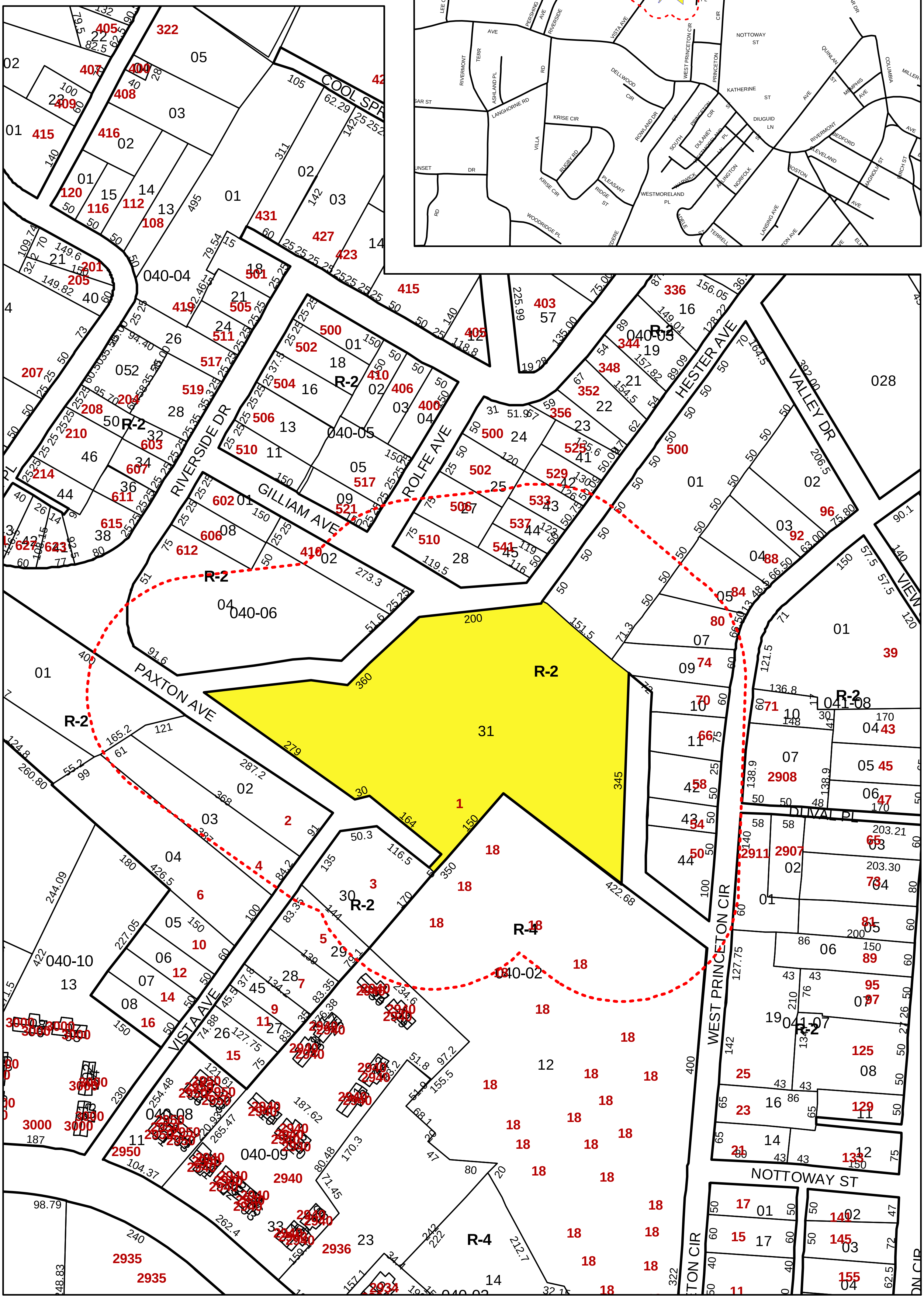
MAP PREPARED BY
THE DEPARTMENT OF COMMUNITY DEVELOPMENT

N

Subject Property

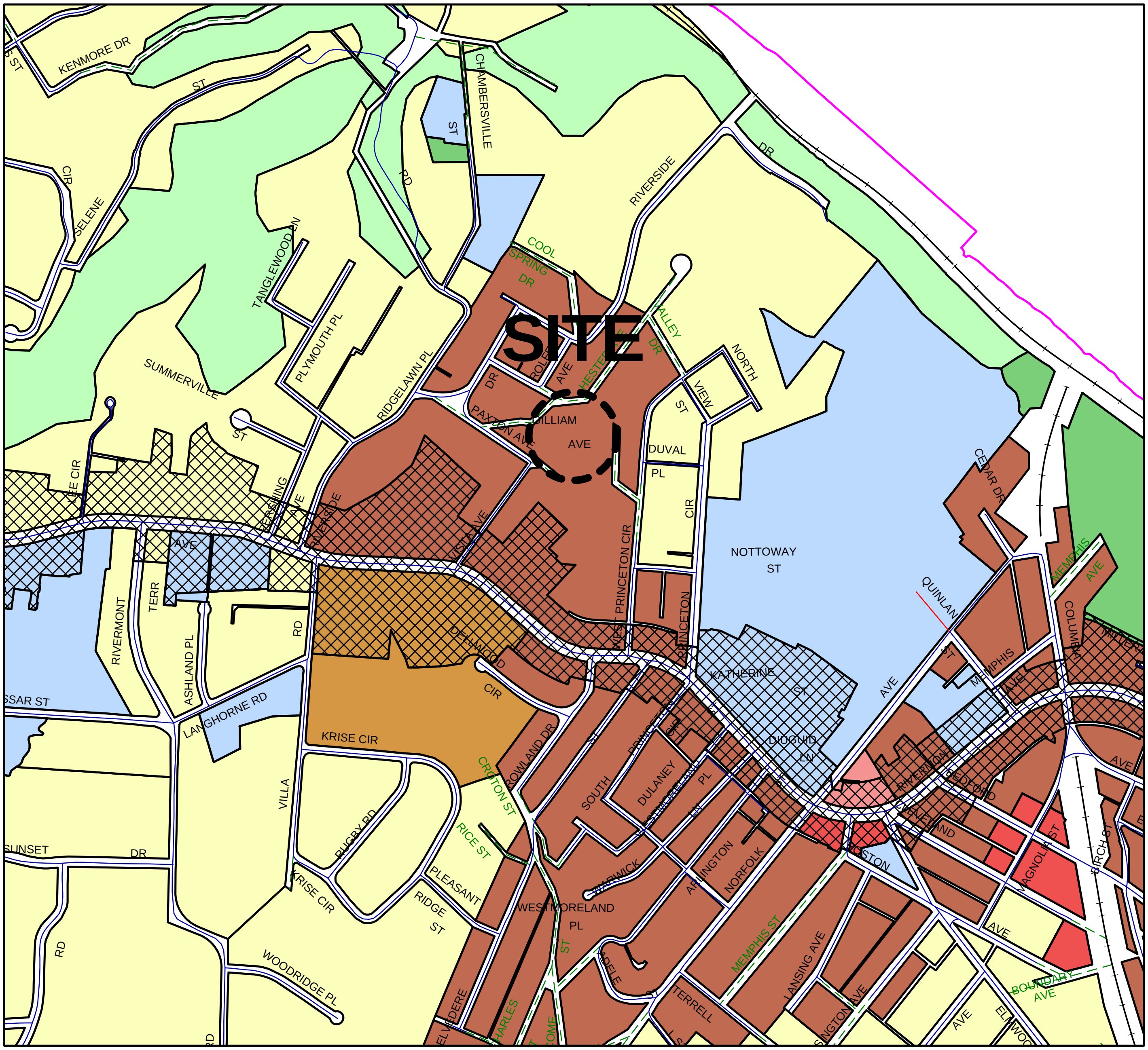
200 ft Radius





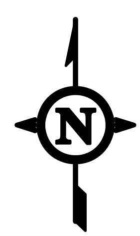
GARCES BED & BREAKFAST CUP ADJOINING OWNERS

PIN	OWNER	LOCADDR
4002001	NEWCOMB SCOTT O	500 HESTER AVE
4002005	SEAMAN THOMAS W & LOUISE P GR C/O BROWNSTONE PROPERTIES INC	84 WEST PRINCETON CIR
4002007	SEAMAN THOMAS W & LOUISE P GR C/O BROWNSTONE PROPERTIES INC	80 WEST PRINCETON CIR
4002009	SEAMAN THOMAS W & LOUISE P GR C/O BROWNSTONE PROPERTIES INC	74 WEST PRINCETON CIR
4002010	KENT STEPHEN	70 WEST PRINCETON CIR
4002011	TRENT JAMES A JR	66 WEST PRINCETON CIR
4002012	PRINCETON CIRCLE ASSOCIATES LC C/O LANGLEY FAMILY TRUST	18 WEST PRINCETON CIR
4002029	MCCLURE JEFFREY A & LINDA S	5 VISTA AVE
4002030	EASON LAWRENCE W & ARRINGTON WENDY G	3 VISTA AVE
4002031	GARCES HERNAN & GARCES GUADALUPE	1 VISTA AVE
4002042	SMITH JERRY B & MARTHA C & WILLIAM B SMITH	58 WEST PRINCETON CIR
4002043	HEPLER JOHNNY & MILDRED & HEPLER JOHNNY JR	54 WEST PRINCETON CIR
4002044	GILLASPY CRAIG T & DEBORAH L	50 WEST PRINCETON CIR
4003025	JENNINGS ALBERTA H & DAVIS THOMAS E JR	502 ROLFE AVE
4003027	BARRETT TIMOYHY & DOWDY VICKI	506 ROLFE AVE
4003028	WARDEN EDGAR L JR	510 ROLFE AVE
4003042	PAYNE CECIL M & GLADYS J	529 HESTER AVE
4003043	YORK KATE G & WILLIAM T	533 HESTER AVE
4003044	PAYNE CECIL M & GLADYS J	537 HESTER AVE
4003045	RAY JAMES L & RAY DONALD P	541 HESTER AVE
4005005	SOERENSEN KIMBERLY F	517 ROLFE AVE
4005009	WILLIAMS JON B JR & KIMBERLY B	521 ROLFE AVE
4006002	GARNETT TIMOTHY N & HEATHER A	410 GILLIAM AVE
4006004	GATZKE STEVEN L & ELIZABETH O	612 RIVERSIDE DR
4007001	HUANG JIM C & PAMELA D	702 RIVERSIDE DR
4007002	BAILEY ROBERT M & JOYCE C	2 VISTA AVE
4007003	SEIPP DANIEL J & AMY K	4 VISTA AVE
4007004	SNYDER JEFFREY D & ELICIA B	6 VISTA AVE
4009033	HERITAGE CONDO OWNERS ASSOCIATION	2940 RIVERMONT AVE
4107001	BURROWES THOMAS H JR	2911 DUVAL PL
Owner	GARCES HERNAN & GARCES GUADALUPE	
Petitioner	LYNN CUNNINGHAM/CCAP	
Representative	LYNN CUNNINGHAM/CCAP	



Legend
Public Parks
Resource Conservation
Public Use
Institution
Downtown
Office
Employment 1
Employment 2
Neighborhood Commercial
Community Commercial
Regional Commercial
Low Density Residential
Medium Density Residential
High Density Residential
Traditional Residential
LocalHistoricDistrict
MixedLandUse

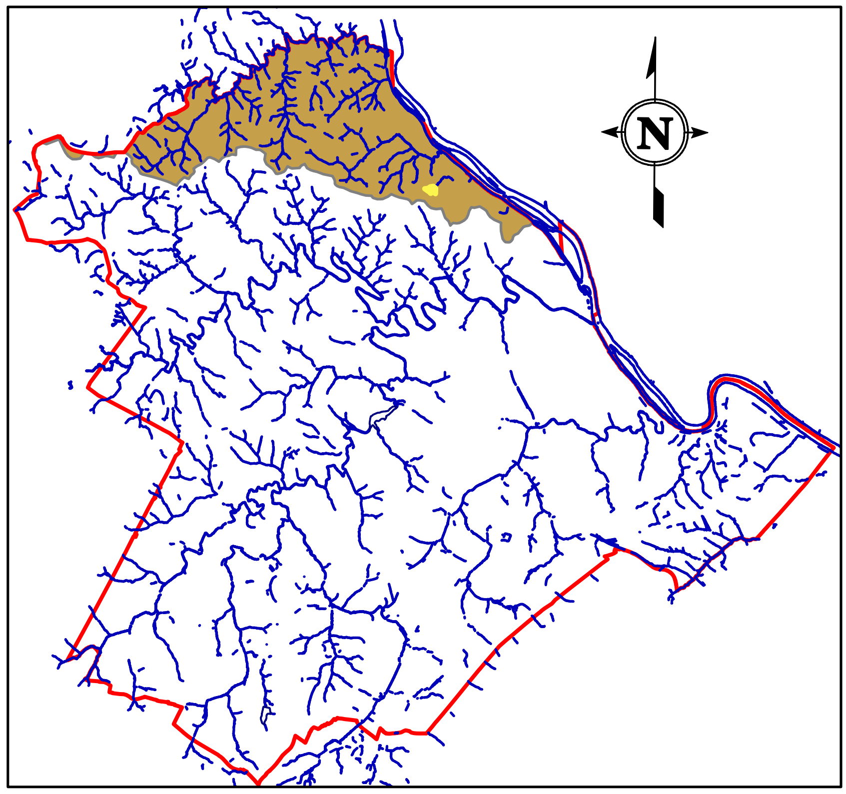
GARCES BED & BREAKFAST
1 VISTA AVENUE
LAND USE PLAN

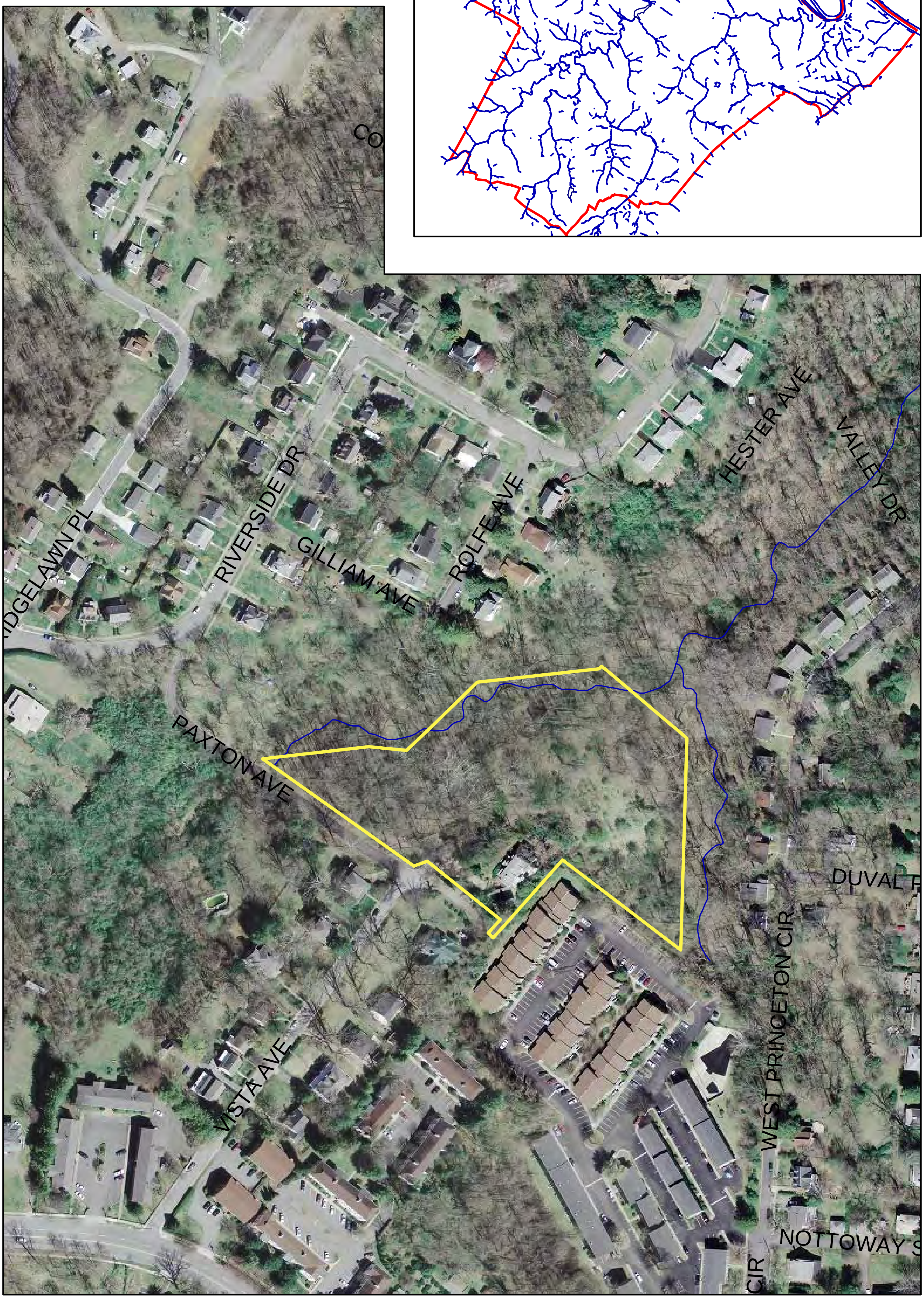


Garces Bed & Breakfast
Watershed Location Map

Legend

- Project Site
- Corporate Limit
- Judith Creek Watershed





C

VIEW OF EAST SIDE (& PARTIAL SOUTH)

D

VIEW OF NORTH SIDE

E

F

G EXISTING FEATURE AT GUEST ENTRY

H VIEW OF APARTMENTS (R4) ON EAST SIDE (FROM ROOF OF HOUSE)

I

J VIEW OF EXISTING PRIVACY FENCE ALONG EASTERN BOUNDARY

K

L

M THIS AREA TO BE ALTERED SLIGHTLY TO ACCOMODATE 3 VEHICLES FOR GUEST PARKING

N SECTION OF ORIGINAL SOIL ROAD THAT WILL BECOME THE FAMILY DRIVEWAY

O VIEW FROM NORTHWEST

P

MATURE WHITE OAK - MAIN
FEATURE IN YARD ON NORTH SIDE

WOODS ON NORTH SIDE OF HOUSE

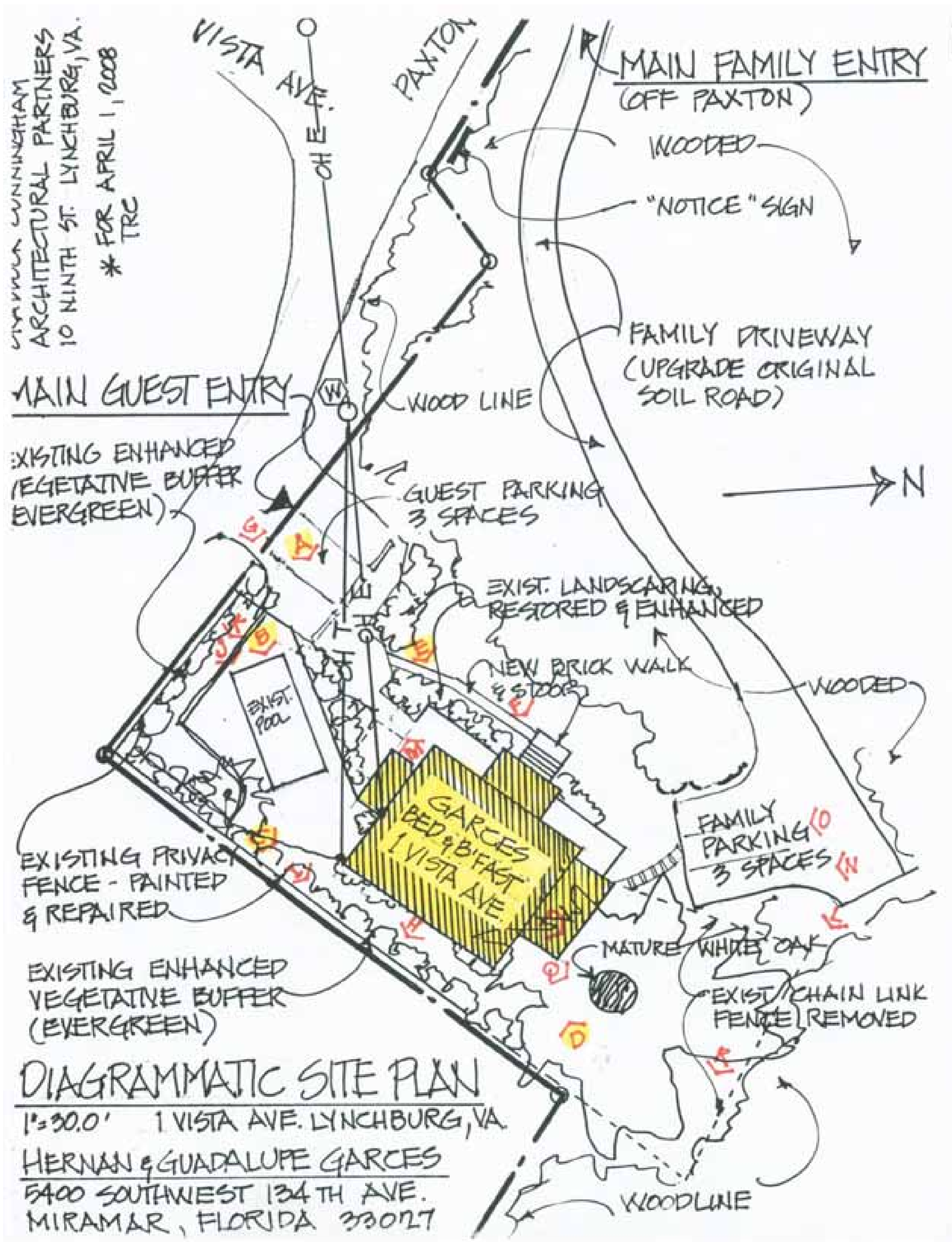
CHAIN LINK FENCE TO BE REMOVED

Q

R

A VIEW OF SOUTHWEST (GUEST ENTRY) SIDE

B VIEW OF SOUTH SIDE


ARCHITECTURAL PARTNERS
10 NINTH ST. LYNCHBURG, VA.
* FOR APRIL 1, 2008
TRC
VISTA AVE.
PAXTON
OH E
MAIN FAMILY ENTRY
(OFF PAXTON)
WOODED
"NOTICE" SIGN
FAMILY DRIVEWAY
(UPGRADE ORIGINAL
SOIL ROAD)
MAIN GUEST ENTRY
WOOD LINE
EXISTING ENHANCED
VEGETATIVE BUFFER
EVERGREEN)
GUEST PARKING
3 SPACES
N
EXIST. LANDSCAPING,
RESTORED & ENHANCED
NEW BRICK WALK
& STOOP
WOODED
EXIST. POOL
GARCES
BED & B'FAST
1 VISTA AVE.
FAMILY
PARKING
3 SPACES
EXISTING PRIVACY
FENCE - PAINTED
& REPAIRED
MATURE WHITE OAK
EXISTING ENHANCED
VEGETATIVE BUFFER
(EVERGREEN)
EXIST. CHAIN LINK
FENCE REMOVED
DIAGRAMMATIC SITE PLAN
1"=30.0'
1 VISTA AVE. LYNCHBURG, VA.
HERNAN & GUADALUPE GARCES
5400 SOUTHWEST 134TH AVE.
MIRAMAR, FLORIDA 33027
WOODLINE

LEFT SIDE ELEV.

1/8" = 1'-0"

NEW 2ND FL/ATTIC ADD.
PORCH RECONSTRUCTION

NEW 2ND FL/ATTIC ADD.
PORCH RECONSTRUCTION

FRONT ELEVATION

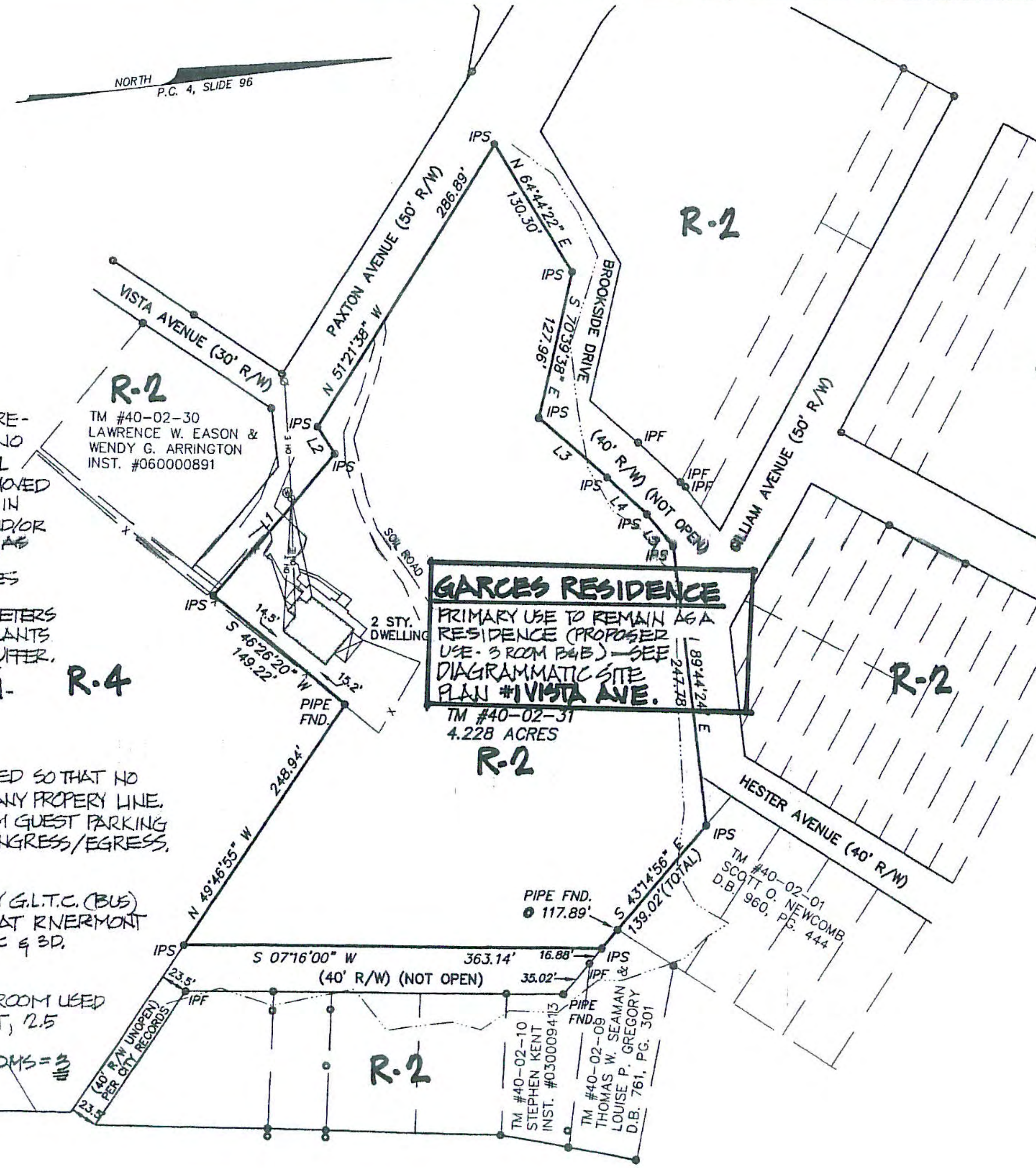
1/8" = 1'-0"

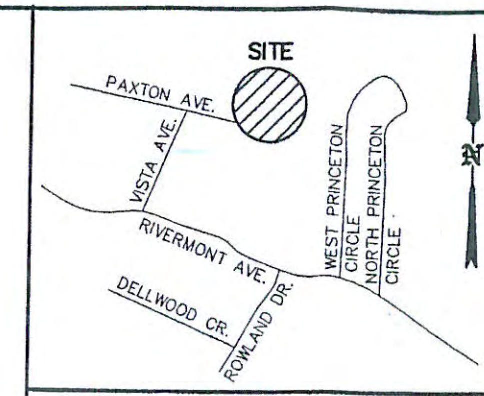
BED & BREAKFAST FOR GARCES

CCAP 2-15-08 3 GUEST ROOMS

LINE	BEARING	LENGTH
L1	N 43°37'44" W	163.29
L2	S 63°29'21" W	27.73
L3	N 47°04'22" E	79.14
L4	N 49°08'56" E	46.86
L5	N 57°17'38" E	36.51

LINE TABLE





VICINITY MAP (NOT TO SCALE)

* PROJ. PLAN.- LYNN CUNNINGHAM
FIRM: CRADDOCK-CUNNINGHAM ARCHITECTURAL PARTNERS
LYNCHBURG, VIRGINIA
TRC - APRIL 1, 2008

C.U.P. APP. FOR B&B USE
PROJECT #CUP0803-0003
RESUBMITTAL 4-10-08 AS PER TRC COMMENTS

LANDSCAPING:

EXISTING LANDSCAPING MEETS THE REQUIREMENTS OF THE LANDSCAPE ORDINANCE. NO SUBSTANTIAL TREE OR SHRUB REMOVAL WILL OCCUR. SEVERAL TREES WILL BE REMOVED FROM THE PATH OF THE FAMILY DRIVEWAY IN ORDER TO RENDER IT PASSABLE. DEAD AND/OR DYING TREES & SHRUBS WILL BE REMOVED, AS WELL AS THOSE THAT ARE OVERCROWDED. OVERGROWN SHRUBS & ORNAMENTAL TREES WILL BE LIMBED-UP & PRUNED. EXISTING PLANTING ALONG THE EAST & SOUTH PERIMETERS WILL BE ENHANCED & IN-FILLED W/ LIKE PLANTS TO STRENGTHEN THE EXIST. VEGETATIVE BUFFER. ORNAMENTAL VINES WILL BE CLEARED-OUT, PRUNED BACK, & PROPERLY GUIDED FOR CONTROLLED GROWTH.

SITE LIGHTING:

ALL EXTERIOR LIGHTING WILL BE CONTROLLED SO THAT NO DIRECT ILLUMINATION WILL OCCUR BEYOND ANY PROPERY LINE. SECURITY LIGHTING WILL BE PROVIDED FROM GUEST PARKING TO THE MAIN ENTRY TO ENSURE SAFE INGRESS/EGRESS.

PUBLIC TRANSPORTATION:

PUBLIC TRANSPORTATION IS PROVIDED BY G.L.T.C. (BUS) W/ THE NEAREST STOP BEING LOCATED AT RIVERMONT & VISTA AVENUES, SERVED BY ROUTES 3C & 3D.

PARKING CALCULATIONS:

CITY REQUIREMENT - 1 SPACE RQD. FOR EA. ROOM USED FOR THE PURPOSE OF A BED & BREAKFAST, 2.5 SPACES RQD. FOR A RESIDENCE
- 1 SPACE REQUIRED x 3 B&B GUEST ROOMS = 3
- 3 SPACES PROVIDED FOR RESIDENCE

LEGEND

- IPF IRON PIN FOUND
- IPS IRON PIN SET
- ELECTRIC POLE
- WATER METER
- ---- CREEK
- —OH E— OVERHEAD ELECTRIC
- —OH T— OVERHEAD TELEPHONE
- —x— FENCE

RECEIVED
APR 10 2008
COMMUNITY DEVELOPMENT

SOURCE OF TITLE:
HERNAN GARCES & GUADALUPE GARCES
INST. #070010329
AS RECORDED IN THE CLERK'S OFFICE FOR THE CIRCUIT COURT OF THE CITY OF LYNCHBURG

NOTES:

THIS PLAT HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY DONE PER DATE OF THIS PLAT AND THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS EXCEPT AS SHOWN HEREON.

THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.

THE AREA SHOWN IS LOCATED IN ZONE 'C' AND DOES NOT FALL WITHIN FLOOD HAZARD ZONE 'A' FOR A 100 YEAR FLOOD AS SHOWN ON A MAP BY F.E.M.A.

80 40 0 80 160
GRAPHIC SCALE IN FEET

COMMONWEALTH OF VIRGINIA
RUSSELL E. NIXON
Lic. No. 2588
2/12/08
LAND SURVEYOR

Nixon Land Surveying, L.L.C.
1063C Airport Road
Lynchburg, VA 24502
Phone (434) 237-3600
Fax (434) 237-0699
Email: ren@nixonlsco.com
www.nixonlandsurveying.com
DO NOT REMOVE AN ANCIENT BOUNDARY STONE OR ENCROACH ON THE FIELDS OF THE FATHERLESS. PROVERBS 23:10 (NIV)

SURVEYED FOR: HERNAN GARCES

PLAT SHOWING
RESURVEY
OF THE PROPERTY OF
HERNAN & GUADALUPE GARCES
CITY OF LYNCHBURG, VIRGINIA

COMM. NO.: 2007274		REVISED:	
SCALE: 1"=80'	DR. BY: MCM	DATE: 2/01/08	
SHEET: 1 OF 1	CHK. BY: REN	DRW. NME.	BND

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008**		AGENDA ITEM NO.: 10
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	

ITEM TITLE: **CONDITIONAL USE PERMIT (CUP) – Quaker Memorial Presbyterian Church, 5810 Fort Avenue**

RECOMMENDATION: Approval of the requested conditional use permit petition.

SUMMARY: Quaker Memorial Presbyterian Church is petitioning for a conditional use permit at 5810 Fort Avenue to allow the construction of a thirty-nine (39) parking space expansion in an R-2, Low-Medium Density, Single-Family Residential District. The Planning Commission recommended approval of the CUP petition because:

- The Lynchburg *Comprehensive Plan* recommends an Institutional use for the property. Institutional uses include religious, educational and other nonprofit entities.
- The parking area expansion has been designed to retain four (4) thirty-six (36) inch diameter oak trees.
- Petition agrees with the *Zoning Ordinance* in that church uses are permitted in an R-2, Low-Medium Density, Single-Family Residential District upon approval of a CUP by the City Council.

PRIOR ACTION(S):

April 9, 2008: Planning Division recommended approval of the conditional use permit petition. Planning Commission recommended approval (6-0, 1 Abstention Sale) of the CUP with the following conditions:

1. The property shall be developed in substantial compliance with the concept plan dated February 15, 2008, revised March 1, 2008 and received by the Department of Community Development on April 3, 2008.
2. The project will be graded in such a manner as to protect the existing thirty-six (36) inch oaks adjacent to the proposed parking lot.
3. The project shall designate pedestrian walkways/crossings from the outer parking areas to the sanctuary.

FISCAL IMPACT: N/A

CONTACTS: Charlene Montford/ 455-3902;Tom Martin/ 455-3909

ATTACHMENT(S):
Resolution
PC Report
PC Minutes
Vicinity Zoning Pattern
Vicinity Proposed Land Use
Watershed Location Map
Site Plan
Speaker Sign-Up Sheet

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A THIRTY-NINE (39) SPACE PARKING SPACE EXPANSION IN AN R-2, LOW-MEDIUM DENSITY, SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 5810 FORT AVENUE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Quaker Memorial Presbyterian Church for a Conditional Use Permit at 5810 Fort Avenue to allow the construction of a thirty-nine (39) space parking space expansion be, and the same is hereby, approved subject to the following conditions:

1. The property shall be developed in substantial compliance with the concept plan dated February 15, 2008, revised March 1, 2008 and received by the Department of Community Development on April 3, 2008.
2. The project will be graded in such a manner as to protect the existing thirty-six (36) inch oaks adjacent to the proposed parking lot.
3. The project shall designate pedestrian walkways/crossings from the outer parking areas to the sanctuary.

Adopted:

Certified: ______________________________
Clerk of Council

052L

The Department of Community Development

City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Planning Division
Date: April 9, 2008
Re: **CONDITIONAL USE PERMIT (CUP): Quaker Memorial Presbyterian Church, 5810 Fort Avenue**

I. PETITIONER

Quaker Memorial Presbyterian Church, 5810 Fort Avenue, Lynchburg, VA 24502
Representative: Russell Nixon, Nixon Land Surveying, LLC, 1063 Airport Road, Suite C, Lynchburg, VA 24502

II. LOCATION

The subject property includes one (1) tract totaling five and eight tenths (5.8) acres at 5810 Fort Avenue.
Property Owner: Quaker Memorial Presbyterian Church, 5810 Fort Avenue, Lynchburg, VA 24502

III. PURPOSE

The purpose of this petition is to allow for the expansion of parking facilities at Quaker Memorial Presbyterian Church.

IV. SUMMARY

- Petition agrees with the *Comprehensive Plan* which recommends an Institutional use in this area.
- Petition agrees with the *Zoning Ordinance* in that church uses are permitted in an R-2, Low-Medium Density Single-Family Residential District with approval of a conditional use permit (CUP) by City Council.

<u>The Planning Division recommends approval of the conditional use permit petition.</u>

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends an Institutional use in this area. According to the plan, Institution areas include religious, educational, and other nonprofit entities. **(page 5.3)** The original concept plan for the church parking area proposed sixty-five (65) new parking spaces. The petitioner and their representative have revised the plan to reduce the number of parking spaces to thirty-nine (39) spaces to provide for the protection of four (4) existing thirty-six (36) inch diameter oak trees. In addition to the preservation of the large trees, the plan provides for additional parking area landscaping and parking area screening to ensure its compatibility with the surrounding residences and businesses.

2. **Zoning.** The existing R-2, Low-Medium Density Single-Family Residential District was established in 1978 with the adoption of the current *Zoning Ordinance*.

3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.

4. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:

   - On April 9, 2002, City Council denied the conditional use permit petition of James A. Taylor at 2012 Wards Road to allow the construction of an automatic car wash in a B-3 zone.

   - On May 14, 2002, City Council approved the conditional use permit petition of Sandusky Baptist Church at 915 Catalina Place for a new sanctuary, family life building and additional parking.

- On March 13, 2001, City Council approved the conditional use permit petition of Quaker Memorial Presbyterian Church at 5810 Fort Avenue to allow the addition of a columbarium into an existing stone wall.
- On September 27, 1994, City Council approved a conditional use permit petition of Lynchburg Sertoma Club to sponsor two (2) shows of Robert Brothers Circus at 6015 Fort Avenue.
- On July 14, 1992, City Council approved the conditional use permit petition of Chestnut Hill Baptist Church at 5225 Fort Avenue to allow an addition of a church office onto the existing church.
- On October 8. 1991, City Council approved the conditional use permit petition of Lynchburg Sertoma Club to sponsor the Allan C. Hills Great American Circus at 6015 Fort Avenue.
- On September 9, 1988, City Council approved the conditional use permit petition of Fort Avenue Church of Christ at 1132 Sandusky Drive for a child care center.
- On July 14, 1987, City Council approved the conditional use permit petition of Autolease, Inc., at 5308 Fort Avenue for the use of an existing building and parking lot for an automobile leasing agency.
- On January 13, 1987, City Council approved the conditional use permit petition of Chestnut Hill Baptist Church at 1157-1165 Lindsay Street for the construction of a parking lot.
- On September 9, 1982, City Council approved the conditional use permit petition of Spanky's Fun Time Pizza at 1200 Fenwick Drive for a restaurant and game room.

5. **Site Description.** The subject property is bound to the west and north by commercial properties, churches, and single-family homes and to the east and south by single-family homes.
6. **Proposed Use of Property.** The purpose of this petition is to allow the expansion of an existing parking area from one hundred twenty-one (121) existing spaces to one hundred sixty (160) total spaces. Landscaping for the parking lot will comply with the requirements of the City's *Zoning Ordinance*; these include street tree plantings, parking area landscaping and parking area screening. The church and their designer have revised the layout of the parking lot to preserve four (4) existing thirty-six (36) inch oak trees. The preservation of these trees may be used as a credit for some of the required landscaping in accordance with the provisions of the ordinance.
7. **Traffic, Parking and Public Transit.** The City's Transportation Engineer had no comments about the proposed parking expansion.

   Parking requirements for the church are set at one (1) space for every three (3) seats by the *Zoning Ordinance*. The two hundred eighty-five (285)-seat sanctuary would require ninety-five (95) parking spaces. The church's existing lot currently includes parking for one hundred and twenty-one (121) vehicles. Thirty-nine (39) parking spaces are proposed for a total of one hundred sixty (160) spaces, thus meeting the requirement of City Code.

   Public transit is currently accessible in this area. Greater Lynchburg Transit Company Route 6 is available directly in front of the site on Fort Avenue.
8. **Storm Water Management.** New impervious areas will exceed one thousand (1,000) square feet; as such, a stormwater management plan will be required for the construction of the parking area. The increase in post-development runoff conditions due to the new impervious area will be managed through the use of a infiltration trenches located within and along the perimeter of the lot. The run-off from the proposed management area would follow the existing drainage patterns of the site; a preliminary drainage review indicates that the receiving channel may require additional channel stabilization in the channel along Dublin Place. Any required work will be addressed prior to site plan approval. Stormwater quality would also be addressed through the proposed infiltration trenches that would be designed to meet the performance or technology based standard requirements based on

percentage of impervious area for the site. The proposed management strategy is acceptable to the City's Environmental Planner.

9. **Emergency Services.** The City's Fire Marshal had no comments regarding the conditional use permit for the parking expansions.

   The City Police Department and Planning staff both recommended that the petitioner add designated pedestrian walkways/crossings from the outer parking areas to the sanctuary for the safety of the church patrons. Although the existing church has walkways around the existing church buildings, no sidewalks or crosswalks have been designated for the parking area. The Police Department also commented that the parking area should be well lit for security, using dusk to dawn pole lights in a tamper resistant housing. The revised plan notes that any new lighting will be glare shielded and non directional; the final lighting layout will be determined during site plan review.

10. **Impact.** The proposed thirty-nine (39) space parking expansion will ultimately allow for a total of one hundred sixty (160) spaces. City staff recommends that the project designate pedestrian walkways/crossings from the outer parking areas to the sanctuary. Traffic, parking and stormwater management concerns have all been addressed to the satisfaction of City staff, and the result is a project that would fit into the fabric of the existing neighborhood.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary concept plan on March 4, 2008. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Quaker Memorial Presbyterian Church's petition for a conditional use permit (CUP) at 5810 Fort Avenue, subject to the following conditions:

4. **The property shall be developed in substantial compliance with the concept plan dated February 15, 2008, revised March 1, 2008 and received by the Department of Community Development on April 3, 2008.**
5. **The project will be graded in such a manner as to protect the existing thirty-six (36) inch oaks adjacent to the proposed parking lot.**
6. **The project shall designate pedestrian walkways/crossings from the outer parking areas to the sanctuary.**

This matter is respectfully offered for your consideration.

William T. Martin

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Mr. J. Lee Newland, City Engineer
Ms. Cynthia L. Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Administrator
Mr. Kent L. White, Senior Planner
Mrs. Erin B. Hawkins, Environmental Planner
Mr. Russ Nixon, Representative

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**
2. **Vicinity Proposed Land Use**
3. **Watershed Location Map**
4. **Site Plan**

MINUTES FROM THE APRIL 9, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

a. Petition of Quaker Memorial Presbyterian Church for a conditional use permit at 5810 Fort Avenue to allow the expansion of church parking facilities in an R-2, Low-Medium Density Single-Family Residential District.

Mr. Martin addressed the commissioners with the following comments. The petition proposes the construction of a 39-space parking area. This submittal is actually a reduction of what was originally shown, which had a 65-space parking area. The reduction in the size of the parking lot was in an attempt to save four 36-inch diameter oak trees, and we applaud the petitioner for doing that. The City's *Future Land Use Map* recommends an Institutional land use for the property. These areas are characterized by religious, educational and other non-profit entities. Stormwater management and quality will be handled by the use of infiltration trenches, which will be located within the parking area and around the perimeter of the parking lot. The City's Transportation Engineer had no comments or concerns, and access to the parking lot will be from an existing entrance to the church located off John Lynch Place. The Planning Division does recommend approval of the conditional use permit with conditions outlined in the report.

Commissioner Sale indicated that he would be abstaining from the vote, as this is the church he retired from.

Chair Hamilton asked for a representative to speak on behalf of the petition, and Mr. Russ Nixon with Nixon Land Surveying came forward. Currently, the church has an overflow problem from their morning service and their afternoon service. This parking lot will allow for better traffic flow and better parking requirements for the church patrons. Mr. Nixon feels that their latest smaller design is better for the city and for the church. By decreasing the size of the parking lot, they were able to save several large oak trees. They will be meeting all the stormwater quantity and stormwater quality requirements.

Chair Hamilton asked for anyone else to speak in favor of the petition, and Mr. Robert Power, Chairman of the Buildings and Grounds Committee for the church, came forward. He had questions about the requirements. One was about the screening along John Lynch Place. He did not understand why they needed additional trees, when there is a sufficient amount of trees already. The adjacent property owners are a carpet shop and one rental shop. He wanted if they could consider eliminating that condition.

The other item he wanted to address is the stabilization of the channel that runs down Dublin Place, which is the outflow from the drainage from this area. The ditches in that particular area are in a very bad state of disrepair from the city's standpoint, and he feels that the city needs to attend to this situation. Mr. Power feels that the outflow of their water would not have a real problem in the channel, and he does not feel that the church should have the responsibility of cleaning out that whole area.

Chair Hamilton asked for anyone else to speak either in favor or opposition to the petition. No one came forward. She closed the public hearing portion of the petition.

Chair Hamilton asked Mr. Nixon to talk about the infiltration trenches and why they were a good idea. He said that they are trying to stabilize the water velocity coming off the new impervious area. The infiltration system will also act as a water quality feature. While they were ensuring their adequate outflow channel, they discovered that there is some scouring and some rilling along that ditch. Several of the neighboring driveway pipes are clogged, causing water to sheet flow across their driveways. Mr. Nixon agrees that Ms. Hawkins' comments are valid based on true design for this type of project. But he and the client want to know how far the city will make them go to ensure that there is an adequate channel there. Mr. Nixon is concerned with how much expense his client will incur as a result of something they do not feel is their responsibility.

Chair Hamilton asked Ms. Hawkins to address this issue. She explained that one of the things they look at is whether or not there is an adequate channel. When they did an initial inspection, there did appear to be some minor things, nothing serious in nature. At the time that this comes back as a site plan, they will be looking at whether any of this will fall on the City to address—roadway improvement to be complete or stabilization issues that need to be done concurrently with the site plan development. Also, they will be looking at the soils around the parking area and whether they will permit an infiltration area. There may be no net increase in stormwater runoff leaving this site after the project is done. That is taken care of at the site plan stage. In theory, this should work well and take care of the technical issues. Hopefully, anything that needs to be done along Dublin Place will be minor. Chair Hamilton asked if the City will make homeowners unclog their drains, and Ms. Hawkins said they will look at that--if it is a city right-of-way issue that needs to be improved or if it will fall back on the church. She does not know that at this time, but they will do their best to mitigate any serious issues that would fall on the city and take responsibility for those.

Chair Hamilton asked Mr. Martin to address Mr. Power's concern about screening. Mr. Martin explained that the *Landscape Ordinance* provides for a credit in the amount of required trees if there is preservation of large diameter trees, but it does not exempt from the parking lot screening requirements, and that is where this requirement is coming from.

Commissioner Worthington asked for clarification about what the city might make the church do. He is concerned that the church will do something and the City might come back later and say there is more they have to do. Mr. Martin pointed out that this issue would exist whether there was a conditional use permit petition or whether the parking lot was done by right. They would still have to ensure an adequate channel. The problem will have to be resolved prior to final site plan review approval through the normal administrative process.

Commissioner Oglesby made the following motion, which was seconded by Commissioner Barnes and passed by the following vote:

"That the Planning Commission recommends to City Council approval of Quaker Memorial Presbyterian Church's petition for a conditional use permit (CUP) at 5810 Fort Avenue, subject to the following conditions:

1. **The property shall be developed in substantial compliance with the concept plan dated February 15, 2008, revised March 1, 2008 and received by the Department of Community Development on April 3, 2008.**
2. **The project will be graded in such a manner as to protect the existing thirty-six (36) inch oaks adjacent to the proposed parking lot.**
3. **The project shall designate pedestrian walkways/crossings from the outer parking areas to the sanctuary."**

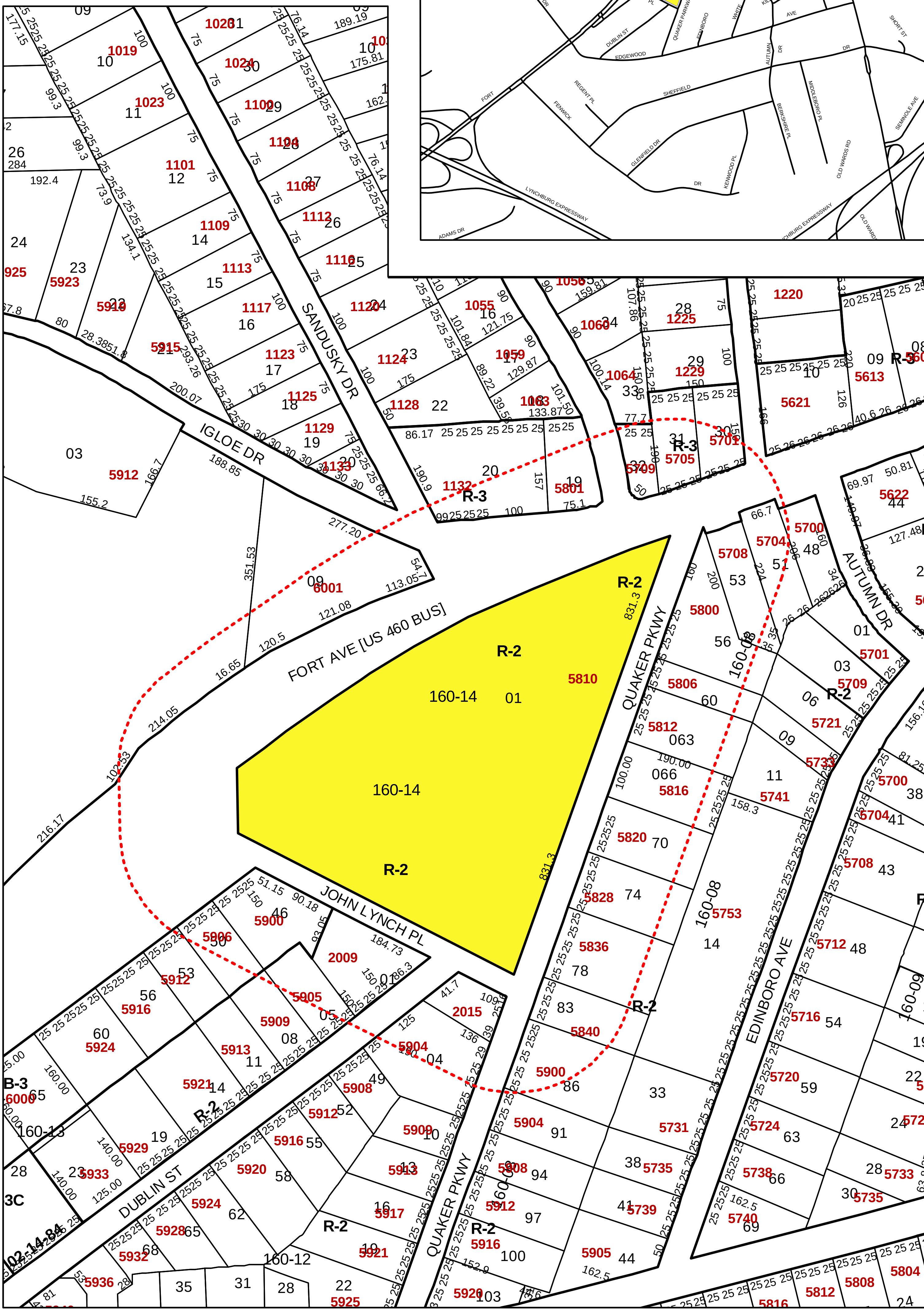
AYES:	Barnes, Hamilton, Hannon, Oglesby, Swienton and Worthington	6
NOES:		0
ABSTENTIONS:	Sale	1
ABSENT:		0

QUAKER MEMORIAL PRESBYTERIAN CHURCH
5810 Fort Avenue
Map # 160-14-001
Conditional Use Permit Request
Petitioner: Quaker Memorial Presbyterian Church

MAP PREPARED BY
THE DEPARTMENT OF COMMUNITY DEVELOPMENT

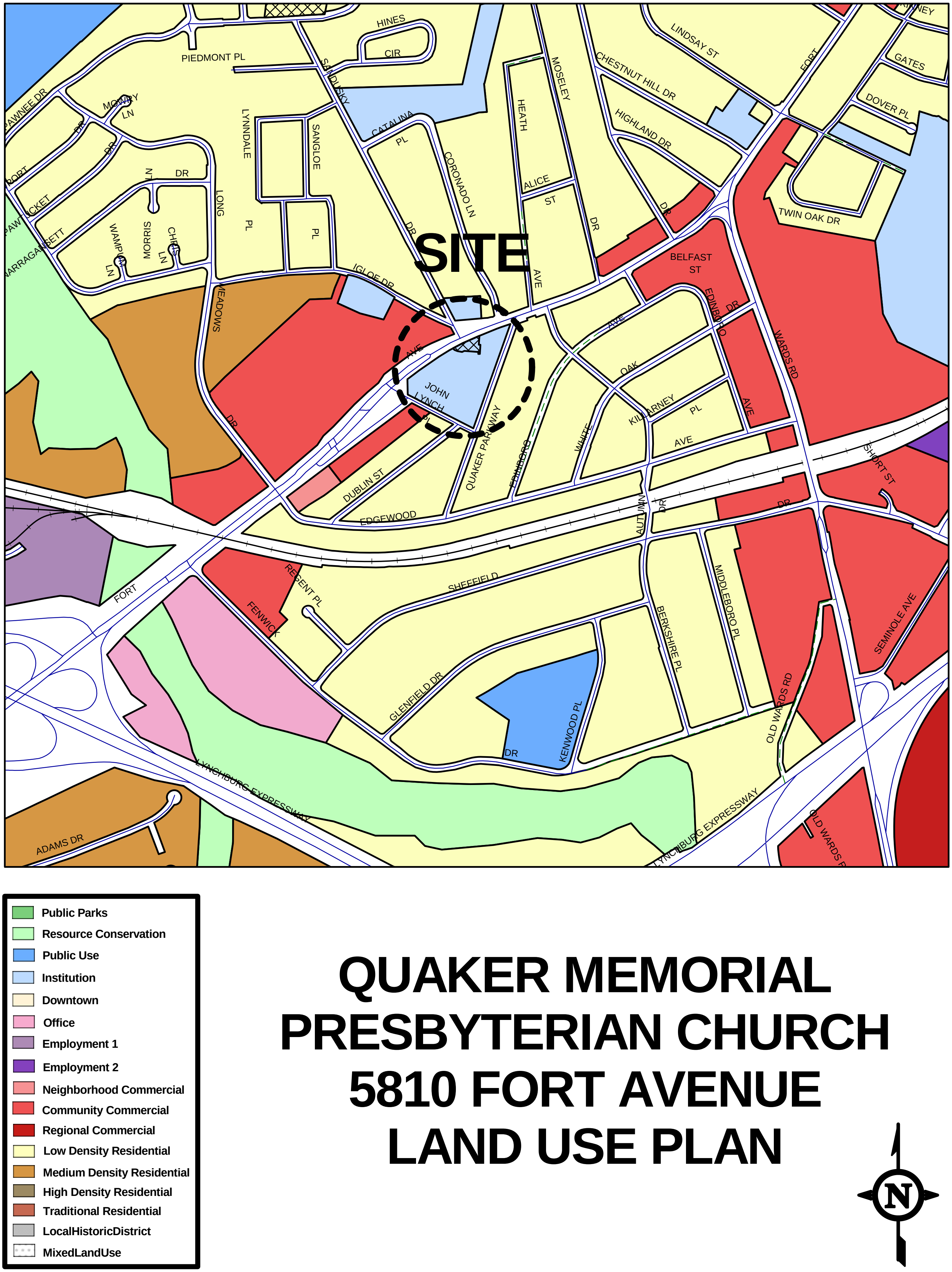
N

Proposed Rezoning
Subject Property
200 ft Radius



QUAKER MEMORIAL ADJOINING OWNERS

PIN	OWNER	LOCADDR
15501004	FORT HILL INVESTORS LLC	6015 FORT AVE
15501009	INLAND AMERICAN ST PORTFOLIO LLC	6001 FORT AVE
15906030	SLOCOM JOHN A JR	5701 FORT AVE
15906031	LYTTLE FREDERICK G JR & DOROTHY V	5705 FORT AVE
15906032	LYTTLE FREDERICK G JR & DOROTHY V	5709 FORT AVE
15906033	BRYANT ALVIN S & BETTY D	1064 CORONADO LN
15913019	KISER RONALD E	5801 FORT AVE
15913020	CHURCH OF CHRIST OF LYNCHBURG	1132 SANDUSKY DR
16008048	SNOW RHONDA L	5700 FORT AVE
16008051	WHITE WILLIAM H II	5704 FORT AVE
16008053	MADDOX JOHN A & ANNYCE	5708 FORT AVE
16008056	ROYAL RUSSELL D & WANNA H	5800 QUAKER PKWY
16008060	ANDREWS HUGH P	5806 QUAKER PKWY
16008063	MCBRIEN THERESA J	5812 QUAKER PKWY
16008066	PEARSON RICHARD C JR	5816 QUAKER PKWY
16008070	PAIGE RAY J & LUCILLE P	5820 QUAKER PKWY
16008074	PAIGE RAY JAMES & LUCILLE P	5828 QUAKER PKWY
16008078	LAYCOCK ROBERT A & EVELYN B	5836 QUAKER PKWY
16008083	EDDY TARA L	5840 QUAKER PKWY
16008086	BURNETTE CORNELIA B LIFE	5900 QUAKER PKWY
16008091	TYREE MARION D	5904 QUAKER PKWY
16012001	GILES MARLENE S & JOSEPH N	2015 JOHN LYNCH PL
16012004	SANTIMORE DANIEL C	5904 DUBLIN ST
16013001	CARPET SHOP OF LYNCHBURG INC	2009 JOHN LYNCH PL
16013005	CARPET SHOP OF LYNCHBURG INC	5905 DUBLIN ST
16013008	CARPET SHOP OF LYNCHBURG INC	5909 DUBLIN ST
16013046	CARPET SHOP OF LYNCHBURG INC THE	5900 FORT AVE
16013050	CARPET SHOP OF LYNCHBURG INC THE	5906 FORT AVE
16013053	VICTORIA'S INVENTORY LLC	5912 FORT AVE
16014001	QUAKER MEMORIAL PRESBYTERIAN CHURCH	5810 FORT AVE
Owner	QUAKER MEMORIAL PRESBYTERIAN CHURCH	
Petitioner	QUAKER MEMORIAL PRESBYTERIAN CHURCH	
Representative	RUSS NIXON/NIXON LAND SURVEYING	



QUAKER MEMORIAL PRESBYTERIAN CHURCH 5810 FORT AVENUE LAND USE PLAN

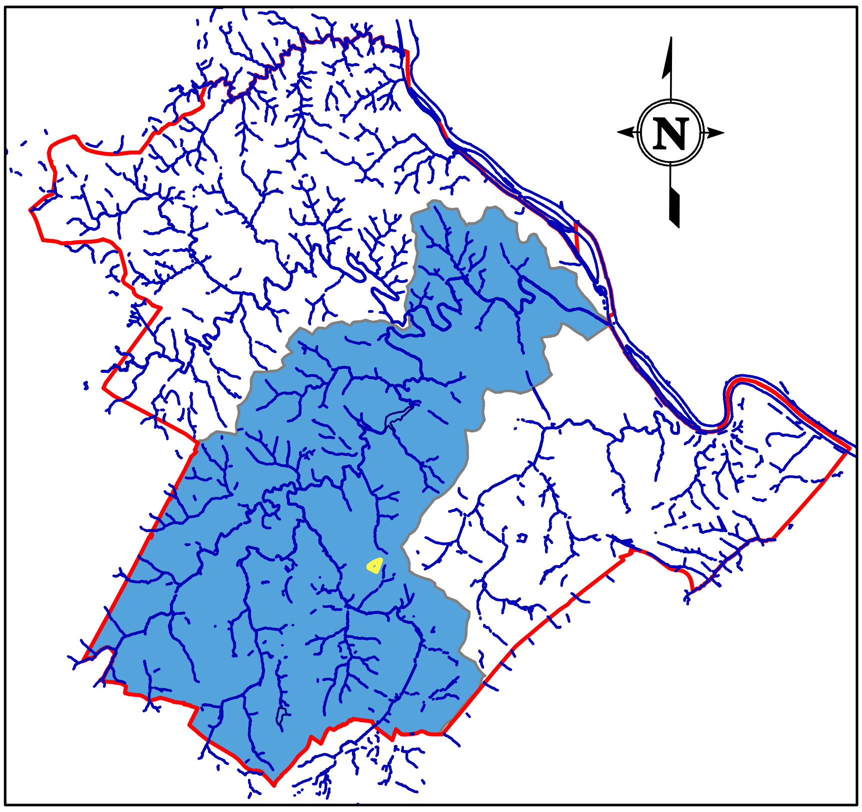
Quaker Memorial Presbyterian Church
Watershed Location Map

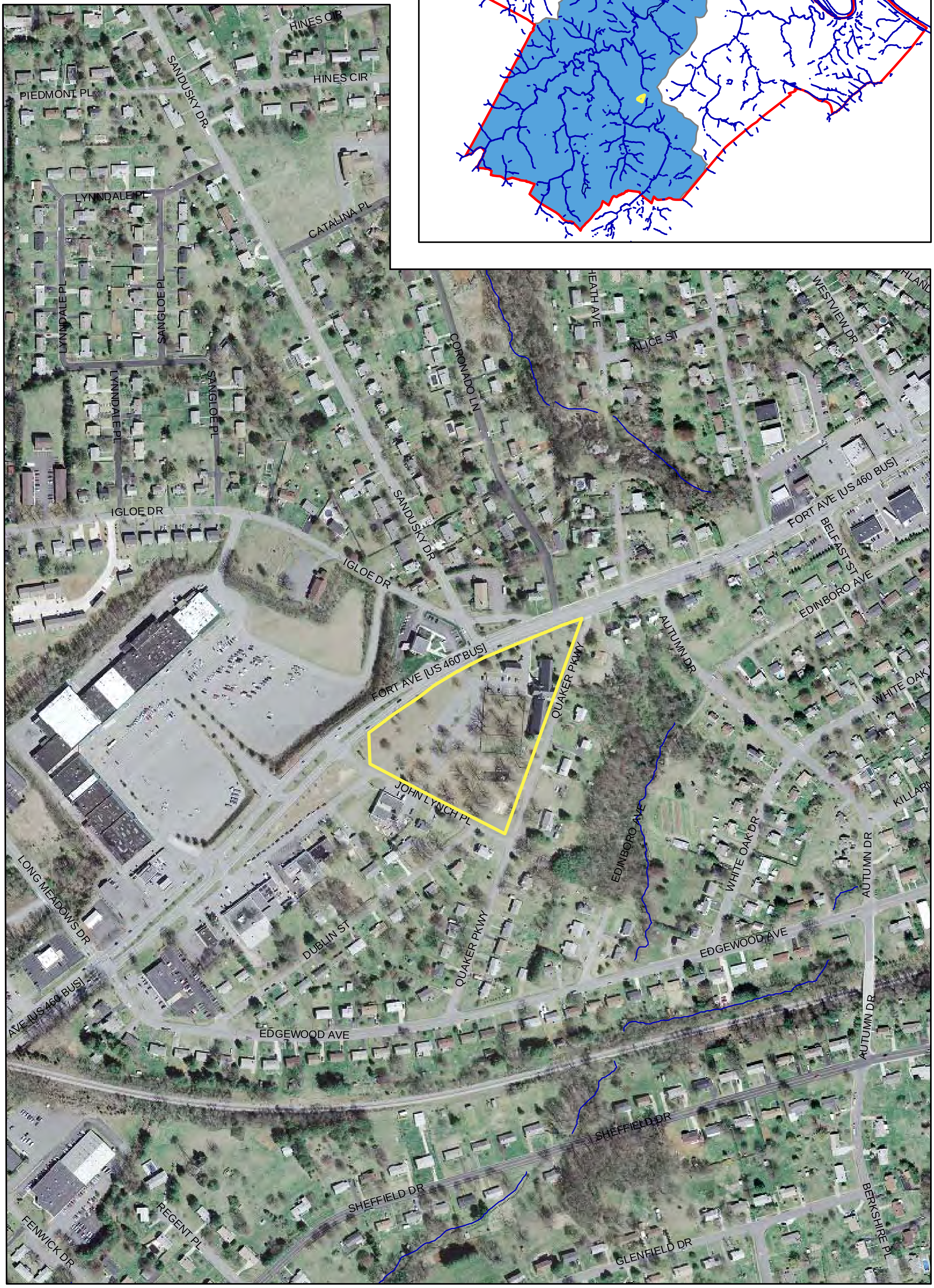
Legend

Project Site

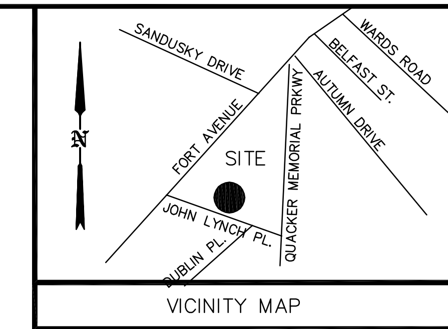
Corporate Limit

Blackwater Creek Watershed





SITE PLAN FOR A CONDITIONAL USE PERMIT



STORMWATER MANAGEMENT AND QUALITY NOTE:
1. ALL EROSION AND SEDIMENT CONTROL DEVICES SHALL BE PER THE STANDARDS AND SPECIFICATIONS OF THE MOST RECENT VERSION OF THE VIRGINIA EROSION AND SEDIMENT CONTROL HANDBOOK.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL EROSION CONTROL DEVICES FOR THE DURATION OF THE PROJECT. ALL EROSION CONTROL DEVICES SHALL BE CHECKED DAILY TO INSURE THAT ALL ARE PROPERLY IN PLACE AND FUNCTIONING AS PLANNED. ALL EROSION CONTROL DEVICES WILL BE REPAIRED (CLEANED) AS NECESSARY, AND AFTER EACH RAINFALL PRODUCING RUNOFF AS A MINIMUM.
3. CITY WILL INSPECT STORM SEWER SYSTEM UPON COMPLETION OF THE PROJECT. CONTRACTOR SHALL REMOVE ANY SEDIMENT OR DEBRIS FOUND IN STORM SYSTEM AT DEVELOPER'S EXPENSE.
4. ALL DISTURBED AREAS TO RECEIVE TEMPORARY SEEDING, PERMANENT SEEDING AND MULCH.
5. ALL TEMPORARY SEDIMENT TRAPS WILL BE REMOVED ONCE THE SITE HAS BEEN STABILIZED AND A PERMANENT STAND OF GRASS HAS BEEN ESTABLISHED OR BAS STONE HAS BEEN LAID IN AREAS TO BE PAVED.
6. ALL FILL TO BE COMPACTED TO 98% STANDARD PROCTOR, PLACED IN 6" LIFTS.
7. PROVIDE TEMPORARY SEEDING AND MULCH ON ALL DIVERSIONS AND TRAPS IMMEDIATELY FOLLOWING CONSTRUCTION.
8. EARTHWORK CALCULATED VOLUMES SUSPECTED TO BALANCE AT THIS TIME.
9. NO LAND DISTURBANCE ACTIVITY SHALL OCCUR PRIOR TO THE ISSUANCE OF A LAND DISTURBANCE PERMIT TO THE CONTRACTOR FROM THE CITY OF LYNCHBURG.
10. THE CITY OF LYNCHBURG REQUIRES A PRE-CONSTRUCTION MEETING ON-SITE WITH THE ENGINEER, THE RESPONSIBLE LAND DISTURBER AND CITY OFFICIALS PRIOR TO ISSUING THE LAND DISTURBANCE PERMIT. CONTRACTOR TO CONTACT ERIN HAWKINS AT (434) 455-3869 TO SETUP MEETING.
11. ALL STORMWATER QUALITY MEASURES TO BE PUT IN PLACE AS CALLED FOR ON FINAL APPROVED SITE PLAN.
12. THE STORMWATER DRAINAGE TO BE CONTROLLED BY INFILTRATION TRENCHES STRATEGICALLY PLACED INSIDE AND AROUND THE PROPOSED PARKING AREA. THE TRENCHES WILL BE WATER QUALITY FEATURES AS TO ALLOW FOR THE STORMWATER TO FILTRATE AND SATURATE THE EXISTING GROUND, NO MECHANICAL DEVICES ARE PROPOSED FOR THIS SITE.

PROPERTY CURRENTLY ZONED: R-2
PROPOSED ZONING R-2

THE OWNERS DO NOT WISH TO PROFFER ANYTHING AT THIS TIME.

THE CURRENT PARKING COUNT FOR THIS PROPERTY IS 121 EXISTING SPACES.
THE PROPOSED PARKING LOT PROPOSES 39 ADDITIONAL SPACES, THUS INCREASING THE PARKING COUNT TO 160 PARKING SPACES.

THE TOTAL AREA OF THE NEW PARKING AREA IS 11,503 SQ. FT. OR 0.264 ACRES.

THE FINAL SITE PLAN WILL MEET THE CITY OF LYNCHBURG DESIGN CRITERIA.

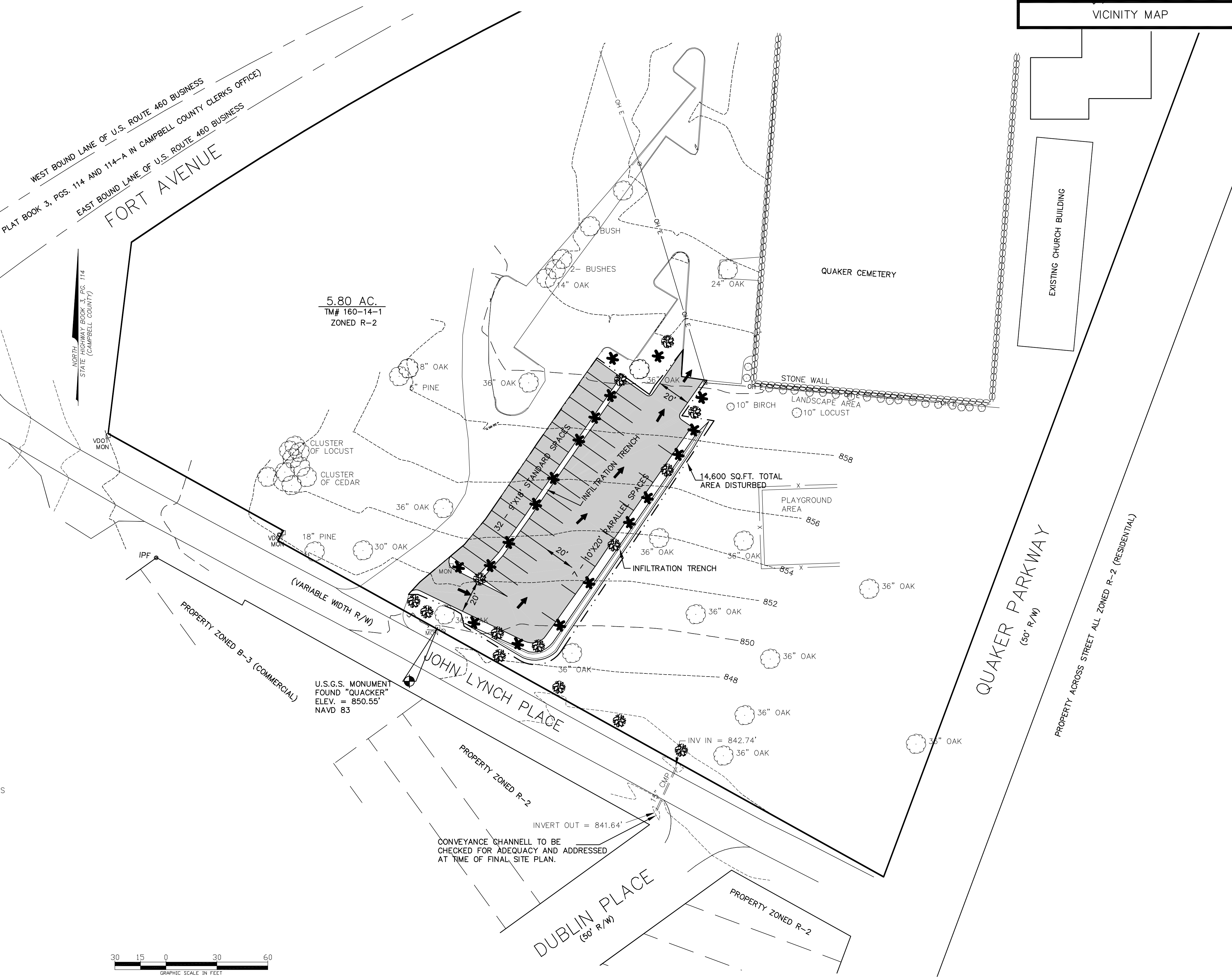
ALL STORM WATER MEASURES FOR QUANTITY AND QUALITY WILL BE MET.

THE EXISTING TREES SHOWN HEREON ARE TO BE PROTECTED AGAINST REMOVAL AND OR DAMAGE.

THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY, ONLY ENOUGH INFORMATION WAS LOCATED IN THE FIELD A ASSURE THE RELATIONSHIP OF THE PROPOSED PARKING LOT AND ROAD RIGHT OF WAY ARE SHOWN ACURATELY.

ANY NEW LIGHTING WILL BE GLARE-SHEILDED AND NON DIRECTIONAL

THE EXISTING PLAY GROUND SHOWN HEREON IS TO REMAIN AND PROTECTED.



NOTES:
1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES UPON THE PROPERTY.
2. THIS PROPERTY IS NOT IN FLOOD ZONE A OR B. THIS PROPERTY IS IN FLOOD ZONE C AS SCALED FROM F.E.M.A. FLOOD INSURANCE RATE MAP(S).
3. THIS PLAT HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY DONE PER DATE OF THIS PLAT AND THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS EXCEPT AS SHOWN HEREON.

SOURCE OF TITLE:
QUACKER MEMORIAL PESBYTERIAN CHURCH
INST# 040010243

SURVEYED FOR: QUAKER MEMORIAL PRESBYTERIAN CHURCH

Nixon Land Surveying, L.L.C.
1063C Airport Road
Lynchburg, VA 24502
Phone: (434) 237-3600
Fax: (434) 237-0699
Email: ren@nixonlsec.com
www.nixonlandsurveying.com

DO NOT MOVE AN ANCIENT BOUNDARY STONE OR ENCROACH ON THE FIELDS OF THE FATHERLESS. PROVERBS 23:10 (NIV)

SITE PLAN FOR
CONDITIONAL USE PERMIT
FOR THE EXPANSION OF
QUAKER MEMORIAL PARKING AREA
CITY OF LYNCHBURG, VIRGINIA

COMM. NO.: 2008029	REVISED: 3/1/08	
SCALE: 1"=30'	DR. BY: REN	DATE: 2/15/08
SHEET: 1 OF 1	CHK. BY: REN	DRW. NME. SITE

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008**		AGENDA ITEM NO.: 11
CONSENT:	REGULAR: **X**	CLOSED SESSION:
ACTION: **X**	INFORMATION:	

ITEM TITLE: **ZONING ORDINANCE AMENDMENTS - Section 35.1-45 Flood hazard districts; floodway districts (FW), floodway fringe (FF) and approximated flood plain districts (AFP)**

RECOMMENDATION: Approval of the *Zoning Ordinance* amendments.

SUMMARY: The purpose of the *Zoning Ordinance* amendments is to adopt a new Flood Insurance Study [FIS] and Flood Insurance Rate Maps [FIRM] (dated December 3, 2007) that will become effective June 3, 2008 and make required updates to the ordinance. The City is required by the Federal Emergency Management Agency [FEMA] to update its *Zoning Ordinance* to remain in compliance with and participate in the National Flood Insurance Program [NFIP]. Clerical and grammatical corrections were also made to make the ordinance more concise and consistent.

The Planning Commission recommended amending the *Zoning Ordinance* Section 35.1-45 because:

- The City's *Comprehensive Plan 2002-2020* recommended developing more accurate maps of the City's 100-year floodplains to assess the impacts of development in floodplains more accurately.
- The City is required to adopt floodplain regulations prior to the effective date of the FIRM maps to maintain compliance with FEMA regulations and the NFIP.

PRIOR ACTION(S):

April 9, 2008:	Zoning and Natural Resources Division recommended adoption of the proposed Ordinance amendments.
	Planning Commission recommended changes and to move to a work session.
April 23, 2008:	Zoning and Natural Resources Division recommended adoption of the Ordinance amendments with recommended changes.
	Planning Commission recommended adoption (6-0, Absent - Oglesby) of the proposed Ordinance amendments.

FISCAL IMPACT: N/A

CONTACT(S):

Charlene Montford/455-3902
Rob Fowler/455-3903
Erin Hawkins/455-3869

ATTACHMENT(S):
- Proposed Zoning Ordinance amendments.
- Clarification of Planning Commission Comments.
- Planning Commission Reports (2)
- Planning Commission Minutes (2)
- Speaker Sign-up Sheet

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 35.1-45 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, AS AMENDED, THE AMENDED SECTION RELATING TO FLOOD HAZARD DISTRICTS.

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

1. That in order to promote the public necessity, convenience, general welfare, and good zoning practice Section 35.1-45 of the Code of the City of Lynchburg, 1981, as amended, be further amended and reenacted as follows:

Sec. 35.1-45. Flood hazard districts: floodway districts (FW), floodway fringe districts (FF), and approximated floodplain districts (AFP).

(a) Intent. These districts are to provide primarily for the preservation and protection of lives and property in the floodplain areas of the city as well as to satisfy the Federal Emergency Management Agency (FEMA) requirements for full compliance with the National Flood Insurance Program (NFIP) to:

(1) Prevent the loss of life and excess damage to property in flood hazard areas.

(2) Promote health and safe use of floodplains and avoid disruption of commerce and industry, extraordinary public expenditures for flood relief and the impairment of the tax base.

(3) Restrict or prohibit uses which are dangerous to health, safety or property in times of flood.

(4) Require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction.

(b) Definitions

(1) Base flood – The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(2) Base flood elevation – The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation.

(3) Basement – Any area of the building having its floor sub-grade (below ground level) on all sides.

(4) Board of Zoning Appeals – The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

(5) Development – Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

(6) Elevated building – A non-basement building built to have the lowest floor elevated about the ground level by means of fill, solid foundation perimeter walls, pilings or columns (posts and piers).

(7) Encroachment – The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

(8) Flood or flooding –

1. A general or temporary condition or partial or complete inundation of normally dry land areas from:

a. the overflow of inland or tidal waters; or,

b. the unusual and rapid accumulation or runoff of surface waters from any source.

2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual an unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

(9) Floodplain or flood-prone area – Any land area susceptible to being inundated by water from any source.

(10) Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(11) Freeboard – A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

(12) Historic structure – Any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;

4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. by an approved state program as determined by the Secretary of the Interior; or,
b. directly by the Secretary of the Interior in states without approved programs; or,

5. any building located in a local historic district as designated by Section 35.1-44.1 of the Zoning Ordinance.

(13) Lowest Floor – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such

enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

(14) Manufactured home – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred and eighty (180) consecutive days.

(15) New construction – For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of the initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

(16) Recreational vehicle – A vehicle which is:

1. built on a single chassis;
2. four hundred (400) square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and,
4. designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel or seasonal use.

(17) Shallow flooding area – A special flood hazard area with the base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(18) Start of construction – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of the property accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(19) Substantial damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damaged occurred.

(20) Substantial improvement – Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the *start of construction* of the improvement. The term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.

(21) watercourse – A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(c)~~(b)~~ Boundaries. The boundaries of the flood zoning districts will be shown on the official zoning map, as they become available, and shall be determined by the water surface profiles, and, in the event of conflict between the boundaries shown on the official zoning map and the water surface profiles, the water surface profiles shall control. Applicants for a building permit must ensure to the satisfaction of the building inspector and the board of zoning appeals that the building site is not in a floodplain.

The building official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements or other development in Zone A comply with applicable sections of this ordinance.

(d)~~(c)~~ Warning and disclaimer of liability. The degree of flood protection required by this ordinance is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

(e)~~(d)~~ Establishment of zoning districts. The flood hazard areas within the jurisdiction of this ordinance are hereby divided into ~~three (3)~~ four (4) sections: floodway districts (FW), floodway fringe districts (FF), ~~and~~ approximated floodplain districts (AFP), and special floodplain districts (SFD).

The basis for the delineation of these districts shall be the flood insurance study (FIS) for the City of Lynchburg, Virginia, prepared by the ~~f~~Federal ~~e~~Emergency ~~m~~Management ~~a~~Agency (FEMA), federal insurance administration, dated ~~November 16, 1983~~ June 3, 2008, or as amended. Any changes in the delineation are subject to the prior approval of the federal insurance administrator.

(1) The floodway district is delineated for purposes of this Ordinance using the criteria that a certain area within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation ~~of that flood more than one (1) foot at any point~~. The areas included in this district are specifically defined in Table 2 of the above-referenced flood insurance study and shown on the accompanying ~~f~~Flood Insurance Rate Maps (FIRM) ~~boundary and floodway map~~.

(2) The flood-fringe district shall be that area of the one hundred (100)-year floodplain not included in the floodway district. The basis for the outermost boundary of this district shall be the one hundred (100)-year flood elevations contained in the flood profiles of the above-referenced flood insurance study and as shown on the accompanying ~~f~~Flood Insurance Rate Maps (FIRM) ~~boundary and floodway map~~, ~~November 16, 1983~~ dated June 3, 2008, and subsequent revisions.

(3) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown on the flood boundary and floodway map and/or flood insurance rate map. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data such as the U. S. army corps of engineers, floodplain information

reports, U. S. geological survey flood prone quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the city.

(4) The special floodplain district shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided but for which no floodway has been delineated.

(f)~~(e)~~ Alteration or relocation of a watercourse.

(1) Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, stream, etc., within the City of Lynchburg, the following procedures shall apply:

a. Notification shall be given by the developer to the ~~f~~Federal ~~e~~Emergency ~~m~~Management ~~a~~Agency (FEMA) for work in any stream, watercourse, etc., identified in the flood insurance study (FIS) for the City of Lynchburg.

b. Approval shall be obtained from the department of community development ~~City of Lynchburg~~ for work in any stream, watercourse, etc. in Lynchburg. The developer may be required to provide hydrologic and hydraulic analyses for approval.

c. Notification shall be given by the developer to the ~~state~~ Virginia ~~d~~Division of ~~soil and water conservation~~ Dam Safety and Floodplain Management, (~~d~~Department of ~~c~~Conservation and ~~r~~Recreation), for any proposed work in any stream, watercourse, etc. in the City of Lynchburg and any required permits obtained before work will be permitted. A permit from the U. S. Army Corps of Engineers and the Virginia Marine Resources Commission, and certification from the Virginia State Water Control Board, may be necessary. (A joint permit is available from any of these agencies.) It shall be the responsibility of the developer to obtain all necessary permits. Further notification shall be given by the developer to all adjacent affected jurisdictions, as determined by the City of Lynchburg. Copies of this notification shall be forwarded to the Lynchburg ~~planning division~~ department of community development and any affected counties.

d. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any water course, drainage ditch or any other drainage facility or system.

(2) All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a building permit and/or land disturbance permit. Such development shall be undertaken only in strict compliance with the provisions of the city's zoning ordinance, the Virginia Uniform Statewide Building Code, the City of Lynchburg subdivision regulations and with all other applicable codes and ordinances, as amended. All proposed development within flood hazard areas will be reviewed to assure that all necessary permits have been obtained from those governmental agencies from which approval is required by federal or state law, including Section 404 of the federal water pollution control act amendments of 1972, 33 V.S.C. 1334.

(g)~~(f)~~ Prohibited uses: floodway district (FW). The following structures and uses are hereby prohibited in the floodway district:

(1) The storage or processing of materials that are pollutants, buoyant, flammable, poisonous, explosive or could be injurious to human, animal or plant life in time of flooding or that have high flood damage potential.

(2) Garbage and waste disposal facilities including any further encroachment upon the floodway at existing sites.

(3) Recreational uses which use fencing to surround the playing area—such as tennis courts or fenced ball fields.

(h)~~(g)~~ Uses permitted by right: floodway district (FW). The following uses shall be permitted within the floodway district; provided that they are not prohibited by any other ordinance, and, provided further, that encroachments, including fill, new construction, substantial improvements and other development within the floodway district shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(1) Agricultural uses such as general farming, pasturing, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

(2) Industrial—commercial uses such as loading areas, parking areas, airport landing strips.

(3) Recreational uses such as temporary festivals operated by nonprofit organizations, golf courses, driving ranges, archery ranges, picnic areas, boat launching ramps, parks, swimming areas, fish hatcheries, wildlife preserves, game farms, target ranges, hiking and horseback trails and hunting and fishing areas.

(4) Residential uses such as lawns, gardens, parking areas and play areas.

(5) Transportation and service uses such as streets, bridges, pipes and pipelines, utilities and railroads, provided:

a. ~~n~~New and replacement water supply systems are to be designed to minimize or eliminate infiltration of flood waters into the systems; and

b. (i) ~~n~~New and replacement sanitary sewage systems are to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and (ii) onsite waste disposal systems are to be located to avoid impairment to them or contamination from them during flooding.

c. Adequate drainage shall be provided to reduce exposure to flood hazards.

(i)~~(h)~~ Uses permitted by conditional use permit: floodway district (FW). Certain conditional uses may be allowed within the floodway district provided they comply with the regulations of Section 35.1-15 and Article X of this ordinance. However, encroachments, including fill, new construction, substantial improvements and other development within the floodway districts, shall be proved not to result in any increase in flood levels within the community during the occurrence of the base flood discharge. Conditional uses include the following:

(1) Structures accessory to open space.

(2) Circuses, carnivals and similar transient amusement facilities.

(3) New and used car lots, roadside stands.

(4) Extraction of sand, gravel and other natural materials.

(5) Marinas, boat rentals, docks, piers, wharves.

(6) Storage yards for equipment, machinery or materials.

(7) Residential structures. All new construction and substantial improvements shall have the lowest floor (including basement) elevated to at least one (1) foot above the one hundred (100)-year flood level. Accessory land uses such as yards, parking areas and railroad tracks may be placed at lower elevations.

Residential structures will have a means of ingress and egress to land outside the flood hazard district which is above the one hundred (100)-year flood level. The means of pedestrian ingress and egress shall be a minimum of fifteen (15) feet wide, or five (5) feet wide if equipped with handrails or other safety features. Such structures will also have a means of ingress and egress to land outside the flood hazard district for emergency vehicles.

Existing structures in the floodway area shall not be expanded or enlarged unless it has been demonstrated through hydrologic or hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.

The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the Virginia Uniform Statewide Building Code.

All manufactured homes to be placed or substantially improved within the ~~F~~flood ~~H~~hazard ~~D~~district shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the applicable provisions of the city.

All recreational vehicles placed on sites must either:

(a) be on the site for fewer than one hundred and eighty (180) consecutive days;

(b) be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has not permanently attached additions); or,

(c) meet all the requirements for manufactured housing, including anchoring and elevation requirements.

(8) Nonresidential structures. All new construction and substantial improvements shall have the lowest floor (including basement) elevated to at least one (1) foot above the one hundred (100)-year flood level or "flood-proofed" in accordance with the requirements of the Virginia Uniform Statewide Building Code.

(9) Fill.

a. Any fill or materials proposed to be deposited in the flood hazard district must be shown to have some beneficial purpose and the amount thereof shall not be greater than on a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.

b. Such fill or other materials shall be protected against erosion by riprap, bulkheading or vegetative cover.

c. The applicant must show that construction of the fill will not cause damage to upstream properties by raising the flood surface profile.

(10) Mechanical and utility equipment. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(11) Use of openings in enclosures below a structure's lowest floor. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding and that are used solely for parking of vehicles, building access or storage in an area other than a basement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(12) Other uses similar in nature which are consistent with the provisions put forth in the statement of intent.

Storage of materials or equipment, not prohibited in Subsection 35.1-45~~(f)~~(g)(2), may be allowed if it is not subject to damage by floods and is either firmly anchored to prevent flotation or easily removable from the designated area within the time available after an official flood warning has been issued.

(j)~~(i)~~ Uses permitted by right: floodway fringe district (FF). Any use permitted in the floodway district (FW) may be permitted within the floodway fringe district (FF) provided it is not in conflict with any existing ordinances.

(k)~~(j)~~ Uses permitted by conditional use permit: floodway fringe district (FF). The following conditional uses will be permitted within the floodway fringe district provided they comply with the regulations of Section 35.1-15 and Article X of this ordinance: Refer to section 35.1-45 (i)

~~Conditional uses permitted in the floodway district (FW).~~

(l)~~(k)~~ Uses permitted by right: Approximated floodplain district (AFP). Any use permitted in the floodway district (FW) and floodway fringe district (FF) may be permitted within the approximated floodplain district (AFP) provided it complies with the regulations of Section 35.1-45~~(d)~~(e)(3) of this ordinance and is not in conflict with any existing ordinances.

(m)~~(l)~~ Uses permitted by conditional use permit: Approximated floodplain district (AFP). Any conditional use permitted in the floodway district (FW) and floodway fringe district (FF) may be permitted in the approximated floodplain district (AFP) provided it complies with Sections 35.1-15; 35.1-45~~(d)~~(e)(3) and Article X of this ordinance.

(n) Within the special floodplain district the following provisions apply:

(1) Until a regulatory floodway is designated, no new construction, substantial improvements or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood within the City of Lynchburg.

(o)~~(m)~~ Flood-proofing measures. When the board of adjustments and appeals declares that a structure must provide watertight flood-proofing before issuance of a use, conditional use or variance permit may be allowed, the applicant for said permit will submit a plan or documents certified by a professional engineer and/or architect registered in the Commonwealth of Virginia, that the flood-proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for that particular area.

(p)~~(n)~~ Regulation of real estate sales in flood hazard areas.

(1) Any owner or partial owner of real estate or his agent and any real estate broker or his agent who contracts to sell or sells real estate subject to a floodplain regulation without first notifying in writing the buyer or his agent that such real estate is subject to floodplain regulation shall be guilty of a class 3 misdemeanor. Such an offense carries a fine of not more than five hundred dollars ($500.00). In addition, the buyer shall have the right to rescind the contract and the right to recover damages sustained by the buyer, whether or not the contract is rescinded.

(2) Floodplain regulation referred to in Subsection (1) above includes zoning ordinances, subdivision regulations and building codes which impose restrictions specifically related to flooding on the whole or a portion of the lands.

(q)~~(o)~~ Development standards for public and private utilities. See Section 35.1-~~76~~75.

(r)~~(p)~~ Variances to flood hazard district regulations. ~~See Section 35.1-13(c).~~

In passing upon applications for Variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in Section 35.1-13(d) of the zoning ordinance and consider the following additional factors:

(1) The showing of good and sufficient cause.

(2) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.

(3) The danger that materials may be swept on to other lands or downstream to the injury of others.

(4) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(5) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(6) The importance of the services provided by the proposed facility to the community.

(7) The requirements of the facility for a waterfront location.

(8) The availability of alternative locations not subject to flooding for the proposed use.

(9) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(10) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.

(11) The safety of access by ordinary and emergency vehicles to the property in the time of flood.

(12) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

(13) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(14) Such other factors which are relevant to the purposes of this ordinance.

The board of zoning appeals may refer to any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.

The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

(s)~~(q)~~ Building permits in floodplain district. All building permit applications issued for the floodplain district shall incorporate the following information:

(1) For residential structures ~~that have been elevated~~, the elevation of the lowest floor (including basement);

(2) For nonresidential structures only, the elevation of the lowest floor (including basement) or the flood-proofing elevation ~~that have been flood-proofed (nonresidential only),~~ ~~the elevation to which the structure has been flood-proofed~~;

(3) The elevation of the one hundred (100)-year flood.

2. That this ordinance shall become effective on its passage.

Adopted:

Certified: __________________________
Clerk of Council

054L

The Department of Community Development

City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Zoning and Natural Resources Division
Date: April 9, 2008
Re: **Zoning Ordinance Amendment – Section 35.1-45. Flood hazard districts; floodway districts (FW), floodway fringe (FF) and approximated flood plain districts (AFP).**

I. PETITIONER

City of Lynchburg, Zoning and Natural Resources Division, 900 Church Street, Lynchburg, VA 24504
Representative: Erin Hawkins, Environmental Planner, 900 Church Street, Lynchburg, VA 24504

II. LOCATION

The *Zoning Ordinance* amendments would be applicable to all properties that lie within a designated Federal Emergency Management Agency (FEMA) flood district.

Property Owner: N/A

III. PURPOSE

The purpose of the *Zoning Ordinance* amendments is to adopt a new Flood Insurance Study [FIS] and Flood Insurance Rate Maps [FIRM] (dated December 3, 2007) that will become effective June 3, 2008 and make required updates to the ordinance. The City is required by the Federal Emergency Management Agency [FEMA] to update its *Zoning Ordinance* to remain in compliance with and participate in the National Flood Insurance Program [NFIP].

IV. SUMMARY

- The City's *Comprehensive Plan 2002-2020* recommends developing more accurate maps of the City's 100-year floodplains to assess the impacts of development in floodplains more accurately. **(12.9)**
- The City is required to adopt floodplain regulations prior to the effective date of the FIRM maps to maintain compliance with FEMA regulations and the NFIP.

<u>The Planning Division recommends approval of the Zoning Ordinance amendments.</u>

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends that the City pursue the development of more accurate maps of the City's 100-year floodplains to assess the impacts of development in floodplains more accurately. **(12.9)** The plan notes that the current City FEMA 100-year floodplain maps published in 1983 are no longer accurate. Increases in flood levels in the City's streams can be attributed to the increased urbanization of the streams watersheds, not only in the City, but in neighboring counties. **(12.3)** Procuring more accurate 100-year floodplain mapping will assist the City in making decisions regarding the impacts of new development being proposed in the 100-year floodplain to protect downstream properties. **(12.3)**
2. **Zoning.** Floodplain management requirements are in Section 35.1-45 of the City's current *Zoning Ordinance*.
3. **Board of Zoning Appeals (BZA)**. N/A
4. **Surrounding Area.** N/A
5. **Site Description.** N/A

6. **Proposed Use of Property.** N/A
7. **Traffic and Parking.** N/A
8. **Storm Water Management.** Floodplain management is one component of stormwater management that seeks to prevent encroachment of development into areas required for the conveyance of stormwater.
9. **Emergency Services.** N/A
10. **Impact.** Amending the *Zoning Ordinance* to reflect the new effective FIRM is supported by the City's *Comprehensive Plan 2002 – 2020*. More accurate floodplain mapping will enable the City to better protect properties from flooding and assess more accurately the impacts of development in floodplains.
11. **Technical Review Committee**. N/A

VI. PLANNING DIVISION RECOMMEND MOTION(S):

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of amending Section 35.1-45. Flood hazard districts; floodway districts (FW), floodway fringe (FF) and approximated flood plain districts (AFP).

This matter is respectfully offered for your consideration.

Erin Hawkins
Environmental Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Mr. J. Lee Newland, Director of Engineering
Ms. Cynthia L. Kozerow, Lynchburg Police Department
Capt. Michael L. Thomas, Fire Marshal
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Administrator
Mr. Kent L. White, Senior Planner
Mrs. Erin B. Hawkins, Environmental Planner

VII. ATTACHMENTS

1. Zoning Ordinance Amendments

The Department of Community Development

City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Zoning and Natural Resources Division
Date: April 23, 2008
Re: **Zoning Ordinance Amendment – Section 35.1-45. Flood hazard districts; floodway districts (FW), floodway fringe (FF) and approximated flood plain districts (AFP).**

I. PETITIONER

City of Lynchburg, Zoning and Natural Resources Division, 900 Church Street, Lynchburg, VA 24504
Representative: Erin Hawkins, Environmental Planner, 900 Church Street, Lynchburg, VA 24504

II. LOCATION

The *Zoning Ordinance* amendments would be applicable to all properties that lie within a designated Federal Emergency Management Agency (FEMA) flood district.

Property Owner: N/A

III. PURPOSE

The purpose of the *Zoning Ordinance* amendments is to adopt a new Flood Insurance Study [FIS] and Flood Insurance Rate Maps [FIRM] (dated December 3, 2007) that will become effective June 3, 2008 and make required updates to the ordinance. The City is required by the Federal Emergency Management Agency [FEMA] to update its *Zoning Ordinance* to remain in compliance with and participate in the National Flood Insurance Program [NFIP].

IV. SUMMARY

- The City's *Comprehensive Plan 2002-2020* recommends developing more accurate maps of the City's 100-year floodplains to assess the impacts of development in floodplains more accurately. **(12.9)**
- The City is required to adopt floodplain regulations prior to the effective date of the FIRM maps to maintain compliance with FEMA regulations and the NFIP.

The Zoning and Natural Resources Division recommends approval of the Zoning Ordinance amendments.

V. FINDINGS OF FACT

12. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends that the City pursue the development of more accurate maps of the City's 100-year floodplains to assess the impacts of development in floodplains more accurately. **(12.9)** The plan notes that the current City FEMA 100-year floodplain maps published in 1983 are no longer accurate. Increases in flood levels in the City's streams can be attributed to the increased urbanization of the streams watersheds, not only in the City, but in neighboring counties. **(12.3)** Procuring more accurate 100-year floodplain mapping will assist the City in making decisions regarding the impacts of new development being proposed in the 100-year floodplain to protect downstream properties. **(12.3)**
13. **Zoning.** Floodplain management requirements are in Section 35.1-45 of the City's current *Zoning Ordinance*.
14. **Board of Zoning Appeals (BZA)**. N/A
15. **Surrounding Area.** N/A
16. **Site Description.** N/A
17. **Proposed Use of Property.** N/A
18. **Traffic and Parking.** N/A

19. **Storm Water Management.** Floodplain management is one component of stormwater management that seeks to prevent encroachment of development into areas required for the conveyance of stormwater.

20. **Emergency Services.** N/A

21. **Impact.** Amending the *Zoning Ordinance* to reflect the new effective FIRM is supported by the City's *Comprehensive Plan 2002 – 2020.* More accurate floodplain mapping will enable the City to better protect properties from flooding and assess more accurately the impacts of development in floodplains.

22. **Technical Review Committee**. N/A

VI. ZONING AND NATURAL RESOURCES DIVISION RECOMMEND MOTION(S):

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of amending Section 35.1-45. Flood hazard districts; floodway districts (FW), floodway fringe (FF) and approximated flood plain districts (AFP).

This matter is respectfully offered for your consideration.

Erin Hawkins
Environmental Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Mr. J. Lee Newland, Director of Engineering
Ms. Cynthia L. Kozerow, Lynchburg Police Department
Capt. Michael L. Thomas, Fire Marshal
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Administrator
Mr. Kent L. White, Senior Planner
Mrs. Erin B. Hawkins, Environmental Planner

VII. ATTACHMENTS

1. **Zoning Ordinance Amendments**

MINUTES FROM THE APRIL 9, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

c. Consideration of amending Section 35.1-45, Flood hazard districts: floodway districts (FW), floodway fringe districts (FF), and approximated floodplain districts (AFP) of the Zoning Ordinance, to reflect the new effective date of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps to December 3, 2007. Updates for compliance with the National Flood Insurance Program include definitions, provisions for a Special Floodplain District, variances to flood hazard district regulations and provisions for recreational vehicle requirements. The revisions also propose clerical amendments to the existing ordinance.

Ms. Hawkins addressed the commissioners with the following comments. She reminded them they may recall last year there was a work session to go over some of the floodplain revisions to the existing mapping. This is a cumulative effort of approximately nine years of work that started in 1999 with grant projects to try and update some of our mapping. They were also looking at remapping our entire city on city topo, which was more accurate than the existing 20-foot topo on the U.S. Geographical Survey mapping.

This project is supported by the *Comprehensive Plan's* goal of trying to obtain more accurate mapping as we continue to develop and continue to have floodplain issues in our localities. This is something that we are also required to make updates to our *Zoning Ordinance* to remain in compliance with National Flood Insurance Program and Federal Emergency Management Agency (FEMA). If we do not make the necessary updates to our ordinance, we can actually be held in noncompliance of our existing program and put the National Flood Insurance Program (NFIP) in jeopardy.

Since notifying all the property owners last year that were being affected by these map changes, they did get response and questions. Most of them were curiosity questions. There were no further amendments that were applied to our mapping which has kept us on FEMA's schedule. They have been working with the Department of Conservation and Recreation (DCR) staff, their floodplain management division, and as liaisons to FEMA to make some of the necessary updates to our ordinance. Most of them are that we need to reflect a new effective date of our maps. These maps will become effective June 3, 2008. They have made revisions to our existing *Zoning Ordinance* to reflect those new dates. We were also required to look at our ordinance in terms of what needs to be updated to bring it into compliance at least with the minimal standards of the ordinance requirements set by FEMA. Definitions were added to clarify a lot of the terms in the ordinance that did not previously exist. A few technical things were added and a larger section deals with Board of Zoning Appeals procedure. The zoning official had no issue with this part. The City Attorney has looked at this draft and had several clarification types of questions that were incorporated.

Commissioner Worthington had a question on page nine, last paragraph. What exactly are we saying that we need to do and what is a how is a regulatory floodway designated? In other words, what does this section mean? Ms. Hawkins explained that the regulatory floodway is established by FEMA. It is the section of a stream that during a flooding event is going to have current running through it versus the floodplain where you will have more stagnant water and backwater effect. Since this is an area of moving water, it is also the most destructive area within the entire floodplain area. Sometimes a floodway has not been identified because it depends on how you look a map. You are going to have areas that have a floodway identified and then you are going to have an area where a floodway is not specifically identified on the map. In our AE zones, we typically have these floodway maps and some that are just A. You do not have an established floodway. You just have an approximate limit that in between these limits is your floodplain. You do not know those boundaries. Commissioner Worthington clarified that if you don't know it, then you cannot build any construction. Ms. Hawkins said that was correct. A developer could choose to restudy those areas to try to determine and delineate the floodway areas and get a map amendment through FEMA.

Chair Hamilton asked for clarification that you can build in the floodplain but not a floodway. Ms. Hawkins said that in theory, you could build in a floodplain, but that is something we do not typically encourage. Some structures have been grandfathered in, but no new developments are built within the floodplain, unless there is serious consideration and study done to reevaluate those boundaries. Ms. Hawkins said that she has received correspondence from property owners to FEMA trying to determine if their buildings are actually in a floodway for insurance purposes. Ms. Hawkins explained that this paragraph says that we do not want to build in an area that is feared to be in a floodway unless something has been determined to delineate where that floodway and where that structure will be. There are certain criteria that they would have to meet for FEMA.

Commissioner Hannon asked if the language used in the ordinance is pretty much dictated by FEMA or did city staff draft this all themselves? Ms. Hawkins explained that she has been working with the DCR staff and was directed to do so by FEMA. Practically everything in here came from the DCR representative. There are a few items that are clerical corrections. Commissioner Hannon asked for clarification that the impetus for this comes from the federal government through the state and to us and none of this language is from city staff. Ms. Hawkins said that is correct. Commissioner Worthington asked for clarification that we cannot be less strict than the federal government—all we can be is more strict. Ms. Hawkins said that this document is no less strict than the federal government. In our "fill in a floodplain" section, we do have a "no net rise" policy when it comes to fill in a floodplain. That is something we have had on the books for a good number of years. Commissioner Hannon asked if that is typical and Ms. Hawkins said that she would say that it is.

Commissioner Sale asked for clarification that the City Attorney is comfortable with the ordinance. Ms. Hawkins said that he had requested that an additional definition be added to the definition of historic structure to specifically reference the historic districts that were designate by Council. He had a wording correction on a type of permit that would have been issued and he questioned if the Board of Zoning Appeals information was okay and Ms. Hawkins verified with the zoning official that there were no issues.

Chair Hamilton then asked if there was anyone else present to speak in favor of the petition, and no one came forward. She asked if there was anyone to speak in opposition to the petition, and Mr. Martin said that he had some comments. Mr. Martin said that he appreciates the work that Ms. Hawkins has done on this and pointed out that since Ms. Hawkins does not work for the Planning Division any longer, this is not actually coming to the Commission from the Planning Division.

On page two, he thought that "lowest floor" needs to be clarified. He asked for an explanation of this paragraph because the first sentence includes the basement, but if you read the definition it says all these things other than a basement. He thought that the wording was confusing.

Ms. Hawkins thinks that what they are trying to say is that any enclosed area, including a basement, whether it is for parking, garage or anything, would be considered part of that lowest floor. Commissioner Hannon thought that it was saying except for a garage area. Mr. Martin still thought the wording was confusing because it says "other than a basement area." Ms. Hawkins used the example of a structure in a coastal area where the lowest enclosed floor might be their living area, but below that you have an enclosed area that has a garage but is not a living area. In that case, you would have less damage to life, limb or property, when you are looking at those types of definitions. Mr. Martin asked then why it is not called a "habitable floor."

Commissioner Sale made a suggestion that since this has not been through the Planning Division's review that they hold back and let them work this out. Ms. Hawkins said that it could come back to the April 23rd Planning Commission and still meet the May 13th City Council meeting, but they cannot go past that date or they will not meet their June 3rd deadline.

Commissioner Worthington asked why there was a recommendation in the report that the Planning Division recommends approval of the zoning ordinance amendments, and Ms. Hawkins said that was an error on her part.

Commissioner Swienton asked if it would have been beneficial to have the Natural Resources Advisory Committee look at this first or is that unnecessary. Ms. Hawkins said that initially she thought that might be necessary, but since there are no changes to the regulations, she did not feel it was necessary.

Mr. Martin asked for a little more time to make some points. On page four, paragraph (e) established three zoning district and later on page five, paragraph (4) Special Floodplain District. Mr. Martin thought that this district should also be mentioned in paragraph (e) on page four.

In that same paragraph on page five, there seems to be something missing from the first sentence. "those areas identified as either an AE Zone" has no "or" after it—an AE Zone or what? Ms. Hawkins said that was a clerical error.

On page six, first paragraph "planning division" needs to be changed to the Department of Community Development or the new division.

Paragraph (2) on page six needs something after "the Ordinance". What ordinance is that referring to? Ms. Hawkins said it should be the Zoning Ordinance.

On page nine, the last paragraph, Mr. Martin wanted to know if that should really say "the City of Lynchburg" because that would mean that they would have to model the entire City of Lynchburg. Ms. Hawkins said that the intent certainly not have been to restudy the entire city. It would have probably been within that area because typically where you start your study is your point of impact and you move back until you have no change. Chair Hamilton suggested that they take this back and work out the wording.

Commissioner Swienton thought that paragraph (1)b. on page five should be clarified beyond just the "City of Lynchburg." It should designate someone in particular.

Mr. Martin also commented with regard to the language about variances. That language is perfectly acceptable, but if you go back to Section 35.1-13(c), there is language left in that section about variance as it relates to floodplains. That code section needs to be amended to clean it up so that you don't have language about variance in floodplains in two different places. That is going to require a separate public hearing.

Commissioner Worthington pointed out that there is one place in here that says we are not going to increase the water level at all, and then on page nine, you have a paragraph that now allows a foot. Which is it? Ms. Hawkins said that she saw his point.

Commissioner Sale asked if they would have to have another public hearing and Mr. Martin said that it would not require another one.

Commissioner Sale made a motion to take this to a work session for the April 23rd Planning Commission meeting. That motion was seconded by Commissioner Oglesby and it passed by the following vote:

AYES:	Barnes, Hamilton, Hannon, Oglesby, Sale, Swienton and Worthington	7
NOES:		0
ABSTENTIONS:		0
ABSENT:		0

MINUTES FROM THE APRIL 23, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

c. Consideration of amending Section 35.1-45, Flood hazard districts: floodway districts (FW), floodway fringe districts (FF), and approximated floodplain districts (AFP) of the Zoning Ordinance, to reflect the new effective date of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps to December 3, 2007. Updates for compliance with the National Flood Insurance Program include definitions, provisions for a Special Floodplain District, variances to flood hazard district regulations and provisions for recreational vehicle requirements. The revisions also propose clerical amendments to the existing ordinance (tabled from the April 9, 2008 meeting.)

Ms. Erin Hawkins addressed the commissioners with the following comments. She has been working in the last week with the Department of Conservation and Recreation (DCR) contact who has been helping her with this process. She went over the changes that she made, which are summarized in a memorandum that she provided to the commissioners. She also mentioned that she had spoken with the City Attorney, Walter Erwin, with regard to Section 35.1-13(c) and the variance questions. It was decided that the best option would be to take out of this ordinance the duplicate paragraphs that are already located within the variance section. All the pertinent information is located within these two ordinances and they are cross referenced. At a later date, Ms. Hawkins will probably bring a zoning amendment to the variance section for clarification purposes.

She mentioned that she got one change from DCR late Friday after packets had already gone out to the commissioners. It was on page five, within Section (e)(1) and (e)(2). The words “accompanying flood boundary and floodway map” should be changed to “Flood Insurance Rate Map.”

Commissioner Worthington brought up a question from the same Section (e)(1) regarding the sentence that deals with the increasing of water surface elevation no more than one foot. He wanted to know where that had been deleted. Ms. Hawkins showed them where it had been deleted on page ten, Section (n)(1). Commissioner Worthington wondered if it was supposed to be deleted in both places because it creates a conflict otherwise. Ms. Hawkins said that it could be taken out in both places because the City does have the ability to make its ordinance more restrictive. Commissioner Worthington said that he was just trying to clarify what the intent is—whether it is to have no increase or to allow an increase of up to one foot. Ms. Hawkins explained that Federal Emergency Management Agency (FEMA) regulations allow up to one foot, however, a locality has the ability to make it more restrictive. It would be her recommendation to take out the words “of that flood more than one foot (1) foot at any point” from Section (e)(1) and thanked Commissioner Worthington for noticing this conflict.

Commissioner Hannon made a clerical change on page three, paragraph (16)2. “Square feet of less” should be “square feet or less.”

Chair Hamilton thanked Ms. Hawkins for making all the changes from last meeting and Ms. Hawkins commented that DCR had no problem with any of the changes.

Commissioner Swienton made a motion that the ordinance be accepted as presented and revised. This motion was seconded by Commissioner Hannon and it passed by the following vote:

AYES:	Barnes, Hamilton, Hannon, Sale, Swienton and Worthington	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Oglesby	1

THE CITY OF LYNCHBURG, VIRGINIA

City Hall, 900 Church Street
Lynchburg, Virginia 24504 • (434) 455-3900
FAX • (434) 845-7630

Zoning & Natural Resources Division

To: Planning Commission

From: Zoning & Natural Resources Division

Date: April 23, 2008

Re: *Zoning Ordinance* Amendment – Section 35.1-45

The following revisions have been made to the *Zoning Ordinance* Amendment, Section 35.1-45 from the April 9, 2008 Planning Commission meeting:

Section 35.1-45 (e) – The title section "special floodplain districts" have been added to the heading and the date revised to June 3, 2008,

Section 35.1-45 (e) 2 – Date revised to June 3, 2008,

Section 35.1-45 (e) 4 – The word "either" has been deleted,

Section 35.1-45 (f) (1) b – "City of Lynchburg" has been clarified to read Department of Community Development,

Section 35.1-45 (f) (1) c – "Planning division" has been clarified to read Department of Community Development,

Section 35.1-45 (f) (2) – The wording "City's Zoning" was entered before the word Ordinance,

Section 35.1-45 (i) (7) – The following sections were added for compliance with FEMA regulations,

> Existing structures in the floodway area shall not be expanded or enlarged unless it has been demonstrated through hydrologic or hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
>
> The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the Virginia Uniform Statewide Building Code.

Section 35.1-45 (k) - "Conditional uses permitted in the floodway district (FW)." Was deleted and replaced with "Refer to section 35.1-45 (i)" for reference clarification.

Section 35.1-45 (n) (1) – The phrase "more than one foot at any point" was removed,

Section 35.1-45 (n) (2) – This paragraph was removed to reduce conflicts with other sections of the ordinance and

Sections 35.1-45 (r) – The following paragraphs were removed from this section because they were already referenced in Section 35.1-13 regarding variances. A separate *Zoning Ordinance* amendment will be needed for clarification of the variance section; however, all requirements are listed in these two sections.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

The Department of Community Development

City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Zoning and Natural Resources Division
Date: April 9, 2008
Re: **Zoning Ordinance Amendment – Section 35.1-45. Flood hazard districts; floodway districts (FW), floodway fringe (FF) and approximated flood plain districts (AFP).**

I. PETITIONER

City of Lynchburg, Zoning and Natural Resources Division, 900 Church Street, Lynchburg, VA 24504

Representative: Erin Hawkins, Environmental Planner, 900 Church Street, Lynchburg, VA 24504

II. LOCATION

The *Zoning Ordinance* amendments would be applicable to all properties that lie within a designated Federal Emergency Management Agency (FEMA) flood district.

Property Owner: N/A

III. PURPOSE

The purpose of the *Zoning Ordinance* amendments is to adopt a new Flood Insurance Study [FIS] and Flood Insurance Rate Maps [FIRM] (dated December 3, 2007) that will become effective June 3, 2008 and make required updates to the ordinance. The City is required by the Federal Emergency Management Agency [FEMA] to update its *Zoning Ordinance* to remain in compliance with and participate in the National Flood Insurance Program [NFIP].

IV. SUMMARY

- The City's *Comprehensive Plan 2002-2020* recommends developing more accurate maps of the City's 100-year floodplains to assess the impacts of development in floodplains more accurately. **(12.9)**
- The City is required to adopt floodplain regulations prior to the effective date of the FIRM maps to maintain compliance with FEMA regulations and the NFIP.

<u>The Planning Division recommends approval of the Zoning Ordinance amendments.</u>

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends that the City pursue the development of more accurate maps of the City's 100-year floodplains to assess the impacts of development in floodplains more accurately. **(12.9)** The plan notes that the current City FEMA 100-year floodplain maps published in 1983 are no longer accurate. Increases in flood levels in the City's streams can be attributed to the increased urbanization of the streams watersheds, not only in the City, but in neighboring counties. **(12.3)** Procuring more accurate 100-year floodplain mapping will assist the City in making decisions regarding the impacts of new development being proposed in the 100-year floodplain to protect downstream properties. **(12.3)**

2. **Zoning.** Floodplain management requirements are in Section 35.1-45 of the City's current *Zoning Ordinance.*

3. **Board of Zoning Appeals (BZA).** N/A

4. **Surrounding Area.** N/A

5. **Site Description.** N/A
6. **Proposed Use of Property.** N/A
7. **Traffic and Parking.** N/A
8. **Storm Water Management.** Floodplain management is one component of stormwater management that seeks to prevent encroachment of development into areas required for the conveyance of stormwater.
9. **Emergency Services.** N/A
10. **Impact.** Amending the *Zoning Ordinance* to reflect the new effective FIRM is supported by the City's *Comprehensive Plan 2002 – 2020.* More accurate floodplain mapping will enable the City to better protect properties from flooding and assess more accurately the impacts of development in floodplains.
11. **Technical Review Committee**. N/A

VI. PLANNING DIVISION RECOMMEND MOTION(S):

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of amending Section 35.1-45. Flood hazard districts; floodway districts (FW), floodway fringe (FF) and approximated flood plain districts (AFP).

This matter is respectfully offered for your consideration.

Erin B Hawkins

Erin Hawkins
Environmental Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Mr. J. Lee Newland, Director of Engineering
Ms. Cynthia L. Kozerow, Lynchburg Police Department
Capt. Michael L. Thomas, Fire Marshal
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Administrator
Mr. Kent L. White, Senior Planner
Mrs. Erin B. Hawkins, Environmental Planner

VII. ATTACHMENTS

1. **Zoning Ordinance Amendments**

The Department of Community Development

City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Zoning and Natural Resources Division
Date: April 23, 2008
Re: **Zoning Ordinance Amendment – Section 35.1-45. Flood hazard districts; floodway districts (FW), floodway fringe (FF) and approximated flood plain districts (AFP).**

I. PETITIONER

City of Lynchburg, Zoning and Natural Resources Division, 900 Church Street, Lynchburg, VA 24504
Representative: Erin Hawkins, Environmental Planner, 900 Church Street, Lynchburg, VA 24504

II. LOCATION

The *Zoning Ordinance* amendments would be applicable to all properties that lie within a designated Federal Emergency Management Agency (FEMA) flood district.
Property Owner: N/A

III. PURPOSE

The purpose of the *Zoning Ordinance* amendments is to adopt a new Flood Insurance Study [FIS] and Flood Insurance Rate Maps [FIRM] (dated December 3, 2007) that will become effective June 3, 2008 and make required updates to the ordinance. The City is required by the Federal Emergency Management Agency [FEMA] to update its *Zoning Ordinance* to remain in compliance with and participate in the National Flood Insurance Program [NFIP].

IV. SUMMARY

- The City's *Comprehensive Plan 2002-2020* recommends developing more accurate maps of the City's 100-year floodplains to assess the impacts of development in floodplains more accurately. **(12.9)**
- The City is required to adopt floodplain regulations prior to the effective date of the FIRM maps to maintain compliance with FEMA regulations and the NFIP.

The Zoning and Natural Resources Division recommends approval of the Zoning Ordinance amendments.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends that the City pursue the development of more accurate maps of the City's 100-year floodplains to assess the impacts of development in floodplains more accurately. **(12.9)** The plan notes that the current City FEMA 100-year floodplain maps published in 1983 are no longer accurate. Increases in flood levels in the City's streams can be attributed to the increased urbanization of the streams watersheds, not only in the City, but in neighboring counties. **(12.3)** Procuring more accurate 100-year floodplain mapping will assist the City in making decisions regarding the impacts of new development being proposed in the 100-year floodplain to protect downstream properties. **(12.3)**

2. **Zoning.** Floodplain management requirements are in Section 35.1-45 of the City's current *Zoning Ordinance.*

3. **Board of Zoning Appeals (BZA).** N/A

4. **Surrounding Area.** N/A
5. **Site Description.** N/A
6. **Proposed Use of Property.** N/A
7. **Traffic and Parking.** N/A
8. **Storm Water Management.** Floodplain management is one component of stormwater management that seeks to prevent encroachment of development into areas required for the conveyance of stormwater.
9. **Emergency Services.** N/A
10. **Impact.** Amending the *Zoning Ordinance* to reflect the new effective FIRM is supported by the City's *Comprehensive Plan 2002 – 2020.* More accurate floodplain mapping will enable the City to better protect properties from flooding and assess more accurately the impacts of development in floodplains.
11. **Technical Review Committee.** N/A

VI. ZONING AND NATURAL RESOURCES DIVISION RECOMMEND MOTION(S):

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of amending Section 35.1-45. Flood hazard districts; floodway districts (FW), floodway fringe (FF) and approximated flood plain districts (AFP).

This matter is respectfully offered for your consideration.

Erin Hawkins

Erin Hawkins
Environmental Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Mr. J. Lee Newland, Director of Engineering
Ms. Cynthia L. Kozerow, Lynchburg Police Department
Capt. Michael L. Thomas, Fire Marshal
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Administrator
Mr. Kent L. White, Senior Planner
Mrs. Erin B. Hawkins, Environmental Planner

VII. ATTACHMENTS

1. **Zoning Ordinance Amendments**

MINUTES FROM THE APRIL 9, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

c. Consideration of amending Section 35.1-45, Flood hazard districts: floodway districts (FW), floodway fringe districts (FF), and approximated floodplain districts (AFP) of the Zoning Ordinance, to reflect the new effective date of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps to December 3, 2007. Updates for compliance with the National Flood Insurance Program include definitions, provisions for a Special Floodplain District, variances to flood hazard district regulations and provisions for recreational vehicle requirements. The revisions also propose clerical amendments to the existing ordinance.

Ms. Hawkins addressed the commissioners with the following comments. She reminded them they may recall last year there was a work session to go over some of the floodplain revisions to the existing mapping. This is a cumulative effort of approximately nine years of work that started in 1999 with grant projects to try and update some of our mapping. They were also looking at remapping our entire city on city topo, which was more accurate than the existing 20-foot topo on the U.S. Geographical Survey mapping.

This project is supported by the *Comprehensive Plan's* goal of trying to obtain more accurate mapping as we continue to develop and continue to have floodplain issues in our localities. This is something that we are also required to make updates to our *Zoning Ordinance* to remain in compliance with National Flood Insurance Program and Federal Emergency Management Agency (FEMA). If we do not make the necessary updates to our ordinance, we can actually be held in noncompliance of our existing program and put the National Flood Insurance Program (NFIP) in jeopardy.

Since notifying all the property owners last year that were being affected by these map changes, they did get response and questions. Most of them were curiosity questions. There were no further amendments that were applied to our mapping which has kept us on FEMA's schedule. They have been working with the Department of Conservation and Recreation (DCR) staff, their floodplain management division, and as liaisons to FEMA to make some of the necessary updates to our ordinance. Most of them are that we need to reflect a new effective date of our maps. These maps will become effective June 3, 2008. They have made revisions to our existing *Zoning Ordinance* to reflect those new dates. We were also required to look at our ordinance in terms of what needs to be updated to bring it into compliance at least with the minimal standards of the ordinance requirements set by FEMA. Definitions were added to clarify a lot of the terms in the ordinance that did not previously exist. A few technical things were added and a larger section deals with Board of Zoning Appeals procedure. The zoning official had no issue with this part. The City Attorney has looked at this draft and had several clarification types of questions that were incorporated.

Commissioner Worthington had a question on page nine, last paragraph. What exactly are we saying that we need to do and what is a how is a regulatory floodway designated? In other words, what does this section mean? Ms. Hawkins explained that the regulatory floodway is established by FEMA. It is the section of a stream that during a flooding event is going to have current running through it versus the floodplain where you will have more stagnant water and backwater effect. Since this is an area of moving water, it is also the most destructive area within the entire floodplain area. Sometimes a floodway has not been identified because it depends on how you look a map. You are going to have areas that have a floodway identified and then you are going to have an area where a floodway is not specifically identified on the map. In our AE zones, we typically have these floodway maps and some that are just A. You do not have an established floodway. You just have an approximate limit that in between these limits is your floodplain. You do not know those boundaries. Commissioner Worthington clarified that if you don't know it, then you cannot build any construction. Ms. Hawkins said that was correct. A developer could choose to restudy those areas to try to determine and delineate the floodway areas and get a map amendment through FEMA.

Chair Hamilton asked for clarification that you can build in the floodplain but not a floodway. Ms. Hawkins said that in theory, you could build in a floodplain, but that is something we do not typically encourage. Some structures have been grandfathered in, but no new developments are built within the floodplain, unless there is serious consideration and study done to reevaluate those boundaries. Ms. Hawkins said that she has received correspondence from property owners to FEMA trying to determine if their buildings are actually in a floodway for insurance purposes. Ms. Hawkins explained that this paragraph says that we do not want to build in an area that is feared to be in a floodway unless something has been determined to delineate where that floodway and where that structure will be. There are certain criteria that they would have to meet for FEMA.

Commissioner Hannon asked if the language used in the ordinance is pretty much dictated by FEMA or did city staff draft this all themselves? Ms. Hawkins explained that she has been working with the DCR staff and was directed to do so by FEMA. Practically everything in here came from the DCR representative. There are a few items that are clerical corrections. Commissioner Hannon asked for clarification that the impetus for this comes from the federal government through the state and to us and none of this language is from city staff. Ms. Hawkins said that is correct. Commissioner Worthington asked for clarification that we cannot be less strict than the federal government—all we can be is more strict. Ms. Hawkins said that this document is no less strict than the federal government. In our "fill in a floodplain" section, we do have a "no net rise" policy when it comes to fill in a floodplain. That is something we have had on the books for a good number of years. Commissioner Hannon asked if that is typical and Ms. Hawkins said that she would say that it is.

Commissioner Sale asked for clarification that the City Attorney is comfortable with the ordinance. Ms. Hawkins said that he had requested that an additional definition be added to the definition of historic structure to specifically reference the historic districts that were designate by Council. He had a wording correction on a type of permit that would have been issued and he questioned if the Board of Zoning Appeals information was okay and Ms. Hawkins verified with the zoning official that there were no issues.

Chair Hamilton then asked if there was anyone else present to speak in favor of the petition, and no one came forward. She asked if there was anyone to speak in opposition to the petition, and Mr. Martin said that he had some comments. Mr. Martin said that he appreciates the work that Ms. Hawkins has done on this and pointed out that since Ms. Hawkins does not work for the Planning Division any longer, this is not actually coming to the Commission from the Planning Division.

On page two, he thought that "lowest floor" needs to be clarified. He asked for an explanation of this paragraph because the first sentence includes the basement, but if you read the definition it says all these things other than a basement. He thought that the wording was confusing.

Ms. Hawkins thinks that what they are trying to say is that any enclosed area, including a basement, whether it is for parking, garage or anything, would be considered part of that lowest floor. Commissioner Hannon thought that it was saying except for a garage area. Mr. Martin still thought the wording was confusing because it says "other than a basement area." Ms. Hawkins used the example of a structure in a coastal area where the lowest enclosed floor might be their living area, but below that you have an enclosed area that has a garage but is not a living area. In that case, you would have less damage to life, limb or property, when you are looking at those types of definitions. Mr. Martin asked then why it is not called a "habitable floor."

Commissioner Sale made a suggestion that since this has not been through the Planning Division's review that they hold back and let them work this out. Ms. Hawkins said that it could come back to the April 23rd Planning Commission and still meet the May 13th City Council meeting, but they cannot go past that date or they will not meet their June 3rd deadline.

Commissioner Worthington asked why there was a recommendation in the report that the Planning Division recommends approval of the zoning ordinance amendments, and Ms. Hawkins said that was an error on her part.

Commissioner Swienton asked if it would have been beneficial to have the Natural Resources Advisory Committee look at this first or is that unnecessary. Ms. Hawkins said that initially she thought that might be necessary, but since there are no changes to the regulations, she did not feel it was necessary.

Mr. Martin asked for a little more time to make some points. On page four, paragraph (e) established three zoning district and later on page five, paragraph (4) Special Floodplain District. Mr. Martin thought that this district should also be mentioned in paragraph (e) on page four.

In that same paragraph on page five, there seems to be something missing from the first sentence. "those areas identified as either an AE Zone" has no "or" after it—an AE Zone or what? Ms. Hawkins said that was a clerical error.

On page six, first paragraph "planning division" needs to be changed to the Department of Community Development or the new division.

Paragraph (2) on page six needs something after "the Ordinance". What ordinance is that referring to? Ms. Hawkins said it should be the Zoning Ordinance.

On page nine, the last paragraph, Mr. Martin wanted to know if that should really say "the City of Lynchburg" because that would mean that they would have to model the entire City of Lynchburg. Ms. Hawkins said that the intent certainly not have been to restudy the entire city. It would have probably been within that area because typically where you start your study is your point of impact and you move back until you have no change. Chair Hamilton suggested that they take this back and work out the wording.

Commissioner Swienton thought that paragraph (1)b. on page five should be clarified beyond just the "City of Lynchburg." It should designate someone in particular.

Mr. Martin also commented with regard to the language about variances. That language is perfectly acceptable, but if you go back to Section 35.1-13(c), there is language left in that section about variance as it relates to floodplains. That code section needs to be amended to clean it up so that you don't have language about variance in floodplains in two different places. That is going to require a separate public hearing.

Commissioner Worthington pointed out that there is one place in here that says we are not going to increase the water level at all, and then on page nine, you have a paragraph that now allows a foot. Which is it? Ms. Hawkins said that she saw his point.

Commissioner Sale asked if they would have to have another public hearing and Mr. Martin said that it would not require another one.

Commissioner Sale made a motion to take this to a work session for the April 23rd Planning Commission meeting. That motion was seconded by Commissioner Oglesby and it passed by the following vote:

AYES:	Barnes, Hamilton, Hannon, Oglesby, Sale, Swienton and Worthington	7
NOES:		0
ABSTENTIONS:		0
ABSENT:		0

MINUTES FROM THE APRIL 23, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

c. Consideration of amending Section 35.1-45, Flood hazard districts: floodway districts (FW), floodway fringe districts (FF), and approximated floodplain districts (AFP) of the Zoning Ordinance, to reflect the new effective date of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps to December 3, 2007. Updates for compliance with the National Flood Insurance Program include definitions, provisions for a Special Floodplain District, variances to flood hazard district regulations and provisions for recreational vehicle requirements. The revisions also propose clerical amendments to the existing ordinance (tabled from the April 9, 2008 meeting.)

Ms. Erin Hawkins addressed the commissioners with the following comments. She has been working in the last week with the Department of Conservation and Recreation (DCR) contact who has been helping her with this process. She went over the changes that she made, which are summarized in a memorandum that she provided to the commissioners. She also mentioned that she had spoken with the City Attorney, Walter Erwin, with regard to Section 35.1-13(c) and the variance questions. It was decided that the best option would be to take out of this ordinance the duplicate paragraphs that are already located within the variance section. All the pertinent information is located within these two ordinances and they are cross referenced. At a later date, Ms. Hawkins will probably bring a zoning amendment to the variance section for clarification purposes.

She mentioned that she got one change from DCR late Friday after packets had already gone out to the commissioners. It was on page five, within Section (e)(1) and (e)(2). The words "accompanying flood boundary and floodway map" should be changed to "Flood Insurance Rate Map."

Commissioner Worthington brought up a question from the same Section (e)(1) regarding the sentence that deals with the increasing of water surface elevation no more than one foot. He wanted to know where that had been deleted. Ms. Hawkins showed them where it had been deleted on page ten, Section (n)(1). Commissioner Worthington wondered if it was supposed to be deleted in both places because it creates a conflict otherwise. Ms. Hawkins said that it could be taken out in both places because the City does have the ability to make its ordinance more restrictive. Commissioner Worthington said that he was just trying to clarify what the intent is—whether it is to have no increase or to allow an increase of up to one foot. Ms. Hawkins explained that Federal Emergency Management Agency (FEMA) regulations allow up to one foot, however, a locality has the ability to make it more restrictive. It would be her recommendation to take out the words "of that flood more than one foot (1) foot at any point" from Section (e)(1) and thanked Commissioner Worthington for noticing this conflict.

Commissioner Hannon made a clerical change on page three, paragraph (16)2. "Square feet of less" should be "square feet or less."

Chair Hamilton thanked Ms. Hawkins for making all the changes from last meeting and Ms. Hawkins commented that DCR had no problem with any of the changes.

Commissioner Swienton made a motion that the ordinance be accepted as presented and revised. This motion was seconded by Commissioner Hannon and it passed by the following vote:

AYES:	Barnes, Hamilton, Hannon, Sale, Swienton and Worthington	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Oglesby	1

Zoning Ordinance Amendment

Section 35.1-45

April 9, 2008

PLEASE PRINT

NAME	ADDRESS	PHONE #	IN FAVOR	IN OPPOSITION	NEUTRAL
Erin Hawkins	900 Church St	x3869	✓		
Tom Martin	900 Church St	x3909			

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008** AGENDA ITEM NO.: 12

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Ntelos Cable Television Franchise Amendment**

RECOMMENDATION: Adopt an ordinance authorizing the City Manager to sign an amendment to the cable television franchise agreement with Ntelos, changing the terms and conditions such that Ntelos is treated the same as Comcast.

SUMMARY: The City entered into a cable franchise agreement with Ntelos on October 9, 2007 in order for Ntelos to provide cable television service to the Cornerstone Traditional Neighborhood Development. The City also entered into a cable television franchise with Comcast on February 13, 2008, renewing the agreement which allows them to provide cable television service throughout the city. Article 1.2 of Title 15.2 of the Code of Virginia provides that all cable television companies must be treated the same under local franchise agreements. Ntelos has requested that their franchise be amended to provide for this equal treatment. The requested changes are summarized as follows:

Section 5.1	Changed to state the identical requirements for the carriage of Public, Education, and Government channels.
Sections 5.6-7	Deleted to remove the requirement that Ntelos pay a capital grant fee, since this was not required of Comcast.
Section 11.1.1	Changed to reflect that Ntelos must provide bandwidth for at least 100 channels, matching the requirement placed on Comcast.
Sections 12.7.1-2	Changed to reflect the same process and time frames as in the Comcast agreement for curing any franchise noncompliance or default.
Section 12.8.3	Changed to reflect the same liquidated damages amounts as those stated in the Comcast franchise.

PRIOR ACTION(S):

Entered into cable television franchise agreement with Ntelos on October 9, 2007.
Entered into cable television franchise agreement with Comcast on February 13, 2008.

FISCAL IMPACT: None.

CONTACT(S): Walter Erwin, 455-3973; Mike Goetz, 455-6002

ATTACHMENT(S): First Amendment to Ntelos Cable Television Franchise Agreement; Ntelos Franchise Agreement with changes highlighted; Ordinance approving the proposed amendment.

REVIEWED BY: lkp

FIRST AMENDMENT TO CABLE FRANCHISE AGREEMENT BETWEEN THE CITY OF LYNCHBURG, VIRGINIA AND NTELOS MEDIA INC. APPROVED BY LYNCHBURG CITY COUNCIL ON OCTOBER 9, 2007.

WHEREAS, on October 9, 2007, the City and NTELOS Media, Inc., d/b/a as NTELOS entered into a Franchise Agreement to construct and operate a cable television system within the Cornerstone Traditional Neighborhood Development; and,

WHEREAS, on February 12, 2008, the City and Comcast of Georgia/Virginia, Inc, d/b/a Comcast entered into a Franchise Agreement to construct and operate a cable television system within the City of Lynchburg; and,

WHEREAS, there are some slight differences in the terms and conditions contained in the October 9, 2007 Franchise between the City and NTELOS and the February 12, 2008 Franchise Agreement between the City and Comcast and,

WHEREAS, the provisions of Article 1.2 of Title 15.2 of the Code of Virginia provide that all cable television companies must be treated the same under local Franchise Agreements, so the City and NTELOS wish to amend the October 9, 2007 Franchise Agreement between the City and NTELOS so the terms and conditions of such Franchise Agreement are consistent with the terms and conditions of the February 12, 2008 Franchise Agreement between the City and Comcast.

NOW, THEREFORE, the City and NTELOS do hereby mutually agree to and do hereby amend the October 9, 2007 Franchise Agreement as follows:

A. Section 5.1 of the October 9, 2007 Franchise Agreement is deleted and replaced with the following:

5.1 Franchisee shall designate capacity on up to three (3) channels for public, educational and/or governmental access video programming provided by the Franchising Authority or its designee, such as a public access organization or educational institution. Use of a channel position for public, educational and governmental ("PEG") access shall be provided on the most basic tier of service offered by Franchisee in accordance with the Cable Act, Section 611, and Article 1.2 of the Code of Virginia, and as further set forth below. "Channel position" means a number designation on the Franchisee's channel lineup regardless of the transmission format (analog or digital). Franchisee does not relinquish its ownership of or ultimate right of control over a channel by designating it for PEG use. In the event any Access channel is reassigned, the Franchisee shall provide the City with at least 30 days notice before reassigning the channel, and shall pay the reasonable costs of any advertising and promotional materials required due to the reassignment. A PEG access user – whether an individual, educational or governmental user – acquires no property or other interest by virtue of the use of a channel so designated, and may not rely on the continued use of particular channel number, no matter how long the same channel may have been designated for such use. Franchisee shall not exercise editorial control over any public, educational, or governmental use of a channel position, except Franchisee may refuse to transmit any public access program or portion of a public access program that contains obscenity, indecency, or nudity. The Franchising Authority shall be responsible for developing, implementing, interpreting and enforcing rules for Educational and Governmental Access Channel use. On the Effective Date, Franchisee shall provide two (2) PEG access channels for the purposes of providing governmental and educational channels. On the Effective Date, a public access channel will be required only if a public access organization is operational, producing programming content for cablecast, and is providing all communications facilities needed for delivering a public access signal to Franchisee's headend. If such a public access organization is not meeting such requirements as of the Effective Date, within ninety (90) days after a public access organization meets such requirements and requests use of the third PEG channel, Franchisee shall make available one (1) additional channel for PEG access programming.

B. Section 5.6 of the October 9, 2007 Franchise Agreement is deleted.

C. Section 5.7 of the October 9, 2007 Franchise Agreement is deleted.

D. Section 11.1.1 of the October 9, 2007 Franchise Agreement is deleted and replaced with the following:

11.1.1 Within twenty-four (24) months of the granting of this franchise, the System shall provide bandwidth capacity capable of carrying one hundred (100) channels of video programming.

E. Section 12.7.1 of the October 9, 2007 Franchise Agreement is deleted and replaced with the following:

12.7.1 Should the Franchising Authority believe that the Franchisee has not complied with any of the provisions of this Franchise Agreement, it shall: (i) informally discuss the matter with the Franchisee and (ii) notify the Franchisee in writing of the exact nature of the alleged noncompliance if the discussions described in the foregoing clause (i) do not lead to resolution of the alleged noncompliance. The Franchisee shall have thirty (30) days from receipt of this written notice to: (a) respond to the Franchising Authority, if the Franchisee contests, in whole or in part, the assertion of noncompliance; (b) cure such default; or (c) in the event that, by the nature of default, such default cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed. The Franchising Authority shall schedule a public hearing in the event that the Franchisee fails to respond to the written notice pursuant to these procedures or in the event that the alleged default is not remedied within thirty (30) days of the date projected above if the Franchising Authority intends to continue its investigation into the default. The Franchising Authority shall provide the Franchisee at least thirty (30) business days prior written notice of such hearing, which will specify the time, place, and purpose.

F. Section 12.7.2 of the October 9, 2007 Franchise Agreement is deleted and replaced with the following:

12.7.2 In the event the Franchisee fails to cure the default within thirty (30) days, fails to file a timely written response, or fails to timely complete the remediation, the City, if it wishes to continue its investigation into the default, shall schedule a public hearing. The Franchisee shall be notified in writing at least thirty (30) business days prior to the public hearing and shall be provided an opportunity to be heard at the public hearing. The notice shall specify the time, place, and purpose of the public hearing. The City shall: (1) provide public notice of the hearing in compliance with Virginia law; (2) hear any person interested in the violation under review; and (3) provide the Franchisee with an opportunity to be heard.

G. Section 12.8.3.1 of the October 9, 2007 Franchise Agreement is deleted and replaced with the following:

12.8.3.1 Failure to comply with PEG access requirements: $200, for each violation for each day the violations continues;

H. Section 12.8.3.4 of the October 9, 2007 Franchise Agreement is deleted and replaced with the following:

12.8.3.4 Failure to comply with customer service standards: $200, for each violation for each day the violation continues, except where compliance is measured quarterly, in which case damages shall be specified in Section 12.8.3.5.

I. Section 12.8.3.6 of the October 9, 2007 Franchise Agreement is deleted and replaced with the following:

12.8.3.6 For failure to comply with any other requirement of this ordinance, applicable Virginia law or the Cable Act: $100 a day for each violation for each day the violation continues.

Except as modified herein, all the terms and conditions set forth in the October 9, 2007 Franchise Agreement between the City and NTELOS shall remain in full force and effect throughout the remaining term of the Franchise.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of the date set forth below:

Attest:	City of Lynchburg, Virginia:
_________________	By: __________________ Name: L. Kimball Payne, III Title: City Manager
Attest:	NTELOS Media Inc.
________________	By: _____________________ Name: D.R. Maccarelli Title: President

AN ORDINANCE AMENDING THE OCTOBER 9, 2007 CABLE TELEVISION FRANCHISE BETWEEN NTELOS Media, INC., D/B/A AS NTELOS, AND THE CITY OF LYNCHBURG

WHEREAS, on October 9, 2007, the City and NTELOS Media, Inc., d/b/a as NTELOS entered into a Franchise Agreement allowing NTELOS to construct and operate a cable television system within the Cornerstone Traditional Neighborhood Development; and,

WHEREAS, on February 12, 2008, the City and Comcast of Georgia/Virginia, Inc, d/b/a Comcast entered into a Franchise Agreement to construct and operate a cable television system within the City of Lynchburg; and,

WHEREAS, there are some slight differences in the terms and conditions contained in the October 9, 2007 Franchise between the City and NTELOS and the February 12, 2008 Franchise Agreement between the City and Comcast and,

WHEREAS, the provisions of Article 1.2 of Title 15.2 of the Code of Virginia provide that all cable television companies must be treated the same under local Franchise Agreements, so the City and NTELOS wish to amend the October 9, 2007 Franchise Agreement between the City and NTELOS so the terms and conditions of such Franchise Agreement are consistent with the terms and conditions of the February 12, 2008 Franchise Agreement between the City and Comcast.

NOW, THEREFORE, BE IT ORDAINED, that the Lynchburg City Council, does hereby find that the public welfare will be enhanced by the amendment of the October 9, 2007 Franchise Agreement between the City and NTELOS and the Lynchburg City Manager is hereby authorized to sign the amendment to the Cable Television Franchise Agreement between the City and NTELOS.

Adopted:

Certified: ______________________________
Clerk of Council

055L

CABLE TELEVISION FRANCHISE AGREEMENT BETWEEN
THE CITY OF LYNCHBURG, VIRGINIA
AND
NTELOS MEDIA, INC.
D/B/A NTELOS

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CABLE FRANCHISE AGREEMENT

This Cable Franchise Agreement (hereinafter, the "Agreement" or "Franchise Agreement") is made between the City of Lynchburg, VA, a political subdivision of the Commonwealth of Virginia (hereinafter, "City") and NTELOS Media Inc. d.b.a NTELOS (hereinafter, "Franchisee" or "NTELOS").

The City, having determined that the financial, legal and technical ability of the Franchisee is reasonably sufficient to provide the services, facilities and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Franchisee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

SECTION 1 - Definition of Terms

For the purpose of this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Code of Virginia, Article 1.2, § 15.2-2108.19, and the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 et seq. (the "Cable Act"), unless otherwise defined herein.

1.1 "Act" means the Communications Act of 1934.

1.2 "Affiliate", in relation to any Person, means another Person who owns or controls, is owned or controlled by, or is under common ownership or control with, such Person.

1.3 "Basic service tier" means the service tier that includes (i) the retransmission of local television broadcast channels and (ii) public, educational, and governmental channels required to be carried in the basic tier.

1.4 "Cable Operator" means any Person or group of Persons that (A) provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or (B) otherwise controls or is responsible for, through any arrangement, the management and operation of a Cable System. Cable Operator does not include a provider of wireless or direct-to-home satellite transmission service.

1.5 "Cable Service" means the one-way transmission to Subscribers of (i) video programming or (ii) other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable service does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d).

1.6 "Cable System" or "System" means any facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service that includes video programming and that is provided to multiple Subscribers within a community, except that such definition shall not include (i) a system that serves fewer than 20 Subscribers; (ii) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (iii) a facility that serves only Subscribers without using any public right-of-way; (iv) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 USC § 201 et seq., except that such facility shall be considered a Cable System to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (v) any facilities of any electric utility used solely for operating its electric systems; (vi) or any portion of a System that serves fewer than 50 Subscribers in any locality, where such portion is part of a larger System franchised in an adjacent locality; or (vii) an open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 573.

1.7 “Customer” or “Subscriber” means a Person or user of the Cable System who lawfully receives Cable Service therefrom with the Franchisee’s express permission.

1.8 “Effective Date” means the date on which this Cable Franchise Agreement, with any necessary executed signatures, is enacted into law.

1.9 “FCC” means the Federal Communications Commission or successor governmental entity thereto.

1.10 “Force majeure” means an event or events reasonably beyond the ability of Franchisee to anticipate and control. "Force majeure" includes, but is not limited to, acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes, governmental actions and restrictions, work delays caused by waiting for utility providers to service or monitor or provide access to utility poles to which Franchisee’s facilities are attached or to be attached or conduits in which Franchisee's facilities are located or to be located, and unavailability of materials or qualified labor to perform the work necessary.

1.11 “Franchise” means the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction and operation of the Cable System in the public rights-of-way.

1.12 “Franchise Agreement” or “Agreement” shall mean this Cable Franchise Agreement and any amendments or modifications hereto.

1.13 “Franchise Area” means the Cornerstone Traditional Neighborhood Development as described in the Lynchburg City Council resolution R-06-075 adopted on June 27, 2006, as set forth in Exhibit 1.

1.14 “Franchising Authority” means the City or the lawful successor, transferee, designee, or assignee thereof.

1.15 “Franchisee” shall mean NTELOS Media Inc. d.b.a. NTELOS.

1.16 "Gross revenue" means all revenue, as determined in accordance with generally accepted accounting principles, that is actually received by the cable operator and derived from the operation of the cable system to provide cable services in the franchise area; however, "gross revenue" shall not include: (i) refunds or rebates made to subscribers or other third parties; (ii) any revenue which is received from the sale of merchandise over home shopping channels carried on the cable system, but not including revenue received from home shopping channels for the use of the cable service to sell merchandise; (iii) any tax, fee, or charge collected by the cable operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access or education group; (iv) program launch fees; (v) directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing; (vi) a sale of cable service for resale or for use as a component part of or for the integration into cable services to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or similar fees on the resale of the cable service; (vii) revenues received by any affiliate or any other person in exchange for supplying goods or services used by the cable operator to provide cable service; and (viii) revenue derived from services classified as noncable services under federal law, including, without limitation, revenue derived from telecommunications services and information services, and any other revenues attributed by the cable operator to noncable services in accordance with rules, regulations, standards, or orders of the Federal Communications Commission.

1.17 “Ordinance” includes a resolution.

1.18 “Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Franchising Authority.

1.19 "Public rights-of-way" (PROW or Public Way) means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property in which the City or the Commonwealth of Virginia now or hereafter holds any property interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a cable system. No reference herein, or in any franchise, to a "public rights-of-way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a Franchisee shall be deemed to gain only those rights to use as are properly in the city and as the City may have the undisputed right and power to give. For purposes of this Franchise, the term "public right-of-way" shall also include any other parcels of property that are owned by the City.

1.20 "Interactive on-demand services" means a service providing video programming to Subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider.

1.21 "Service Interruption" means a service outage affecting less than five subscribers, or a loss or degradation of either video or audio for one or more channels for one or more subscribers.

1.22 "Service Outage" means the complete loss of cable service to five or more subscribers served by the same trunk, node, or feeder line for a period of 15 minutes or more.

1.23 "Transfer" means any transaction in which (i) an ownership or other interest in the Franchisee is transferred, directly or indirectly, from one Person or group of Persons to another Person or group of Persons, so that majority control of the Franchisee is transferred; or (ii) the rights and obligations held by the Franchisee under the Franchise granted under this Franchise Agreement are transferred or assigned to another Person or group of Persons. However, notwithstanding clauses (i) and (ii) of the preceding sentence, a transfer of the Franchise shall not include (a) transfer of an ownership or other interest in the Franchisee to the parent of the Franchisee or to another Affiliate of the Franchisee; (b) transfer of an interest in the Franchise granted under this Franchise Agreement or the rights held by the Franchisee under the Franchise granted under this Franchise Agreement to the parent of the Franchisee or to another Affiliate of the Franchisee; (c) any action that is the result of a merger of the parent of the Franchisee; (d) any action that is the result of a merger of another Affiliate of the Franchisee; or (e) a transfer in trust, by mortgage, or by assignment of any rights, title, or interest of the Franchisee in the Franchise or the System used to provide Cable Service in order to secure indebtedness.

1.24 "Video programming" means programming provided by, or generally considered comparable to, programming provided by a television broadcast station.

All terms used herein, unless otherwise defined, shall have the same meaning as set forth in Sections 15.2-2108.19 *et seq.* of the Code of Virginia, and if not defined therein, then as set forth in Title VI of the Communications Act of 1934, 47 U.S.C. § 521 *et seq.*, and if not defined therein, their common and ordinary meaning. In addition, references in this Ordinance to any federal or state law shall include amendments thereto as are enacted from time-to-time.

SECTION 2 - Grant of Authority

2.1 The Franchising Authority hereby grants to the Franchisee under the Code of Virginia and the Cable Act a nonexclusive Franchise authorizing the Franchisee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any Public Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System and to provide such Cable Services over the Cable System as may be lawfully allowed. This agreement neither authorizes the Franchisee to use the PROW for purposes of providing any service other than Cable Service, nor prohibits the Franchisee from doing so. The Franchisee's authority to provide non-Cable Services shall be subject to applicable law and Section 35-24 of the City Code.

2.2 Term of Franchise. The term of the Franchise granted hereunder shall be Fifteen (15) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and the Code of Virginia and the Cable Act.

2.3 Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Article 1.2 of Chapter 21 of Title 15.2 of the Code of Virginia and Section 626 of the Cable Act, as amended.

2.4 Reservation of Authority. Nothing in this Franchise Agreement shall be construed as a waiver of any codes or ordinances of general applicability promulgated by the Franchising Authority.

2.5 Competitive Equity.

2.5.1 If the City grants a competitive franchise which, in the reasonable opinion of the Franchisee, contains more favorable or less burdensome terms or conditions than this Franchise Agreement, the Franchisee may notify the City that it wishes to renegotiate certain specified provisions of the Franchise Agreement. Within 30 days after the Franchisee provides such notice, both parties must begin to negotiate in good faith, and either party to this Franchise Agreement may request changes to amend this Agreement so that neither the Franchisee's Franchise Agreement nor that of the competitor contains terms that are more favorable or less burdensome than the other. For purposes of this section, the franchises must be viewed as a whole, not on a provision-by-provision basis, and the franchises must be compared with due regard for the circumstances existing at the time each franchise was granted.

2.5.2 In the event an application for a new cable television franchise is filed with the Franchising Authority proposing to serve the Franchising Area, in whole or in part, the Franchising Authority shall serve or require to be served a copy of such application upon the Franchisee by registered or certified mail or via nationally recognized overnight courier service.

2.5.3 In the event that a cable provider provides Cable Service to the residents of the city under a federal franchise that is unavailable to the Franchisee, the Franchisee shall have a right to request amendments to this Franchise Agreement that relieve the Franchisee of regulatory burdens that create a competitive disadvantage to the Franchisee. In requesting amendments, the Franchisee shall file a petition seeking to amend the Franchise Agreement. Such petition shall: (1) indicate the presence of a competitor that has a federal franchise; (2) identify the basis for Franchisee's belief that certain provisions of the Franchise Agreement place Franchisee at a competitive disadvantage; and (3) identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage. City Council shall hold a public hearing to evaluate the petition and hear views of interested parties. The Franchising Authority shall not unreasonably withhold consent to the Franchisee's petition.

SECTION 3 – Construction and Maintenance of the Cable System

3.1 Permits and General Obligations. The Franchisee shall be responsible for obtaining, at its own cost and expense, all generally applicable permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain or repair the Cable System, or any part thereof, prior to the commencement of any such activity. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All transmission and distribution structures, poles, other lines, and equipment installed by the Franchisee for use in the Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.

3.2 Conditions of Street Occupancy.

3.2.1 New Grades or Lines. If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Franchisee shall, upon reasonable advance written notice from the Franchising Authority (which shall not be less than ten (10) business days) and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any other user of the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall notify the Franchisee of the availability of such funding and make such funds available to the Franchisee. It is understood that there is no guarantee by the Franchising Authority that any public funds will be available to help defray the cost of altering or relocating the Cable System to conform to new grades or lines.

3.2.2 Relocation at request of Third Party. The Franchisee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Franchisee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Franchisee is given not less than ten (10) business days advance written notice to arrange for such temporary relocation.

3.2.3 Restoration of Public Ways. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Franchisee disturbs, alters, or damages any Public Way, the Franchisee agrees that it shall at its own cost and expense replace and restore any such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to the disturbance. The City Engineer shall make the final determination as to acceptability of repair and/or replacement of damaged facilities. In performing any excavation work in the public rights-of-way, the Franchisee will comply with all of the requirements of Chapter 35, or any subsequently adopted Chapter, of the City Code.

3.2.4 Safety Requirements. The Franchisee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System shall be performed in substantial accordance with applicable FCC or other federal and state regulations and with the National Electrical Safety Code (National Bureau of Standards)" and "National Electrical Code (National Bureau of Fire Underwriters). The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

3.2.5 Trimming of Trees and Shrubbery. The Franchisee shall have the responsibility and authority to trim trees or other natural growth overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Franchisee's wires, cables, or other equipment. All such trimming shall be done at the Franchisee's sole cost and expense. The Franchisee shall be responsible for any damage caused by such trimming. Prior to trimming or pruning of any City of Lynchburg street trees or shrubbery, the City's Public Works Urban Forester shall be contacted.

3.2.6 Aerial and Underground Construction. At the time of Cable System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Franchisee shall place its Cable System's transmission and distribution facilities underground; provided that such underground locations are actually capable of accommodating the Franchisee's cable and other equipment without technical degradation of the Cable System's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Franchisee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing in this Section shall be construed to require the Franchisee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

3.2.7 All excavation and reconstruction work by a Franchisee in the public rights-of-way must be in compliance with the requirements of chapter 35, article III. excavations, of the City Code, including all of the standards referenced therein, and all applicable VDOT standards. It shall be the responsibility of a Franchisee to obtain any required permits, to review all applicable excavation, reconstruction, restoration, repair and permitting requirements, and to become familiar with such requirements before beginning any excavation, reconstruction, restoration or repair work in the public rights-of-way or private property.

3.2.8 Any equipment or facilities installed by a Franchisee in the public rights-of-way shall be installed, located, erected, constructed, reconstructed, replaced, restored, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not (1) to endanger or interfere in any manner with improvements the City or VDOT may deem appropriate to make; or (2) to interfere with the rights of any private property owner; or (3) to hinder or obstruct pedestrian or vehicular traffic.

3.2.9 Whenever the City or VDOT shall determine that it is necessary in connection with the repair, relocation, or improvement of the public rights-of-way, the City or VDOT may require by written notification that any properties or facilities of the Franchisee be removed or relocated. Within sixty (60) days after receipt of notification, unless the City or VDOT extends such period for good cause shown, the Franchisee shall remove or relocate its facilities to such place and under such terms and conditions as specified by the City or VDOT. The Franchisee shall bear all expenses associated with the removal and relocation except that the City or VDOT will issue, without charge to the Franchisee, whatever local permits are required for the relocation of Franchisee's facilities. If the Franchisee does not complete its removal or relocation within sixty (60) days or such other period as authorized by the City or VDOT, the City or VDOT may take such actions as necessary to effect such removal or relocation at the Franchisee's expense.

3.2.10. Undergrounding and Beautification Projects. In the event all users of the Public Way relocate aerial facilities underground as part of an undergrounding or neighborhood beautification project, Franchisee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. Franchisee's relocation costs shall be included in any computation of necessary project funding by the municipality or private parties. Franchisee shall be entitled to reimbursement of its relocation costs from public or private funds raised for the project and made available to other users of the Public Way. It is understood that there is no guarantee by the Franchising Authority that any public or private funds will be available to help defray the cost of such undergrounding or beautification projects.

SECTION 4 - Service Obligations

4.1 General Service Obligation.

4.1.1 The Franchisee shall make Cable Service available to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per mile when measured from the existing Cable System. Subject to the density requirement, Franchisee shall offer Cable Service to all new homes or previously unserved homes located within 150 feet of the Franchisee's distribution cable.

4.1.2 The Franchisee may elect to provide Cable Service to areas not meeting the above density and distance standards. The Franchisee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop in or line extension in excess of the above standards. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds the standards set forth above. Such additional charge shall be paid by the developer or landowner or customer requesting Cable Service in an area that does not meet the density and distance standards.

4.2 New Developments. Franchisee agrees to use commercially reasonable efforts to inform itself of all newly planned developments within the Franchise Area and to work with developers to cooperate in pre-installation of facilities to support Cable Service. Should, through new construction, an area within the Franchise Area meet the density requirement, the Franchisee shall provide Cable Service to such area within six months of receiving notice from the City that the density requirement has been met.

4.3 Programming. The Franchisee shall offer to all Customers a diversity of video programming services.

4.4 No Discrimination. The Franchisee shall not discriminate or permit discrimination between or among any Persons in the availability of Cable Services or other services provided in connection with the Cable System in the Franchise Area. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Franchisee are satisfied, unless such Person has engaged in theft of Franchisee's cable services, vandalism of its property or harassment of its representatives. Nothing contained herein shall prohibit the Franchisee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice. A Franchisee shall assure that access to cable services is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.

4.5 Subscriber Surveys: Upon the request of the City, but not more than once every three years, the Franchisee shall conduct a Subscriber satisfaction survey pertaining to quality of service, which may be transmitted to Subscribers in the Franchisee's invoice for Cable Services. The results of such survey shall be provided to the City on a timely basis.

4.6 Performance Evaluation Sessions: The City and the Franchisee may hold scheduled performance evaluation sessions. If the City requests a performance evaluation session, such session shall be scheduled within thirty (30) days of the City's request.

4.6.1. Performance Evaluation sessions may be held no more than once every three years during the Term of the Franchise. All such evaluation sessions shall be publicized in advance and be open to the public.

4.6.2. The Franchisee shall reasonably cooperate with the evaluation and shall, subject to the proprietary information provision of Section 8.7 of this Agreement, supply with the City with all relevant information requested.

4.6.3. If the evaluation indicates a need for modification of the Agreement, the City shall attempt to negotiate the identified changes with the Franchisee. Any changes agreed to by the City and the Franchisee shall be approved by the City Council before they become effective.

4.7 Provisions of Maps to the City: The Franchise shall provide to the City annually updated maps of the Franchise Area which shall clearly delineate the following:

4.7.1. Areas within the Franchise Area where Cable Service will be available to Subscribers.

4.7.2 Areas covered by the Franchise where the Cable System cannot be extended due to lack of present or planned development, with such areas clearly marked.

4.7.3 Additional Maps: Should the City request access to more detailed maps of the Cable System that are too voluminous or for security reasons cannot be copied and moved, then the Franchisee shall permit the City to review such maps and may require that any inspection take place at a specified location in Central Virginia.

4.8 Changes in Service: Franchisee agrees to give the City Manager thirty (30) days prior written notice of changes in the mix, or quality of the Cable Services.

SECTION 5 - Public, Educational and Governmental Access Channels

5.1 Franchisee shall designate capacity on up to three (3) channels for public, educational and/or governmental access video programming provided by the Franchising Authority or its designee, such as a public access organization or educational institution. Use of a channel position for public, educational and governmental ("PEG") access shall be provided on the most basic tier of service offered by Franchisee in accordance with the Cable Act, Section 611, and Article 1.2 of the Code of Virginia, and as further set forth below. “Channel position” means a number designation on the Franchisee’s channel lineup regardless of the transmission format (analog or digital). Franchisee does not relinquish its ownership of or ultimate right of control over a channel by designating it for PEG use. In the event any Access channel is reassigned, the Franchisee shall provide the City with at least ~~90~~ 30 days notice before reassigning the channel, and shall pay the reasonable costs of any advertising and promotional materials required due to the reassignment. A PEG access user – whether an individual, educational or governmental user – acquires no property or other interest by virtue of the use of a channel so designated, and may not rely on the continued use of particular channel number, no matter how long the same channel may have been designated for such use. Franchisee shall not exercise editorial control over any public, educational, or governmental use of a channel position, except Franchisee may refuse to transmit any public access program or portion of a public access program that contains obscenity, indecency, or nudity. The Franchising Authority shall be responsible for developing, implementing, interpreting and enforcing rules for Educational and Governmental Access Channel use. On the Effective Date, Franchisee shall provide two (2) PEG access channels for the purposes of providing governmental and educational channels. On the Effective Date, a public access channel will be required only if a public access organization is operational, producing programming content for cablecast, and is providing all communications facilities needed for delivering a public access signal to Franchisee’s headend. If such a public access organization is not meeting such requirements as of the Effective Date, within ninety (90) days after a public access organization meets such requirements and requests use of the third PEG channel, Franchisee shall make available one (1) additional channel for PEG access programming.

5.2 Public Access. A “Public Access Channel” is a channel position designated for noncommercial use by the public on a first-come, first-served, nondiscriminatory basis. A Public Access Channel may not be used to cablecast programs for profit, or for nonpolitical or commercial fundraising in any fashion.

5.3 Educational Access. An “Educational Access Channel” is a channel position designated for noncommercial use by educational institutions such as public or private schools (but not “home schools”), community colleges, and universities.

5.4 Government Access. A “Governmental Access Channel” is a channel position designated for noncommercial use by the Franchising Authority for the purpose of showing the public local government at work.

5.5 NTELOS shall make all necessary arrangements with other Franchisees located in the City for the purpose of ensuring the carriage of all PEG access channels.

5.5.1 Franchisee shall ensure that all PEG access channel signals carried on its system, regardless of the method used to acquire the PEG channels, comply with all applicable FCC signal quality and technical standards for all classes of signals. The technical and signal quality of all PEG access channel signals shall be preserved.

5.5.2 Franchisee shall install and maintain the equipment required for interconnection at a location with the City (the "Interconnection Point"), and shall regularly test the equipment located at the Interconnection Point to ensure it is in full working order and capable of transmitting the PEG channels in accordance with industry standard specifications for sound and picture quality and signal degradation. The PEG origination locations are as follows:

1. City Hall, 900 Church Street, for the Government channel
2. Lynchburg City Schools Administration, 915 Court Street, for the Education channel
3. A location to-be-determined for the Public Access channel.

~~5.6 Franchisee shall pay to the City a one-time capital grant to be used for the purposes of upgrading and maintaining the equipment necessary to support PEG operations. However, this one-time capital grant shall only be payable if, and when, the incumbent cable provider reaches agreement on a franchise with the City which contains a provision for a one-time capital grant. The amount due from the Franchisee shall be the equivalent amount as the incumbent's grant on a per-subscriber basis, based on the Franchisee's estimated number of subscribers in the Franchise Area, not to exceed $6 per subscriber.~~

~~5.7 The parties agree that such one-time capital grant neither constitutes nor is part of any Franchise fee, and all such costs fall within one or more of the exceptions listed in 47 U.S.C. § 542.~~

5.8 The City may, after a public hearing and upon a finding that the existing PEG channels are substantially utilized within the meaning of Section 15.2-2108.22(1) of the Code of Virginia, require by ordinance that the Franchisee provide an additional PEG channel or channels, up to a maximum of three (3) additional PEG channels, provided that the total number of PEG channels, including the additional PEG channels, shall not exceed seven (6).

SECTION 6 - Communications Tax and Franchise Fees

6.1. Communications Tax: Franchisee shall comply with the provisions of Section 58.1-645 et seq. of the Code of Virginia, pertaining to the Virginia Communications Sales and Use Tax, as amended (the "Communications Tax"), and Sections 6.2 through 6.6 of the Agreement shall not have any effect, for so long as the Communications Tax or a successor state or local tax that would constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, is imposed on the sale of cable services by the Franchisee to subscribers in the city.

6.2. Payment of Franchise Fee to City: In the event that the Communications Tax is repealed and no successor state or local tax is enacted that would constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, Franchisee shall pay to the

City a Franchise fee of five percent (5%) of annual Gross Revenue, beginning on the effective date of the repeal of such tax (the “Repeal Date”). Beginning on the Repeal Date, the terms of Section 6.2 through 6.6 of this Agreement shall take effect. In accordance with Title VI of the Communications Act, the twelve (12) month period applicable under the Franchise for the computation of the Franchise fee shall be a calendar year. Such payments shall be made no later than thirty (30) days following the end of each calendar quarter. Should Franchisee submit an incorrect amount, Franchisee shall be allowed to add or subtract that amount in a subsequent quarter, but no later than ninety (90) days following the close of the calendar year for which such amounts were applicable; such correction shall be documented in the supporting information required under Section 6.3 below.

6.3. Supporting Information: Each Franchise fee payment shall be accompanied by a brief report prepared by a representative of Franchisee showing the basis for the computation, and a breakdown by major revenue categories (such as Basic Service, premium service, etc.). The City shall have the right to reasonably request further supporting information for each Franchise fee payment, subject to the proprietary information provision of Section 8.7.

6.4. Limitation on Franchise Fee Actions: The period of limitation for recovery of any Franchise fee payable hereunder shall be five (5) years from the date on which payment by Franchisee is due.

6.5. Bundled Services: This Section 6.5 shall only apply if state or federal law does not otherwise address the computation of franchise fees or gross revenues in connection with the provision of Cable Service as part of a bundle or package with any Non-Cable Service. If the Franchisee bundles Cable Service with Non-Cable Service, the Franchisee agrees that it will not intentionally or unlawfully allocate such revenue for the purpose of evading the Franchise fee payments under this Agreement. In the event that the Franchisee or any Affiliate shall bundle, tie, or combine Cable Services (which are subject to the franchise fee) with non-Cable Services (which are not subject to the franchise fee), so that subscribers pay a single fee for more than one class of service or receive a discount on Cable Services, a *pro rata* share of the revenue received for the bundled, tied, or combined services shall, to the extent reasonable, be allocated to gross revenues for purposes of computing the franchise fee. To the extent there are published charges and it is reasonable, the *pro rata* share shall be computed on the basis of the published charge for each of the bundled, tied, or combined services, when purchased separately. However, the parties agree that tariffed telecommunications services that cannot be discounted under state or federal law or regulations are excluded from the bundled allocation obligations in this section.

SECTION 7 - Customer Service Standards; Customer Bills; and Privacy Protection

7.1 Customer Service Standards. The Franchisee shall comply in all respects with the current customer service requirements established by the FCC. To the extent those customer service requirements are altered, modified, or amended by the FCC during the term of this Franchise, the Franchisee shall comply with such altered, modified or amended requirements within a reasonable period after such requirements become effective. Franchisee shall be subject to the following customer service standards consistent with 47 U.S.C. §§ 76.309, 1602, 1603, 1618 and 1619.

7.1.1 Franchisee will maintain a local or toll-free telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

7.1.1.1 Trained representatives will be available to respond to customer telephone inquiries during normal business hours.

7.1.1.2 After normal business hours, the access line may be answered by a service or automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained representative on the next business day.

7.1.2 Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions as measured on a quarterly basis.

7.1.3 Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.

7.1.4 Franchisee shall accurately collect and maintain data to measure its compliance with the telephone answering standards in Sections 7.1.2 and 7.1.3.

7.1.5 Installations, Outages, and Service Calls. Under normal operating conditions, each of the following standards will be met no less than ninety five percent (95%) of the time as measured on a quarterly basis.

7.1.5.1 Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are those that are within 150 feet of the existing distribution system.

7.1.5.2 Excluding conditions beyond the control of the Franchisee, the Franchisee will begin repairs on Service Outages promptly and in no event later than twenty-four (24) hours after the outage becomes known.

7.1.5.3 The Franchisee must begin working to correct Service Interruptions within 24 hours, including weekends, of receiving a subscriber call for a Service Interruption.

7.1.6 Franchisee shall accurately collect and maintain data to measure its compliance with subparagraph 7.1.5.

7.1.7 The "appointment window" alternatives for installations, service calls and other installation activities will either be at a specific time or, at maximum, a four-hour time block during normal business hours. Franchisee may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

7.1.8 A Franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If a Franchisee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled as necessary, at a time which is convenient for the customer.

7.1.9 Franchisee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(i) Products and services offered;

(ii) Prices and options for programming services and conditions of subscription to programming and other services;

(iii) Installation and service maintenance policies;

(iv) Instructions on how to use the cable service;

(v) Channel positions of programming carried on the system;

(v) Refund policy; and

(vii) Billing and complaint procedures, including the Franchisee's office hours, telephone number, and address of the local cable office.

7.1.10 Franchisee shall be required to submit quarterly reports to the Franchising Authority, in accordance with Section 8.8 – Reporting, to allow it to monitor Franchisee's compliance with quarterly customer service standards.

7.2 Customer Bills. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (i) is not misleading and (ii) does not omit material information. Notwithstanding anything to the contrary in Section 7.1, above, the Franchisee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

7.3 Franchisee shall notify subscribers of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Franchisee. In addition, a Franchisee shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by Section 7.1.10.

7.4 In case of a billing dispute, a Franchisee must respond to a written complaint from a subscriber within thirty (30) days.

7.5 Refund checks will be issued promptly, but not later than either:

7.5.1 The customer's next billing cycle following resolution of the request, or thirty (30) days, whichever is earlier, or

7.5.2 The return of the equipment supplied by a Franchisee if service is terminated.

7.6 Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

7.7 Franchisee shall maintain an office in the Lynchburg area for, at minimum, the payment of bills, delivery and return of subscriber equipment, requests for installation, disconnection, and reinstatement of cable service, addressing of subscriber inquiries, and receipt of subscriber complaints, and shall be open during normal business hours.

7.8 A Franchisee shall provide parental control devices to all subscribers who wish to be able to block out any objectionable channel(s) of programming from the cable service entering the subscriber's home.

7.9 Privacy Protection. The Franchisee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

SECTION 8 - Oversight and Regulation by Franchising Authority

8.1 Oversight of Franchise. In accordance with applicable law, the Franchising Authority shall have the right to oversee, regulate and, on reasonable prior written notice and in the presence of Franchisee's employee, periodically inspect the construction, operation and maintenance of the Cable System in the Franchise Area, and all parts thereof, as necessary to monitor Franchisee's compliance with the provisions of this Franchise Agreement.

8.2 Technical Standards. The Franchisee shall comply with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. § 76. To the extent those standards are altered, modified, or amended during the term of this Franchise, the Franchisee shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective. The Franchising Authority shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC's rules.

8.3 Books and Records. Subject to the confidentiality requirements of Section 8.7 of this Agreement, the City, or such Person or Persons designated by the City, shall have the right to inspect and copy records and the right to audit and to recomputed any amounts determined to be payable under this Franchise, without regard to by whom they are held. If an audit discloses an overpayment or underpayment of franchise fees, the City shall notify the Franchisee of such overpayment or underpayment within ninety (90) days of the date the audit was completed. The City, in its sole discretion, shall determine the completion date for any audit conducted hereunder. Audit completion is not to be unreasonably delayed by either party. Subject to the confidentiality requirements of Section 8.7 of this Franchise, the Franchisee shall be responsible for providing to the City all records necessary to confirm the accurate payment of franchise fees. The Franchisee shall maintain such records for five (5) years. The City's audit expenses shall be borne by the City unless the audit determines the payment to the City should be increased by more than five percent (5%) in the audited period, in which case the costs of the audit shall be paid by the Franchisee to the City within thirty (30) days following written notice to the Franchisee by the City of the underpayment, which notice shall include a copy of the audit report. If recomputation results in additional revenue to be paid by Franchisee to the City, such amount shall be subject to an interest charge in accordance with the City's standard rate for computing interest charges on late payments.

8.4 Records Required: Franchisee shall at all times maintain:

8.4.1. Records of all written complaints for a period of three years after receipt by Franchisee. The term "complaint" as used herein refers to complaints about any aspect of the Cable System or Franchisee's cable operations, including, without limitation, complaints about employee courtesy. Complaints recorded will not be limited to complaints requiring an employee service call;

8.4.2. Records of outages for a period of three years after occurrence, indicating date, duration, area, and the number of Subscribers affected, type of outage, and cause;

8.4.3. Records of service calls for repair and maintenance for a period of three years after resolution by Franchisee, indicating the date and time service was required, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was resolved;

8.4.4. Records of installation/reconnection and requests for service extension for a period of three years after the request was fulfilled by Franchisee, indicating the date of request, date of acknowledgment, and the date and time service was extended; and

8.4.5. A public file showing the area of coverage for the provisioning of Cable Services and estimated timetable to commence providing Cable Service in areas not currently served.

8.5 Federal Communications (FCC) Testing: Within fourteen (14) days of a written request by the City, a written report of test results of FCC performance testing will be provided to the City Manager / Designee.

8.6 File for Public Inspection. Throughout the term of this Franchise Agreement, the Franchisee shall maintain at its business office, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations. Upon reasonable written notice to the Franchisee and with no less than thirty (30) business days' written notice to the Franchisee, the City shall have the right to inspect Franchisee's books and records pertaining to Franchisee's provision of Cable Service in the franchise area at any time during normal business hours and on a nondisruptive basis, as are reasonably necessary to ensure compliance with the terms of this franchise. Such notice shall specifically reference the section or subsection of the franchise which is under review, so that Franchisee may organize the necessary books and records for appropriate access by the City. Franchisee shall not be required to maintain any books and records for franchise compliance purposes longer than five (5) years.

8.7 Proprietary Information:

8.7.1 Notwithstanding anything to the contrary set forth herein, Franchisee shall not be required to submit information to the City that it reasonably deems to be proprietary or confidential in nature, nor submit to the City any of its or an affiliate's books and records not relating to the provision of Cable Service in the franchise area, except as provided herein. Such confidential information shall be subject to the following, to be applied as is most practicable for the purposes of this Agreement:

8.7.1.1 To the extent an exemption under the Virginia Freedom of Information Act permits the City to maintain the confidentiality of submitted information and the Franchisee submits such information to the City, the City shall maintain the confidentiality of such information and not disclose it to any public request;

8.7.1.1 To the extent the information provided to an accountant, attorney, consultant, or any other agent of the City ("City Consultant") would not be subject to public disclosure under the Virginia Freedom of Information Act and the City instructs the Franchisee to provide such information to the City Consultant as may be required by this Agreement, the Franchisee shall provide such information to the City Consultant and the City shall not take possession of the information nor engage in any act that would jeopardize the confidentiality of such information; or,

8.7.1.3 Franchisee must provide the following documentation to the City:
(i) specific identification of the information;
(ii) statement attesting to the reason(s) the Franchisee believes the information is confidential; and
(iii) statement that the documents are available at the Franchisee's designated offices for inspection by the City.

8.7.2 At all times, the City shall take reasonable steps to protect the proprietary and confidential nature of any books, records, maps, plans, or other City-requested documents that are provided pursuant to the Agreement to the extent they are designated as such by the Franchisee. Nothing in this Section shall be read to require the Franchisee to violate federal or state law protecting Subscriber privacy.

8.8 Reporting. The Franchisee shall submit the following reports regarding annual financial information and quarterly customer service information:

8.8.1 Annual Reports. No later than ninety (90) days after the end of its fiscal year, a Franchisee shall submit a written report to the City, which shall include:

8.8.1.1 A summary of the number of complaints received, summarized by type of complaint (e.g. billing, installation, construction, front counter or telephone answering problems, programming, repair, and other complaints) and the nature of the remedial efforts, if any, undertaken by the Franchisee to address recurring complaints that are not resolved individually on a case-by-case basis;

8.8.1.2 A report from the previous calendar year showing Franchisee's total operating revenues from each type of cable service, its gross revenue, and the amount of the Franchisee fees paid to the State and any PEG surcharge fees paid to the City. The report shall include a report from an independent auditor or a duly authorized officer of the Franchisee who has reviewed the financial statements of Franchisee for the year, and found that Franchisee's gross revenue, as defined in this ordinance, are as reported in the annual report;

8.8.1.3 A list of major cable-related projects undertaken in the past year and planned for the current year, including construction and upgrade schedules for any new, relocated, or upgraded aerial or underground facilities;

8.8.2 Quarterly Reports. Unless this requirement is waived in whole or in part by the City, no later than thirty (30) days after the end of each calendar quarter, the Franchisee shall submit a written report to the City, in a form reasonably satisfactory to the City, which shall include:

8.8.2.1 A report showing the number of service calls received by type during that quarter, including any property damage to the extent such information is available to the Franchisee, and any line extension requests received during that quarter;

8.8.2.2 A report showing the number of outages for that quarter, identifying separately each outage of one or more nodes for more than one hour at a time, the date and time it occurred, the date and time when repairs began, its duration, the map area, and, when available to the Franchisee, number of homes affected.

8.8.2.3 A report showing the Franchisee's performance with respect to Section 7.1 of this Agreement and all applicable customer service standards established in 47 C.F.R. §76.309(c), signed by an officer or employee certifying its performance with these customer service standards. Included in this report will be the following information:

i) Percentage of telephone calls that were answered within 30 seconds

ii) Percentage of telephone calls received that were abandoned before being answered by a live operator

iii) Average hold time for telephone calls received

iv) Percentage of time when all incoming trunk lines were in a busy condition

v) Percentage of standard installations performed within seven business days

vi) Percentage of repair calls for Service Interruptions responded to within 24 hours.

8.8.3 If the Franchisee is unable to certify full compliance for any calendar quarter, it must indicate in its filing each standard with which it is in compliance and in noncompliance, the dates of noncompliance, the reason for the noncompliance and a remedial plan. The Franchisee's failure to file a compliance certificate or noncompliance statement as required herein shall subject the Franchisee to the liquidated damages established in this ordinance. The Franchisee shall keep such records as are reasonably required to enable the City to determine whether the Franchisee is substantially complying with all such customer service standards, and shall maintain adequate procedures to demonstrate substantial compliance.

8.8.4 The Franchisee shall submit to the City copies of each petition, application, report, and communication that directly and materially affects the provision of Cable Service within the Franchise Area that are transmitted by the Franchisee to any federal, state, or other regulatory commissions, agencies or courts.

SECTION 9 – Transfer or Change of Control of Cable System or Franchise

9.1 No transfer of this Franchise shall occur without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld, delayed or conditioned. No transfer shall be made to a Person, group of Persons or Affiliate that is not legally, technically and financially qualified to operate the Cable System and satisfy the obligations hereunder.

SECTION 10 - Insurance and Indemnity

10.1 The Franchisee shall indemnify, hold harmless and defend the City, its officers, employees, and agents (hereinafter referred to as "indemnities”), from and against:

10.1.1 Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any act or omission of the Franchisee, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the Franchisee’s cable system caused by Franchisee, its contractors, subcontractors or agents or the Franchisee's failure to comply with any federal, state or local statute, ordinance or regulation.

10.1.2 Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which are imposed upon, incurred by or asserted against the indemnitees by reason of any claim or, lien arising out of work, labor, materials or supplies provided or supplied to the Franchisee, its contractors or subcontractors, for the installation, construction, operation or maintenance of the Franchisee’s cable system in the city.

10.1.3 Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any financing or securities offering by Franchisee or its affiliates for violations of the common law or any laws, statutes or regulations of the Commonwealth of Virginia or of the United States, including those of the Federal Securities and Exchange Commission, whether by the Franchisee or otherwise.

10.2 Damages shall include, but not be limited to, penalties arising out of copyright infringements and damages arising out of any failure by the Franchisee to secure consents from the owners, authorized distributors or licensees, or programs to be delivered by the Franchisee's cable system.

10.3 The Franchisee undertakes and assumes for its officers, agents, contractors and subcontractors and employees all risk of dangerous conditions, if any, on or about any City-owned or controlled property, including streets and public rights-of-ways, and the Franchisee hereby agrees to indemnify and hold harmless the indemnitees against and from any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the Franchisee’s cable system or the Franchisee's failure to comply with any federal, state or local statute, ordinance or regulation, except for any claim asserted or liability imposed upon the indemnitees that arises or is related to wanton or willful negligence by the indemnitees.

10.4 In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, the Franchisee shall, upon notice from any of the indemnitees, and at the Franchisee's sole cost and expense, resist and defend the same, provided further, however, that the Franchisee shall not admit liability in any such matter on behalf of the indemnitees without the written consent of the City Attorney or his or her designee.

10.5 The City shall give the Franchisee prompt notice of the making of any written claim or the commencement of any action, suit or other proceeding covered by the provisions of this section.

10.6 Nothing in this ordinance or in a franchise is intended to, or shall be construed or applied to, express or imply a waiver by the City of statutory provisions, privileges or immunities of any kind or nature as set forth in the Code of Virginia, including the limits of liability of the City as exists presently or as may be increased from time to time by the legislature. Nothing in a franchise or this ordinance shall constitute a waiver of the City’s statutory provisions, privileges or immunities, including the City’s sovereign immunity, of any kind or nature.

10.7 The Franchisee shall maintain, and by its acceptance of a franchise hereunder specifically agrees that it will maintain throughout the term of the franchise, general comprehensive liability insurance insuring the Franchisee. All liability insurance shall include an endorsement in a specific form which names as joint and several insured’s the City and the City’s officials, employees and agents, with respect to all claims arising out of the operation and maintenance of the Franchisee’s cable system in the city. Liability insurance mentioned herein below shall be in the minimum amounts of:

10.7.1 $5,000,000.00 for bodily injury or death to anyone person, within the limit of ten million dollars ($10,000,000) for bodily injury or death resulting from any one accident;

10.7.2 $5,000,000.00 for property damage, including damage to the City’s property, from any one accident;

10.7.3 $5,000,000.00 for all other types of liability resulting from any one occurrence;

10.7.4 Workers Compensation Insurance as required by the Commonwealth of Virginia;

10.7.5 A Franchisee shall carry and maintain in its own name automobile liability insurance with a limit of $5,000,000 for each person and $5,000,000 for each accident for property damage with respect to owned and non-owned automobiles for the operation of which the Franchisee is responsible;

10.7.6 Throughout the term of this franchise, at intervals of no more than once every five years, the City may hire an independent insurance consultant to review the amounts of the insurance policies and if the consultant determines the amounts of the insurance coverage are inadequate, the insurance coverage shall be increased in accordance with the consultant's recommendations; and

10.7.7 Coverage for copyright infringement.

10.8 The inclusion of more than one (1) insured shall not operate to increase the limit of the Franchisee's liability, and that insurer waives any right on contribution with insurance which may be available to the City.

10.9 All policies of insurance required by this section shall be placed with companies which are qualified to write insurance in the Commonwealth of Virginia and which maintain throughout the policy term a General Rating of "A-" and a Financial Size Category of "A:X" as determined by Best Insurance Rating Services.

10.10 Certificates of insurance obtained by the Franchisee in compliance with this section must be approved by the City Attorney, and such insurance policy certificate of insurance shall be filed and maintained with the City's Risk Manager during the term of the franchise. The Franchisee shall immediately advise the City Attorney of any litigation that may develop that would affect this insurance.

10.11 Should the City find an insurance document to be in non-compliance, then it shall notify the Franchisee, and the Franchisee shall be obligated to cure the defect.

10.12 Neither the provisions of this section, nor any damages recovered by the City thereunder, shall be construed to nor limit the liability of the Franchisee under any franchise issued hereunder or for damages.

10.13 The insurance policies provided for herein shall name the City, its officers, employees and agents as additional insured's, and shall be primary to any insurance or self-insurance carried by the City. The insurance policies required by this section shall be carried and maintained by the Franchisee throughout the term of the franchise and such other period of time during which the Franchisee operates or is engaged in the removal of its cable system. Each policy shall contain a provision providing that the insurance policy may not be canceled by the surety, nor the intention not to renew be stated by the surety, until thirty (30) days after receipt by the City, by registered mail, of written notice of such intention to cancel or not to renew.

10.14 Nothing in this section shall require a Franchisee to indemnify, hold harmless or defend the City, its officials, employees or agents, from any claims or lawsuits arising out of the City's award of a franchise to another person.

SECTION 11 - System Description and Service

11.1 System Characteristics: Franchisee's Cable System, which is a fiber to the premises architecture using Internet Protocol technology, shall meet or exceed the following requirements:

11.1.1. Within twenty four (24) months of the granting of this franchise, the System shall provide ~~a minimum of 860 MHz in~~ bandwidth capacity capable of carrying one hundred (100) channels of video programming.

11.1.2. The System shall be designed to be an active two-way plant for subscriber interaction, if any, required for selection or use of Cable Service. The digital offerings shall include some high definition Cable Service.

11.1.3. The Cable Service shall be operated in a manner such that it is in compliance with FCC standards and requirements with respect to interference. The Cable System shall be operated in such a manner as to minimize interference with the reception of off-the-air signals by a Subscriber. The Franchisee shall insure that signals carried by the Cable System, or originating outside the Cable System wires, cable, fibers, electronics and facilities, do not ingress, or egress into or out of the Cable System in excess of FCC standards. In particular, the Franchise shall not operate the Cable System in such a manner as to pose unwarranted interference with emergency radio services, aeronautical navigational frequencies or an airborne navigational reception in normal flight patterns, or any other type of wireless communications, pursuant to FCC regulations.

11.2. Interconnection: The Franchise may design its Cable System so that it will interconnect with other cable systems and open video systems in the Franchise Area. Interconnection of systems may be made by direct cable connection, microwave link, satellite, or other appropriate methods.

11.3. Standby Power: The Franchisee shall provide standby power generating capacity at the headend and at all hubs. The Franchisee shall maintain motorized standby power generators capable of at least twenty-four (24) hours duration at the headend and all hubs, with automatic response systems to alert the local management center when commercial power is interrupted. The power supplies serving the distribution plant shall be capable of providing power to the Cable System for not less than two (2) hours in the event of an electrical outage.

11.4. Technical Standards: The Cable System shall meet or exceed the applicable technical standards set forth in 47 C.F.R. § 76.601.

11.5. Leased Access Channels: The Franchisee shall provide Leased Access Channels as required by federal law.

11.6 Service to School and Government Buildings. Franchisee shall provide, without charge, one Cable Service outlet activated for basic service to each fire station, public school, police station, public library, court house, jail and any other building used for government purposes (which includes buildings leased by the City for governmental purposes as well as buildings owned by the City) located within the Franchise Area. The Franchisee also agrees to use reasonable best efforts to provide one Cable Service outlet activated for basic service, if requested by the City and if already served by the Franchisee's broadband infrastructure at the time of the City's request, to any municipal facility located outside of the Franchise Area.

11.7 Emergency Powers. In the event of an emergency, or where a Franchisee's cable system creates or is contributing to an imminent danger to health, safety, or property, or an unauthorized use of property, the Franchisee shall remove or relocate any or all parts of Franchisee's cable system at the request of the City. If the Franchisee fails to comply with the City's request, the City may remove or relocate any or all parts of the Franchisee's cable system upon reasonable notice to the Franchisee.

11.8 Emergency Alert System.

11.8.1 A Franchisee shall install and thereafter maintain for use by the City, an Emergency Alert System (EAS).

11.8.2 The EAS shall at all times be operated in accordance with FCC rules and the Virginia EAS Plan. If the City determines that it is in the public interest to implement franchise emergency override capabilities in addition to those required by federal and state law, and provided that the additional franchise emergency override capabilities are technically feasible and can be deployed at a reasonable cost, Grantee shall deploy such additional capabilities at its sole cost within twelve (12) months of a request by the City.

11.8.3 The City or other designated body responsible under any approved state or local EAS plan shall provide reasonable notice to the Franchisee prior to any test of the EAS. The Franchisee shall cooperate with the City or other designated body responsible under any approved state or local EAS plan in any such test.

11.8.4 Franchisee shall maintain the EAS and shall periodically upgrade the EAS at the Franchisee's sole expense to ensure that the EAS technology remains consistent and compatible with prevailing technology and applicable law.

SECTION 12 - Enforcement of Franchise

12.1 If, pursuant to any required public hearing, the City determines that the Franchisee has failed to materially comply with this franchise, Article 1.2 (§§ 15.2-2108 *et seq.*) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, the City may impose any penalty for a violation of the terms of an ordinance franchise that it may impose for a comparable violation under the terms of a negotiated franchise or applicable Virginia or City law, including, without limitation, revocation of the franchise.

12.2 Within thirty (30) days after the award of a franchise, the Franchisee shall deposit with the City a performance bond or an irrevocable letter of credit from a financial institution running to the City in the amount of fifty thousand dollars ($50,000.00.). The bond or letter of credit shall be used to insure the faithful performance by the Franchisee of all of the provisions of its franchise and this ordinance, Sections 15.2-2108.19 *et seq.* of the Code of Virginia, and the mandatory requirements of 47 U.S.C. §§ 521-573 and any rules promulgated thereunder, and compliance with all lawful orders, permits, and directions of any agency, commission, board, department, division, or office of the City or VDOT having jurisdiction over the acts of the Franchisee, or defaults under a franchise or the payment by a Franchisee of any penalties, liquidated damages, claims, liens, and taxes due the City which arise by reason of the construction, operation, or maintenance of Franchisee's cable system in the city, including , including restoration of the public rights-of-way and the cost of removal or abandonment of any property of a cable operator.

12.3 Any bond obtained by a Franchisee must be placed with a company which is qualified to write bonds in the Commonwealth of Virginia, such bond shall be subject to the approval of the City Attorney and shall contain the following endorsement (or the substantive equivalent of such language as agreed upon by the City):

> "It is hereby understood and agreed that this bond may not be cancelled without the consent of the City until sixty (60) days after receipt by the City by registered mail, return receipt requested, of a written notice of intent to cancel or not renew."

12.4 Any letter of credit must be issued by a federally insured commercial lending institution and shall be subject to the approval of the City Attorney.

12.4.1 The letter of credit may be drawn upon by the City by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the City Manager or his designee, certifying that the Franchisee has failed to comply with this ordinance after having been given due notice and opportunity to cure the failure to comply. Such certificate shall also state the specific reasons for the failure of compliance, and stating the basis of the amount being drawn.

12.4.1.1 The City may withdraw money from the letter of credit in accordance with the procedures set forth in this section.

12.4.1.2 The City shall provide the Franchisee with written notice informing the Franchisee that such amounts are due to the City. The written notice shall describe, in reasonable detail, the reasons for the assessment. In accordance with Section

12.7, the Franchisee shall cure every failure cited by the City or notify the City that there is a dispute as to whether Franchisee believes such amounts are due the City. Such notice by the Franchisee to the City shall specify with particularity the basis of Franchisee's belief that such monies are not due the City.

12.4.1.3 Upon the delivery of the necessary documents to the lending institution, the City has the right to immediate payment from the issuer bank of the amount from the letter of credit necessary to cure the default.

12.4.1.4 Any letter of credit shall contain the following endorsement: "It is hereby understood and agreed that this letter of credit may not be canceled by the issuer bank nor the intention not to renew be stated by the issuer bank until sixty (60) days after receipt by the City, by registered mail, return receipt requested, of a written notice of such intention to cancel or not to renew."

12.5 Any bond or letter of credit shall be recoverable by the City for all damages and costs, whether direct or indirect, resulting from the failure of a Franchisee to well and faithfully observe and perform any provision of this ordinance.

12.6 The bond or letter of credit shall be maintained at the amount established herein for the entire term of the franchise, even if amounts have to be withdrawn pursuant to this ordinance. The Franchisee shall promptly replace any amounts withdrawn from the bond or letter of credit.

12.7 Non-compliance procedures.

12.7.1 Should the Franchising Authority believe that the Franchisee has not complied with any of the provisions of this Franchise Agreement, it shall: (i) informally discuss the matter with the Franchisee and (ii) notify the Franchisee in writing of the exact nature of the alleged noncompliance if the discussions described in the foregoing clause (i) do not lead to resolution of the alleged noncompliance. The Franchisee shall have ~~fifteen (15)~~ thirty (30) days from receipt of this written notice to: (a) respond to the Franchising Authority, if the Franchisee contests, in whole or in part, the assertion of noncompliance; (b) cure such default; or (c) in the event that, by the nature of default, such default cannot be cured within the ~~15~~ 30-day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed. The Franchising Authority shall schedule a public hearing in the event that the Franchisee fails to respond to the written notice pursuant to these procedures or in the event that the alleged default is not remedied within thirty (30) days of the date projected above if the Franchising Authority intends to continue its investigation into the default. The Franchising Authority shall provide the Franchisee at least thirty (30) business days prior written notice of such hearing, which will specify the time, place, and purpose.

12.7.2 In the event the Franchisee fails to cure the default within ~~fifteen (15)~~ thirty (30) days, fails to file a timely written response, or fails to timely complete the remediation, the City, if it wishes to continue its investigation into the default, shall schedule a public hearing. The Franchisee shall be notified in writing at least thirty (30) business days prior to the public hearing and shall be provided an opportunity to be heard at the public hearing. The notice shall specify the time, place, and purpose of the public hearing. The City shall: (1) provide public notice of the hearing in compliance with Virginia law; (2) hear any person interested in the violation under review; and (3) provide the Franchisee with an opportunity to be heard.

12.7.3 The City shall, within a reasonable time after the closure of the public hearing, issue findings and conclusions in writing, setting forth the basis for the findings, the proposed cure plan and time line for curing the violation, if the violation can be cured, and the penalties, damages and applicable interest, if any, owed.

12.7.4 Subject to applicable federal and Virginia law and the provisions of this ordinance, if the City determines pursuant to a public hearing that a Franchisee is in violation of any provision of this ordinance, Article 1.2 (§§ 15.2-2108 *et seq.*) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, the City may apply one or a combination of the following remedies: (i) seek specific performance or other equitable relief; (ii) commence an action at law; (iii) apply penalties in accordance with Section 12.8, if applicable; or (iv) apply liquidated damages in accordance with Section 12.8, if applicable.

12.7.5 The City may designate the cable administrator or other designee to conduct the hearings and issue findings and conclusions under this subsection. If the City does so, the Franchisee may appeal the determination of the cable administrator or other City designee to the City Council. Such an appeal shall be heard at a lawfully noticed public hearing.

12.7.6 In the event a Franchisee submits notification of unwillingness to comply with any additional service availability requirements as contained in Section 12.2-8 of this Ordinance, or fails to comply with these additional service requirements, the Franchisee's franchise may be terminated after written notice and a public hearing.

12.8 Penalties and Liquidated Damages. Because it may be difficult to calculate the harm to the Franchising Authority in the event of a breach of this Franchise Agreement by Franchisee, the parties agree to liquidated damages as a reasonable estimation of the actual damages. To the extent that the Franchising Authority elects to assess liquidated damages as provided in this Agreement and such liquidated damages have been paid, such damages shall be the Franchising Authority's sole and exclusive remedy. Nothing in this Section is intended to preclude the Franchising Authority from exercising any other right or remedy with respect to a breach that continues past the time the Franchising Authority stops assessing liquidated damages for such breach. Liquidated damages shall not be assessed until the Franchising Authority has completed the procedures set forth in Section 12.7 hereof, including holding a public hearing, and has notified the Franchisee, by certified or registered mail, of the proposed liquidated damage, specifying the violation at issue. The Franchisee shall have thirty (30) days from the date of receipt of the written notice to submit payment. If the Franchisee does not make payment within that period, the Franchising Authority may obtain the amount assessed from the Franchisee's performance bond.

12.8.1 The first day for which liquidated damages may be assessed, if there has been no cure after the end of the applicable cure period, shall be the day after the end of the applicable cure period, including any extension of the cure period granted by the Franchising Authority.

12.8.2 Franchisee may appeal (by pursuing judicial relief or other relief afforded by the Franchising Authority) any assessment of liquidated damages within thirty (30) days of receiving written notice of the assessment. Franchisee's obligation to pay the liquidated damages assessed shall be stayed pending resolution of the appeal.

12.8.3 Liquidated damages may be assessed for the following violations of this Franchise Agreement, in the following amounts:

12.8.3.1 Failure to comply with PEG access requirements: ~~$400~~ $200, for each violation for each day the violations continues;

12.8.3.2 Failure to render payments due to the Franchising Authority: Three-tenths of one percent (0.3%) of the unpaid amount for each day the violation continues, in addition to any monetary payment due and interest, in accordance with the City's standard rate for computing interest charges on late payments.

12.8.3.3 Failure to supply information, reports, or filings lawfully required: $400, for each violation for each day the violation continues.

12.8.3.4 Failure to comply with customer service standards: ~~$400~~ $200, for each violation for each day the violation continues, except where compliance is measured quarterly, in which case damages shall be as specified in Section 12.8.3.5.

12.8.3.5 Failure to comply with customer service standards with which compliance is measured on a quarterly basis: $500 for the first violation in which such standards were not met; $1,000 for any violation within 18 months after the first; and $2,500 for any violation within 18 months after the second or any subsequent violation.

12.8.3.6 For failure to comply with any other requirement of this ordinance, applicable Virginia law or the Cable Act: ~~$400~~ $100 a day for each violation for each day the violation continues.

12.8.3.7 The Franchisee shall not be charged with multiple violations for a single act or event affecting a single subscriber or for a single act or event affecting multiple subscribers on the same day.

12.8.3.8 The City may reduce or waive any of the above liquidated damages if it determines, in its discretion, that such waiver is in the public interest.

12.8.3.9 If a court of competent and binding jurisdiction determines that liquidated damages cannot be imposed by this ordinance rather than by contract, the foregoing liquidated damages shall be construed to be penalties to the full extent allowed and contemplated by Section 15.2-2108.22(6) of the Code of Virginia

12.9 Technical Violation. The Franchising Authority agrees that it is not its intention to subject the Franchisee to penalties, fines, forfeitures or revocation of the Franchise for so-called “technical” breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

12.9.1 in instances or for matters where a violation or a breach of the Franchise by the Franchisee was good faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or

12.9.2 where there existed circumstances reasonably beyond the control of the Franchisee and which precipitated a violation by the Franchisee of the Franchise, or which were deemed to have prevented the Franchisee from complying with a term or condition of the Franchise.

SECTION 13 - Inspection of facilities

13.1 Franchisee shall comply with all applicable federal, state and local construction and engineering codes and regulations, currently in force or hereafter applicable, to the construction, operation or maintenance of its cable system within the city. The City shall have the right to review a Franchisee’s construction plans and specifications to assure compliance with the required standards. After construction has been completed, the City shall have the right to inspect all construction or installation work performed pursuant to the franchise and to conduct any tests it deems necessary to ensure compliance with the terms of this ordinance and all applicable federal, state and local building and engineering codes. However, the City shall not be required to review or approve construction plans and specifications or to make any inspections. The Franchisee shall be solely responsible for taking all steps necessary to assure compliance with applicable standards and to ensure that its cable system is installed in a safe manner and pursuant to the terms of the franchise and applicable law.

SECTION 14 - Miscellaneous Provisions

14.1 Force Majeure. The Franchisee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by events which constitute a Force Majeure, as defined in the Agreement.

14.2 Notice. All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the Franchising Authority:

City Manager
City of Lynchburg
900 Church Street
Lynchburg, VA 24504

To the Franchisee:

NTELOS
VP Legal & Regulatory
401 Spring Lane
Waynesboro, VA 22980

with a copy to:

NTELOS
Manager-Regulatory
1154 Shenandoah Village Drive
Waynesboro, VA 22980

14.3 Entire Agreement. This Franchise Agreement, including all Exhibits, embodies the entire understanding and agreement of the Franchising Authority and the Franchisee with respect to the subject matter hereof and supersedes all prior understandings, agreements and communications, whether written or oral. All ordinances or parts of ordinances that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

14.4 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

14.5 Governing Law. This Franchise Agreement shall be deemed to be executed in the Commonwealth of Virginia, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the Commonwealth of Virginia, as applicable to contracts entered into and performed entirely within the Commonwealth.

14.6 Modification. No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Franchisee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.

14.7 No Third-Party Beneficiaries. Nothing in this Franchise Agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

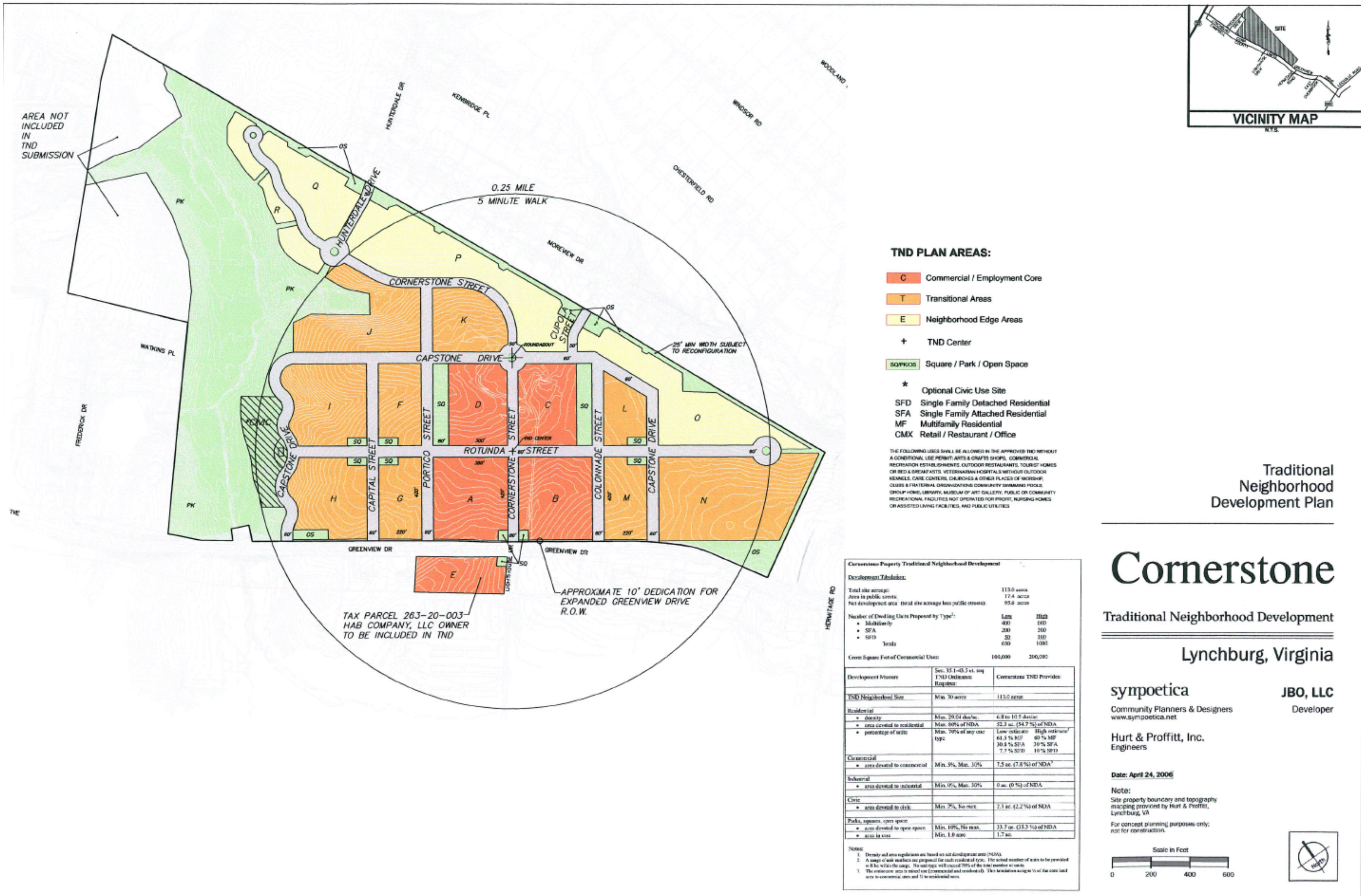
14.8 No Waiver of Rights. Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, Franchisee may have under federal or state law unless such waiver is expressly stated herein.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of the date set forth below:

City of Lynchburg, Virginia:	NTELOS Media Inc.
By: ______________________	By:______________________
Name: L. Kimball Payne, III	Name: D. R. Maccarelli
Title: City Manager	Title: Vice President

<u>EXHIBITS</u>
Exhibit One: Franchise Area

Exhibit 1 – Franchise Area (Cornerstone Traditional Neighborhood Development , from Lynchburg City Council resolution R-06-075 (page 3) adopted on June 27, 2006. Full City Council resolution on file with Lynchburg City Clerk of Council.)



LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008** AGENDA ITEM NO.: 13

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

ACTION: **X** INFORMATION:

ITEM TITLE: **$14,200,000 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 $14,200,000 of Sewer Revenue Bonds and adopt a resolution authorizing the issuance of not to exceed $14,200,000 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). In April 2008, the State Water Control Board authorized a $12,350,000 VCWRLF zero percent (0%) interest loan. The resolution authorizes an issuance of not to exceed $14,200,000 to provide for debt issuance in excess of the $12,350,000 in the event future project bids exceed estimates available to date. The CSO separation and interceptor projects included in this loan are:

Design:
CSO 1A5-1 (Buena Vista, Cedar, Hazel, Maple, Tulip Streets; and Florida Avenue);
CSO 1A5-2 (Buena Vista, Church, Coal, Elm, Liberty, Main, Pine, and Race Streets);
CSO 1D3 (Belmont, Blackford, Bridge, Byrd, Cosby, Hemlock, Randolph, and Scott Streets; Rivermont and Victoria Avenues);
CSO 1D3.2 (Birch, Cork, Early Hawes, and Holly Streets; Bedford, Cleveland, and Rivermont Avenues),
CSO 16.3 (Aragon, Blackburn, Callaham, Cliff, Folks, Gordon, James, Palm, Shaffer, and Wythe Streets; Carroll Avenue);
Construction administration and inspection services:
CSO 8.1C (Arrow St, Parkland Dr., and Surrey Pl.);
CSO 1D3.1 (Bedford, Boston and Cleveland Avenues); \
Upper James River Interceptor-Phase 1;
Construction:
CSO 8.1C (partial), Upper James River Interceptor-Phase 1 (partial);
CSO 1D3.1.

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 2008-2012 Capital Improvements Program including receipt of a $14,200,000 Virginia Clean Water Revolving Loan for Combined Sewer Overflow correction projects.
Finance Committee, May 6, 2008

FISCAL IMPACT: Issuance of up to $14,200,000 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 TWO HUNDRED THOUSAND DOLLARS ($14,200,000) 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 OR THE ASSISTANT 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 Two Hundred Thousand Dollars ($14,200,000) 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 1. Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950, the same being the Public Finance Act of 1991, and the Charter of the City, 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 Two Hundred Thousand Dollars ($14,200,000) 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 2008" or such other series designation as shall be determined by the City Manager or the Deputy City Manager.

SECTION 2. 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, dated April 18, 2008 (the "Commitment Letter"), from VRA to the City, a copy of which is filed with the minutes of the meeting at which this Resolution is being adopted, and a Financing Agreement (the "Financing Agreement"), by and between VRA, as administrator of the Fund, and the City, as the Borrower thereunder, such Financing Agreement to be in substantially the form presented to and filed with the minutes of the meeting of this Council at which this Resolution is being adopted. The form of the Financing Agreement and the terms, conditions and provisions thereof are hereby approved by this Council, and the City Manager or the Deputy City Manager is hereby authorized and directed to execute and deliver to VRA a Financing Agreement in such form, together with such changes 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 Financing Agreement and the form of the Bond attached thereto as Exhibit A.

SECTION 3. 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 at Appendix F to 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 4. 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 of the City, and shall be authenticated with the manual or facsimile signature of the Director of Financial Services or the Assistant 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, and in the absence of a Director of Financial Services the Assistant Director of Financial Services, is hereby appointed as the Registrar and Paying Agent for the Bonds.

SECTION 5. 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 6. The City Manager, the Deputy City Manager, the Director of Financial Services, the Assistant 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 7. 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 8. The Clerk of Council is hereby directed to file a copy of the Resolution, certified by such Clerk of Council to be a true and correct copy hereof, with the Circuit Court of the City.

SECTION 9. 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 10. This Resolution shall take effect upon its adoption.

Adopted:

Certified: ______________________________
Clerk of Council

058L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008**		AGENDA ITEM NO.: 14
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	

ITEM TITLE: **FY 2008 Third Quarter Budget Adjustments**

RECOMMENDATION: Hold a public hearing and adopt a resolution to amend the FY 2008 Budgets and appropriate funds to implement revenue, expenditure and transfer adjustments as identified on Attachments A, B, C, and D for the General Fund Operating, City/Federal/State Aid, Asset Forfeiture, Regional Airport, Airport Capital Projects, Fleet Services, Solid Waste Management, Solid Waste Capital, Water Operating, Water Capital Projects, Sewer Operating, Sewer Capital Projects, School Operating, School Capital Projects, Regional Juvenile Detention, City Capital Projects and Comprehensive Services Act Funds.

SUMMARY: In early March, staff began a review of FY 2008 operating revenues and expenditures of the City's various funds to determine if adjustments were needed prior to the end of the fiscal year. Departments were requested to submit any adjustments that needed to be considered prior to the end of the fiscal year. Likewise, Financial Services staff reviewed projected revenues. Attachments A, B, C, and D provide a list of proposed expenditure and revenue adjustments based on a third quarter review.

Adjustments to the FY 2008 General Fund Operating Budget are recommended to appropriate funds from various additional resources to fund (a) Compensation Board adjustments, (b) increased expenses related to services provided by the Sheriff's Department, (c) increased federal and state funding for social services programs, (d) increased expenses related to services provided by Parks and Recreation (e) increased expenses related to the realignment of positions in the Emergency Communications department, (f) increased expenses to replace false alarm billing/tracking software, (g) increased overtime costs in the Police Department, (h) costs for studio lighting for the Local Government Channel, (i) a reduction in the General Fund subsidy to the Airport, (j) a reduction in the local match for the Victim Witness grant, (k) local funds for Greater Lynchburg Transit Company for increased fuel costs as well as overtime and health insurance, (l) increases in interest expenses related to the Line of Credit as well as debt refinancing, (m) a contribution to Lynchburg Lifesaving Crew for Holmatro rescue tools, (n) transfers to the City Capital Projects Fund for renovations to the second floor of City Hall, the D Street Bridge project and replacement of the Humane Society incinerator, and (o) increases in fuel costs.

Adjustments to the City/Federal/State Aid Fund are recommended to appropriate additional funds from the state and federal governments and adjust the grant budgets equal to the amounts awarded by the state and federal governments.

An adjustment to the Asset Forfeiture Fund is recommended to appropriate additional revenues received.

Adjustments to the Regional Airport Fund are recommended to reflect additional revenues, an interest expense payment for debt refinancing, and expenses related to additional federal and state funding.

Adjustments to the Airport Capital Projects Fund are recommended to reflect additional revenues and expenditures for the Runway Extension Phase IV project as well as an Airport Rescue and Firefighting Truck.

Adjustments to the Fleet Services Fund are recommended to reflect additional revenue from the sale of miscellaneous vehicles and equipment, an interest expense payment related to debt, a reduction in the wage budget, and increased fuel expenses.

Adjustments to the Solid Waste Management Fund are recommended to appropriate additional revenues in excess of budget projections, and to appropriate funds from reserves for additional expenditures.

An adjustment to the Solid Waste Capital Fund is recommended to appropriate funds from the Solid Waste reserve for Landfill Expansion.

Adjustments to the Water Operating Fund are recommended to appropriate additional revenues in excess of budget projections, debt interest expenses, as well as a transfer to Water Capital for previously appropriated projects.

An adjustment to the Water Capital Projects Fund is recommended to appropriate a transfer from Water Operating for previously appropriated projects.

Adjustments to the Sewer Operating Fund are recommended to appropriate additional revenues in excess of budget projections, debt interest expenses, and a transfer to Sewer Capital for the Jefferson Street CSO project.

An adjustment to the Sewer Capital Projects Fund is recommended for a transfer from the Sewer Operating Fund for the Jefferson Street CSO project.

Adjustments to the School Operating Fund are recommended to appropriate the remaining FY 2007 year-end fund balance and to adjust the grant budgets equal to the amounts awarded by the state and federal governments.

Adjustments to the School Capital Projects Fund are recommended to appropriate the remaining cost of construction for Sandusky Middle School and to transfer FY 2007 Year End Fund Balance from the School Operating fund for school capital projects.

PRIOR ACTION(S): Adoption of the FY 2008 Operating Budget: May 23, 2007; April 22, 2008 Work Session

BUDGET IMPACT: Resources of $1,600,177 and expenditures and transfers of $2,057,244 be appropriated to the General Fund; resources and expenditures of $23,594 be appropriated to the City/Federal/State/Aid Fund; resources and expenditures of $25,832 resources and expenditures be appropriated to the Asset Forfeiture Fund; resources and expenditures of $86,732 be appropriated to the Regional Airport Operating Fund; resources and expenditures of $1,117,135 be appropriated to the Regional Airport Capital Projects Fund; resources of $337,019 and expenditures of $345,249 be appropriated to the Fleet Services Fund; resources of $989,697 and expenditures of $1,089,547 be appropriated to the Solid Waste Management Fund; resources and expenditures of $135,000 be appropriated to the Solid Waste Capital Projects Fund; resources of $585,200 and expenditures of $1,514,255 be appropriated to the Water Operating Fund; resources up to $1,400,000 be appropriated to the Water Capital Projects Fund; resources of $1,353,500 and expenditures of $402,426 be appropriated to the Sewer Operating Fund; resources and expenditures of up to $300,000 be appropriated to the Sewer Capital Projects Fund; resources of $372,418 and expenditures of $1,627,159 be appropriated to the School Operating Fund; resources and expenditures of $7,802,075 be appropriated to the School Capital Projects Fund; expenditures of $18,151 be appropriated to the Regional Juvenile Detention Fund; resources and expenditures of $670,000 be appropriated to the City Capital Projects Fund; resources of $1,199,855 and expenditures of $1,306,283 be appropriated to the Comprehensive Services Act Fund.

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

ATTACHMENT(S):

Attachment A: FY 2008 Third Quarter Summary by Fund
Attachment B: FY 2008 Third Quarter Requests – Revenues and Expenditures
Attachment C: FY 2008 Third Quarter General Fund Revenue Adjustments
Attachment D: FY 2008 Third Quarter Requests – Schools Fund Balance

REVIEWED BY: lkp

Ordinance:

BE IT ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the General Fund as identified on the FY 2008 General Fund Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the City/Federal/State Aid Fund as identified on the FY 2008 Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Asset Forfeiture Fund as identified on the FY 2008 Third Quarter Summary by Fund.

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Regional Airport Fund as identified on the FY 2008 Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Regional Airport Capital Projects Fund as identified on the FY 2008 Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Fleet Services Fund as identified on the FY 2008 Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Solid Waste Management Fund as identified on the FY 2008 Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Solid Waste Capital Projects Fund as identified on the FY 2008 Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Water Operating Fund as identified on the FY 2008 Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Water Capital Projects Fund as identified on the FY 2008 Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Sewer Operating Fund as identified on the FY 2008 Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg up to the sums for the Sewer Capital Projects Fund as identified on the FY 2008 Third Quarter Summary by Fund;

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg up to the sums for the School Operating Fund as identified on the FY 2008 Third Quarter Summary by Fund.

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg up to the sums for the School Capital Projects Fund as identified on the FY 2008 Third Quarter Summary by Fund.

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg up to the sums for the Regional Juvenile Detention Fund as identified on the FY 2008 Third Quarter Summary by Fund.

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg up to the sums for the City Capital Projects Fund as identified on the FY 2008 Third Quarter Summary by Fund.

BE IT FURTHER ORDAINED that the FY 2008 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg up to the sums for the Comprehensive Services Act Fund as identified on the FY 2008 Third Quarter Summary by Fund.

Introduced: Adopted:

Certified: ________________________________
Clerk of Council

059L

THIRD QUARTER SUMMARY BY FUND

Fund	Revenues	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease
General Fund	$1,600,177	$500,000	$2,057,244	$42,933
City/Federal/State Aid Fund	23,594	0	23,594	$0
Asset Forfeiture Fund	25,832	0	25,832	$0
Regional Airport Fund	86,732	0	86,732	$0
Airport Capital Projects Fund	1,117,135	0	1,117,135	$0
Fleet Fund	337,019	8,230	345,249	$0
Solid Waste Management Fund	989,697	99,850	1,089,547	$0
Solid Waste Capital Projects Fund	135,000	0	135,000	$0
Water Operating Fund	585,200	929,055	1,514,255	$0
Water Capital Projects Fund	1,400,000	0	0	$1,400,000
Sewer Operating Fund	1,353,500	(951,074)	402,426	$0
Sewer Capital Projects Fund	300,000	0	300,000	$0
School Operating Fund	372,418	1,254,741	1,627,159	$0
School Capital Projects Fund	7,802,075	0	7,802,075	$0
Regional Juvenile Detention Fund	0	18,151	18,151	$0
City Capital Projects Fund	670,000	0	670,000	$0
Comprehensive Services Act Fund	1,199,855	106,428	1,306,283	$0
Totals	$17,998,234	$1,965,381	$18,520,682	$1,442,933

THIRD QUARTER REQUESTS - REVENUES AND EXPENDITURES

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
GENERAL FUND					
See Attachment C for Details	1,011,789	0	0	1,011,789	Increase in Revenues based upon updated projections.
Sheriff	23,156	0	23,156	0	Appropriate Compensation Board reimbursement for part-time salaries.
Sheriff	0	0	20,003	(20,003)	Salaries for Temporary Detention Orders, transports.
Sheriff Total	23,156	0	43,159	(20,003)	
Circuit Court Clerk	69,739	0	69,739	0	Appropriate additional funds reimbursed by the Compensation Board.
Social Services Regular Programs (0902)	495,493	0	420,000	75,493	Appropriated expenditures related to additional Federal and State funding.
Juvenile Services					
Juvenile Detention (0905)	0	0	(200,000)	200,000	Reduce City's contribution to Regional Detention Home due to a decrease in occupancy by City juveniles.
Transfer to CSA Fund	0	0	500,000	(500,000)	Transfer from ~~reserve for contingencies~~ fund balance to fund additional CSA expenditures.
Juvenile Services Total	0	0	300,000	(300,000)	
Parks and Recreation/Aquatics	0	0	9,600	(9,600)	Cost of opening Miller Park pool on ~~Labor Day~~ Memorial Day rather than when school closes.
Parks and Recreation/Parks Services	0	0	16,780	(16,780)	To cover additional fleet maintenance expenses.

THIRD QUARTER REQUESTS - REVENUES AND EXPENDITURES

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
Parks and Recreation/Community Market	0	0	7,600	(7,600)	To cover additional costs of natural gas, water and sewer.
Parks and Recreation Total	0	0	33,980	(33,980)	
Emergency Communications	0	0	10,000	(10,000)	Cost of constructing a new office space for the Deputy Director position being transferred from the City Manager's Office.
Emergency Communications	0	0	14,000	(14,000)	Cost of promotions for Shift Supervisor, Assistant Shift Supervisor, and Deputy Director.
Emergency Communications	0	0	11,200	(11,200)	To appropriate funds transferred from the Regional Radio Fund to cover replacement costs of the false alarm billing/tracking
Emergency Communications Total	0	0	35,200	(35,200)	
Police	0	0	100,000	(100,000)	Overtime.
Communications & Marketing	0	0	55,000	(55,000)	Studio lighting for Local Government Channel.
Airport	0	0	(30,940)	30,940	Reduce General Fund transfer to the Airport, original budgeted amount not needed.
Commonwealth Attorney	0	0	(22,146)	22,146	Decrease local match for Victim Witness grant due to increase in Federal funding.
GLTC	0	0	215,879	(215,879)	Appropriate additional funds due to increased fuel costs ($145,879), as well as overtime and health insurance ($70,000).

THIRD QUARTER REQUESTS - REVENUES AND EXPENDITURES

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
Financial Services	0	0	15,000	(15,000)	Interest payment on Line of Credit for Sandusky Middle School.
Financial Services	0	0	37,818	(37,818)	Interest payment related to debt refinancing.
	0	0	52,818	(52,818)	
Transfer to Capital	0	0	100,000	(100,000)	Renovations to second floor city hall.
Lynchburg Life Saving Crew	0	0	20,000	(20,000)	Holmatro rescue tools (equipment used to extract trapped passengers from vehicles).
Transfer to Capital	0	500,000	500,000	0	Transfer $500,000 from General Fund Reserve for Contingencies to the City Capital Projects Fund for D Street Bridge.
Transfer to Capital	0	0	70,000	(70,000)	Transfer from General Fund to City Capital Projects Fund for replacement of the Humane Society Incinerator.
Various Departments	0	0	94,555	(94,555)	Appropriate funding for increases in fuel costs.
General Fund Total	**$1,600,177**	**$500,000**	**$2,057,244**	**$42,933**	

CITY FEDERAL STATE AID FUND

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
Fire	2,618	0	2,618	0	Increase to match grant award, fully reimbursable.
Emergency Communications	15,476	0	15,476	0	New Local Emergency Management Performance Grant received from Virginia Department of Emergency Management.

THIRD QUARTER REQUESTS - REVENUES AND EXPENDITURES

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
Social Services Piedmont Regional Adoption Grant	5,500	0	5,500	0	Appropriate expenditures related to additional Federal and State Funding.

City Federal State Aid Fund Total	**$23,594**	**$0**	**$23,594**	**$0**

FORFEITED ASSETS FUND

Police	**$25,832**	**$0**	**$25,832**	**$0**	Appropriate expenditures related to additional Federal and State Funding.

AIRPORT FUND

Airport	35,000	0	0	35,000	Increase in rental car revenue.
Airport	10,000	0	0	10,000	Increase in interest income.
Airport	8,000	0	0	8,000	Increase in TSA rent.
Airport	7,000	0	0	7,000	Increase in steel property rent.
Airport	20,000	0	0	20,000	Increase in CFC revenue.
Airport	37,672	0	0	37,672	Adjust budget designation account to adjust fund balance to agree to FY 2007 CAFR.
Airport	(30,940)	0	0	(30,940)	Reduce General Fund transfer to the Airport, original budgeted amount not needed.
Financial Services			3,784	(3,784)	Interest payment related to debt refinancing.
Airport	0	0	82,948	(82,948)	Appropriate expenditures related to additional Federal and State Funding.

Airport Fund Total	**$86,732**	**$0**	**$86,732**	**$0**

THIRD QUARTER REQUESTS - REVENUES AND EXPENDITURES

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
AIRPORT CAPITAL FUND					
Airport	**$1,117,135**	**$0**	**$1,117,135**	**$0**	Appropriate additional federal and state funding for Runway Extension Phase IV ($867,135) and Airport Rescue & Firefighting Truck ($250,000).
FLEET FUND					
Financial Services	0	20,730	20,730	0	Increased interest expense related to August 2007 bond issue.
Fleet Services	242,464	0	242,464	0	Appropriate auction revenues received. Will be used for vehicle purchases.
Fleet Services	0	(12,500)	(12,500)	0	Will not spend entire wage budget.
Fleet Services	94,555	0	94,555	0	Appropriate funding for increases in fuel costs.
Fleet Fund Total	**$337,019**	**$8,230**	**$345,249**	**$0**	
SOLID WASTE MANAGEMENT FUND					
Public Works	475,000	0	0	475,000	Increase in investment income due to long-term investing.
Public Works	304,080	0	0	304,080	Increase in revenue from small haulers.
Public Works	164,000	0	0	164,000	Increase in revenue from industrial contracts.
Public Works	40,000	0	0	40,000	Increase in decal revenue.
Public Works	2,000	0	0	2,000	Increase in trash cart revenue.
Public Works	2,000	0	0	2,000	Increase in penalty and interest revenue.
Public Works	2,617	0	2,617	0	Appropriate additional grant funding received.
Public Works	0	135,000	135,000	0	Appropriate funds from Landfill Expansion reserve to cover change orders received.

THIRD QUARTER REQUESTS - REVENUES AND EXPENDITURES

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
Public Works	0	140,930	140,930	0	Appropriate funds from Heavy Equipment reserve to cover unexpected repair expenses.
Public Works	0	0	111,000	(111,000)	Increase transfer to Solid Waste Capital for Phase I Closure expenses due to change orders received.
Public Works	0	0	250,000	(250,000)	Appropriate funds for repair bills on trac loader.
Public Works	0	0	300,000	(300,000)	Appropriate funds to cover increased materials costs due to increased fuel costs as well as additional materials needed due to weather.
Public Works	0	0	150,000	(150,000)	Appropriate additional funding to cover increased fuel costs.
Public Works	0	(176,080)	0	(176,080)	Increase in Fund Balance due to increased revenue projections.
Solid Waste Management Fund Total	**$989,697**	**$99,850**	**$1,089,547**	**$0**	

SOLID WASTE CAPITAL FUND

Public Works	**$135,000**	**$0**	**$135,000**	**$0**	Appropriate funds from Landfill Expansion reserve to cover change orders received.

WATER OPERATING FUND

Utilities	585,200	0	0	585,200	Additional revenues projected for charges for services, water contracts and interest earnings.

THIRD QUARTER REQUESTS - REVENUES AND EXPENDITURES

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
Utilities	0	814,800	1,400,000	(585,200)	Pay-As-You-Go transfer from Water Operating Fund for previously appropriated projects.
Financial Services	0	28,997	28,997	0	Interest payment related to debt refinancing.
Financial Services	0	85,258	85,258	0	Increased interest expense related to August 2007 bond issue.
Water Operating Fund Total	**$585,200**	**$929,055**	**$1,514,255**	**$0**	

WATER CAPITAL PROJECTS FUND

Utilities	1,400,000	0	0	1,400,000	Pay-As-You-Go transfer from Water Operating Fund for previously appropriated projects.

SEWER OPERATING FUND

Financial Services	0	54,873	54,873	0	Increased interest expense related to August 2007 bond issue.
Financial Services	0	47,553	47,553	0	Interest payment related to debt refinancing.
Utilities	1,353,500	0	0	1,353,500	Additional revenues projected for charges for services, sewer contracts and interest earnings.
Utilities	0	300,000	300,000	0	Transfer to Sewer Capital for Jefferson St CSO work.
Utilities	0	(1,353,500)	0	(1,353,500)	Increase in Fund Balance due to increased revenue projections.
Sewer Operating Fund Total	**$1,353,500**	**($951,074)**	**$402,426**	**$0**	

THIRD QUARTER REQUESTS - REVENUES AND EXPENDITURES

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
SEWER CAPITAL FUND					
Utilities	**$300,000**	**$0**	**$300,000**	**$0**	Transfer from Sewer Operating for Jefferson St CSO work.
SCHOOL OPERATING FUND					
Schools	372,418	0	372,418	0	Adjustments to Grant Award
Schools		502,320	502,320	0	Transfer FY 2007 Year-end Fund balance from General Fund to School Capital and appropriate to spend.
Schools	0	752,421	752,421	0	Transfer remaining FY 2007 Year-End Fund Balance from General Fund to school operating. See Attachment D for details.
School Operating Fund Total	**$372,418**	**$1,254,741**	**$1,627,159**	**$0**	
SCHOOL CAPITAL FUND					
Schools	502,320		502,320	0	Transfer FY 2007 Year-end Fund balance from General Fund to School Capital and appropriate to spend.
Schools	7,299,755		7,299,755	0	Appropriate projected funding for Sandusky Middle School. To satisfy audit requirements, this needs to be appropriated in FY 2008 rather than FY 2009 in order to sign a contract in FY 2008.
School Capital Fund Total	**$7,802,075**	**$0**	**$7,802,075**	**$0**	

THIRD QUARTER REQUESTS - REVENUES AND EXPENDITURES

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
REGIONAL JUVENILE DETENTION HOME FUND					
Financial Services	0	18,151	18,151	0	Interest payment related to debt refinancing.
Regional Juvenile Detention Home Fund Total	**$0**	**$18,151**	**$18,151**	**$0**	
CITY CAPITAL PROJECTS FUND					
Transfer from General Fund	500,000	0	500,000	0	Transfer from General Fund reserve for contingencies for D Street Bridge project.
Transfer from General Fund	100,000	0	100,000	0	Transfer from General Fund for Community Development Renovations.
Transfer from General Fund	70,000	0	70,000	0	Transfer from General Fund for replacement of Humane Society Incinerator.
City Capital Projects Fund Total	**$670,000**	**$0**	**$670,000**	**$0**	
COMPREHENSIVE SERVICES ACT FUND					
Juvenile Services	500,000	0	0	500,000	Increase General Fund contribution to CSA due to increased mandated costs.
Juvenile Services	649,855	0	0	649,855	Increase State contribution to CSA due to increased mandated costs.
Juvenile Services	15,000	0	0	15,000	Increase Schools contribution to CSA due to increased mandated costs.
Juvenile Services	110,000	0	0	110,000	Increase Special Welfare contribution to CSA due to increased mandated costs.

THIRD QUARTER REQUESTS - REVENUES AND EXPENDITURES

Department/Division	Revenue	Use of/(Addition to) Fund Balance	Expenditures	Net Increase/ Decrease	Purpose
Juvenile Services	(75,000)	0	0	(75,000)	Adjust miscellaneous revenue based upon more accurate estimates.
Juvenile Services	0	106,428	1,306,283	(1,199,855)	Additional FY 2008 Expenditures.
CSA Fund Total	**$1,199,855**	**$106,428**	**$1,306,283**	**$0**	

Revenue Detail	Actual FY 2007	Adopted FY 2008	Amended FY 2008	Revised Estimate FY 2008	3rd Quarter Adjustment FY 2008
General Property Taxes					
Current Real Property	$40,281,964	$46,556,764	$46,556,764	$47,155,100	$598,336
Real Property Tax Relief Program	(472,482)	(621,550)	(621,550)	(621,550)	0
Real Property Housing Rehab Program	(291,425)	(291,395)	(291,395)	(413,000)	(121,605)
Allowance for Uncollectible Real Property		(931,135)	(931,135)	(943,102)	(11,967)
Delinquent Real Property Taxes	659,863	700,000	700,000	500,000	(200,000)
Current Public Service Corporation (PSC)	2,084,337	2,000,000	2,000,000	1,859,402	(140,598)
Current Personal Property - Local portion	12,676,129	13,535,166	13,535,166	13,687,203	152,037
Delinquent Personal Property Tax	922,293	600,000	600,000	1,000,000	400,000
Allowance for Uncollectible Personal Property		(309,637)	(309,637)	(342,220)	(32,583)
Recovery of Charged off Taxes	3,564	5,200	5,200	2,000	(3,200)
Penalty on Delinquent Tax	409,892	540,000	540,000	450,000	(90,000)
Interest on Delinquent Taxes	165,017	225,000	225,000	200,000	(25,000)
Miscellaneous General Property Taxes	3,116	2,600	2,600	2,550	(50)
Total General Property Taxes	**$56,442,268**	**$62,011,013**	**$62,011,013**	**$62,536,383**	**$525,370**
Other Local Taxes					
Local Sales Tax	$14,475,896	$15,476,000	$15,476,000	$13,915,498	($1,560,502)
Utility Consumption Tax - Electric	3,837,889	3,842,614	3,842,614	3,876,268	33,654
Utility Consumption Tax - Gas	630,383	632,527	632,527	636,687	4,160
Utility Tax - Telephone	521,910	0	0	0	0
Utility Tax - Cellular	573,605	0	0	0	0
Communications Sales and Use Tax	1,669,968	2,785,368	2,785,368	3,827,916	1,042,548
Right of Way Fees	271,580	286,127	286,127	267,888	(18,239)
Business License Tax	7,474,759	7,503,617	7,503,617	7,626,976	123,359
Allowance for Uncollectible Business License		(215,991)	(215,991)	(219,064)	(3,073)
Electric Consumption Tax[1]	319,891	319,545	319,545	323,090	3,545
Gas Consumption Tax[1]	35,698	33,580	33,580	34,405	825
Delinquent Business License Tax	94,301	75,000	75,000	60,000	(15,000)
Penalty on Business License Tax	42,319	40,000	40,000	40,000	0
Franchise License Tax - Cablevision	308,770	0	0	0	0
Motor Vehicle Licenses	1,413,309	1,575,000	1,575,000	1,575,000	0
Delinquent Motor Vehicle Licenses	77,877	0	0	20,000	20,000
Bank Stock Tax	503,322	596,836	596,836	597,000	164
Recordation Tax - City	791,430	637,663	637,663	640,000	2,337
Probate Tax	17,994	23,460	23,460	15,000	(8,460)
Tobacco Tax	1,002,130	1,000,000	1,000,000	1,050,000	50,000
Amusement Tax	409,473	373,264	373,264	404,000	30,736
Penalty/Interest - Amusement Tax	3,289	1,750	1,750	2,000	250
Lodging Tax	1,565,191	1,615,990	1,615,990	1,600,000	(15,990)
Penalty/Interest - Lodging Tax	15,004	11,000	11,000	5,000	(6,000)
Meals Tax	9,947,175	10,134,444	10,134,444	10,129,000	(5,444)
Penalty/Interest - Meals Tax	26,784	41,820	41,820	41,820	0
Franchise License Tax MCI	8,054	4,027	4,027	4,027	0
Franchise License Tax Sprint	0	500	500	500	0
Total Other Local Taxes	**$46,038,001**	**$46,794,141**	**$46,794,141**	**$46,473,011**	**($321,130)**

Revenue Detail	Actual FY 2007	Adopted FY 2008	Amended FY 2008	Revised Estimate FY 2008	3rd Quarter Adjustment FY 2008
Permits, Privilege Fees, and Licenses					
Animal Licenses	$10,885	$10,000	$10,000	$18,000	$8,000
Land Disturbing Fees	42,878	36,000	36,000	33,000	(3,000)
Transfer Fees	2,515	2,500	2,500	2,500	0
Site Plans - Planning	21,846	17,000	17,000	19,000	2,000
Building Plan Review	40,207	45,000	45,000	25,000	(20,000)
Conditional Use Permits	4,973	4,893	4,893	7,000	2,107
Re-Zoning Fees - Planning	19,613	3,014	3,014	7,000	3,986
Subdivision Plats	21,615	29,916	29,916	20,000	(9,916)
Inspection Permit Fee - Building	506,246	600,000	600,000	508,000	(92,000)
Inspection Permit Fee - Signs	7,525	8,625	8,625	8,625	0
Demolition Fees	7,800	10,530	10,530	9,000	(1,530)
False Alarm Service Assessment	80,975	50,000	50,000	50,000	0
Rental Inspection Fee (Initial Inspection)	22,600	22,000	22,000	10,000	(12,000)
Alarm Permit Fees	54,060	60,000	60,000	55,000	(5,000)
Concealed Weapons Permits	5,621	3,830	3,830	9,000	5,170
Taxicab Application Fees	4,360	4,560	4,560	4,560	0
Elevator Permits	19,698	21,000	21,000	21,000	0
Miscellaneous Permits, Privilege Fees, and Licenses	13,855	8,924	8,924	8,220	(704)
Total Permits, Privilege Fees, and Licenses	**$887,272**	**$937,792**	**$937,792**	**$814,905**	**($122,887)**
Fines & Forfeitures					
Court Fines and Forfeitures	$454,319	$450,000	$450,000	$450,000	$0
Criminal Court Fees	20,627	20,000	20,000	20,000	0
Parking Fines	107,040	100,000	100,000	100,000	0
Total Fines & Forfeitures	**$581,986**	**$570,000**	**$570,000**	**$570,000**	**$0**
Revenue from Use of Money and Property					
Interest on Investments	$1,500,379	$750,000	$750,000	$959,811	$209,811
Interest - City Capital	341,453	85,000	85,000	538,680	453,680
Interest - School Capital	105,375	15,000	15,000	138,900	123,900
Interest - School Operating	206,361	50,000	50,000	354,120	304,120
Interest - Health Insurance	2,527	0	0	4,543	4,543
Interest - Other Poste Employment Benefits (OPEB)	0	0	0	2,140	2,140
Interest - Market Value Gain/Loss	274,920	0	0	0	0
Bond Sale Proceeds	0	0	105,925	70,000	(35,925)
Refunding Bond Proceeds	0	0	24,250	24,250	0
Interest - State Non-Arbitrage Program (SNAP) Income	381,261	456,596	456,596	470,000	13,404
Interest on Skybox Loan	4,520	0	0	3,741	3,741
General Government Property Rent	242,787	240,000	240,000	240,000	0
Public Safety Property Rent	30,464	30,464	30,464	30,464	0
Public Works Property Rent	6,572	3,000	3,000	6,500	3,500
Health Department Property Rent	100,000	100,000	100,000	100,000	0
Waste Management Facility Rent	0	0	0	0	0
Cultural & Recreation Property Rent	7,535	15,000	15,000	15,000	0
Property Rental Stadium	200	1,500	1,500	1,500	0
Property Rental Market	78,364	90,000	90,000	80,000	(10,000)
Concessions - Rental	150	0	0	0	0
Total Revenue from Use of Money and Property	**$3,282,868**	**$1,836,560**	**$1,966,735**	**$3,039,649**	**$1,072,914**

Attachment C

Revenue Detail	Actual FY 2007	Adopted FY 2008	Amended FY 2008	Revised Estimate FY 2008	3rd Quarter Adjustment FY 2008
Charges for Services					
Collection & Tax Lien Fees	$21,760	$55,000	$55,000	$70,000	$15,000
DMV Administration Fee	38,760	50,000	50,000	50,000	0
DMV Select Agency	45	12,000	12,000	12,000	0
Payroll Deduction Fees	9,775	9,500	9,500	9,500	0
Sheriff's Fee Courtroom Services	51,790	94,000	94,000	75,000	(19,000)
Fees for Court Officers	7,710	7,244	7,244	7,244	0
Commonwealth Attorney Fees	3,863	3,700	3,700	3,700	0
Fire Prevention Fees	2,251	2,100	2,100	2,350	250
Ambulance Service Fees	1,938,536	1,600,000	1,600,000	1,800,000	200,000
Delinquent Ambulance Bills < 120 days	11,004	0	0	0	0
Delinquent Ambulance Bills > 120 days	22,130	400,000	400,000	300,000	(100,000)
Sale of GIS Products	22,125	12,000	12,000	8,000	(4,000)
Charges for Demolition	16,078	5,000	5,000	5,000	0
Wards Crossing West	961	100,000	100,000	95,778	(4,222)
Residential Disposal - Decals	0	0	0	0	0
Residential Disposal - Tags - City	0	0	0	0	0
Residential Disposal - Tags - Vendor	0	0	0	0	0
Methane Gas Contract Fee	0	0	0	0	0
Miscellaneous Charges for Services	15,506	2,520	2,520	2,520	0
Total Charges for Services	**$2,162,294**	**$2,353,064**	**$2,353,064**	**$2,441,092**	**$88,028**
Revenue from the Commonwealth State Non-Categorical Aid					
ABC Profits	$38,263	$38,263	$38,263	$38,263	$0
Wine Taxes	40,107	40,107	40,107	40,107	0
Rolling Stock Taxes	71,579	67,210	67,210	67,210	0
House Bill 599	3,468,584	3,669,040	3,669,040	3,484,494	(184,546)
Deeds of Conveyance	181,303	150,000	150,000	150,000	0
Recordation Taxes	188,421	151,397	151,397	151,397	0
Auto Rental Tax - DMV	160,391	150,000	150,000	140,000	(10,000)
Personal Property Tax Relief	5,536,026	5,543,584	5,543,584	5,543,584	0
Miscellaneous State Non-Categorical Aid	3,046	3,000	3,000	3,000	0
Total State Non-Categorical Aid	**$9,687,720**	**$9,812,601**	**$9,812,601**	**$9,618,055**	**($194,546)**
Revenue from Lynchburg City Schools					
Governor's School Debt	$34,495	$33,627	$33,627	$33,627	$0
Lottery Proceeds for School Debt	0	823,938	823,938	610,024	(213,914)
Total from Lynchburg City Schools	**$34,495**	**$857,565**	**$857,565**	**$643,651**	**($213,914)**
Miscellaneous Non-Dedicated					
Payment in Lieu of Tax - Westminster	$57,824	$64,744	$64,744	$64,744	$0
Drop-Off Recycling	0	0	0	0	0
Trash Carts Sales	0	0	0	0	0
Blue Ridge Regional Jail Refund	0	0	0		0
Payment in Lieu of Tax - LRHA	35,233	40,000	40,000	40,000	0
Credit Card Rebate	0	20,000	20,000	35,000	15,000
Point of Honor Gift Shop Net Proceeds	0	0	0	0	0
Museum Educator	20,000	0	0	0	0
Adopt-a-Bed	9,761	6,000	6,000	6,000	0
Miscellaneous Revenue	111,435	101,000	101,000	142,000	41,000
Total Miscellaneous Non-Dedicated	**$234,253**	**$231,744**	**$231,744**	**$287,744**	**$56,000**
TOTAL NON-DEDICATED REVENUES	$119,351,157	$125,404,480	$125,534,655	$126,424,490	$889,835

Revenue Detail	Actual FY 2007	Adopted FY 2008	Amended FY 2008	Revised Estimate FY 2008	3rd Quarter Adjustment FY 2008
Charges for Services					
Network Services - Schools Share	$88,964	$86,880	$86,880	$86,880	$0
Excess Fees for Clerk of Court	126,385	110,000	110,000	110,000	0
Document Reproduction Costs	11,841	17,000	17,000	17,000	0
Legal Service Charges - Schools	20,000	20,000	20,000	20,000	0
Probation Supervision Fee	32,850	30,000	30,000	30,000	0
Police - Schools DARE Program	114,855	116,838	116,838	116,838	0
Police Report Sales	0	0	0	4,000	4,000
Engineering Service Charges	84,863	65,000	65,000	65,000	0
Building Maintenance - Other	5,071	20,071	20,071	5,071	(15,000)
Juvenile Service Providers	562,005	683,401	697,205	697,205	0
Social Services Court Order	2,367	0	0	0	0
Library Fines and Fees	85,290	72,000	72,000	82,000	10,000
Lost/Damaged Library Property	12,212	8,000	8,000	10,000	2,000
Law Library Fees	0	0	0	0	0
Point of Honor Admission	0	0	0	0	0
Old Courthouse Admission	0	0	0	0	0
CDBG Administration Charges	44,511	88,121	88,121	88,121	0
PIER Outside Contract Agreements	25,500	25,500	25,500	25,500	0
PIER Internal Contract Agreements	52,500	52,500	52,500	52,500	0
Abandoned Vehicle Reimbursements	0	7,250	7,250	3,500	(3,750)
Weed Ordinance Program	6,131	2,000	2,000	2,500	500
Delta Outreach Counties	237,875	228,583	228,583	238,583	10,000
Total Charges for Services	**$1,513,220**	**$1,633,144**	**$1,646,948**	**$1,654,698**	**$7,750**
Recreation Revenue					
Swimming Pool Fees	$19,310	$27,000	$27,000	$27,000	$0
Aquatics	12,286	13,000	13,000	15,621	2,621
Recreation General Administration	6,352	5,000	5,000	9,317	4,317
Arts	28,374	26,000	26,000	30,374	4,374
Athletics	82,524	87,000	87,000	92,275	5,275
Park Services	29,926	40,500	40,500	35,426	(5,074)
Youth and Neighborhood Services	8,832	10,500	10,500	8,875	(1,625)
Senior	44,187	36,000	36,000	40,187	4,187
Business Services	11,921	21,000	21,000	15,215	(5,785)
Naturalist Program	26,140	12,000	13,500	13,140	(360)
Community Market Co-Op Program	0	0	0	5,000	5,000
FY 2007 Carry Forward	0	90,000	90,000	0	(90,000)
Total Recreation Revenue	**$269,852**	**$368,000**	**$369,500**	**$292,430**	**($77,070)**
Miscellaneous Revenue					
Indirect Costs & Services - Solid Waste	$435,602	$314,177	$314,177	$314,177	$0
Indirect Costs & Services - Water	954,044	961,888	961,888	961,888	0
Indirect Costs & Services - Sewer	488,751	483,467	483,467	483,467	0
Indirect Costs & Services - WWTP	384,499	368,419	368,419	368,419	0
Indirect Costs & Services - Airport	105,867	91,002	91,002	91,002	0
Indirect Costs & Services - Detention Home	232,040	211,264	211,264	211,264	0
Friends of the Lynchburg Library	14,000	14,000	14,000	14,000	0
Special Welfare Recoup	19,521	38,000	38,000	38,000	0
Reimbursement - Point of Honor Carriage House	43,936	42,435	42,435	42,435	0
Digg's Trust	15,728	25,000	25,000	25,000	0
Other Miscellaneous Dedicated Revenue	2,672	0	0	0	0
Total Miscellaneous Revenue	**$2,696,660**	**$2,549,652**	**$2,549,652**	**$2,549,652**	**$0**

Attachment C

Revenue Detail	Actual FY 2007	Adopted FY 2008	Amended FY 2008	Revised Estimate FY 2008	3rd Quarter Adjustment FY 2008
Revenue from the Commonwealth					
State Categorical Aid-State Shared Expenditures					
Commissioner of the Revenue	$173,511	$192,658	$192,658	$192,658	$0
Treasurer	103,151	114,162	114,162	114,162	0
Registrar/Electoral Board	60,026	61,300	61,300	61,300	0
Clerk of Court	503,187	488,609	488,609	558,348	69,739
Sheriff	1,184,880	1,227,609	1,227,609	1,250,765	23,156
Commonwealth Attorney	874,142	900,665	900,665	900,665	0
Medical Examiner Fees	60	0	0	0	0
Total Categorical Aid-State Shared Expenditures	**$2,898,957**	**$2,985,003**	**$2,985,003**	**$3,077,898**	**$92,895**
Intergovernmental: State Categorical Aid					
Juvenile Correction Block Grant	$346,185	$346,185	$346,185	$346,185	$0
Recovery - E-911 Wireless	328,695	223,000	223,000	240,000	17,000
Highway Maintenance	7,097,418	7,099,155	7,099,155	7,099,155	0
Social Services Administration	748,654	593,590	827,350	1,493,691	666,341
Social Services Finance Unit	74,495	75,200	75,200	75,200	0
Social Services Program State	3,222,101	3,390,208	3,733,804	3,964,449	230,645
Social Services Fraud Free	21,000	22,670	0	0	0
Social Services VIEW Administration	462,504	588,193	0	0	0
Human Services Lease	47,939	31,517	31,517	27,298	(4,219)
Health Department Funding	5,628	0	0	0	0
Human Services Buildings & Grounds Reimbursemnt	2,562	18,600	18,600	18,600	0
Financial Assistance - Public Library	198,013	197,897	197,897	184,882	(13,015)
Governor's Opportunity Fund	125,000	0	0	0	0
Circuit Court Library of Virginia Grant	22,799	0	0	0	0
Exile Fund	0	0	2,560	2,560	0
Total State Categorical Aid	**$12,702,993**	**$12,586,215**	**$12,555,268**	**$13,452,020**	**$896,752**
Intergovernmental: Federal Categorical Aid Pass Thru					
Emergency Service/Prepared	$0	$7,738	$7,738	$0	($7,738)
Social Service Administration	2,734,306	3,078,148	3,674,316	3,133,189	(541,127)
Social Services Finance Unit	310,265	311,607	311,607	311,607	0
Social Services Fraud Free	21,000	23,058	0	0	0
Social Service Programs	1,527,762	1,518,978	2,001,116	2,265,964	264,848
Social Services VIEW Administration	722,238	883,369	0	0	0
Human Services Capital Lease	268,351	201,832	201,832	143,077	(58,755)
Human Services Buildings & Grounds Reimbursemnt	42,030	16,400	16,400	16,400	0
Indirect Cost Reimbursement	396,360	320,000	320,000	400,000	80,000
Total Federal Categorical Aid Pass Thru	**$6,022,312**	**$6,361,130**	**$6,533,009**	**$6,270,237**	**($262,772)**
Interfund Transfers					
Law Library Services	$26,150	$26,150	$26,150	$52,335	$26,185
Museum Fund	6,648	0	0	26,602	26,602
Regional Detention Home	0	20,000	20,000	20,000	0
CSA Operations	51,528	0	0	0	0
Transfer for E-911 loan	1,079	0	0	0	0
City Capital	40,928	0	0	0	0
Total Interfund Transfers	**$126,333**	**$46,150**	**$46,150**	**$98,937**	**$52,787**
TOTAL DEDICATED REVENUES	**$26,230,327**	**$26,529,294**	**$26,685,530**	**$27,395,872**	**$710,342**
TOTAL GENERAL FUND REVENUES	**$145,581,484**	**$151,933,774**	**$152,220,185**	**$153,820,362**	**$1,600,177**

LYNCHBURG CITY SCHOOLS
FUND BALANCE
FY 2006-2007

Attachment D

FY 2007 School Year-end Fund Balance

FY 2006-2007 Fund Balance per Audit		**2,612,741.00**
2007-2008 School Capital Fund (appropriated)		
Grounds & Paving Improvements	120,000.00	
Athletic Track Improvements - Dunbar Middle, Linkhorne Middle and EC Glass High	258,000.00	
Electrical & Mechanical System Upgrades - HVAC at Laurel (Kizer Elem)	545,000.00	
Roof Replacement/Repair - Bedford Hills Elementary	365,000.00	
Sandusky Middle School - new construction (transfer of mobile classrooms)	70,000.00	(1,358,000.00)
FY 2006-2007 Fund Balance per Audit - unappropriated		**1,254,741.00**
Site-Based Equipment Replacement (per 2007-2008 CIP)		(215,000.00)
Add to Health Insurance Reserve (to increase to a total of $1,000,000)		(250,000.00)
2004-05 Fund Balance - Projects started in 05-06, not completed:		
Consultant for Alt Ed (1.2150.930.3126.100.011)	40,400.00	
Fin/HR Software (1.2160.925.6020.100.011)	41,489.48	
Transportation Software (1.3200.913.6020.100.011)	4,171.72	(86,061.20)
2005-06 Fund Balance - Projects started in 05-06, not completed:		
Library/Media Furniture - DESI (1.1100.104.8002.999.011)	50,000.00	
Contingency for Utility Increase (1.4200.900.5100.999.011)	130,000.00	
Software Support (1.2160.925.5000.999.011)	10,000.00	
Inventory Control System (1.2160.925.8001.999.011)	1,970.00	
Band/String Instruments (1.1100.950.8001.999.011)	9,389.65	(201,359.65)
Available Fund Balance - Capital Projects		**502,320.15**

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008** AGENDA ITEM NO.: 15

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Randolph College Financing Through the Economic Development Authority of Amherst County**

RECOMMENDATION: Adopt the attached resolution approving the issuance of bonds for Randolph College through the Economic Development Authority of Amherst County, Virginia (EDA).

SUMMARY: The attached letter from Ted Craddock, Attorney to the Lynchburg Industrial Development Authority (LIDA), explains the purpose of the proposed resolution. The financing will be used for the design and construction of certain athletic facilities and for other routine capital expenditures at Randolph College. Randolph College plans to use "bank qualified" financing to take advantage of a lower interest rate. Up to $10 million a year in bank qualified financing can be utilized per locality. Lynchburg routinely preserves its bank qualified financing as long as possible to address its own financing needs. Amherst County has no plans to use its bank qualified financing and the Amherst EDA has agreed to be the conduit for the bonds. Both the Amherst County Board of Supervisors and the LIDA has approved this financing mechanism.

PRIOR ACTION(S): None.

FISCAL IMPACT: None. The City incurs no obligation or liability in this transaction.

CONTACT(S): Kimball Payne, 455-3990; Walter Erwin, 455-3973

ATTACHMENT(S): 1. Letter from Ted Craddock 2. Proposed Resolution for Adoption by City Council

REVIEWED BY: lkp

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF LYNCHBURG, VIRGINIA

The Economic Development Authority of Amherst County, Virginia (the "Authority") has considered the plan of financing application of Randolph College, a nonprofit institution of collegiate education and a Virginia non-stock corporation (the "College"), requesting the issuance of the Authority's revenue bonds or notes in an amount not to exceed $5,600,000 (the "Bonds") to be issued at one time or from time to time to assist the College in financing or refinancing the following (collectively, the "Plan of Financing"): (1) the costs of designing, constructing, and equipping a renovation of and expansion to the College's existing athletic facilities, including, but not limited to, a multi-sport, artificial turf playing field with a surrounding track, seating for approximately 550 spectators, a press box, ancillary buildings to house concessions and rest rooms, retaining walls, landscaping, and other related facilities and improvements located on the College's approximately 100-acre campus located at 2500 Rivermont Avenue, Lynchburg, Virginia 24503, (2) routine and other capital expenditures including, but not limited to, renewal projects with respect to the College's academic, athletic, and administrative facilities, all located on the College's campus, and (3) amounts, if any, required to fund related working capital, funded interest, reserve funds, costs of issuance, and other expenses in connection with the issuance of the Bonds or any of the aforementioned projects.

The Authority held a public hearing on the College's plan of financing application on May 6, 2008, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"). Section 147(f) of the Code also provides that the governmental unit or units having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds.

The projects to be financed under the Plan of Financing are to be located in the City of Lynchburg, Virginia (the "City"), and the City Council of the City of Lynchburg, Virginia (the "Council") constitutes the highest elected governmental unit of the City.

In accordance with Section 147(f) of the Code, the public hearing held by the Authority was within 100 miles of the City.

The Authority has recommended that the Council approve the issuance of the Bonds.

The Board of Supervisors of Amherst County, Virginia (the "Board"), being the governmental unit having jurisdiction over the Authority, approved the issuance of the Bonds, and a copy of the resolution of the Board approving such issuance has been filed with the Council.

Copies of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing, and a Fiscal Impact Statement have been filed with the Council.

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

1. The Council approves the issuance of the Bonds by the Authority, as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code, to permit the Authority to assist the College in the Plan of Financing.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Plan of Financing or the College.

3. This resolution shall take effect immediately upon its adoption.

Adopted:

Certified: ______________________________
Clerk of Council

049L

CASKIE & FROST
A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW
2306 ATHERHOLT ROAD
PLEASE REPLY TO: P. O. BOX 6320
LYNCHBURG, VIRGINIA 24505

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JAMES FREDERICK WATSON

PAVLINA B. DIROM

JAMES R. CASKIE (1909-1969)
E. MARSHALL FROST (1920-1988)
S. JAMES THOMPSON, JR. (1959-1994)

S. BOLLING HOBBS (Retired)
JOHN R. ALFORD (Retired)

TELEPHONE: (434) 846-2731
FACSIMILE: (434) 846-0496

April 23, 2008

Ms. Patricia W. Kost, Clerk of Council
City Council
City of Lynchburg
900 Church Street
Lynchburg, VA 24504

Re: **Randolph College financing through Economic Development Authority of Amherst County**

Dear Pat:

I have previously advised the City Manager that Randolph College is planning a bank-qualified Industrial Development Authority loan through the Amherst County Economic Development Authority. Because there is a limit on the bank-qualified bonds which any locality can issue in a year, Amherst County has agreed to assist with the financing which will not use up any of the City of Lynchburg's bank-qualified limitation. I have briefed the Lynchburg Industrial Development Authority on this and the Lynchburg Authority has no objection to this financing through the Amherst Authority.

I am enclosing herewith a proposed Resolution of City Council and a Certificate which I have reviewed and believe is appropriate. This Resolution is written before the fact, the Amherst County EDA must have completed the public hearing requirements recited on May 6th, and the Board of Supervisors of Amherst County must also have completed their approval of the project. I am also sending a copy to the City Attorney for his information.

I would appreciate your placing this on the Agenda for the May 13th Council Meeting. I can be available to discuss the matter with members of Council if they desire.

Please call me with any questions.

With kind regards, I am

Sincerely,

Ted Craddock

Theodore J. Craddock

TJC/ahd

cc: Mr. L. Kimball Payne, City Manager
Walter C. Erwin, III, Esquire, City Attorney
Warren E. Greth, Jr., Esquire

At a regular meeting of the City Council of the City of Lynchburg, Virginia held on the 13th day of May, 2008, the following members were recorded as present:

PRESENT:

On motion by ____________________, seconded by ____________________,
the attached Resolution was adopted by a majority of the members of the City Council of the City of Lynchburg, Virginia by a roll call vote, the votes being recorded as follows:

MEMBER	VOTE

May 6, 2008

City Council
City of Lynchburg, Virginia
900 Church Street
Lynchburg, Virginia 24504

Economic Development Authority
of Amherst County, Virginia
Proposed Financing for Randolph College

Randolph College (the "College") has requested that the Economic Development Authority of Amherst County, Virginia (the "Authority") issue up to $5,600,000 of its revenue bonds or notes (the "Bonds"), in one or more series from time to time, to assist the College in financing or refinancing the following (collectively, the "Plan of Financing"): (1) the costs of designing, constructing, and equipping a renovation of and expansion to the College's existing athletic facilities, including, but not limited to, a multi-sport, artificial turf playing field with a surrounding track, seating for approximately 550 spectators, a press box, ancillary buildings to house concessions and rest rooms, retaining walls, landscaping, and other related facilities and improvements located on the College's approximately 100-acre campus located at 2500 Rivermont Avenue, Lynchburg, Virginia 24503, (2) routine and other capital expenditures including, but not limited to, renewal projects with respect to the College's academic, athletic, and administrative facilities, all located on the College's campus, and (3) amounts, if any, required to fund related working capital, funded interest, reserve funds, costs of issuance, and other expenses in connection with the issuance of the Bonds or any of the aforementioned projects.

As set forth in the resolution of the Authority attached hereto (the "Resolution"), the Authority has agreed to issue its Bonds as requested. The Authority has conducted a public hearing on the proposed Plan of Financing and has recommended that you approve the issuance of the Bonds as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code").

Attached hereto is (1) a certificate evidencing the conduct of the public hearing and the action taken by the Authority, (2) the Fiscal Impact Statement required pursuant to Virginia Code Section 15.2-4907, and (3) the form of resolution suggested by counsel to evidence your approval.

Secretary, Economic Development Authority
of Amherst County, Virginia

6238573.2

CERTIFICATE

The undersigned Secretary of the Economic Development Authority of Amherst County, Virginia (the "Authority") certifies as follows:

1. A meeting of the Authority was duly called and held on May 6, 2008, at 12:00 p.m. in the Board of Supervisors' Room in the County's Administration Building, located at 153 Washington Street, Amherst, Virginia 24521, pursuant to proper notice given to each Director of the Authority before such meeting. The meeting was open to the public. The time of the meeting and the place at which the meeting was held provided a reasonable opportunity for persons of differing views to appear and be heard.

2. The Chairman announced the commencement of a public hearing on the plan of financing application of Randolph College and that a notice of the public hearing was published once a week for two successive weeks in a newspaper having general circulation in the County of Amherst, Virginia and a newspaper having general circulation in the City of Lynchburg, Virginia (the "Notice"), with the second publication in each newspaper appearing not less than seven days nor more than twenty-one days prior to the hearing date. Copies of the Notice as published in each newspaper have been filed with the minutes of the Authority and are attached as Exhibit A.

3. A summary of the statements made at the public hearing is attached as Exhibit B.

4. Attached as Exhibit C is a true, correct and complete copy of a resolution (the "Resolution") adopted at such meeting of the Authority by a majority of the Directors present at such meeting. The Resolution constitutes all formal action taken by the Authority at such meeting relating to matters referred to in the Resolution. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on this date.

WITNESS my hand and the seal of the Authority, this 6th day of May, 2008.

[SEAL]

Secretary, Economic Development Authority
of Amherst County, Virginia

Exhibits:
A - Copies of Certified Notices from Newspapers
B - Summary of Statements
C - Public Hearing Resolution

EXHIBIT A

Copies of Certified Notices from Newspapers

THE NEWS & ADVANCE

Virginia Newspapers, Inc. A Media General Company

This is to certify that the attached
Order of Publication was published
In The News and Advance, a newspaper
Published in the City of Lynchburg, Virginia
2 times on

4/21 + 4/28 2008

Given under my hand on the 28 day

Of April 2008

Dina Bennett
Classified Manager

Monthly Account No. 3332931

Transient Account No. ____________

Order No. 757435

Total Amount for this 72 lines

Insertion is $ 524.55

NOTICE OF PUBLIC HEARING ON PROPOSED REVENUE BOND FINANCING BY THE ECONOMIC DEVELOPMENT AUTHORITY OF AMHERST COUNTY, VIRGINIA

Notice is hereby given that the Economic Development Authority of Amherst County, Virginia (the "Authority") will hold a public hearing on the plan of financing application made by Randolph College, a nonprofit institution of collegiate education and a Virginia non-stock corporation (the "College"), in which the College asks the Authority to issue up to $5,600,000 of its revenue bonds or notes (the "Bonds"), in one or more series from time to time, to assist the College in financing or refinancing the following (collectively, the "Plan of Financing"): (1) the costs of designing, constructing, and equipping a renovation of and expansion to the College's existing athletic facilities, including, but not limited to, a multi-sport, artificial turf playing field with a surrounding track, seating for approximately 550 spectators, a press box, ancillary buildings to house concessions and rest rooms, retaining walls, landscaping, and other related facilities and improvements located on the College's approximately 100-acre campus located at 2500 Rivermont Avenue, Lynchburg, Virginia 24503, (2) routine and other capital expenditures including, but not limited to, renewal projects with respect to the College's academic, athletic, and administrative facilities, all located on the College's campus, and (3) amounts, if any, required to fund related working capital, funded interest, reserve funds, costs of issuance, and other expenses in connection with the issuance of the Bonds or any of the aforementioned projects.

The issuance of the Bonds, in one or more series from time to time pursuant to the Plan of Financing as requested by the College, will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or the County of Amherst, Virginia (the "County"), and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the County, will be pledged to the payment of the Bonds.

The public hearing, which may be continued or adjourned, will be held at 12:00 p.m. or as soon thereafter as the matter may be heard on May 6, 2008, before the Authority, in the Board of Supervisors' Room in the County's Administration Building, located at 153 Washington Street, Amherst, Virginia 24521. Information about the College and the Plan of Financing is on file and is open for inspection during business hours at the Authority's office located at the County's Department of Economic Development, 153 Washington Street, Amherst, Virginia 24521. Any person interested in the issuance of the Bonds or the Plan of Financing may appear at the hearing and present his or her views.

Economic Development Authority
of Amherst County, Virginia
By: C. Joe Mullen, Secretary

Amherst New Era Progress & Nelson County Times
A Media General Company

This is to certify that the attached
Order of Publication was published
In the Amherst New Era Progress and/or Nelson County Time,
A newspaper published in the City of Lynchburg, VA
2 Times on
4/17, 5/1 2008
Given under my hand on the 1 day
Of May 2008

Dina Bennett
Classified Manager

Account No. 3333763

Order No. 762134

Total Amount for this 70 lines

Insertion is $ 153.66

NOTICE OF PUBLIC HEARING ON PROPOSED REVENUE BOND FINANCING BY THE ECONOMIC DEVELOPMENT AUTHORITY OF AMHERST COUNTY, VIRGINIA

Notice is hereby given that the Economic Development Authority of Amherst County, Virginia (the "Authority") will hold a public hearing on the plan of financing application made by Randolph College, a nonprofit institution of collegiate education and a Virginia non-stock corporation (the "College"), in which the College asks the Authority to issue up to $5,600,000 of its revenue bonds or notes (the "Bonds"), in one or more series from time to time, to assist the College in financing or refinancing the following (collectively, the "Plan of Financing"): (1) the costs of designing, constructing, and equipping a renovation of and expansion to the College's existing athletic facilities, including, but not limited to, a multi-sport, artificial turf playing field with a surrounding track, seating for approximately 550 spectators, a press box, ancillary buildings to house concessions and rest rooms, retaining walls, landscaping, and other related facilities and improvements located on the College's approximately 100-acre campus located at 2500 Rivermont Avenue, Lynchburg, Virginia 24503, (2) routine and other capital expenditures including, but not limited to, renewal projects with respect to the College's academic, athletic, and administrative facilities, all located on the College's campus, and (3) amounts, if any, required to fund related working capital, funded interest, reserve funds, costs of issuance, and other expenses in connection with the issuance of the Bonds or any of the aforementioned projects.

The issuance of the Bonds, in one or more series from time to time pursuant to the Plan of Financing as requested by the College, will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or the County of Amherst, Virginia (the "County"), and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the County, will be pledged to the payment of the Bonds.

The public hearing, which may be continued or adjourned, will be held at 12:00 p.m. or as soon thereafter as the matter may be heard on May 6, 2008, before the Authority, in the Board of Supervisors' Room in the County's Administration Building, located at 153 Washington Street, Amherst, Virginia 24521. Information about the College and the Plan of Financing is on file and is open for inspection during business hours at the Authority's office located at the County's Department of Economic Development, 153 Washington Street, Amherst, Virginia 24521. Any person interested in the issuance of the Bonds or the Plan of Financing may appear at the hearing and present his or her views.

Economic Development Authority
of Amherst County, Virginia
By: C. Joe Mullen, Secretary

EXHIBIT B

Summary of Statements

Representatives of Randolph College and McGuireWoods LLP, bond counsel, appeared before the Authority to explain the project and the financing. No one appeared in opposition to the proposed bond issue.

EXHIBIT C

Public Hearing Resolution

RESOLUTION OF THE ECONOMIC DEVELOPMENT AUTHORITY OF AMHERST COUNTY, VIRGINIA AUTHORIZING THE ISSUANCE OF UP TO $5,600,000 REVENUE BONDS FOR THE BENEFIT OF RANDOLPH COLLEGE

WHEREAS, the Economic Development Authority of Amherst County, Virginia (the "Authority"), a political subdivision of the Commonwealth of Virginia (the "Commonwealth"), is empowered by the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), to issue its revenue bonds or notes to protect or promote the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth of Virginia by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of facilities for use by certain organizations which are described in Section 501(c)(3) of the Internal Revenue Code, as amended (the "Code"), and which are exempt from federal income taxation pursuant to Section 501(a) of the Code, and facilities for private, accredited, and nonprofit institutions of collegiate, elementary, or secondary education in the Commonwealth whose primary purpose is to provide collegiate, elementary, secondary, or graduate education and not to provide religious training or theological education, such facilities being for use as academic or administration buildings or any other structure or application usual and customary to a college, elementary or secondary school campus other than chapels and their like;

WHEREAS, the Authority has received a plan of financing application from Randolph College, a nonprofit institution of collegiate education and a Virginia non-stock corporation (the "College"), requesting that the Authority issue its revenue bonds or notes (the "Bonds"), to be issued at one time or from time to time, to assist the College in financing or refinancing the following (collectively, the "Plan of Financing"): (1) the costs of designing, constructing, and equipping a renovation of and expansion to the College's existing athletic facilities, including, but not limited to, a multi-sport, artificial turf playing field with a surrounding track, seating for approximately 550 spectators, a press box, ancillary buildings to house concessions and rest rooms, retaining walls, landscaping, and other related facilities and improvements located on the College's approximately 100-acre campus located at 2500 Rivermont Avenue, Lynchburg, Virginia 24503, (2) routine and other capital expenditures including, but not limited to, renewal projects with respect to the College's academic, athletic, and administrative facilities, all located on the College's campus, and (3) amounts, if any, required to fund related working capital, funded interest, reserve funds, costs of issuance, and other expenses in connection with the issuance of the Bonds or any of the aforementioned projects;

WHEREAS, such assistance will benefit the inhabitants of Amherst County, Virginia, (the "County") and the Commonwealth of Virginia, through the promotion of their safety, health, welfare, convenience or prosperity;

WHEREAS, preliminary plans for the Plan of Financing have been described to the Authority and a public hearing has been held as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, ("Code") and Section 15.2-4906 of the Act;

WHEREAS, the College has represented that the estimated cost of the Plan of Financing will require one or more issues of Bonds in an aggregate principal amount not to exceed \$5,600,000;

WHEREAS, (a) no member of the Board of Directors of the Authority is an officer or employee of the County, (b) each member has, before entering upon his duties during his or her present term of office, taken and subscribed to the oath prescribed by Section 49-1 of the Code of Virginia of 1950, as amended and (c) at the time of their appointments and at all times thereafter, including the date hereof, all of the members of the Board of Directors of the Authority have satisfied the residency requirements of the Act; and

WHEREAS, no member of the Board of Directors of the Authority has any personal interest or business interest in the College or the Bonds, as defined in, or has otherwise engaged in conduct prohibited under, the Conflict of Interests Act, Chapter 31, Title 2.2 of the Code of Virginia of 1950, as amended (the "Conflict of Interests Act") in connection with this resolution or any other official action of the Authority in connection therewith.

NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT AUTHORITY OF AMHERST COUNTY, VIRGINIA:

1. It is hereby found and determined that the Plan of Financing will be in the public interest and will promote the safety, health, welfare, convenience or prosperity of the Commonwealth of Virginia, the County, and their citizens.

2. The Plan of Financing shall provide that the Bonds do not constitute a debt or pledge of the faith and credit or taxing power of the Commonwealth nor any of its political subdivisions, including the Authority and the County. Neither the Commonwealth nor any of its political subdivisions will be obligated to pay the principal of, premium, if any, or interest on the Bonds or other costs incident to them except from the revenues and monies pledged for such purposes, and neither the faith and credit nor the taxing power of the Commonwealth or any of its political subdivisions, including the Authority and the County, is pledged to the payment of principal of, premium, if any, or interest on the Bonds or other costs incident to them. No officer or director of the Authority shall have any liability therefor.

3. The Authority hereby agrees to assist the College in the Plan of Financing by undertaking the issuance of its Bonds in an amount not to exceed \$5,600,000 upon terms and conditions mutually agreeable to the Authority and the College. The Bonds will be issued pursuant to documents satisfactory to the Authority and its counsel. The Bonds may be issued in one or more series at one time or from time to time.

4. It having been represented to the Authority that it is necessary to proceed immediately with the Plan of Financing and the planning therefor, the Authority agrees that the College may proceed with the Plan of Financing, enter into contracts for land, construction, materials and equipment for the Plan of Financing, and take such other steps as it may deem appropriate in connection with the Plan of Financing, provided, however, that nothing in this resolution shall be deemed to authorize the College to obligate the Authority without its consent in each instance to the payment of any moneys or the performance of any acts in connection with

the Plan of Financing. The Authority agrees that the College may be reimbursed from the proceeds of the Bonds for all expenditures and costs so incurred by it, provided such expenditures and costs are properly reimbursable under the Act and applicable federal laws.

5. At the request of the College, the Authority approves McGuireWoods LLP, Richmond, Virginia, as Bond Counsel in connection with the issuance of the Bonds.

6. All costs and expenses in connection with the Plan of Financing, including the fees and expenses of Bond Counsel and Authority Counsel, shall be paid by the College or, to the extent permitted by applicable law, from the proceeds of the Bonds. If for any reason such Bonds are not issued, it is understood that all such expenses shall be paid by the College and that the Authority shall have no responsibility therefor.

7. The Authority's annual administrative fee in connection with the issuance of the Bonds shall be equal to 1/8 of 1% of the outstanding principal balance of the Bonds as of each anniversary date of the closing of the Bonds, which, if agreed to between the Authority and the College, may be paid in a lump sum amount.

8. In adopting this resolution the Authority intends to take "official action" toward the issuance of the Bonds and to evidence its "official intent" to reimburse from the proceeds of the Bonds any expenditures paid by the College to finance or refinance the design, acquisition, construction, and equipping of the Plan of Financing and the planning therefor before the issuance of the Bonds, all within the meaning of regulations issued by the Department of the Treasury pursuant to Sections 103 and 141 through 150 and related sections of the Code.

9. The Authority designates the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code, so that, in the case of certain "financial institutions" within the meaning of Sections 265(b)(5) of the Code, a deduction will be allowed for 80% of that portion of such financial institution's interest expense allocable to interest on the Bonds. The Authority does not reasonably anticipate that it will issue tax-exempt obligations, together with any tax-exempt obligations of the County and of the County's subordinate entities and entities which issue obligations on the County's behalf, in the aggregate in excess of $10,000,000 during calendar year 2008, and the Authority will not designate more than $10,000,000 of qualified tax-exempt obligations in calendar year 2008.

10. The Authority recommends that the Board of Supervisors of Amherst County, Virginia and the City Council of the City of Lynchburg, Virginia, approve the issuance of the Bonds.

11. No Bonds may be issued pursuant to this resolution until such time as the issuance of the Bonds has been approved by the Board of Supervisors of the County and the City Council of the City of Lynchburg, Virginia.

12. This resolution shall take effect immediately upon its adoption.

CERTIFICATE

The undersigned Secretary of the Economic Development Authority of Amherst County, Virginia (the "Authority") certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Directors of the Authority present and voting at a meeting duly called and held on May 6, 2008, in accordance with law, during an open meeting, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on this date. The following represent the votes taken at such meeting:

Member	Ayes	Nays	Abstentions
Mr. E. Kinnier	X		
Mr. R. Loving	X		
Mr. W. Robertson	X		
Mr. M. Russell	X		
Mr. K. Scott	X		
Mr. W. Teates	X		

WITNESS the following signature and seal of the Authority, this 6th day of May, 2008.

Secretary of the Economic Development Authority of Amherst County, Virginia

[SEAL]

FISCAL IMPACT STATEMENT
FOR PROPOSED BOND FINANCING

Date: May 6, 2008

To the City Council
City of Lynchburg, Virginia

Applicant: Randolph College

Facility: Financing or refinancing the following (collectively, the "Plan of Financing"): (1) the costs of designing, constructing, and equipping a renovation of and expansion to the College's existing athletic facilities, including, but not limited to, a multi-sport, artificial turf playing field with a surrounding track, seating for approximately 550 spectators, a press box, ancillary buildings to house concessions and rest rooms, retaining walls, landscaping, and other related facilities and improvements located on the College's approximately 100-acre campus located at 2500 Rivermont Avenue, Lynchburg, Virginia 24503, (2) routine and other capital expenditures including, but not limited to, renewal projects with respect to the College's academic, athletic, and administrative facilities, all located on the College's campus, and (3) amounts, if any, required to fund related working capital, funded interest, reserve funds, costs of issuance, and other expenses in connection with the issuance of the Bonds or any of the aforementioned projects

1.		Maximum amount of financing sought.	$5,600,000
2.		Estimated taxable value of the facility's real property to be constructed in the locality.	N/A*
3.		Estimated real property tax per year using present tax rates.	N/A*
4.		Estimated personal property tax per year using present tax rates.	N/A*
5.		Estimated merchants' capital tax per year using present tax rates.	N/A*
6.	(a)	Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality.	$21,777
	(b)	Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality.	$0
	(c)	Estimated dollar value per year of services that will be purchased from Virginia companies within the locality.	$127,982

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* The College is a non-profit organization, exempt from federal income taxation and Virginia's real and personal property and merchants' capital taxes.

(d)	Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality.	$0
7.	Estimated number of regular employees on year round basis.	213**
8.	Average annual salary per employee.	$46,902

William E. [signature]

Chairman, Economic Development Authority
of Amherst County, Virginia

** Of the 213 employees, approximately 9% are residents of Amherst County.

5279930.3

CASKIE & FROST
A PROFESSIONAL CORPORATION

JOSEPH C. KNAKAL, JR.
LEIGHTON S. HOUCK
THEODORE J. CRADDOCK
GREGORY P. COCHRAN
JOHN T. COOK
JOY LEE PRICE
MARK J. PEAKE
JOHN R. ALFORD, JR.
JAMES FREDERICK WATSON

PAVLINA B. DIROM

ATTORNEYS AT LAW
2306 ATHERHOLT ROAD
PLEASE REPLY TO: P. O. BOX 6320
LYNCHBURG, VIRGINIA 24505

JAMES R. CASKIE (1909-1969)
E. MARSHALL FROST (1920-1988)
S. JAMES THOMPSON, JR. (1959-1994)

S. BOLLING HOBBS (Retired)
JOHN R. ALFORD (Retired)

TELEPHONE: (434) 846-2731
FACSIMILE: (434) 846-0496

May 8, 2008

DELIVERED BY HAND

Ms. Patricia W. Kost, Clerk of Council
City Council
City of Lynchburg
900 Church Street
Lynchburg, VA 24504

Re: **Randolph College financing through Economic Development Authority of Amherst County**

Dear Pat:

I have received a certified copy of the Resolution of the Economic Development Authority of Amherst County authorizing the issuance of the above-referenced bonds for Randolph College in Lynchburg, and I am enclosing a copy of the original Resolution as certified, for your files, together with the Fiscal Impact Statement. I am enclosing another copy of the Resolution and Certificate for you to certify the action of City Council, assuming they adopt the Resolution on May 13th.

Please call me with any questions. As always, thanks for your kind help in this matter.

With kind regards, I am

Sincerely,

Ted Craddock

Theodore J. Craddock

TJC/ahd

Enclosure

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008** AGENDA ITEM NO.: 16

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Formation of a Local Committee for the Commemoration of the Sesquicentennial of the American Civil War**

RECOMMENDATION: Adopt a resolution establishing a Local Sesquicentennial Committee and designating Greg Starbuck, Executive Director of the Historic Sandusky Foundation as liaison to coordinate with the Virginia Sesquicentennial of the American Civil War Commission.

SUMMARY: Last September the City received a letter (attached) from Speaker of the House Bill Howell advising of the creation of the Virginia Sesquicentennial of the American Civil War Commission and encouraging localities to form local committees for the commemoration of the 150th anniversary of Virginia's participation in the war. After receiving the letter, an inquiry was made to several local organizations (the Chamber of Commerce, Historic Sandusky, the Lynchburg Museum, and the Lynchburg Historical Foundation) to see if they were willing to take a leadership role in a local committee. A copy of that inquiry is also attached.

Historic Sandusky, through Greg Starbuck, its Executive Director, has agreed to serve as local liaison to the state effort. His response is attached.

Council is asked to adopt the attached resolution establishing the Local Sesquicentennial Committee, designating Mr. Starbuck as liaison, and encouraging other interested parties to participate in the commemoration.

PRIOR ACTION(S): None

FISCAL IMPACT: N/A

CONTACT(S): Kimball Payne, 455-3990

ATTACHMENT(S): Letter from Speaker Howell, Letter seeking expressions of interest, Letter from Sandusky, Resolution

REVIEWED BY: lkp

RESOLUTION

WHEREAS The Virginia Sesquicentennial of the American Civil War Commission was created by the 2006 Session of the Virginia General Assembly for the purpose of planning for and commemorating the 150th anniversary of Virginia's participation in the American Civil War, the duration of which will be 2011 through 2015, and

WHEREAS The City of Lynchburg is interested in participating in the commemoration to foster a better understanding of the events that took place in the region during the American Civil War and to promote heritage tourism in Central Virginia,

NOW, THEREFORE, BE IT RESOLVED THAT the Lynchburg City Council hereby establishes a Local Sesquicentennial Committee and designates Mr. Gregory H. Starbuck, Executive Director of the Historic Sandusky Foundation, as liaison between the local committee and the State Commission, and

FURTHERMORE does encourage other interested individuals and organizations to join with Historic Sandusky to plan and implement appropriate commemoration activities in the region.

Adopted:

Certified: ______________________________
Clerk of Council

056L

VIRGINIA SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR COMMISSION

Speaker William J. Howell, *Chair*
Senator John H. Chichester, *Vice-Chair*

General Assembly Building
910 Capitol Street, 2nd floor
Richmond, Virginia 23219
Phone: (804) 786-3591
Fax: (804) 692-0625
www.virginiacivilwar.org

September 17, 2007

Mr. L. Kimball Payne, III
Lynchburg City Manager
900 Church Street
Lynchburg, VA 24504

Dear Mr. Payne:

The Virginia Sesquicentennial of the American Civil War Commission was created during the 2006 Session of the General Assembly for the purpose of planning for and commemorating the 150th anniversary of Virginia's participation in the American Civil War, the duration of which will be 2011 through 2015.

Virginia leads the nation by being the first state to create a Sesquicentennial Commission and formally begin planning for the commemoration. As you know, the 150th anniversary of the Civil War holds tremendous educational, economic, and tourism opportunities for the Commonwealth. Not only was Virginia the central focus of the Civil War in the 1860's, but it is still at the center, in terms of what visitors can see and experience today:

- Virginia has, far and away, more Civil War sites than any other state, including over 400 that are linked by the Civil War Trails program. In addition to touring the battlefields, travelers can visit world-class museums, historic homes, cemeteries, Civil War libraries and research centers, and much more.

- 'Heritage tourism' is one of Virginia's biggest resources. Civil War scholars and enthusiasts flock to the Commonwealth from all over the United States. In fact, data from the Virginia Tourism Corporation shows that the Civil War traveler tends to stay longer and spend more money than the average visitor to Virginia.

- The story of Virginia's participation in the war is statewide - - there is not a county, city, or town in the Commonwealth that was unaffected by the Civil War. There are hundreds of Civil War-related sites throughout the state that serve to better educate Virginians, and those who travel to Virginia, as to the pivotal role the Commonwealth held in the war. The strength of that geographic dispersal means that visitors do not have to travel to a specific place to experience the history - no matter where they are in the state, there is nearby Civil War history to take in.

It would be helpful to the Commission's work if your locality would form a local sesquicentennial committee to begin planning for the four-year statewide commemoration period. Further, please consider designating a liaison to work with the Commission, who would communicate regularly on plans in development and events occurring within the locality. While the Commission is planning statewide programs to commemorate the sesquicentennial, including traveling exhibitions, strong involvement at the local level is crucial. The Commission is working with statewide partners, including the Civil War Trails program, to promote local participation. Local history, after all, is the foundation on which all else is built.

To every extent possible, the local sesquicentennial committee should include representatives of:

- Office of the chief administrative official
- Governing body (i.e., City Council or Board of Supervisors)
- Tourism industry organizations
- Chamber of Commerce or economic development office
- Education community (e.g., Superintendent, teachers, PTA representatives, etc.)
- Local battlefields and National Park Service personnel
- Civil War museums and facilities
- Public and private nonprofit organizations and agencies engaged in commemorating historical events

Once the local committee designee is named, please forward the enclosed form to Cheryl Jackson, Commission Staff Coordinator. Staff will remain in close contact with the local liaison, providing technical assistance to the committee as needed. Please feel free to contact Ms. Jackson if you have any questions, at (804) 786-3591 or by email: cjackson@leg.state.va.us.

One final note as you begin planning. It is important to realize that this is a *commemoration*, not a celebration. There is no joy to be found in a war that caused the deaths of over 620,000 Americans, divided families, and tore apart a nation. Commemorative events and activities should be solemn remembrances that are meaningful to, and inclusive of, all Virginians. The Commission is firm in its resolve to portray a balanced story of Virginia's participation in the American Civil War that includes the African-American, Union, and Confederate perspectives.

On behalf of the Virginia Sesquicentennial of the American Civil War Commission, I look forward to working with you and other localities throughout the Commonwealth as we begin planning for the 150th anniversary of the American Civil War. The beginning of the commemoration period is fast approaching and promises to provide an opportunity to better understand our past so that we can come together to embrace our future.

Sincerely,

W J Howell

William J. Howell, Chairman
Speaker of the House of Delegates

Enclosure

cc: The Honorable Joan Foster, Mayor

VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

CHAPTER 465

An Act to amend the Code of Virginia by adding in Title 30 a chapter numbered 40, consisting of sections numbered 30-266 through 30-274, relating to the Virginia Sesquicentennial of the American Civil War Commission and Fund; report.

[H 1440]

Approved March 31, 2006

Whereas, the Commonwealth of Virginia witnessed more American Civil War military engagements on its soil than any other state, hosts more historic sites related to the American Civil War than any other state, and is home to the Pamplin Historical Park and the National Museum of the Civil War Soldier, Tredegar National Civil War Center, and the Virginia Center for Civil War Studies at Virginia Polytechnic Institute and State University, all of which are nationally recognized centers of expertise in the study of the American Civil War; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 40, consisting of sections numbered 30-266 through 30-274, as follows:

CHAPTER 40.

VIRGINIA SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR COMMISSION AND FUND.

§ 30-266. Virginia Sesquicentennial of the American Civil War Commission established; purpose.

The Virginia Sesquicentennial of the American Civil War Commission (the Commission) is established in the legislative branch of state government. The purpose of the Commission is to prepare for and commemorate the sesquicentennial of Virginia's participation in the American Civil War.

§ 30-267. Membership; terms.

The Commission shall have a total membership of 13 members that shall consist of 10 legislative members, two nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: six members of the House of Delegates, including the Speaker of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; four members of the Senate, including the President pro tempore of the Senate, to be appointed by the Senate Committee on Rules; and two nonlegislative citizen members at large, one to be appointed by the Speaker of the House of Delegates and one to be appointed by the Senate Committee on Rules. The President and Chief Executive Officer of the Virginia Historical Society or his designee shall serve ex officio with nonvoting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth. Unless otherwise approved in writing by the chairman of the Commission and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth for the purpose of attending meetings.

Legislative members and the ex officio member of the Commission shall serve terms coincident with their terms of office. Nonlegislative citizen members shall serve a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Commission shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly. The Commission may name five of its members to constitute an executive committee, of whom one shall be the President and Chief Executive Officer of the Virginia Historical Society, which shall act for the Commission pursuant to its direction.

§ 30-268. Advisory council.

The Commission may appoint and establish an advisory council composed of nonlegislative citizens at large who have knowledge of American Civil War history and interest in its sesquicentennial celebration, to assist the Commission in its work. The Librarian of Virginia shall be a member of the advisory council.

§ 30-269. Quorum; meetings; voting on recommendations.

A majority of the members shall constitute a quorum. The meetings of the Commission shall be held at the call of the chairman or whenever a majority of the members so request.

No recommendation of the Commission shall be adopted if a majority of the House members or a majority of the Senate members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.

§ 30-270. Virginia Sesquicentennial of the American Civil War Commission Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Sesquicentennial of the American Civil War Commission Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and shall consist of gifts, grants, donations, *bequests, or other funds from any source as may be received by the Commission for its work. Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of enabling the Commission to perform its duties. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the chairman of the Commission.*

§ 30-271. Compensation; expenses.

Legislative members of the Commission shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. However, all such compensation and expenses shall be paid from existing appropriations to the Commission, or, if unfunded, shall be approved by the Joint Rules Committee. All nonlegislative citizen members of the advisory council of the Commission shall serve without compensation; however, all such members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825, from such funds as may be appropriated to the Commission.

The Commission may solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal property for the purpose of aiding or facilitating the work of the Commission. In accordance with the appropriation act, the Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements as it may deem necessary to carry out its duties as set forth in this chapter. No contract, lease, or other legal agreement shall be entered into by the Commission that extends beyond the date of expiration of the Commission.

§ 30-272. Powers and duties of the Commission.

The Commission shall have the following powers and duties:

1. Plan, develop, and carry out programs and activities appropriate to commemorate the sesquicentennial of the American Civil War;

2. Encourage interdisciplinary examination of the American Civil War;

3. Facilitate balanced activities related to the American Civil War throughout Virginia;

4. Encourage civic, historical, educational, economic, and other organizations throughout Virginia to organize and participate in activities to expand the understanding and appreciation of the significance of the American Civil War;

5. Provide technical assistance to localities and nonprofit organizations to further the commemoration of the sesquicentennial of the American Civil War;

6. Develop programs and facilities to ensure that the sesquicentennial commemoration of the American Civil War results in a positive legacy and long-term public benefit;

7. Encourage the development and conduct of programs designed to involve all citizens in activities that commemorate the American Civil War; and

8. Submit to the General Assembly and the Governor an annual report for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman of the Commission shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 30-273. Staffing.

The Division of Legislative Services shall provide staff support to the Commission. The Center for Virginia History of the Virginia Historical Society shall provide technical assistance to the Commission, and all agencies of the Commonwealth shall provide assistance to the Commission, upon request.

§ 30-274. Sunset.

This chapter shall expire on July 1, 2015.

2. That, upon the expiration of the first term on July 1, 2010, of nonlegislative citizen members appointed to the Commission, such members may be reappointed for a term of five years to expire on July 1, 2015.

3. For its first year of existence, if the Commission is not funded by a separate appropriation in the appropriation act, the Commission may be funded from the operating budgets of the Clerk of the House of Delegates and the Clerk of the Senate upon the approval of the Joint Rules Committee. If the Commission is not funded by a separate appropriation in the appropriation act for any year thereafter, this chapter shall expire on July 1 of the fiscal year that the Commission fails to receive such funding.

City Manager

THE CITY OF LYNCHBURG, VIRGINIA

900 Church Street, Lynchburg, VA 24504
www.lynchburgva.gov
TEL: 434-455-3990
FAX: 434-847-1536

OFFICE OF THE
CITY MANAGER

October 2, 2007

Mr. Gregory H. Starbuck
Executive Director
Historic Sandusky Foundation
757 Sandusky Drive
Lynchburg, VA 24502

Dear Greg:

The Mayor and I have received the attached letter from Speaker of the House of Delegates Bill Howell suggesting that a local committee be established to plan and coordinate activities in commemoration of the sesquicentennial of the American Civil War. I am writing to determine if there is any interest in forming such a committee. At the present the City is not in a position to take a leadership role in this initiative but, depending on the amount of interest, would be willing to be a participant.

Please discuss this proposal with your leadership and with any others who you think might be interested and let me know your thoughts at your convenience.

Thank you.

Sincerely,

K.

L. Kimball Payne, III
City Manager

Attachment

Similar letters sent to Rex Hammond, Dan Harvey & Sally Schneider.

K.

Sandusky

April 17, 2008

Mr. Kimball Payne
City Manager
900 Church Street
Lynchburg, Virginia 24504

Dear Kim,

This letter is to follow up on the inquiry made by your office on Virginia's Sesquicentennial commemoration of the Civil War. Sandusky will be pleased to lead the Lynchburg committee in planning the events and activities to take place 2009-2015.

I saw Cheryl Jackson yesterday at a meeting in Spotsylvania; she is the state representative heading up Virginia's Sesquicentennial. Cheryl reminded me that there's a form or letter that your office needs to return to her to establish Lynchburg's Sesquicentennial
Committee. If you don't have the form, I can get another copy from Cheryl.

We looking forward to the Sesquicentennial It is an epochal era in American history and we look to observe the anniversary with respect and dignity.

Sincerely,

Greg Starbuck

Greg Starbuck
Executive Director
Historic Sandusky Foundation

RECEIVED
APR 18 2008
Council / Manager
Offices

757 Sandusky Drive • Lynchburg, Virginia 24502 • Phone 434.832.0162 • Fax 434.832.0182 • www.historicsandusky.org

VIRGINIA SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR COMMISSION
Local Sesquicentennial Committee Assignment Form

The Virginia Sesquicentennial of the American Civil War Commission was created during the 2006 Session of the General Assembly for the purpose of planning for and commemorating the 150th anniversary of Virginia's participation in the American Civil War, the duration of which will be 2011 through 2015. Each locality is asked to form a local sesquicentennial committee to begin planning for the four-year statewide commemoration period for the American Civil War. Please designate below a liaison to work with the Commission, who will communicate regularly on plans in development and events occurring within the locality.

Locality: ____

Name of Designee: ______________________________________

Title: ____

Address: ____

____

____

Phone: ______________________ **Fax:** ______________________

Email: ____

Comments: ____

____

____

____

____

Please respond to: Cheryl Jackson, Division of Legislative Services, 910 Capitol Street, General Assembly Building, 2nd floor, Richmond, VA 23219. Phone: (804) 786-3591 / Fax: (804) 692-0625 / Email: cjackson@leg.state.va.us

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008** AGENDA ITEM NO.: 17

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Public Street Dedication and Naming Requests – "Wheatland Court" in the Ivy Creek Farm Subdivision, off Link Road**

RECOMMENDATION: Approval of resolution to approve the public street dedication and naming requests

SUMMARY: Foxcrest Developers, Inc. is requesting to dedicate eight hundred and ninety-nine thousandths (0.899) acre for right-of-way for the proposed new public street to be named "Wheatland Court" in the Ivy Creek Farm Subdivision, off Link Road.

PRIOR ACTION(S):

April 9, 2008:	Planning Division recommended approval Planning Commission tabled action (7-0)
April 23, 2008	Planning Commission recommended approval (6-0 Absent- Oglesby)

FISCAL IMPACT: N/A

CONTACT(S):

Charlene Montford / 455-3902
Tom Martin /455-3909
Annette Chenault /455-3894

ATTACHMENT(S):
- Resolution
- PC Report
- PC Memorandum
- PC Minutes (2)
- "Plat Showing Ivy Creek Farm," received 04/15/08
- Vicinity Map

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION APPROVING THE DEDICATION AND NAMING OF ONE (1)PUBLIC STREET, TO BE KNOWN AS “WHEATLAND COURT.”

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the dedication of 0.899 of an acre for right-of-way for the proposed public street, “Wheatland Court,” located in the Ivy Creek Farm Subdivision, on the south side of Link Road be, and hereby is, approved and accepted, contingent on Foxcrest Developers Inc, filing a properly executed subdivision plat to be recorded among the land records in the Office of the Clerk of the Circuit Court; the filing of approved street and utility plans and the necessary construction bonds with the City; and the construction of the street in accordance with City standards. The failure to fully comply with these conditions shall render the City’s acceptance of “Wheatland Court” as a public street null and void.

Adopted:

Certified: ________________________

Clerk of Council

053L

The Department of Community Development

City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Planning Division
Date: April 9, 2008
RE: PUBLIC STREET DEDICATION AND NAMING REQUESTS: "Wheatland Court" in the Ivy Creek Farm Subdivision, off Link Road

---

I. PETITIONER

Foxcrest Developers, Inc, 119 B Tradewynd Drive, Lynchburg, VA 24502
Representative: Mike Nichols, Hurt & Proffitt, Inc., 2524 Langhorne Road, Lynchburg, VA 24501

II. LOCATION

The subject property is a tract of land containing eight (8.0) acres located on the south side of Link Road (also known as Tax Valuation Map #169-02-009).
Property Owner: Foxcrest Developers, Inc, 119 B Tradewynd Drive, Lynchburg, VA 24502

III. PURPOSE

The purpose of the request is to dedicate eight hundred and ninety-nine thousandths (0.899) acre for right-of-way for the proposed public street to be named "Wheatland Court" located on the south side of Link Road.

IV. SUMMARY

- Request agrees with the *Subdivision Ordinance* requirements for dedicating public rights-of-way in an R-1, Low Density Single-Family Residential District.
- Request agrees with the *Zoning Ordinance* requirements for right-of-way dedications.
- Request complies with City Code Section 35.105 requirements that "…all streets dedicated or private…may be assigned a name provided that a name assignment has been requested by the property owner on said street, and provided further that the Planning Commission deems the petitioned street of sufficient significance to warrant naming."
- Request complies with City Code Section 35.111 requirement that states the "proposed street name will be reviewed by the Technical Review Committee, Planning Commission and City Council, with the final decision resting with Council."

The Planning Division recommends approval of the public street dedication and naming requests.

V. FINDINGS OF FACT

1. **Background.** Foxcrest Developers, Inc. is requesting to dedicate eight hundred and ninety-nine thousandths (0.899) acre for right-of-way for the proposed public street to be named "Wheatland Court" to be located on the south side of Link Road. "Wheatland Court," fifty (50) feet in width, would extend from Link Road in a southeasterly direction for approximately seven hundred sixty (760) feet to its terminus in a temporary cul-de-sac at Parcel B.
2. **Zoning.** The subject property is zoned R-1, Low Density Single-Family Residential District.
3. **Waivers.** No waivers will be needed for the street dedication and naming requests.

4. **Proposed Use of Property.** The new street will serve seven (7) new lots with two (2) residue parcels. The existing dwelling on Parcel A near Link Road will be demolished.

5. **Technical Review Committee.** Technical Review Committee (TRC) Members Gerry Harter and Michael Thomas, Morris Younger, the Emergency Communications Administrator, and Jeffery Lee, the Lynchburg Post Office Customer Services Manager, reviewed the proposed public street naming request on February 28, 2008 and March 3, 2008. The initial requested name was not approved. There were no concerns with the current proposed street name and no conflict with any existing street names.

VI. PLANNING DIVISION RECOMMENDED MOTION

Based on the proceeding findings of fact, the Planning Commission recommends to City Council approval of the dedication of the public street to be named "Wheatland Court" to be constructed in substantial compliance with the plat showing "Ivy Creek Farm," by Hurt & Proffitt, Inc., received March 31, 2008. The dedication of "Wheatland Court" and its acceptance as a public street is contingent on Foxcrest Developers, Inc, filing approved street and utility plans and the necessary construction bonds with the City; and the construction of the street in accordance with City standards. The failure to fully comply with these conditions shall render the City's acceptance of "Wheatland Court" as a public street null and void.

This matter is hereby offered for your consideration.

William T. Martin

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Mr. R. Douglas Dejarnette, Fire Marshal
Mr. J. Lee Newland, Director of Engineering
Lt. Danny R. Marks, Lynchburg Police Department Field Operations Bureau
Capt. Todd Swisher, Lynchburg Police Department North Division
Capt. H. W. Duff, Jr. Lynchburg Police Department East Division
Capt. Al Thomas, Lynchburg Police Department South Division
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Ms. Annette M. Chenault, Planner II
Ms. Rebecca McCharen, Planner II
Mr. Mike Nicols, representative

VII. ATTACHMENTS

1. Plat showing "Ivy Creek Farm," by Hurt & Proffitt, Inc., received by Community Development on March 31, 2008.
2. Vicinity Zoning Map

MINUTES FROM THE APRIL 9, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED:

a. A request to dedicate eight hundred and ninety-nine thousandths (0.899) of an acre for right-of-way for the proposed public street to be named "Wheatland Court" located on the south side of Link Road.

Mr. Martin addressed the commissioners with the following comments. The proposed street would extend from Link Road and would serve seven single-family residential lots. The proposed street would terminate in a cul-de-sac, and there would be two residue parcels left over from the subdivision. The property will be served by city water and sewer and the Technical Review Committee had no comments or concerns with the proposed street naming. The Planning Division recommends the dedication of the proposed street. Chair Hamilton asked for a representative to speak on behalf of the petition, and there was no one present to do so.

Commissioner Swienton asked Mr. Martin about the property by Helen Tatum (where the road goes closest). He wanted to know the distance between the right-of-way in the road and that parcel. Mr. Martin said the right-of-way is 50 feet and typically there is about 31 to 33 feet of pavement, so the actual road would be ten feet away from her property. Commissioner Swienton asked for clarification that her property would then be considered a corner property, and Mr. Martin said that would be correct. Commissioner Swienton commented that he had pulled up the setback requirements and wanted to know if that would be 40 feet from Link Road and the side road from the Wheatland Court would also have to be 40 feet if a new building was put up there. Mr. Martin said that is correct that there would be two front yard requirements. Commissioner Swienton asked if the building now becomes a non-conforming property. Mr. Martin concurred that in terms of setbacks it would be non-conforming. Commissioner Swienton asked what that meant for that landowner or future landowner. Mr. Martin said that if the property was destroyed by an act of God, it could be rebuilt. If it was destroyed by some other negligence, it could not be reconstructed.

Commissioner Worthington also asked for clarification about what would be done if that building was just torn down. Mr. Martin said they would have to meet the setback requirements. Commissioner Swienton remarked that he is concerned with putting the road where it is proposed because it might be a disadvantage to that landowner or a future landowner. Mr. Martin agreed that it could be and that was a good point. He is not exactly sure why they chose that alignment and that is something staff could look into if the Planning Commission felt strongly enough about it.

Commissioner Swienton thought that maybe it was chosen because of the traffic study or some other engineering reason, like line of sight, but he is concerned about protecting the landowner. Chair Hamilton asked him if he wanted to table this, and Commissioner Swienton wondered if that would put any undue hardship on the developer. Mr. Martin commented that since the developer is not here, he could not answer that question. Commissioner Swienton commented that he would like to know if that road could be relocated safely because he feels uncomfortable with making a piece of property non-conforming if that can be avoided.

Commissioner Swienton made a motion, which was seconded by Commissioner Sale, to table this until there could be a traffic study completed to determine if the road can be changed to keep the property owned by Helen Tatum conforming. It passed by the following vote:

AYES:	Barnes, Hamilton, Hannon, Oglesby, Sale, Swienton and Worthington	7
NOES:		0
ABSTENTIONS:		0
ABSENT:		0

MINUTES FROM THE APRIL 23, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

a. A request to dedicate eight hundred and ninety-nine thousandths (0.899) of an acre for right-of-way for the proposed public street to be named "Wheatland Court" located on the south side of Link Road (tabled from the April 9, 2008 meeting).

Mr. Martin addressed the commissioners with the following comments. This came before the Planning Commission on April 9, 2008. Commissioner Swienton had raised a question about the northeastern adjacent property and the fact that placing the road where it was proposed would create two front yard setbacks. This would have made the property non-conforming. There was also a problem with the lot on the western side. The petitioner has gone back and created a two-foot strip between the property of Helen Tatum and the proposed road, which would become common area. With that change, the property would no longer have two front yard setbacks, and the other parcel would also be common area. Staff feels that this addresses Commissioner Swienton's question from the last meeting and staff recommends adoption of the proposed street naming and dedication.

Mr. Mike Nichols with Hurt and Proffitt was present to answer any questions. Commissioner Swienton asked Mr. Martin what the purpose for a corner lot having such a large setback on the side. Mr. Martin said that typically it is because you have two streets. For instance, if you were coming down Wheatland Court, instead of having the Tatum house 15 feet from the line and everything else set back 40 feet, it keeps everything in alignment. Commissioner Swienton asked for clarification that it has nothing to do with ,quality of life or low impact or anything like that. Mr. Martin said that it is just an orderly way to do it.

There was a question from a member of the public who was present as to what the name of the street would be. The plat submitted to Planning Commission for today's meeting says "Whestland Place", but the reports say "Wheatland Court." Mr. Martin clarified that "Wheatland Court" was the name that was presented to the Planning Commission at the last meeting and that is the name that should be adopted. Mr. Martin instructed Mr. Nichols that he should correct the plats before they are recorded.

Commissioner Worthington made the following motion, which was seconded by Commissioner Hannon, and passed by the following vote:

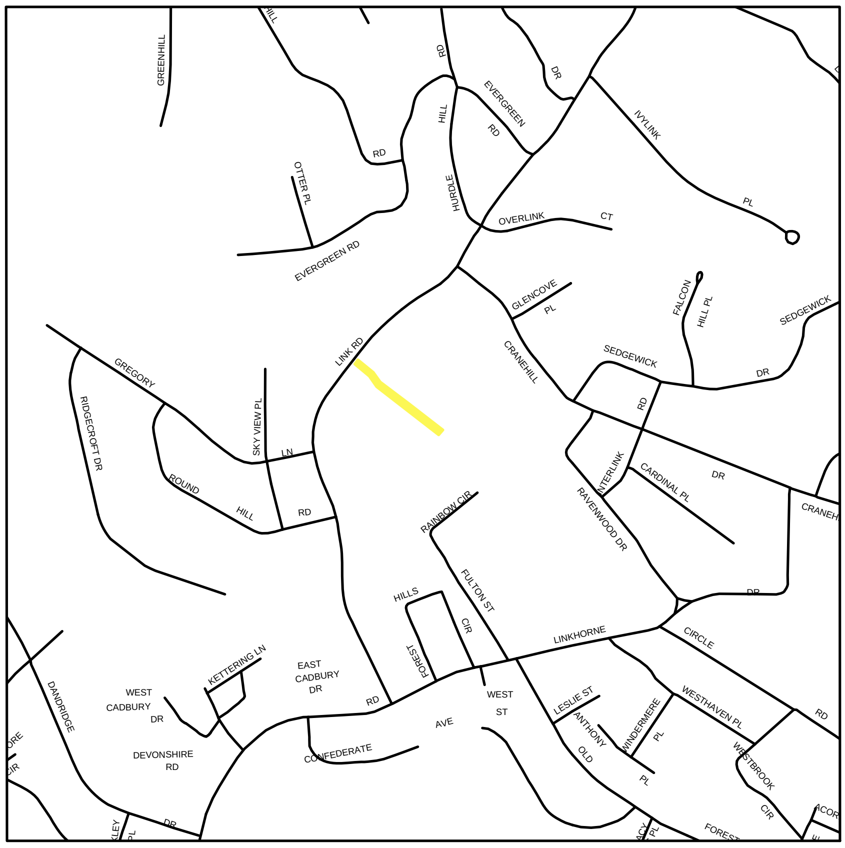
"That the Planning Commission recommends to City Council approval of the dedication of the public street to be named "Wheatland Court" to be constructed in substantial compliance with the plat showing "Ivy Creek Farm," by Hurt & Proffitt, Inc., received April 15, 2008. The dedication of "Wheatland Court" and its acceptance as a public street is contingent on Foxcrest Developers, Inc, filing approved street and utility plans and the necessary construction bonds with the City; and the construction of the street in accordance with City standards. The failure to fully comply with these conditions shall render the City's acceptance of "Wheatland Court" as a public street null and void. "

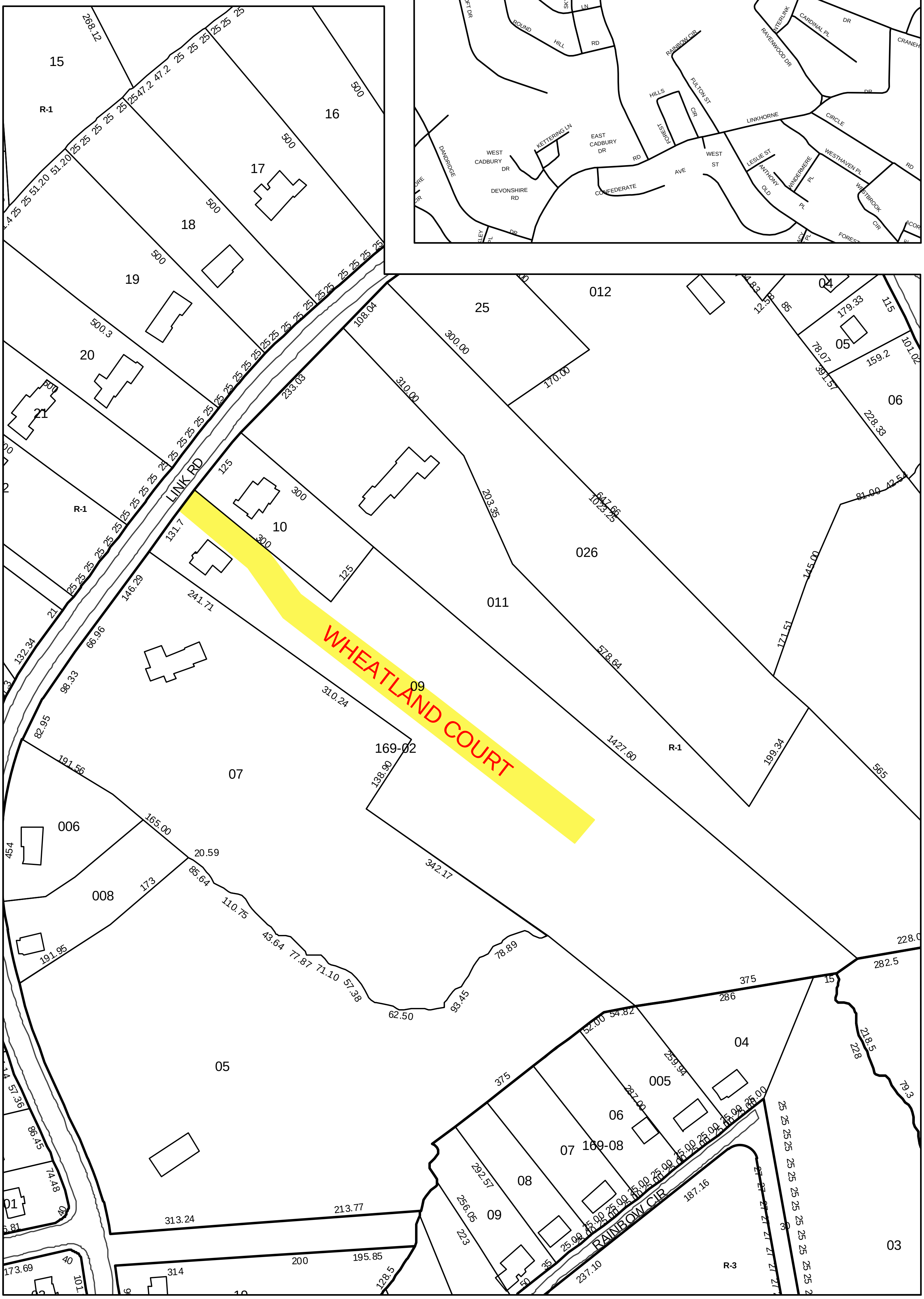
AYES:	Barnes, Hamilton, Hannon, Sale, Swienton and Worthington	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Oglesby	1

WHEATLAND COURT
STREET NAMING REQUEST

MAP PREPARED BY
THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Proposed Street





LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **May 13, 2008** | AGENDA ITEM NO.: 18

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

ACTION: **X** | INFORMATION:

ITEM TITLE: **1) Adoption and Appropriation of the FY 2009 Operating and Capital Budgets; 2) Adoption of the FY 2009-2013 Capital Improvement Program (CIP) and Appropriation of the FY 2009 CIP; 3) Approval of an Ordinance Authorizing the City Manager to Award Monetary Incentives, Awards, and Bonuses to Employees for Exceptional Services; 4) Adopt The Personal Property Tax Relief Rate.**

RECOMMENDATION:
Adopt and appropriate the FY 2009 Operating Budget; adopt the FY 2009-2013 Capital Improvement Program; adopt and appropriate the FY 2009 Capital Budget; adopt an ordinance authorizing the City Manager to award monetary incentives, awards, and bonuses to employees for exceptional services; adopt an ordinance to set the personal property tax relief rate.

SUMMARY:
Following the April 1, 2008 Public Hearing for the FY 2009 Budget, Council incorporated several adjustments to the Proposed FY 2009 Budget including: adjustments to revenues and reserves. Adjustments to proposed expenditures included: a reduction in debt payments, a decrease in a transfer to Fleet for debt service, an increase in non-departmental for staff compensation adjustments, the addition of a firefighter recruit position, as well as other adjustments detailed in Attachment A.

Adopting Ordinances A, B, E, F, G, H, J, K, L, M, N, O, and P require a majority vote of all of the members of City Council in attendance, said vote to be taken by ayes and noes.

Adopting Ordinances C, D, and I require a two-thirds majority vote (i.e. five of seven) among the members elected to City Council, said vote to be taken by ayes and noes.

The FY 2009 Proposed Operating and Capital Budgets have been amended as follows:

General Fund

Revenues and Use of Fund Balance	Proposed Operating Budget	Adjustments	Revised Budget
Revenues	$154,706,519	$18,000	$154,724,519
Use of Fund Balance	9,545,496	0	$9,545,496
Total Revenues and Use of Fund Balance	**$164,252,015**	**$18,000**	**$164,270,015**
Expenditures			
Operations	$104,937,063	$553,617	$105,490,680
Debt Service	13,852,939	(431,381)	$13,421,558
Schools-Operations	32,442,103	0	$32,442,103
Greater Lynchburg Transit Company	1,128,884	0	$1,128,884
Transfers to Other Funds	2,655,253	(428,461)	$2,226,792
Reserves	5,825,535	(2,375,775)	$3,449,760
Capital Improvements	3,410,238	2,700,000	$6,110,238
Total Expenditures, Reserves, and	**$164,252,015**	**$18,000**	**$164,270,015**

Details of these adjustments can be found in Attachment A.

Regional Airport Fund
The Regional Airport Fund has been amended by $10,461 to reflect a reduction in transfers from the General Fund due to reductions in debt service related to debt refunding.

Regional Juvenile Detention Fund
The Regional Juvenile Detention Fund has been amended by $41,983 to reflect a reduction in debt services related to debt refunding.

Water Operating Fund
The Water Operating Fund has been amended by $113,059 to reflect a reduction in debt services related to debt refunding.

Sewer Operating Fund
The Sewer Operating Fund has been amended by $197,183 to reflect a reduction in debt services related to debt refunding.

City Capital Projects Fund
The City Capital Projects Fund has been amended by $2,700,000 reflecting the addition of projects to replace D Street Bridge and perform preliminary engineering studies for future projects.

Fund Balance
With the adjustments noted above, the General Fund undesignated fund balance as of June 30, 2009 is projected to be $14,160,819, or 9.2% of revenues. Council's target for undesignated fund balance is 10.0% of revenues. Due to using FY 2008 additional revenues from third quarter adjustments for capital projects, the 10% target was not met. The fund balance will be restored at the end of FY 2008 when excess appropriations close into fund balance.

PRIOR ACTION(S):
March 11, 18, 25, April 8, 15, 22, 2008 – City Council Work Sessions
April 1, 2008 – Public Hearing on the Proposed FY 2009 Budgets for City Government, Public Schools, Water, Sewer, Solid Waste, Airport and Other Funds, and the FY 2009 - 2013 Capital Improvement Program
May 13, 2008 – First Reading

BUDGET IMPACT:
See attached budget ordinance.

CONTACT(S):
L. Kimball Payne, III, City Manager, 455-3990
Bonnie Svrcek, Deputy City Manager, 455-3990
Donna Witt, Director of Financial Services, 455-3968

ATTACHMENT(S):
Attachment A: General Fund Expenditure Adjustments, and
Ordinances to 1) adopt and appropriate the FY 2009 Operating and Capital Budgets; 2) adopt the FY 2009-2013 Capital Improvement Program (CIP) and appropriate the FY 2009 CIP; 3) approve an ordinance authorizing the City Manager to award monetary incentives, awards, and bonuses to employees for exceptional services; 4) adopt an ordinance to set the personal property tax relief rate.

REVIEWED BY: lkp

ATTACHMEMENT A

BALANCING THE FY 2009 GENERAL FUND BUDGET continued

Revenues and Use of Fund Balance	
Proposed Revenues (from the FY 2008 Proposed Operating Budget)	**$154,706,519**
Use of Fund Balance	9,545,496
Total Proposed Revenues and Use of Fund Balance	**$164,252,015**
Adjustments: Revenue Summary (discussed at the 4/15/08 Work Session)	
Non-Dedicated Revenue Adjustments	
Lodging Taxes	$12,000
Sale of GIS Products	($4,000)
Police Report Sales	$10,000
Revised Revenues and Use of Fund Balance	**$164,270,015**
Expenditures, Reserves and Transfers	
Proposed Expenditures, Reserves and Transfers *(from the FY 2009 Proposed Operating Budget)*	**$164,252,015**
Adjustments: Expenditures, Reserves, and Transfers (discussed at the 4/08/08 Work Session)	
Emegency Communications Position reorganization	($19,310)
Indigent Hospitalization	(8,929)
.3 FTE wage postion	(5,940)
Emergency Medical Dispatch expenses in Council/Manager Budget	(7,000)
Sheriff's Office Lease of Blue Ridge Regional Jail	16,000
Fuel Increase	87,750
Debt Service Savings	(431,381)
Increase Debt Service Reserve	329,836
Cooperative Extension Agent Increase	1,064
Reduce Transfer to Fleet for Debt Service	(418,000)
Increase Non-departmental for staff compensation	418,000
Eliminate Reserve for General Assembly action	(2,030,535)
Eliminate Reserve for FY 2008 Revenue Shortfall	(1,500,000)
Add a Reserve for Local Aid to the Commonwealth	800,000
Increase Transfer to City Capital Projects Fund	2,700,000
Adjustments: Expenditures, Reserves, and Transfers (discussed at the 4/22/08 Work Session)	
Firefighter recruit	49,704
Increase Non-departmental for staff compensation	92,000
Fire safety supplies and training	(23,807)
Reduce transfer to Airport Fund	(10,461)
Reduce Detention Home per diem	(20,991)
Revised Expenditures	**$164,270,015**

A. BE IT ORDAINED that by majority vote the FY 2009 General Fund Operating Budget (excluding External Service Provider expenditures) including the revenues and expenditures proposed by the City Manager and amended by City Council be adopted as the annual operating budget of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated:

GENERAL FUND INCOME	
Beginning Balance	$21,965,599
Non-Dedicated Revenues	
General Property Taxes	63,767,192
Other Local Taxes	47,072,444
Permits, Privilege Fees and Licenses	920,685
Fines & Forfeitures	570,000
Use of Money & Property	1,649,886
Charges for Services	3,252,457
Miscellaneous	504,236
Revenue from the Commonwealth	9,531,078
Revenue from Lynchburg City Schools	707,278
Dedicated Revenues	
Revenue from Use of Money & Property	
Charges for Services	1,701,649
Recreation Revenue	337,200
Miscellaneous	2,109,000
Interfund Transfers	20,000
Revenue from the Commonwealth	
Categorical Aid - State Shared Expenditures	3,081,015
Categorical Aid	12,985,180
Revenue from the Federal Government	6,515,219
Use of Reserves and Designated Fund Balance	1,740,716
Total	**$178,430,834**

GENERAL FUND EXPENDITURES	
General Government	$13,226,268
Judicial Administration	4,518,586
Public Safety	32,064,650
Public Works	14,084,354
Health and Welfare	17,447,968
Parks, Recreation and Cultural	5,285,589
Community Development	6,957,731
Non-Departmental	5,263,575
Transfer to Other Funds	2,226,792
Debt Service	7,748,912
Schools (Local Share Only) - Debt Service	5,672,646
Reserves	3,449,760
Transfer to Capital	6,110,238
Ending Balance	14,160,819
Subtotal	**$138,217,888**
External Service Providers[1]	$6,641,959
Component Units[1]	$33,570,987
Total	**$178,430,834**

[1] *To be considered separately*

Introduced:

Adopted:

Certified: ______________________

Clerk of Council

060L

B. BE IT ORDAINED that by majority vote the FY 2009 Mandated and Contractual External Service Providers Budget of $6,505,875 proposed by the City Manager and amended by City Council be adopted as part of the operating budget of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated:

MANDATED	
Blue Ridge Regional Jail Authority	$4,110,862
Central Virginia Community Services Board	444,003
Health Department	879,758
Indigent Hospitalization	16,071
Region 2000 Local Government Council	44,200
TOTAL MANDATED	**$5,494,894**
CONTRACTUAL	
Lynchburg Humane Society	$104,500
Lynchburg Lifesaving/Rescue Squad	10,000
Lynchburg Neighborhood Development Foundation	25,000
Lynchburg Regional Chamber of Commerce-Tourism	670,000
Lynch's Landing, Inc.	49,050
Southern Memorial Association (Old City Cemetery)	122,438
Virginia Cooperative Extension Service	29,993
TOTAL CONTRACTUAL	**$1,010,981**

Introduced: Adopted:

Certified: ____________________________
Clerk of Council

C. BE IT ORDAINED that by two – thirds vote (five of seven) the FY 2009 Central Virginia Area Agency on Aging Budget of $15,000 proposed by the City Manager be adopted as part of the operating budget of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated.

Introduced: Adopted:

Certified: ____________________________
Clerk of Council

060L

D. BE IT ORDAINED that by two – thirds vote (five of seven) the FY 2009 Central Virginia Community College Board and Related Operations Budget of $1,834 proposed by the City Manager be adopted as part of the operating budget of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated.

Introduced: Adopted:

Certified: ____________________________
Clerk of Council

060L

E. BE IT ORDAINED that by majority vote the FY 2009 Court Appointed Special Advocate Budget of $12,000 proposed by the City Manager be adopted as part of the operating budget of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated.

Introduced: Adopted:

Certified: ____________________________
Clerk of Council

060LE

F. BE IT ORDAINED that by majority vote the FY 2009 Dr. Martin Luther King, Jr. Lynchburg Community Council Budget of $5,000 proposed by the City Manager be adopted as part of the operating budget of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated.

Introduced: Adopted:

Certified: ____________________________
Clerk of Council

060LF

G. BE IT ORDAINED that by majority vote the FY 2009 Region 2000 Economic Development Council Budget of $82,250 proposed by the City Manager be adopted as part of the operating budget of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

060LG

H. BE IT ORDAINED that by majority vote the FY 2009 Robert E. Lee Soil & Water Conservation District Budget of $10,000 proposed by the City Manager be adopted as part of the operating budget of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

060LH

I. BE IT ORDAINED that by two – thirds vote (five of seven) the FY 2009 Virginia Legal Aid Society Budget of $10,000 proposed by the City Manager be adopted as part of the operating budget of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

060LI

J. BE IT ORDAINED that by majority vote the FY 2009 School Operating Budget, including the revenues and expenditures proposed by the City Manager and amended by City Council, be adopted for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated:

SCHOOL INCOME	
Beginning	$0
State	51,999,622
Federal	2,153,000
Grants	6,233,764
Local – Operating	32,442,103
Local – Debt Service	33,627
Miscellaneous	911,775
Lease Purchase Proceeds	1,000,000
Total	**$94,773,891**

SCHOOL EXPENDITURES	
Operations	$88,540,127
Grant Funded Expenditures	6,233,764
Ending Balance	0
Total	**$94,773,891**

Introduced:

Adopted:

Certified: ______________________________

Clerk of Council

060LJ

K. BE IT ORDAINED that by majority vote the FY 2009 Greater Lynchburg Transit Budget including the revenues and expenditures proposed by the City Manager and amended by City Council be adopted for the fiscal year beginning July 1, 2008 and ending June 30, 2009 and said funds be appropriated:

GREATER LYNCHBURG TRANSIT COMPANY INCOME	
Beginning	$0
Fares	857,875
Contracts	131,359
Federal	1,638,944
State	872,193
Local - Operating	1,128,884
Partners	1,495,349
Miscellaneous	143,664
Total	**$6,268,268**

GREATER LYNCHBURG TRANSIT COMPANY EXPENDITURES	
Operations	$6,268,268
Ending Balance	0
Total	**$6,268,268**

Introduced:

Adopted:

Certified: ______________________________

Clerk of Council

060LK

L. BE IT ORDAINED that by majority vote the budgets of the funds mentioned herein be adopted for the purposes herein mentioned and said funds be appropriated from the funds and resources of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009:

FLEET SERVICES INCOME		**FLEET SERVICES EXPENDITURES**	
Beginning	$60,145	Operations	$6,252,363
Revenues	6,985,888	Debt Service	417,751
Total	**$7,046,033**	Reserves	193,152
		Ending Balance	182,767
		Total	**$7,046,033**

AIRPORT INCOME		**AIRPORT EXPENDITURES**	
Beginning Balance	$100,000	Operations	$2,053,376
Revenue from Cost Centers	1,795,311	Debt Service	327,149
Transfer from General Fund	367,799	Reserve for Debt Service	19,000
Interest & Other	236,415	Ending Balance	100,000
Total	**$2,499,525**	**Total**	**$2,499,525**

WATER FUND INCOME		**WATER FUND EXPENDITURES**	
Beginning Balance	$3,066,838	Operations	$8,062,788
Water Sales	6,658,600	Debt Service	2,677,206
Meter, Sewer Fund & General Fund Hydrant Charges	1,450,248	Capital Outlay	10,000
Cut-on/off Charges	100,000	Transfer to Water Capital Fund	500,000
Availability, Connection Fees	200,000	Transfer to Fleet Services Fund	18,544
Other Charges for Service	778,000	Ending Balance	3,866,599
Water Contracts (Amherst/Bedford/Campbell/Industrial)	2,623,109	**Total**	**$15,135,137**
Interest	258,342		
Total	**$15,135,137**		

SEWER FUND INCOME		**SEWER FUND EXPENDITURES**	
Beginning Balance	$5,811,522	Operations	$8,703,754
Charges for Services	16,050,029	Debt Service	6,572,006
Sewer Contracts (Amherst/Bedford/Campbell/Industrial)	2,318,161	Capital Outlay	115,000
Interest and Other	404,251	Transfer to Sewer Capital Fund	2,000,000
Total	**$24,583,963**	Ending Balance	7,193,203
		Total	**$24,583,963**

SOLID WASTE MANAGEMENT INCOME		**SOLID WASTE MANAGEMENT EXPENDITURES**	
Beginning Balance	$9,403,666	Transfer to City Capital Projects Fund	$2,775,000
Total	**$9,403,666**	Ending Balance	6,628,666
		Total	**$9,403,666**

ASSET FORFEITURE FUND INCOME		**ASSET FORFEITURE FUND EXPENDITURES**	
Beginning Balance	$179,265	Operations	$65,477
Revenue	65,477	Ending Balance	179,265
Total	**$244,742**	**Total**	**$244,742**

C. VA. RADIO COMMUNICATIONS INCOME		**C. VA. RADIO COMMUNICATIONS EXPENDITURES**	
Beginning Balance	$143,962	Operations	$767,912
Charges for Services	767,912	Ending Balance	143,962
Total	**$911,874**	**Total**	**$911,874**

HOME FUND INCOME		**HOME FUND EXPENDITURES**	
Beginning Balance	$0	Operations	$418,171
Revenue from the Federal Government	418,171	Ending Balance	0
Total	**$418,171**	**Total**	**$418,171**

COMPREHENSIVE SERVICES ACT INCOME		COMPREHENSIVE SERVICES ACT EXPENDITURES	
Beginning Balance	$0	Operations	$4,583,388
Miscellaneous	110,000	Ending Balance	0
Transfer from General Fund	1,108,342	**Total**	**$4,583,388**
Lynchburg City School Transfer	196,541		
Revenue from the Commonwealth	3,168,505		
Total	**$4,583,388**		

LYNCHBURG BUSINESS DEVELOPMENT CENTRE INCOME		LYNCHBURG BUSINESS DEVELOPMENT CENTRE EXPENDITURES	
Beginning Balance	$125,385	Operations	$0
Revenue	0	Ending Balance	125,385
Total	**$125,385**	**Total**	**$125,385**

LEAF FUND INCOME		LEAF FUND EXPENDITURES	
Beginning Balance	$24,376	Operations	$0
Pledges/Donations	0	Ending Balance	24,376
Total	**$24,376**	**Total**	**$24,376**

REGIONAL JUVENILE DET. CENTER INCOME		REGIONAL JUVENILE DET. CENTER EXPENDITURES	
Beginning Balance	$0	Operations	$2,745,310
Charges for Services	1,861,231	Debt Service	214,751
Intergovernmental	1,118,830	Reserves	20,000
Total	**$2,980,061**	Ending Balance	0
		Total	**$2,980,061**

RISK MANAGEMENT FUND INCOME		RISK MANAGEMENT FUND EXPENDITURES	
Beginning Balance	$2,480,399	Operations	$278,505
Charges for Services	1,181,937	Insurance and Claims	903,432
Interest	35,000	Ending Balance	2,540,399
Subrogation	25,000	**Total**	**$3,722,336**
Total	**$3,722,336**		

SPECIAL WELFARE FUND INCOME		SPECIAL WELFARE FUND EXPENDITURES	
Beginning Balance	$60,570	Operations	$39,250
Donations and Restitutions	16,250	Ending Balance	47,570
Interest	2,000	**Total**	**$86,820**
Revenue from the Commonwealth	8,000		
Total	**$86,820**		

STADIUM FUND INCOME		STADIUM FUND EXPENDITURES	
Beginning Balance	$330,474	Operations	$1,609,043
Charges for Services	1,647,000	Debt Service	222,252
Transfer from General Fund	175,809	Ending Balance	321,988
Total	**$2,153,283**	**Total**	**$2,153,283**

TECHNOLOGY FUND INCOME		TECHNOLOGY FUND EXPENDITURES	
Beginning Balance	$607,708	Operations	$676,063
Use of Money & Property	30,000	Capital Outlay	462,000
Transfer from General Fund	631,594	Ending Balance	131,239
Total	**$1,269,302**	**Total**	**$1,269,302**

CITY/STATE/FEDERAL AID FUND INCOME		CITY/STATE/FEDERAL AID FUND EXPENDITURES	
Beginning Balance	$0	Operations	$2,545,908
Revenue from the Federal Government	1,734,488	Ending Balance	0
Revenue from the Commonwealth	724,068	**Total**	**$2,545,908**
Transfer from General Fund	87,352		
Total	**$2,545,908**		

COMMUNITY DEV. BLOCK GRANT INCOME		COMMUNITY DEV. BLOCK GRANT EXPENDITURES	
Beginning Balance	$0	Operations	$913,859
Intergovernmental	833,859	Ending Balance	0
Program Income	80,000	**Total**	**$913,859**
Total	**$913,859**		

Introduced: Adopted:

Certified: ______________________________

Clerk of Council

060LL

M. BE IT ORDAINED that by majority vote the City Council hereby adopts the FY 2009-2013 Capital Improvement Program as amended.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

060LM

N. BE IT FURTHER ORDAINED that by majority vote the FY 2009 Capital Budget is hereby adopted and said funds be appropriated from the funds and resources of the City of Lynchburg for the fiscal year beginning July 1, 2008 and ending June 30, 2009, in the total amount of $27,881,658 for the City Capital Projects Fund; $1,478,520 for the Schools Capital Projects Fund; $1,300,000 for the Airport Capital Projects Fund; $6,972,000 for the Water Capital Projects Fund and $18,225,000 for the Sewer Capital Projects Fund.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

060LN

O. BE IT ORDAINED that by majority vote in accordance with Section 15.2-1508 of the Code of Virginia, 1950, as amended, City Council authorizes~~,~~ and subject to the availability of appropriated funds, the payment of monetary incentives, awards, and bonuses to City employees for exceptional services rendered by those employees. Such monetary incentives, awards, or bonuses may not exceed $5,000.00 or five percent of the employee's annual salary, whichever is greater. Such incentives, awards, and bonuses may be offered and paid for such exceptional services as defined in the procedural directives issued by the City Manager or his/her designee, including, but not necessarily limited to, any or all of the following purposes:

(1) Individual incentive awards,
(2) Special recognition awards,
(3) Outstanding performance awards, and
(4) Cost savings or revenue generating suggestion awards.

The Director of Human Resources shall administer the incentive award and bonus program. The types of incentives, awards, and bonuses and the types of exceptional services for which they may be granted; the amount of particular incentives, awards, and bonuses; and the selection criteria and process for particular incentives, awards, and bonuses shall be set forth in the procedural directives issued by the City Manager. The total amount paid in monetary incentives, awards, and bonuses shall not exceed $60,000 annually.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

060LO

P. BE IT ORDAINED that by majority vote in accordance with Section 14.2 (b) 2 of the Code of Virginia, 1950, as amended, the personal property tax relief rate for the fiscal year beginning July 1, 2008 through June 30, 2009 shall be set at 52.94%.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

060LP