// A regular meeting of the Council of the City of Lynchburg was held on the 12th day of May, 2009, 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: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Absent: 0

// City Council recognized the 2009 Hill Climbers recipients, i.e., Allison Berry, Italy Chambers, Christopher Gallaher, Diamond Gordon, Cyrus Hinkson, Yasmeen Jennings, Dion Jones, Tyasia Loftin, Christopher Mason, Jaelen Morris, Eric Taylor, and Taylor Woody.

// Copies of the minutes of the April 14 (two meetings), 2009 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Garrett, seconded by Council Member Perrow, Council by the following recorded vote approved the minutes as presented:

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

// In the matter of Budget, Ordinance #O-09-024 amending the FY 2009 Third Quarter Adopted Budget and appropriating funds to implement revenue, expenditure and transfer adjustments, laid over from the April 28, 2009 meeting, was again presented and read, and on motion of Council Member Garrett, seconded by Council Member Perrow, Council by the following recorded vote adopted the Ordinance:

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

// In the matter of Schools – School Board, a public hearing was held to receive input from citizens regarding appointments (or reappointments) to vacancies that will exist June 30 in each of the three (3) School Board representational districts. Mayor Foster read into the record the names of the current School Board members whose terms will expire on June 30: District 1, Julia Doyle; District 2, Rev. Keith Anderson; and District 3, Les Faircloth. Mayor Foster then read into the record the names of volunteers who have applied to-date to serve on the School Board: District 1—Anne L. Alfieri, William H. Cabell, Robert A. Hopkins, Bryan E. Tiller and Charles B. White; District 2—Joseph T. Catlett, Jr. and Carmela H. Greer. The following candidates spoke before City Council to communicate their interest and present their credentials and qualifications to serve on the School Board – Anne Alfieri, William Cabell, Robert A. Hopkins, Charles White, Rev. Keith Anderson and Carmela Greer. Two individuals spoke in support of Anne Alfieri; one individual spoke in support of the reappointment of Rev. Keith Anderson; and three individuals spoke in support of Charles White. One individual submitted the name of Ingrid Hamlett as a District 3 representative. There was no one else present who wished to speak. Council Members discussed and reached consensus to continue the public hearing until the May 26 meeting to allow more time for citizens to apply for the positions on the School Board.

// In the matter of Historic District, a public hearing was held regarding the appeal by Charles and Patricia Nuckols to a decision by the Historic Preservation Commission (HPC) regarding the denial of a Certificate of Appropriateness to alter 2132 Rivermont Avenue after the fact by installing colonial post lights and fencing. Dr. James Mundy, HPC Chair, provided a brief summary regarding the request. Dr. Mundy stated that the colonial light posts and fence design does not agree with the Lynchburg Historic Districts Residential Design Guidelines adopted by City Council in 2007. Charles and Patricia Nuckols outlined the request and stated that the lights were installed for safety reasons, and that although they knew they were in an historic district when they purchased the property, they thought that the historic guidelines only pertained to changes to the house. Mr. and Mrs. Nuckols went on to say that the colonial post lights are historical in nature, were installed for safety reasons, and that it would be a financial hardship for them to have to remove the post lights. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Helgeson stated that it appears that the Nuckols' were trying to put up lights that would fit the era, that it was an honest mistake on their part, and that he would hope that City Council in this one instance would allow them to keep the post lights/fencing. Council Member Helgeson made a motion to reverse the decision of the Historic Preservation Commission to deny the Certificate of Appropriateness request by Patricia and Charles Nuckols concerning property at 2132 Rivermont Avenue. The motion died for lack of a second. Other Council Members stated that although they could sympathize with the Nuckols, they knew they were in a historic district when they purchased the property, they installed the colonial post lights/fencing in violation of the historic guidelines that City Council had approved and that to allow property owners to deviate from the guidelines of historic preservation undermines the purpose of a historic district, which is to protect real estate investments and stabilize neighborhoods. In response to questioning, Rebecca McCharen, HPC Secretary, stated that letters are sent to new property owners in historic districts notifying them of the historic district guidelines, but that staff does not keep a copy of each letter that is sent. Council Member Garrett suggested that in the future that staff needs to keep a copy of the letter sent to new property owners in historic districts. Dr. Garrett also commented that some of the language in the current historic guidelines is vague and may leave room open for interpretation and suggested that the HPC strengthen some of the language in the current historic guidelines. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-09-025, as presented, to uphold the decision of the Historic Preservation Commission to deny the Certificate of Appropriateness request by Patricia and Charles Nuckols concerning property at 2132 Rivermont Avenue:

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

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #5 outlining the petition of Cameron Lofts, LP, to rezone 2.25 acres at 1300 Campbell Avenue from I-2, Light Industrial District, to B-5C, General Business District (Conditional), and for a conditional use permit to allow the use of the existing building and property as a sixty-four-unit apartment building or other B-5, General Business District, uses with associated parking. City Planner Tom Martin provided a brief summary regarding the petition. Mr. Martin stated that the Planning Commission recommends approval of the rezoning and CUP petitions and that the Department of Economic Development and the Economic Development Authority's Property Committee had no objection to the proposed rezoning, noting that the properties were not of interest for industrial use due to the historic designation of the building and proximity to residential uses. Mr. Martin also noted that if the property is not renovated for residential uses, the B-5 zoning would allow Barker-Jennings to remain in the building. Mr. Andy Rosen, Cameron Lofts, and James Ross, Ross/Deckard Architects, outlined the request and asked for approval. Mr. Rosen explained that there will be sixty (60) units instead of the original proposal of sixty-four (64) units. There was no one else present who wished to speak to this item, and the public hearing was closed. Several Council Members commented that this would be a very good adaptive reuse of the property. In response to questioning, Mr. Rosen stated that if they do not get the tax credits, Barker-Jennings will rescind the contract on the property. In response to Council questioning, City Manager Kimball Payne stated that if Cameron Lofts do not receive the tax credits and the project does not happen, then rezoning the property to B-5C will make the property more marketable. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted Ordinance #0-09-026, as presented, approving the petition of Cameron Lofts, LP, to rezone 2.25 acres at 1300 Campbell Avenue from I-2, Light Industrial District, to B-5C, General Business District (Conditional):

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

Noes: 0

On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-09-027, as amended, approving a conditional use permit to allow the use of the existing building and property for a "maximum" of sixty-four-unit apartment building or other B-5, General Business District, uses with associated parking:

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

Noes: 0

// In the matter of Community Planning - General, a public hearing was held regarding City Council Report #6 regarding the conveyance of a small portion of City owned property (+/- 0.52 acre) located at the northern end of the unopened portion of Kemper Street to Norfolk Southern Railway Company for construction of a track and related railroad purposes. City Manager Kimball Payne stated that support of the enhanced passenger rail service to Washington, D. C. from Lynchburg planned for October 1, 2009, will require the construction of crew quarters in the Kemper Street Station and the construction of replacement "storage track" adjacent to the "house track" at Kemper Station where the train will be kept overnight. Mr. Payne explained that the City is presently not using the property and has no plans for its use in the future. Mr. Payne did note that land will be retained to allow the widening of Kemper Street if that should prove desirable in the future. Mr. Payne went on to say that this item will need to come back to City Council at a later meeting for final adoption. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote authorized staff to proceed with the proposal to convey the above described property to the Norfolk Southern Railway Company for construction of a track and related railroad purposes:

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

Noes: 0

// In the matter of Police - General, a public hearing was held to receive public comments regarding an application for a Justice Assistance Grant in the amount of $234,204 over two years for three Emergency Communications Specialists in the Lynchburg Emergency Communications Division. City Manager Kimball Payne 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. Mayor Foster announced that no action was required by City Council regarding this item.

// In the matter of Community Planning – Street Vacation, a public hearing was held regarding City Council Report #8 regarding a request to vacate the opened portion of Ericsson Drive. City Planner Tom Martin 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. Council Member Johnson, Chair of the Physical Development Committee (PDC), stated that the item was heard by PDC and made a motion to vacate the opened portion of Ericsson Drive. The motion did not require a second, and Council by the following recorded vote adopted Ordinance #O-09-028, as presented, vacating the opened portion of Ericsson Drive:

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

Noes: 0

// In the matter of Community Planning – Street Vacation, a public hearing was held regarding City Council Report #9 regarding a request to vacate a portion of the alley between Mosby Avenue and Cobbs Street. City Planner Tom Martin 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. Council Member Johnson, Chair of the Physical Development Committee (PDC), stated that the item was heard by PDC and made a motion to vacate a portion of the alley between Mosby Avenue and Cobbs Street. The motion did not require a second, and Council by the following recorded vote adopted Ordinance #O-09-029, as presented, vacating a portion of the alley between Mosby Avenue and Cobbs Street:

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

Noes: 0

// In the matter of Schools - General, City Council Report #10 regarding amending the FY 2009 General Fund budget by decreasing the Designed Fund Balance for textbooks for Lynchburg City Schools (LCS) by $440,608 and designating $440,608 as a Budget Balancing Contingency Reserve for LCS was considered. City Manager Kimball Payne provided a brief summary regarding the request. Mr. Payne stated that there is one correction in the report in that the unused portion will return to the textbook fund and that the $440,608 will be designed as a FY 2008 Budget Balancing Contingency Reserve for LCS. Council Member Helgeson, Chair of the Finance Committee (FC), stated that the item was heard numerous times by FC and made a motion to approve the request. The motion did not require a second, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-030, as presented, amending the FY 2009 General Fund budget by decreasing the Designed Fund Balance for textbooks for Lynchburg City Schools (LCS) by $440,608 and designating $440,608 as a FY 2008 Budget Balancing Contingency Reserve for LCS:

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

Noes: 0

// In the matter of Taxes, City Council Report #11 regarding amending the City's Self-Insurance Plan Document and amending the FY 2009 General Fund budget and appropriating $500,000 from the Fund Balance of the municipal Self-Insurance Fund to pay the business license tax refunds incurred by the City in the cases of English Construction Company, Incorporated and W.C. English, Inc., was considered. City Attorney Walter Erwin provided a brief history regarding the City's Self Insurance Fund. Mr. Erwin explained that because of the City's current economic restraints, it is recommended that the tax refund be taken out of the Fund Balance of the City's Self-Insurance Fund. Mr. Erwin went on to say that while it is not common practice to pay this type of expense out of the Self-Insurance Fund, the City has appropriated monies from the Fund to pay unexpected expenses in the past. Council Member Helgeson suggested that Council may want to discuss using the Textbooks Reserve Fund to cover this expense since, based on previous discussions, it may be a couple of years before that money is needed for textbooks. In response to questioning, City Manager Kimball Payne stated that staff anticipated other requests for refunds from contractors and that for planning purposes, total costs of as much as $500,000 should be anticipated. There being no further discussion, Council Member Helgeson, Chair of the Finance Committee (FC), made a motion to amend the City's Self Insurance Plan and appropriate $500,000 from the Fund Balance of the municipal Self-Insurance Fund to pay the business license tax refunds incurred by the City in the cases of English Construction Company, Incorporated and W.C. English, Inc. The motion did not require a second, and Council by the following recorded vote adopted Resolution #R-09-031, as presented, amending the City's Self-Insurance Plan Document and readopted by adding Section 3, Paragraph 3.3.1, English Construction Company, Incorporated and W. C. English, Inc., and introduced and laid over to a later meeting for final action Resolution #R-09-032, as presented, amending the FY 2009 General Fund budget and appropriating $500,000 from the Fund Balance of the municipal Self-Insurance Fund to pay the business license tax refunds incurred by the City in the cases of English Construction Company, Incorporated and W.C. English, Inc.:

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

Noes: 0

// In the matter of Community Development - General, City Council Report #12 regarding a request for the City to provide letters of support and/or comments for five applicants for the 2009 Low Income Housing Tax Credits (LIHTC) was considered. City Manager Kimball Payne provided a brief summary regarding the five projects and stated that unless Council directs otherwise, letters of support will be sent over the City Manager's signature for the five applicants who have applied for 2009 Low Income Housing Tax

Credits. City Manager Payne did note that City Council previously agreed via contract to support the Timber Ridge Apartments. Council Member Garrett stated that since he does not have enough information to determine if the City has a need for additional low income housing, he cannot support the requests. Council Member Helgeson stated that the City already has a lot of good housing projects that were funded with private funds and questioned why the developers had to rely on the government in order to make their projects successful. Other Council Members commented that they felt the proposals before them represented good projects, i.e., one would serve people with disabilities, two would entail the rehabilitation of existing buildings rather than putting new construction on green space, and one would rehab and upgrade an existing housing complex. Council Member Helgeson made a motion, seconded by Council Member Garrett, to instruct the City Manager not to send letters of support for the five applicants, and Council by the following recorded vote defeated the motion:

Ayes: Garrett, Helgeson 2

Noes: Dodson, Gillette, Johnson, Perrow, Foster 5

// In the matter of FY2010 Budget/CIP, City Council Report #13 regarding the FY 2010 Budget and Capital Improvements Program was considered. City Manager Kimball Payne stated that the budget resolutions incorporate all of the budget changes requested by City Council. Council Member Helgeson stated that he requested and just received information from Police Chief Parks Snead and that the information indicates that violent crime is on the rise, that the Lynchburg Police Department has had a lot of turnover in the past two years, and that the City is the only locality in Virginia to decrease the pay of police officers. At the request of Council, Police Chief Snead responded to questions regarding turnover and his concern that more officers will leave to go to other localities due to the decrease in pay. In response to questioning, Police Chief Snead stated that there are only three positions that are currently vacant. Council Member Helgeson stated that the City needed to look at its priorities and noted that it would take $415,000 to keep the police officers and Lynchburg Emergency Communications employees at their current pay and $300,000 to keep the sworn officers at their current pay. Council Member Helgeson made a motion to transfer money from the Schools Budget in order to save police officers and emergency communications employees from an across-the-board pay cut included in the budget proposal. The motion died for lack of a second. Some Council Members stated that they were not in favor of taking money from the Schools Budget and that the proposal would be unfair to other City employees and would damage morale across the staff. Council Member Johnson stated that due to the current economic conditions, that everyone is taking a hit this year, including City Council. Mayor Foster commented that the City Manager has indicated that if there are funds remaining at the end of the fiscal year, that he would like to return some of those funds to City employees. Council Member Garrett stated that it is important that the City be able to recruit and retain qualified police officers and that he does not believe that it is right to balance the budget on the “back” of city employees. Council Members Garrett, Helgeson and Perrow stated that this is also not the time to raise the taxes on the citizens. Council Member Perrow also stated that he hopes that the City and Schools will work towards consolidation of services in order to save money. Following discussion, and on motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-033, as presented, adopting the FY 2010 General Fund Operating Budget (excluding External Service Provider expenditures) and appropriating $169,438,575 for this budget:

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Perrow 3

On motion of Vice Mayor Dodson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-034, as presented, adopting the FY 2010 Mandated and Contractual External Service Providers Budget and appropriating $6,453,516 for this budget:

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

Noes: 0

On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-035, as presented, adopting the FY 2010 Central Virginia Area Agency on Aging Budget and appropriating $15,000 for this budget:

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

Noes: 0

On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-036, as presented, adopting the FY 2010 Central Virginia Community College Board and Related Operations Budget and appropriating $1,831 for this budget:

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

Noes: 0

On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-037, as presented, adopting the FY 2010 Court Appointed Special Advocate Budget and appropriating $12,000 for this budget:

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

Noes: 0

On motion of Council Member Garrett, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-038, as presented, adopting the FY 2010 Region 2000 Economic Development Council Budget and appropriating $82,250 for this budget:

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

Noes: 0

On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-039, as presented, adopting the FY 2010 Robert E. Lee Soil & Water Conservation District Budget and appropriating $10,000 for this budget:

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

Noes: 0

On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-040, as presented, adopting the FY 2010 Virginia Legal Aid Society Budget and appropriating $10,000 for this budget:

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

Noes: 0

On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-041, as presented, adopting the FY 2010 Amazement Square Real Estate Tax Refund Budget and appropriating $5,013 for this budget:

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

Noes: 0

On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-042, as presented, adopting the FY 2010 School Operating Budget and appropriating $92,991,629 for this budget:

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

Noes: Helgeson 1

On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-043, as presented, adopting the FY2010 Greater Lynchburg Transit Budget and appropriating $7,198,359for this budget:

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

Noes: 0

On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-044, as presented, adopting all other FY 2010 Operating Fund Budgets and appropriating the sums for each fund:

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

Noes: 0

On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-045, as presented, adopting the first year funding of the FY 2010 Capital Budget and appropriating $15,087,964 for the City Capital Projects Fund; $1,400,000 for the Airport Capital Projects Fund; $4,104,622 for the Water Capital Projects Fund; and $22,150,000 for the Sewer Capital Projects Fund:

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

Noes: 0

On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-046, as presented, approving the payment of monetary incentives, awards and bonuses to City employees under certain circumstances:

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

Noes: 0

On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-047, as presented, setting the personal property tax relief rate for the fiscal year beginning July 1, 2009 through June 30, 2010 at 61.14%:

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

Noes: 0

// The meeting was adjourned at 10:48 P.M.

____
Clerk of Council