

// A regular meeting of the Council of the City of Lynchburg was held on the 14th day of April, 2009, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Perrow 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

// Shaun Spencer-Hester, granddaughter of poet Anne Spencer, and Keith Lee provided information regarding the Anne Spencer House and Garden Museum and presented Mayor Foster with 20 books regarding Anne Spencer for the Mayor's Amazing Book Race.

// Mayor Foster announced that so far approximately 1,000 books have been donated to the Amazing Book Race.

// Copies of the minutes of the March 17, 2009 meeting, having been previously furnished Council, reading was dispensed with. Council Member Perrow stated that he would abstain since he did not attend the March 17 meeting. On motion of Council Member Garrett, seconded by Council Member Johnson, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

Abstention: Perrow 1

// Copies of the minutes of the March 24 (two meetings), 2009 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// Copies of the minutes of the March 31, 2009 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of Community Development - General, City Council Report #4 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-09-016, as presented, establishing availability fees for sewer and water service for the new Areva Office Building on Old Forest Road:

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

Noes: 0

// In the matter of Schools - General, City Council Report #5 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-09-017, as presented, amending the FY 2009 School Capital Projects Fund budget and rescinding \$1,316, 510 in prior appropriations as well as transferring \$162,010 from the FY 2009 General

Fund Designated Fund Balance to the School Capital Projects Fund with resources of \$137,918 from the FY 2008 Return of School Fund Balance and \$24,092 from the Reserve for Future Expenditure Needs for roofing, paving, HVAC, and ADA projects:

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

Noes: 0

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #6 outlining the petition of Farrell Lynchburg Properties, LLC, to rezone 1.45 acres at 3010 and 3012 Wards Road from I-2, Light Industrial District, to B-5C, General Business District, to allow the use of an existing building and parking areas for automobile sales and service. City Planner Tom Martin provided a brief summary regarding the petition. Mr. Steve Plunkett, 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. Council Member Perrow stated that one of his concerns is the reduction of industrial land in the City and asked the City Manager to schedule a briefing at a future work session identifying the City's current industrial land and the potential economic development use of industrial land that is available. On motion of Council Member Garrett, seconded by Council Member Helgeson, Council by the following recorded vote adopted Ordinance #0-09-018, as presented, granting the petition:

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

Noes: 0

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #7 outlining the petition of George Walker and William Walker to rezone approximately 1.2 acres at 3207 and 3209 Forest Brook Road from B-1, Limited Business District, B-3, Community Business District, and B-3C, Community Business District (Conditional), to B-3C, Community Business District (Conditional), to allow the construction of a retail/restaurant building with associated parking. City Planner Tom Martin provided a brief summary regarding the petition. Mr. Buster Walker 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 Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted Ordinance #0-09-019, as presented, granting the petition:

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

Noes: 0

// In the matter of Public Works - Water, a public hearing was held regarding the adoption of an Ordinance to amend the City Code relating to water and sewer rates. Utilities Director Tim Mitchell presented an overview regarding the FY2010 Water and Sewer Rate Study, explaining that the proposed rate adjustments would result in a 4% increase in the water volume rate to \$2.13 per h.c.f., a 3% increase in the sewer volume rate to \$5.54 per h.c.f., and a 2.7% increase to sewer only rates to \$42.47 per month. Mr. Mitchell stated that the increases are needed to meet existing operating and capital needs, meet financial targets, and maintain compliance with the Combined Sewer Overflow (CSO) Special Order. 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 was not in favor of increasing the water/sewer rates, especially

since City Council did not reduce the real property tax rate. Council Member Perrow stated that he was not in favor of increasing taxes but would support the request in order to comply with the special order and to provide funding for the City's aging water lines. On motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted Ordinance #O-09-020, as presented, approving a 4% increase in the water volume rate to \$2.13 per h.c.f., a 3% increase in the sewer volume rate to \$5.54 per h.c.f., and a 2.7% increase to sewer only rates to \$42.47 per month:

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

6

Noes: Helgeson

1

// In the matter of Community Development - General, Mr. Ripley Owen, Board of Directors, Stonegate Villas, cited the following concerns regarding the John H. Wellons Foundation proposed senior housing project on Old Graves Mill Road, i.e., (1) density--60 housing units on 3.9 acres, (2) ingress/egress -- site distance problems, and (3) additional traffic onto an already heavily traveled Old Graves Mill Road.

// In the matter of Community Development - General, Mr. Joseph Reed also expressed concerns regarding the location of the John H. Wellons Foundation proposed senior housing project on Old Graves Mill Road and asked City Council to take more time to review the request before giving approval to the project.

// In the matter of Community Development - General, City Council Report #11 regarding a letter of support for the John H. Wellons Foundation proposed senior housing project located on Old Graves Mill Road was considered. Housing consultant Wendy Painter, on behalf of the John H. Wellons Foundation, stated that the Foundation is seeking support for a proposed senior housing program under the HUD Section 202 program, and that the proposed development would have up to 50 one-bedroom units for individuals aged 62 and older with incomes at or below 50% of the area median income (\$19,300 for one person and \$22,050 for two people). Ms. Painter explained that the proposed site is located on Old Graves Mill Road behind the Timberlake Road Kroger and adjacent to the City's fire station, that the project is similar to the Clearbrook Apartments on Hill Street, and that the only City activity would be the extension of a sewer line to the property, which it would do for any development. Ms. Painter went on to say that the traffic is minimal in senior communities and that the units will be energy efficient and handicapped accessible. Ms. Painter also noted that the site is zoned R-2 which would allow 80 multi-family units and that the Foundation plans to build up to 50 units on the site. Several Council Members commented that they could not support the project due to the large amount of new housing stock currently in the City, the further depletion of the City's greenspace, opposition of adjoining neighbors, uncertainty regarding the demand for this type of housing in the City, and the desire for rehabilitation of the existing housing stock versus adding new housing stock. Other Council Members stated that there is a need for new senior housing in the City and that the energy efficient units would be more affordable to seniors. Following discussion, and on motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote denied the request for a letter of support for the John H. Wellons Foundation, Inc. proposed senior housing project located on Old Graves Mill Road:

Ayes: Garrett, Gillette, Helgeson, Perrow, Foster

5

Noes: Dodson, Johnson

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// In the matter of Community Planning - General, City Council Report #12 regarding the sale of three lots at 3104 Fulton Street, 3036 Forest Hills Circle, and 2600 Rainbow Circle to Long Meadows, Inc., was considered. Real Estate Manager Steve Lawson explained that a Request for Proposals (RFP) was solicited for potential development of the above City owned lots, totaling approximately six acres, and that proposals were received and reviewed with a recommendation given to the Physical Development Committee (PDC) based on the highest overall return to the City. Mr. Lawson stated that Long Meadows submitted a proposal to purchase the three lots for the sum of \$70,000 and to build a mixture of energy efficient and environmentally green single family homes and single and two level attached homes on the lots. Mr. Lawson went on to say that City Council authorized the conveyance of the three lots to Long Meadows following a public hearing at its January 13, 2009, meeting, contingent on the finalization of a satisfactory development agreement with the City and adoption of a final resolution. Mr. Lawson stated that PDC has reviewed the draft development agreement and has recommended approval to City Council.

In response to questioning, Mr. Lawson stated that the developer has agreed to build a new connector street, at its own cost and expense, and dedicate a portion of the property to the City for future walking trails. Mr. Lawson also noted that the developer has agreed to widen a portion of Fulton Street and Rainbow Circle to accommodate the City's right of way requirements. Some Council Members commended the building of "green" houses on this site and the revenue the City will receive from the property once it is developed. Council Member Helgeson expressed concern that the lots were being sold for less than the assessed value and indicated that he has not received answers to questions presented at the public hearing. Council Member Johnson, PDC Chair, stated that the Committee reviewed the matter and recommended that it move forward, and made a motion to authorize the sale of the three lots to Long Meadows, Inc. The motion did not require a second, and Council by the following recorded vote adopted Resolution #R-09-021, as presented, authorizing the sale of three lots at 3104 Fulton Street, 3036 Forest Hills Circle, and 2600 Rainbow Circle to Long Meadows, Inc., subject to the condition that the lots shall be developed in accordance with the Development Proposal dated September 1, 2008, and in accordance with the Joint Development Agreement between the City and Long Meadows:

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

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Noes: Helgeson

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// In the matter of City Code, City Council Report #13 regarding amending Section 35.1-31 of the City Code relating to semi-detached dwellings was considered. City Planner Tom Martin stated that on March 10 City Council conducted a public hearing regarding amending Section 35.1-31, Medium Density Residential District, of the Zoning Ordinance, to allow a duplex lot to be subdivided along a party wall by right in the Residential 3 (R-3) District. Mr. Martin noted that at that time, concerns were raised about the feasibility of splitting existing duplexes, particularly large buildings that had originally been build as single family dwellings and later divided, the potential impact on historic districts, and issues related to the applicability of building code requirements, and that Council asked that these matters be explored and placed on the April 14 agenda for further discussion. Mr. Martin explained that the Building Code will not allow a property to be subdivided along a party wall unless strict requirements are met and that this would

include a fire-rated separation between the two dwelling units and separate utility connections. Mr. Martin did note that while some of the newer duplexes in the City might be able to meet the Building Code requirements, older structures would not be able to and therefore could not be subdivided for separate ownership. Mr. Martin also noted that the Zoning Ordinance currently defines a Semi-Detached Dwelling as "One (1) of two (2) buildings, arranged or designed as dwellings located on abutting lots, separated from each other by a party wall, without openings, extending from the cellar floor to the highest point of the roof along the dividing lot line, and separated from any other building or structures by space on all sides", and that staff believes that this definition meets exactly the intent of the proposed ordinance amendment, i.e., to allow semi-detached dwellings within R-3, Districts. Mr. Martin explained that the proposed language has been changed to show "Semi-Detached Dwellings" as a by right use in the R-3 Districts. On motion of Council Member Perrow, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted Ordinance #0-09-022, as presented, amending Section 35.1-31 of the City Code relating to semi-detached dwellings:

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

Noes: 0

// In the matter of City Code, City Council Report #14 was considered. On motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote adopted Ordinance #0-09-023, as presented, amending the City Code by adding thereto Section 7-7.2 relating to the recovery of the costs incurred by the City for boarding impounded animals:

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

Noes: 0

// Council Member Perrow made a motion, seconded by Council Member Gillette, to hold a closed meeting for discussion and consideration of the acquisition of real property for a public purpose pursuant to Section 2.2-3711(A)(3) of the Code of Virginia (1950), as amended. Lynchburg News and Advance Reporter Alisha Petska questioned whether the motion met the requirements of the Virginia Freedom of Information Act. City Attorney Walter Erwin stated that it is his opinion that the motion does meet the requirements of the Act. City Manager Kimball Payne stated that the public purpose in this instance is a utility project. Mayor Foster restated the motion to read ... to hold a closed meeting for discussion and consideration of the acquisition of real property for a utility project pursuant to Section 2.2-3711(A)(3) of the Code of Virginia (1950), as amended, and Council by the following recorded vote elected to hold a closed meeting for discussion and consideration of the acquisition of real property for a utility project pursuant to Section 2.2-3711(A)(3) of the Code of Virginia (1950), as amended:

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

Noes: 0

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

// Council Member Johnson made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Council Member Perrow, and Council by the following recorded vote adopted the motion:

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

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Noes:

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// The meeting was adjourned at 10:15 P.M.

Clerk of Council