// A regular meeting of the Council of the City of Lynchburg was held on the 13th day of April, 2010, at 4:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

Present: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster 5

Absent: Johnson 2

// Senior Planner Kent White gave an overview of the proposed Subdivision Ordinance stating it reflects both the unanimous consensus of the Subdivision Ordinance Committee as well as the unanimous approval of the Planning Commission. Mr. White stated the purpose of these revisions is to clarify the existing Code, and ultimately expedite the Plat Review process.

Mr. White stated that at the October 27th, 2009 work session, Council referred recommendations to staff for removal of access management provision, the dedication and naming of public streets and revision of clerical items back to the Planning Commission. Mr. White went on to say that the Planning Commission reviewed those items in early January, 2010 and just last month unanimously recommended the approval of those amendments.

Mr. White explained the three changes that had occurred since Council's work session in 2009: (1) Include revision to streamline the dedication of right-of-way and naming of streets. The Planning Commission agreed that it should have administrative approval options for both these items but asked to have comment, mainly to allow for public notification. (2) The access management provision has been removed specifically regarding residential driveways, shared direct access and internal vehicular circulation. Also the definition and reference and graphics referencing site distance triangle has been removed. (3) A local surveyor submitted an alternative for boundary line adjustments that was also recommended by City staff and the Planning Commission. This alternative would allow a cost effective option for minor boundary adjustments.

Mr. White stated that the term "Agent " had been removed from the definition to help clarify the specific individual who is responsible to take action throughout the Ordinance. Primarily this is the City Planner, except several duties that are assigned to the City Engineer.

City Manager Payne questioned the need for another pubic hearing and wondered if something had been omitted. City Attorney Walter Erwin stated that he did not know if something was omitted or just decided that another section needed to be amended in addition to the ones already proposed. This the only thing that would require another public hearing if we are amending sections that were not advertised during the first public hearing. We would need to have a second public hearing to include those additional sections.

Mr. White stated that the Planning Commission did not have another public hearing but proposed an amendment to an additional section that had not been previously advertised. Mr. White explained that it was a section that wasn't originally considered by Council. That was before the alteration of that boundary line. If Council decided not to include that section, all the other sections have been advertised but that one section.

// Council Member Nelson arrived at 4:14 during the discussion from Council.

Mr. Payne stated that the implementation date was something that needs considering because there might be plats in the process now being prepared that the requirements would change a little and make sure petitioners are grandfathered and protect anybody that has already spent money under the old rules that the new rules only apply.

Council Member Gillette stated that the actual Resolution should stipulate that any projects that were filed prior to the deadline will be subject to the existing rules when they filed.

// City Manager Kimball Payne gave a brief overview and stated that this CIP had been done different than in the past. Mr. Payne stated that it shows new projects in one section and then continuing projects so that you know which projects are active and act on them separately. Mr. Payne stated that, as in the past, the Table of Contents was broken down into Buildings, Transportation, Economic Development, Parks and Recreation and then the General Fund, Schools, Airport Fund, Water Fund and Sewer Fund.

Mr. Payne explained that there was an overview of the projects with a tab, and Summary of Projects. Mr. Payne stated that the overall magnitude of the Plan was clearly the Water and Sewer and then the Transportation being the three biggest pieces of the pie.

Council Member Gillette questioned the Heritage roof and if children are in the building then the roof needed to be repaired along with the gym. We cannot send them to a school that is falling down around them.

// Council Member Johnson arrived at 4:47 p.m. during the discussion on the presentation of the CIP.

// Council Member Helgeson left the meeting at 6:57 p.m. after item #2.

// During Roll Call Council Member Gillette had concerns regarding the Planning Commission. Council Member Gillette was disturbed that four members were absent and would like attendance information on the members. Council Member Perrow thanked two departments for their customer service, Utility and Public Works. Vice Mayor Dodson would like to have an attendance report for the Planning Commission, School Board and Economic Development Authority.

// City Council recessed the meeting at 7:05 p.m.

// City Council reconvened the meeting at 7:30 p.m. Council Member Gillette gave the Invocation, followed by the Pledge of Allegiance.

// Mayor Foster introduced Jeanette Levin, a member of the Mayor's Youth Council.

// Mayor Foster presented to City Attorney Walter Erwin a Years of Service award for his 30 years with the City of Lynchburg and thanked him for his service.

// Mayor Foster recognized students from Liberty University and Lynchburg College.

// Copies of the minutes of the March 23, 2010 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Nelson, Council by the following recorded vote approved the minutes as presented:

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

// Copies of the minutes of the March 30, 2010 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette seconded by Council Member Nelson, Council by the following recorded vote approved the minutes as presented:

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

// Copies of the minutes of the April 6, 2010 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Nelson, Council by the following recorded vote approved the minutes as presented:

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

// In the matter of Community Development – General, Resolution #R-10-020 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $106,488, fully reimbursable, to provide 13 units of tenant-based rental assistance and associated supportive services, laid over from the March 23, 2010 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Nelson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Police – General, Resolution #R-10-024 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $285,000, fully reimbursable, to purchase a Chemical Biological Radiological Nuclear Explosive (CBRNE) Armored Incident Response Vehicle and CBRNE Personal Protective Equipment for the Police department, laid over from the March 23, 2010 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Nelson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Police – General, City Council Report #9 was considered. On motion of Council Member Gillette, seconded by Council Member Nelson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10- 026 as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating $38,700, fully reimbursable, to purchase 60 replacement bulletproof vests for law enforcement officers:

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

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report # 10 outlining the petition of Ian Thorton to amend the Future Land Use Map from Low Density Residential to Office use, and to rezone approximately 2.81 acres from a R-1, Density Single-Family Residential District to B-2C, Neighborhood Business District (Conditional) located at 623 Leesville Road. Senior Planner Kent White provided a summary of the request.

Mr. Ian Thorton made a presentation and requested approval from City Council

// Council Member Johnson arrived at 7:43 p.m. during discussion of item #10.

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 Nelson, Council by the following recorded vote adopted Ordinance #0-10-027, as presented, granting the petition to amend the Future Land Use Map from Low Density Residential to Office use:

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

Noes: 0

On motion of Council Member Helgeson, seconded by Council Member Nelson, Council by the following recorded vote adopted Ordinance #0-10-028, as amended, to rezone approximately 2.81 acres from a R-1, Density Single-Family Residential District to B-2C, Neighborhood Business District (Conditional) located at 623 Leesville Road:

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

Noes: 0

// Council Member Nelson made the following statement: "I represent, or have represented the developer and owner of this property and was involved in its acquisition not long ago so I would have to abstain from any participation in this action".

// Mayor Foster made the following statement: "I would have to do likewise because the Family Alliance rents office space from Tony West which is one of the petitioners for the Lynchburg Midtown Lofts project because of my position as the chief operating officer of the Family Alliance I need to abstain for discussing or voting on Lynchburg Midtown Lofts petition. In order to avoid any appearance of impropriety I'm going to allow the Vice Mayor to reside over this matter.

// Mayor Foster and Council Member Nelson left the meeting at 7:56 p.m.

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report # 11 outlining the petition of Lynchburg Midtown Lofts, LLC to amend the Future Land Use Map from Employment 2 to Mixed Use, rezone 3.54 acres from I-2, Light Industrial District to B-3C, Community Business District (Conditional), and for a conditional use permit for a Cluster Commercial Development to allow the use of the existing building for residential, retail, office and recreational uses at 2734 Fort Avenue.

// Senior Planner Kent White gave a brief overview 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 Ordinance #0-10-029, as presented, granting the petition to amend the Future Land Use Map from Employment 2 to Mixed Use.

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

On motion of Council Member Helgeson, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #0-10-030, as presented, granting the petition to rezone 3.54 acres from I-2, Light Industrial District to B-3C, Community Business District (Conditional)

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

On motion of Council Member Helgeson, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #0-10-031 as presented, granting the petition for a conditional use permit for a Cluster Commercial Development to allow the use of the existing building for residential, retail, office and recreational uses at 2734 Fort Avenue

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

//Mayor Foster and Council Member Nelson returned to the meeting after this item was voted on.

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #12 outlining the petition of the Cornerstone Property Owners Association for a Conditional Use Permit (CUP) to allow the construction and operation of a community swimming pool within the Cornerstone Traditional Neighborhood Development in an R-1, Low Density Single-Family Residential District at 1100 Greenview Drive. Senior Planner Kent White gave a brief overview of the petition. Mr. White stated that the Fire Marshal had no concern with the proposed pool and the Police department recommended lighting, perimeter fencing and signage for the proposed development. Mr. White went on to say that the Planning Commission recommended approval of the CUP.

Mr. Mark Borel and Mr. Jeff Allen with Cornerstone Property gave a brief presentation and an update on Cornerstone Development. Two individuals spoke in favor of the petition and asked Council for their approval. There was no one else present who wished to speak to this item, and the public hearing was closed and on motion of Council Member Helgeson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-10-032, as presented, granting the Conditional Use Permit:

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

// In the matter of City Code/Water and Sewer, a public hearing was held regarding City Council Report #13 regarding the adoption of an Ordinance to amend the City Code relating to Water and Sewer Rates. Utilities Director Timothy Mitchell provided a brief summary of the Ordinance. Mr. Mitchell stated the work study goes to minimize the impact on residential and other small customers. Mr. Mitchell explained that a 4% water increase would be necessary to primarily reinvest in our water infrastructure and also some additional increases in cost associated with power and chemicals. Mr. Mitchell went on to say for the first time in 20 years there will be no increase in sewer rates. Mr. Mitchell stated that there would be a recommendation for an increase in a number of fees to recover the actual costs of providing those services. There was no one else present who wished to speak to this item, and the public hearing was closed and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #O-10-033 amending the City Code relating to Water and Sewer Rates :

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

Noes: Helgeson 1

// The Mayor's Youth Council Members Gabrielle Simmons, 11th grade student at New Covenant School; Sherika Callen, 11th grade student at E.C. Glass High School and Jimysha Brown, 10th grade student at Heritage High School presented an oral report to City Council regarding the National League of Cities.

// In the matter of Public Works – Sewer/Water, City Council Report # 15 was considered.

// City Manager Kimball Payne gave a brief summary of the request stating that when Habitat for Humanity bought the property there has never been a structure on it before. Mr. Payne went on to say that therefore no availability fee for the utility system had been paid. Mr. Payne state that Habitat for Humanity went ahead and paid for these fees so they could proceed with their building to keep on their schedule.

During Council discussion it was noted that the Physical Development Committee had canceled its January meeting due to there only being one item on the agenda. If the meeting had not been canceled it could have been put on that meeting and that Habitat for Humanity has had fees waived in the past. Council Member Helgeson stated that Council would be setting a precedent that is probably going to show favoritism if this item passed. Council Member Helgeson made a motion that Council not reimburse these availability fees, the motion was seconded by Council Member Perrow. Council Member Perrow stated that the Ordinance was put in place several years ago when Habitat for Humanity was the only organization in Lynchburg that was doing this sort of work.

City Attorney Walter Erwin stated that refunding the fees after the fact would constitute a charitable contribution.

After further discussion Mayor Foster called for the vote on Council Member Helgeson motion and by the following recorded vote the motion failed:

Ayes: Gillette, Helgeson, Perrow 3

Noes: Dodson, Johnson, Nelson, Foster 4

Council Member Johnson made a motion seconded by Council Member Nelson to consider a Resolution to approve a request of Habitat for Humanity to waive the charges for water and sewer availability fees for 1613 Monsview Place and by the following recorded vote, the motion failed for a lack of a super majority:

Ayes: Dodson, Johnson, Nelson, Foster 4

Noes: Gillette, Helgeson, Perrow 3

// In the matter of City Council, City Council Report # 16 was considered. Council Member Helgeson gave a brief summary of the request and made a motion to approve the Resolution commending the members of the Virginia General Assembly supporting the enactment of Virginia Code Section 38.2-4430.1:1.

Council Member Perrow stated that he supports Council Member Helgeson's Resolution. Council Member Perrow stated that the passing of the new health care act is a significant overstep of federal authority and a violation of states rights. "I believe that this will be a detriment to our local businesses and my senior constituents in Ward IV are very concerned about how this act will impact both Medicare and Medicaid. That being said, this is a matter being handled by our state and federal elected representatives. The best way we can show our disapproval of this act is through the ballot box. To address state or national issues at our local level serves only to create division where we never have influence or the ability to affect change. I was elected by Ward IV to govern the City, to make decisions on city matters, and to help generate consensus with positive leadership. Unfortunately, this resolution achieves none of these ideals and therefore, Madam Mayor I am not willing to second this motion".

Mayor Foster asked is there was anyone else who will second the motion, the motion failed for a lack of a second.

// The meeting was adjourned at 9:24 P.M.

Interim Clerk of Council