

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **July 14, 2015**

AGENDA ITEM NO.: 13

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Adoption of an Ordinance to Establish the Lynchburg Regional Airport Police Department as authorized by the General Assembly of Virginia**

RECOMMENDATION: To approve a City Ordinance that establishes a Lynchburg Regional Airport (LYH) police department as authorized by the General Assembly of Virginia on March 16, 2015.

SUMMARY: LYH has been operating a stand-alone police department for many years following the establishment of the Transportation Security Administration (TSA) shortly after the events of September 11 under the authority of the Department of Criminal Justice Services (DCJS). In April of 2014, however, the airport was notified by the DCJS that, based on advice it had received from the Office of the Attorney General, the department could no longer recognize the Lynchburg Regional Airport Police Department as a police department. The DCJS indicated that despite prior communications to the contrary, it did not have the statutory authority to "recognize, classify or designate any entity as a police department." In response, LYH immediately made arrangements with the Campbell County Sheriff to have the airport's officers deputized in order to ensure the required law enforcement authority under TSA Regulation 1542.217 was maintained. Since that time, LYH police have continued that separate authority pending a legislative solution during the 2015 General Assembly Session.

House Bill (HB) 2035 was crafted by Delegate Kathy Byron in order to authorize the City of Lynchburg to establish by ordinance an airport police department that is limited to the real property owned or leased by the City and controlled by the airport. Jurisdiction is within the airport alone and its authority will not supersede the authority of the local sheriff's office. The legislation requires the airport to comply with any regulations adopted by the DCJS, and airport police officers will not be entitled to benefits under the Line of Duty Act or the VRS. HB 2035 was passed by the General Assembly, signed by the Governor, and is effective as of July 1, 2015.

PRIOR ACTION(S): None

FISCAL IMPACT: None

CONTACT(S): Mark F. Courtney, Airport Director, 455-6089

ATTACHMENT(S):

- 1) An Ordinance with revisions to Chapter 9 of the City Code
- 2) Acts of the Assembly, Chapter 213, HB 2035

REVIEWED BY: lkp

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO NEW SECTIONS NUMBERED 31-18 THROUGH 31-18.3, THE NEW SECTIONS RELATING TO THE CREATION OF AN AIRPORT POLICE DEPARMENT.

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

1. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by adding thereto Sections 31-18, 31-18.1, 31-18.2, and 31-18.3, as follows:

Article II. Airport Police Department

Sec. 31-18. Airport Police Department.

There is hereby established an airport police department at the Lynchburg Regional Airport. The authority of the airport police department shall be limited to real property owned, leased, or controlled by the Airport.

Sec. 31-18.1. Purpose.

The airport police department shall protect the lives and property of the public through the enforcement of federal, state, and local laws, ordinances and regulations.

Sec. 31-18.2. Duties of Airport Director and Airport Police Officers.

(a) Subject to the supervision and control of the city manager, the airport director shall appoint an airport police chief who shall be in direct charge of the airport police department, whose term of office shall be at the pleasure of the airport director. The airport police chief shall see that the federal, state, and local laws, ordinances and regulations that are applicable to the Lynchburg Regional Airport are duly obeyed and enforced. The airport police chief shall exercise general supervision over the airport police force, and require its members to discharge their duties.

(b) It shall be the duty of the airport police officers to endeavor by all legal means to enforce the federal, state, and local laws, ordinances and regulations that are applicable to the Lynchburg Regional Airport, and further to perform such other acts and duties as may be necessary for the preservation of peace, health and good order.

Sec. 31-18.3. General Conditions.

(a) The authority of the airport police department shall not supersede the authority, duties, or jurisdiction vested by law with the Lynchburg Police Department or Campbell County Sheriff's Office, including as provided in Section 15.2-1609 and Section 15.2-1704 of the Code of Virginia.

(b) The airport police department, airport police chief, and airport police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of Section 9.1-600, Sections 15.2-1705 through 15.2-1708, Section 15.2-1719, Section 15.2-1721, and Section 15.2-1722 of the Code of Virginia; and any regulations adopted by the Criminal Justice Services Board that the Department of Criminal Justice Services designates as applicable to private police departments.

(c) Any person employed as an airport police officer pursuant to this act shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to Chapter 1 (Section 9.1-100 *et seq.*) of Title 9.1 of the Code of Virginia. An airport police officer is not entitled to benefits under the Line of Duty Act (Section 9.1-400 *et seq.*) or under the Virginia Retirement System, is not a "qualified law-enforcement officer" or "qualified retired law-enforcement officer" within the meaning of the federal Law

Enforcement Officers Safety Act, 18 U.S.C. § 926B *et seq.*, and shall not be deemed an employee of the Commonwealth.

(d) The airport police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (Section 15.2-1747 *et seq.*) of Chapter 17 of Title 15.2 of the Code of Virginia.

(e) The airport police chief shall cause to be designed and shall adopt a uniform with appropriate insignia and badge for the use of the airport's police officers. Such uniform shall be worn by airport police officers on uniformed assignment and at such other times as the airport police chief may designate. When an official uniform and insignia have been adopted by the airport police chief, no security guard, private investigator or detective, conservator of the peace, special police officer or other person in the city, shall wear the uniform, badge or patch used by the airport police department or any uniform of similar appearance or bearing an insignia or markings similar to an airport police officer's uniform.

Article III. Reserved

Secs. 31-19 -31-26. Reserved

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

Adopted: July 14, 2015

Certified: _____
Clerk of Council

067K

VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION
CHAPTER 213

An Act to allow the City of Lynchburg to establish an airport police department at the Lynchburg Regional Airport.

[H 2035]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The City of Lynchburg may by ordinance establish an airport police department at the Lynchburg Regional Airport. The authority of the airport police department shall be limited to real property owned, leased, or controlled by the Airport. Such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office, including as provided in §§ 15.2-1609 and 15.2-1704 of the Code of Virginia. The airport police department and airport police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722 of the Code of Virginia; and any regulations adopted by the Criminal Justice Services Board that the Department of Criminal Justice Services designates as applicable to private police departments. Any person employed as an airport police officer pursuant to this act shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1 of the Code of Virginia. An airport police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law-enforcement officer" or "qualified retired law-enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth. The airport police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2 of the Code of Virginia.*