

WORK SESSION AGENDA

- I. Welcome** *Stephanie Reed, Mayor*
- II. Work Session Agenda Overview** *Wynter C. Benda, City Manager*
- III. Work Session Agenda Items** *Wynter C. Benda, City Manager*
 - III.1.** Pavement Management using the Pavement Condition Index Data
- IV. Business Item Briefing(s)**
 - IV.2.** Appropriation of Fund Balance from FY 2022 Unexpended Schools Operating Fund
 - IV.3.** 1993 Letter of Agreement Between Lynchburg City Council and Lynchburg City Schools
 - IV.4.** Lynchburg Municipal Employees Federal Credit Union (LMEFCU) Extension of Agreement of Lease
- V. Roll Call**
 - V.5.** Lynchburg City Schools should seek parental permission before delivering sexually explicit/pornographic instructional materials to minors.
- VI. Closed Session**
 - VI.6.** Consideration of a closed meeting for the purpose of a briefing by staff to Council on public safety and vulnerability, pursuant to Section 2.2-3711(A)(19), of the Code of Virginia, 1950 as amended.

AGENDA ITEM SUMMARY

MEETING DATE

January 24, 2023

PRESENTED BY

Clay Simmons, Deputy Director of Public Works

AGENDA ITEM # III.1

Pavement Management using the Pavement Condition Index Data

RECOMMENDATION

Information Only

SUMMARY

Each year we dedicate about \$2,500,000 of our dedicated Highway Maintenance Funds toward Street Overlay (paving) in the Capital Improvement Program. Public Works uses a data -driven approach to determine which streets are eligible for re-paving. Data is collected on all 800 lane miles of our primary, secondary and residential streets approximately every five years using a specialized vehicle called an automatic road analyzer(ARAN). Streets are rated on a scale of 1-100 with 100 being in excellent condition. Streets that are rated below 60 are considered fair to poor and are eligible to be considered for the spring and fall paving list.

PRIOR ACTION(S)

None

FISCAL IMPACT

None

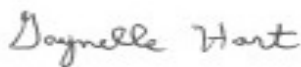
CONTACT(S)

Clay Simmons, Deputy Director of Public Works
Gaynelle Hart, Director of Public Works

ATTACHMENT(S)

1. Power Point - City Paving Program

REVIEWED BY



Gaynelle Hart, Director of Public Works

Date: January 19, 2023



Greg Patrick, Deputy City Manager

Date: January 19, 2023



Alicia Finney, Clerk of Council

Date: January 19, 2023



PAVEMENT MANAGEMENT USING THE PAVEMENT CONDITION INDEX DATA

Tuesday, January 24, 2023



PURPOSE AND ACTION

Purpose:

To inform City Council on the current Street Overlay Program as administered by Public Works.

Expected Action:

Information Only; no action required

Why:

The Commonwealth Transportation Board pays localities that maintain their own streets as set in State Code Sect. 33.2-319; the City Street Paving Program is funded as part of this code.



OVERVIEW

- 809.26 lane mile of roadway within City Limits
- Street Composition
 - Mostly Asphalt
 - Historic Brick/Cobble Present in Downtown Areas
- All paving work is contracted
 - Two Paving Contracts/Year (Spring/Fall)
 - Largely Mill & Fill Operations
- VDOT Highway Maintenance Funded
- Pavement Condition Index (PCI) of 60 or below for resurfacing



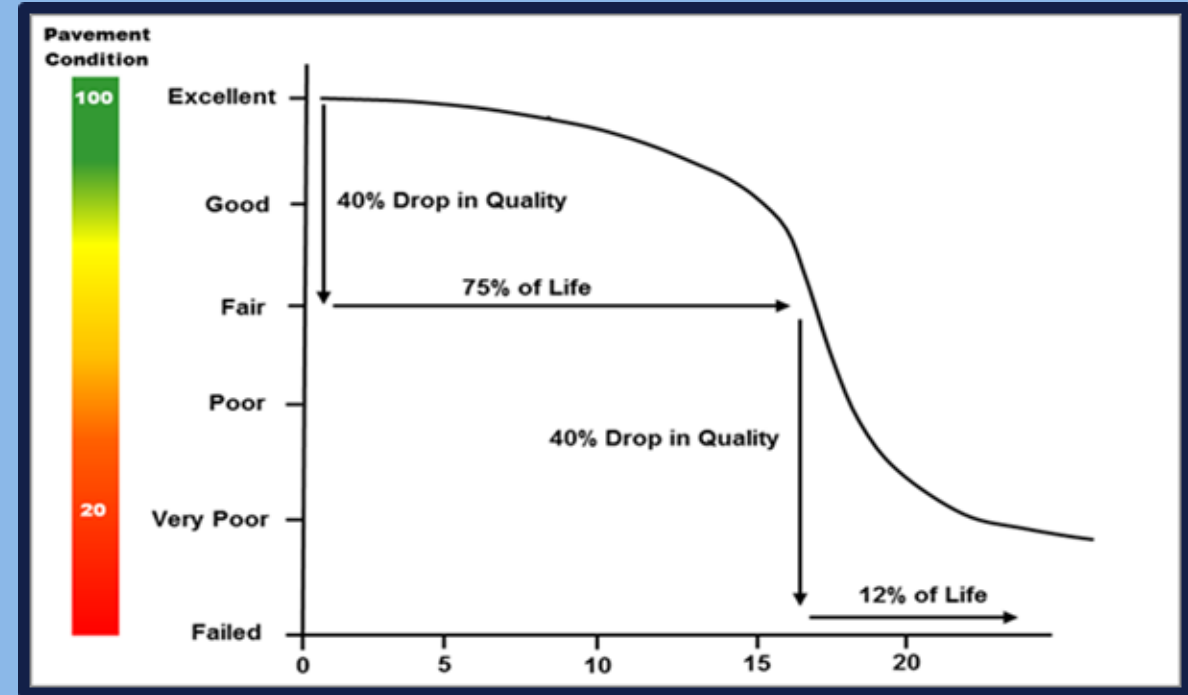
ASSESSMENT TECHNIQUES

Up until 2015

- Windshield Surveys
- Multiple Staff Members
- Variability of Results
- Lots of Work to Quantify

Since 2015

- Automated Data Collection
- Using an array of advanced sensors.
- Significant mapping and analysis capabilities.



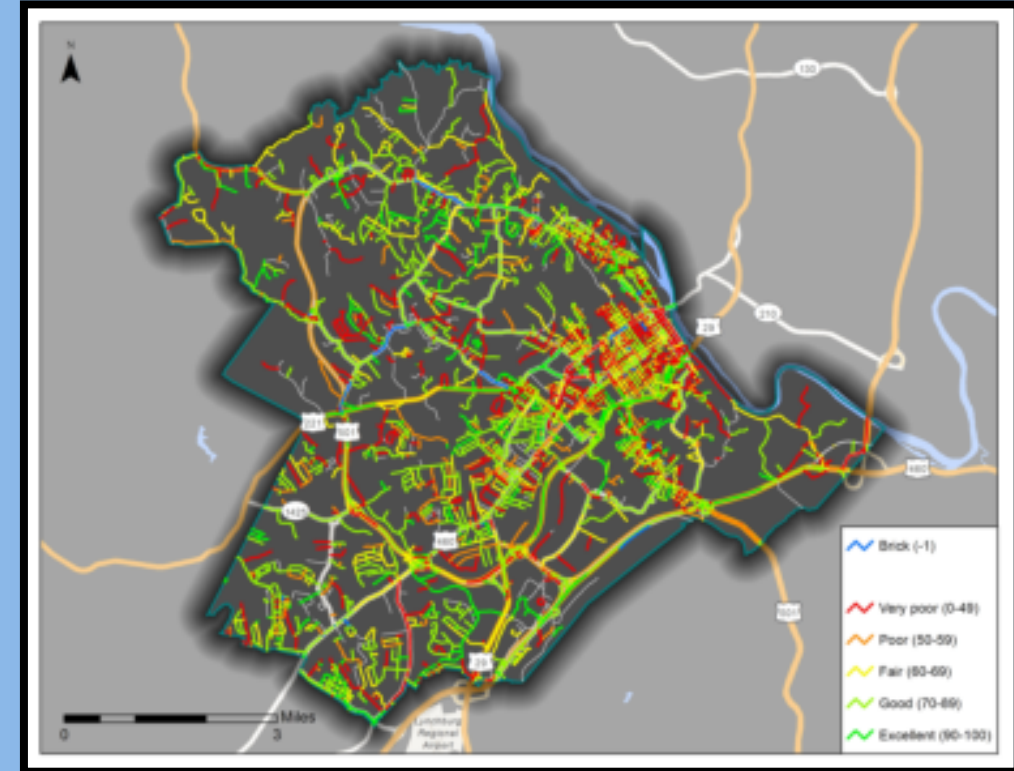
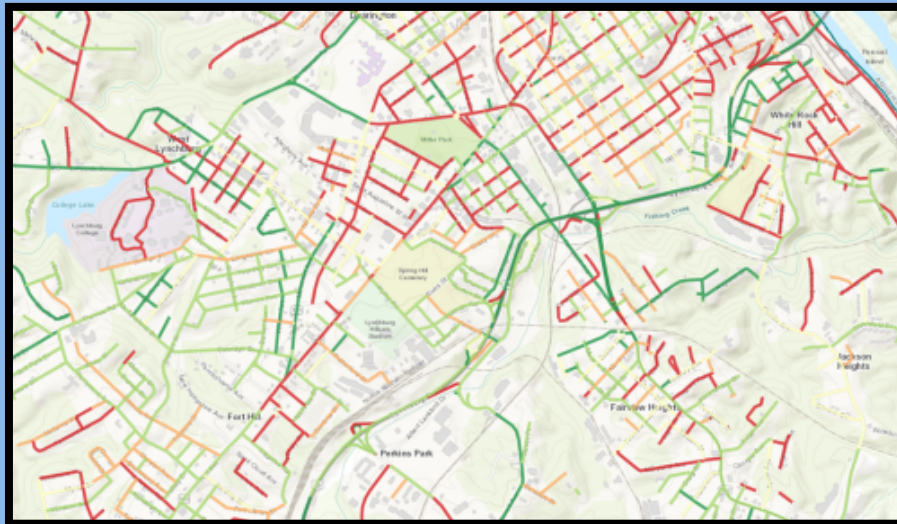
ARAN SYSTEM

- Automatic Road Analyzer (ARAN)
- VDOT Compatible System
- Measures for pavement deterioration.
 - Cracking
 - Potholes
 - Raveling
 - Ride Quality
 - Patches
 - Oxidation
 - Full imagery of pavement and right of way



ARAN SYSTEM

- Collection is far quicker
- More consistent
- Easier analysis
- Gives the failure mode of the pavement
- Analyzed over time, gives a custom pavement aging/deterioration curve for City streets.
- 2023 Update



SUMMARY

Limiting Factors

- Budget
- Construction & Material Costs
- Contractor Availability
- Delays due to project/utility conflicts

Additional Resources

- Other Projects
 - Roadway
 - Utility
- VDOT Grant Funding Opportunities
 - State of Good Repair
 - Primary Extension



AGENDA ITEM SUMMARY

MEETING DATE

January 24, 2023

PRESENTED BY

Donna Witt, Chief Financial Officer

AGENDA ITEM # IV.2

Appropriation of Fund Balance from FY 2022 Unexpended Schools Operating Fund

RECOMMENDATION

This item will appear for City Council vote on the February 14, 2023 agenda as a General Business item. Adopt a resolution to amend the FY 2023 General Fund budget and appropriate \$1,099,856 with resources from unexpended FY 2022 Schools Operating Fund appropriations for transfer to the FY 2022 Capital Fund to fund needs as approved by the School Board.

SUMMARY

This action is requested in accordance with an agreement, dated December 14, 1993, signed by the Lynchburg City Council and the Lynchburg City School Board. This agreement provides for the creation and maintenance of a Schools Operating Fund fund balance for "the purpose of underwriting any occasional shortfalls from the various budgetary categories of direct State funding support as well as other applications, all based upon the required expenditure approval of the School Board." A request was submitted by letter to the City Manager December 9, 2022 for use of the FY 2022 Schools Fund Balance. The Lynchburg City School Board approved the attached submittal at the December 6, 2022 School Board meeting.

PRIOR ACTION(S)

- December 14, 1993: Agreement with Schools regarding the Return of Fund Balance.
- June 8, 2021: City Council Meeting, FY 2022 Adopted Budget

FISCAL IMPACT

\$1,099,856 increase to the FY 2023 Schools Capital Fund of fund balance of \$1,099,856

CONTACT(S)

Donna Witt, Chief Financial Officer

ATTACHMENT(S)

1. Resolution
2. Letter Dated December 1993
3. Fund Balance FY2022 Letter to City Manager
4. Power Point Presentation - Return of School Fund Balance

REVIEWED BY

Donna Witt, Chief Financial Officer



Date: December 28, 2022

Mercedes Braun, Executive Assistant to the City Manager



Date: January 03, 2023

Wynter C. Benda, City Manager



Date: January 05, 2023

Alicia Finney, Clerk of Council

Date: January 05, 2023

RESOLUTION:

BE IT RESOLVED that the FY 2023 General Fund budget is amended and \$1,099,856 is appropriated with resources from unexpended FY 2022 Schools Operating Fund appropriations for transfer to the FY 2023 Schools Capital Fund to fund needs as approved by the School Board.

Introduced:

Adopted:

Certified:

Clerk of Council

LETTER OF AGREEMENT

BETWEEN LYNCHBURG CITY COUNCIL

AND LYNCHBURG BOARD OF SCHOOL TRUSTEES

In accordance with the attached, duly-adopted Resolution, the Lynchburg City Council and the Lynchburg Board of School Trustees hereby agree that the creation and maintenance of a School Operating Fund Balance is desirable to the long-range financial interests of both entities and, even more importantly, to the citizens and the community which both bodies represent. Accordingly, the City Council supports such approach by indicating its willingness to reappropriate ta such Fund Balance any duly-budgeted, nan-debt service local funding which the Schools manage to avoid spending by the close of each fiscal year. Similarly, the school Board expresses its intention of continuing ta exercise cautiousness in the expenditure of all budgeted, appropriated local funding to the Schools, and further understands that any such unexpended, non-debt service monies would become part of a Schools Operating Fund Balance.

The separate, above-mentioned Fund Balance would be maintained in the accounting records of the Lynchburg city Schools for the purpose of underwriting any occasional shortfalls from any of the various budgetary categories of direct State funding support as well as other applications, all based upon the required expenditure approval of the School Board. For informational purposes, the Lynchburg City School Board would advise city council annually as to amount of funding in such School Operating Fund Balance as of July 1 of each fiscal year; and such information would be reflected in the overall financial information of the City of Lynchburg along with other customary fiscal data for the Lynchburg City Schools.

Based upon this understanding, the creation of the above-referenced Fund Balance would occur promptly and would include any unexpended, duly-budgeted, non-debt service local funding at the close of the current 1992-1993 fiscal year. It is understood that such practice would remain active in the years thereafter.

Lynchburg City Council

By:

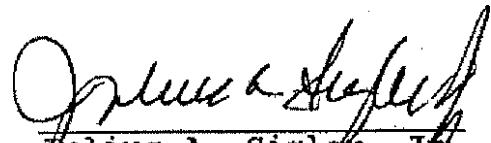

Julian R. Adams
Mayor

Date;

12/14/93

Lynchburg City School Board

By:


Julius A. Sigler, Jr.
Chairman

Date;

December 20, 1993

LETTER OF AGREEMENT
BETWEEN LYNCHBURG CITY COUNCIL
AND LYNCHBURG BOARD OF SCHOOL TRUSTEES

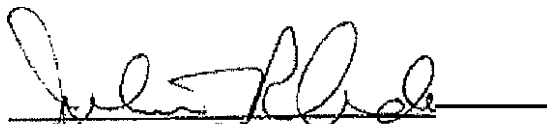
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Lynchburg City Council

By:

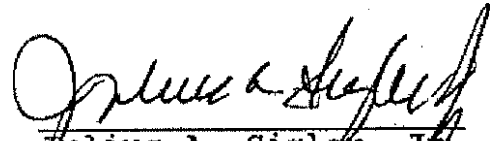

Julian R. Adams
Mayor

Date;

12/14/93

Lynchburg City School Board

By:


Julius A. Sigler, Jr.
Chairman

Date;

December 20, 1993

December 9, 2022

Mr. Wynter C. Benda
City Manager
900 Court Street
Lynchburg, Virginia 24054

Dear Mr. Benda,

During the December 6, 2022 School Board Meeting, the Lynchburg City School Board approved the following return of fund balance request in the amount of \$1,099,856. Included in this correspondence is a detail outline of this request.

Please note that we are proposing that the entire return of fund balance amount be allocated to address school-related building concerns, which will benefit students, families, and staff in Lynchburg City Schools, and will reduce the amount needed for future Capital Improvement Plan requests from the City.

Our strategy in the use of these funds is to ensure our learning environments are safe, secure, and stable. In particular, this request addresses safety and structural stability concerns in multiple school buildings. In coordination with the recommendations found in the facility assessment report completed last year, Department of Facilities and Maintenance staff, as well as school-based staff, we recommend the following uses of return of fund balance:

Security Vestibule Installation: \$260,000

The following schools do not have security vestibules, while all other schools in the division have them. Addition of these vestibules will improve school security and provide a more structured entrance to the buildings. In the case of Dearington, improvements to the existing vestibule are necessary to make it more secure.

Dearington Elementary
Hutcherson Early Learning Center
Paul Munro Elementary
Dunbar Middle

RS Payne Structural and Building Envelope Repair: \$749,856

This school has a number of immediate moisture concerns that have caused leaks inside the building, damaging plaster, introducing unsafe conditions. There are also many openings that must be sealed to reduce pest concerns. Additionally there is an exterior cornice that is unstable and needs to be repaired before it detaches from the building.

Exterior cornice repair

Masonry and exterior envelope repair and seal

Interior plaster repair

Structural Analysis and Repair (various schools): \$90,000

The below schools have significant structural cracking that we believe need to be more fully assessed and addressed. These funds would be used to assess these cracks and make any immediate repairs that may be necessary. These cracks were discovered during the facility assessment process in 2021 and early 2022.

Heritage Elementary

Linkhorne Middle

Perrymont Elementary

These requests are aligned with the Lynchburg City Schools 5-year Comprehensive Strategic Plan

We welcome the opportunity to discuss our request in more detail with you and the City's Finance Committee. Please feel free to contact me if you should have any questions.

Sincerely,



Crystal M. Edwards, Ed.D.
Superintendent

Encl: December 6, 2022 School Board Agenda J-5: Return of Fund Balance

cc: Members, Lynchburg City School Board
Karen Capozzi, Chief Financial Officer



Agenda Item Details

Meeting	Dec 06, 2022 - School Board Meeting
Category	J. NEW BUSINESS
Subject	5. Return of Fund Balance - Mrs. Capozzi and Dr. Wodicka
Type	Discussion
Goals	Goal 3: Fiscal Responsibility

Each year, when the Lynchburg City Schools Annual Comprehensive Financial Report is completed, Department of Finance staff determine the amount of unspent funds appropriated for the prior fiscal year and make a recommendation for use of these funds for the School Board and City Council to consider. For Fiscal Year 2021-2022, the total return of fund balance is \$1,099,856, which represents approximately 1.1% of the FY 2021-2022 LCS operating budget, or 0.8% of the entire division budget (including grants and school nutrition, which are separate funds). If the Board is comfortable with the recommendations below, approval at this meeting would streamline this process since this must also be approved with two readings at City Council.

In coordination with the Facility Assessment Report and Department of Facilities and Maintenance staff, LCS staff recommends the following uses of return of fund balance:

Security Vestibule Installation: \$260,000

Dearington Elementary
Hutcherson Early Learning Center
Paul Munro Elementary
Dunbar Middle

RS Payne Structural and Building Envelope Repair: \$749,856

Exterior cornice repair
Masonry repair and seal
Interior plaster repair

Structural Analysis and Repair (various schools): \$90,000

Heritage Elementary
Linkhorne Elementary
Perrymont Elementary



BIB – LYNCHBURG CITY SCHOOLS FY 2022 RETURN OF FUND BALANCE

Tuesday, January 10, 2023



PURPOSE

- An agreement, dated December 14, 1993, was signed by the Lynchburg City Council and the Lynchburg City School Board.
- This agreement provides for the creation and maintenance of a Schools Operating Fund fund balance for “the purpose of underwriting any occasional shortfalls from the various budgetary categories of direct State funding support as well as other applications, all based upon the required expenditure approval of the School Board.”



HISTORY

- Funds must be used for “one-time” expenditures.
 - Maintenance and Repairs to School Buildings and HVAC systems
 - Create and Increase Reserve for Health Insurance Claims
 - Create and Increase Textbook Reserve
 - Address Security Concerns
 - Replace Telephone System



EXPECTED ACTION

- A request was submitted by letter to the City Manager December 9, 2022 for use of the FY 2022 Schools Fund Balance. The Lynchburg City School Board approved the submittal at the December 6, 2022 School Board meeting.
- \$1,099,856 Fund Balance
 - Security Vestibule Installation \$260,000 (Dearington Elementary, Hutcherson Early Learning Center, Paul Munro Elementary, and Dunbar Middle)
 - RS Payne Structural and Building Envelope Repair \$749,856
 - Structural Analysis and Repair \$90,000 (Heritage Elementary, Linkhorne Elementary, and Perrymont Elementary)

NEXT STEPS

- January 24, 2023: First City Council Vote to Appropriate Funds
- February 14, 2023: Second City Council Vote to Appropriate Funds



AGENDA ITEM SUMMARY

MEETING DATE

January 24, 2023

PRESENTED BY

Donna Witt, Chief Financial Officer

AGENDA ITEM # IV.3

1993 Letter of Agreement Between Lynchburg City Council and Lynchburg City Schools

RECOMMENDATION

Discuss the 1993 Letter of Agreement between Lynchburg City Council and the Lynchburg Board of School Trustees

SUMMARY

Council requested this item be included on an agenda for discussion on whether the 1993 agreement should continue as written. City Attorney Matt Freedman will provide a procedural overview on how this agreement could be modified or discontinued.

PRIOR ACTION(S)

December 1993: Adoption of the Letter of Agreement between Lynchburg City Council and Lynchburg Board of School Trustees

FISCAL IMPACT

Varies depending on the amount of Lynchburg City Schools Fund Balance returned.

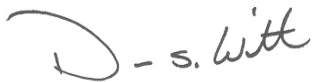
CONTACT(S)

Donna Witt, Chief Financial Officer

ATTACHMENT(S)

1. Letter Dated December 1993 - PDF

REVIEWED BY



Donna Witt, Chief Financial Officer

Date: January 18, 2023



Date: January 19, 2023

Mercedes Braun, Executive Assistant to the City Manager



Date: January 19, 2023

Wynter C. Benda, City Manager



Date: January 19, 2023

Alicia Finney, Clerk of Council

LETTER OF AGREEMENT
BETWEEN LYNCHBURG CITY COUNCIL
AND LYNCHBURG BOARD OF SCHOOL TRUSTEES

In accordance with the attached, duly-adopted Resolution, the Lynchburg City Council and the Lynchburg Board of School Trustees hereby agree that the creation and maintenance of a School Operating Fund Balance is desirable to the long-range financial interests of both entities and, even more importantly, to the citizens and the community which both bodies represent. Accordingly, the City Council supports such approach by indicating its willingness to reappropriate to such Fund Balance any duly-budgeted, non-debt service local funding which the Schools manage to avoid spending by the close of each fiscal year. Similarly, the school Board expresses its intention of continuing to exercise cautiousness in the expenditure of all budgeted, appropriated local funding to the Schools, and further understands that any such unexpended, non-debt service monies would become part of a Schools Operating Fund Balance.

The separate, above-mentioned Fund Balance would be maintained in the accounting records of the Lynchburg City Schools for the purpose of underwriting any occasional shortfalls from any of the various budgetary categories of direct State funding support as well as other applications, all based upon the required expenditure approval of the School Board. For informational purposes, the Lynchburg City School Board would advise city council annually as to amount of funding in such School Operating Fund Balance as of July 1 of each fiscal year; and such information would be reflected in the overall financial information of the City of Lynchburg along with other customary fiscal data for the Lynchburg City Schools.

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Lynchburg City Council

By:

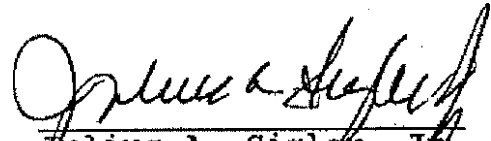

Julian R. Adams
Mayor

Date;

12/14/93

Lynchburg City School Board

By:


Julius A. Sigler, Jr.
Chairman

Date;

December 20, 1993

AGENDA ITEM SUMMARY

MEETING DATE

January 24, 2023

PRESENTED BY

Gaynelle Hart, Director of Public Works

AGENDA ITEM # IV.4

Lynchburg Municipal Employees Federal Credit Union (LMEFCU) Extension of Agreement of Lease

RECOMMENDATION

Approve the extension of the lease agreement with Lynchburg Municipal Employees Federal Credit Union (LMEFCU) for an additional five years.

SUMMARY

In October 1999, the City and LMEFCU entered into an Agreement of Lease wherein the Credit Union leased the "Caretaker's House" at the City Stadium for the purpose of operating the Credit Union for a term of five years. That Lease Agreement has been extended for three-five-year terms with the most recent Agreement ending on September 30, 2019. Since that time, the October 25, 1999 Agreement of Lease has continued month-to-month without formal renewal since September 30, 2019. The Credit Union now desires to formally extend the said Agreement of Lease for an additional term of five years.

The Credit Union is owned and operated by its members. The field of membership includes City and School employees, Constitutional offices, and other Select Employee Groups (SEG). This membership also includes any family member, by blood, marriage or adoption of the employees.

The Credit Union requests your approval of this Extension of the Agreement of Lease and the opportunity to continue its operations and financial services in its field of membership.

PRIOR ACTION(S)

October 1, 2014 - City Manager Approval Extension of Lease Agreement: October 1, 2014 - September 30, 2019

October 1, 2009: City Manager Approval Extension of Lease Agreement: October 1, 2009 - September 30, 2014

August 10, 2004: City Council Approval of Extension of Lease Agreement: October 1, 2004 - September 30, 2009

October 12, 1999: City Council Approval of Lease Agreement: October 1, 1999 - September 30, 2004

FISCAL IMPACT

N/A

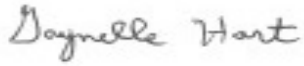
CONTACT(S)

Gaynelle Hart, Director of Public Works

ATTACHMENT(S)

1. Resolution
2. Extension of Agreement of Lease

REVIEWED BY



Gaynelle Hart, Director of Public Works

Date: January 17, 2023



Greg Patrick, Deputy City Manager

Date: January 19, 2023



Alicia Finney, Clerk of Council

Date: January 19, 2023

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

1. That the certain EXTENSION OF AGREEMENT OF LEASE, dated January 1st, 2023, by and between the City of Lynchburg and the Lynchburg Municipal Employees Federal Credit Union, is hereby approved. A copy of such EXTENSION OF AGREEMENT OF LEASE is incorporated herein by reference.
2. That the City Manager is authorized and directed to take any and all actions necessary to effectuate and execute the aforesaid Extension of Agreement of Lease on behalf of the City of Lynchburg.
3. That this Resolution shall become effective upon its adoption.

Adopted:

Certified: _____
Clerk of Council

EXTENSION OF AGREEMENT OF LEASE

THIS AGREEMENT FOR EXTENSION OF LEASE is made and dated this 1st day of January, 2023, by and between the CITY OF LYNCHBURG, a municipal corporation of the Commonwealth of Virginia, hereinafter referred to as the "City", and the LYNCHBURG MUNICIPAL EMPLOYEES FEDERAL CREDIT UNION, hereinafter referred to as the "Credit Union".

WITNESSETH:

WHEREAS, the City is the owner of a certain building located within the City limits at the Lynchburg City Stadium, at 3176 Fort Avenue, and known as the "Caretaker's House"; and

WHEREAS, the City and the Credit Union entered into an Agreement of Lease dated October 25, 1999, wherein the Credit Union leased the Caretaker's House for the purpose of operating a Municipal Employees Credit Union for a term of five years, beginning on the 1st day of October, 1999, and ending on the 30th day of September, 2004; and

WHEREAS, Article II-Term of the October 25, 1999 Agreement of Lease provides that "[a]t the end of the initial five-year term, the City and the Credit Union have the option of extending the lease for additional terms of five years each"; and

WHEREAS, by an "Extension of Agreement of Lease" dated October 1, 2004, the City and the Credit Union agreed to extend the October 25, 1999 Agreement of Lease for an additional five-year term that begin on October 1, 2004 and ended on September 30, 2009, and by an "Extension of Agreement of Lease" dated October 1, 2009, the City and the Credit Union agreed to extend the October 25, 1999 Agreement of Lease for an additional five-year term that begin on October 1, 2009 and ended on September 30, 2014, and by an "Extension of Agreement of Lease" dated October 1, 2014, the City and the Credit Union agreed to extend the October 25, 1999 Agreement of Lease for an additional

five year term that begin on October 1, 2014 and ended on September 30, 2019; and

WHEREAS, the October 25, 1999 Agreement of Lease has continued month-to-month without formal renewal since September 30, 2019, and the City and the Credit Union now desire to formally extend the said Agreement of Lease for an additional term of five years.

NOW, THEREFORE, that for and in consideration of the premises and the mutual covenants and agreements contained herein, the City and the Credit Union do mutually agree to extend the October 25, 1999 Agreement of Lease for an additional five-year term, beginning on the 1st day of January, 2023, and ending on the 31st day of December, 2028.

Except as modified herein, all of the terms and conditions contained in the October 25, 1999 Agreement of Lease between the City and the Credit Union shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Extension of Agreement of Lease as of the day and year above written.

CITY OF LYNCHBURG

By: _____
Wynter C. Benda, City Manager

LYNCHBURG MUNICIPAL EMPLOYEES CREDIT UNION

By: _____
Melva C. Walker, President

AGENDA ITEM SUMMARY

MEETING DATE

January 24, 2023

PRESENTED BY

Councilmember Misjuns

AGENDA ITEM # V.5

Lynchburg City Schools should seek parental permission before delivering sexually explicit/pornographic instructional materials to minors.

RECOMMENDATION

N/A

SUMMARY

This item was requested to be put on the agenda by Councilmember Misjuns:

"I have attached a letter to the school board with this email. Please see to it that there is a place on the agenda for this letter to be presented to City Council, and any members who agree with the content of the letter (that Lynchburg City Schools should seek parental permission before delivering sexually explicit/pornographic instructional materials to minors) has an opportunity to sign the letter. Once the council members who agree to sign on to this letter have done so, it would be submitted by city staff to the school board and superintendent for consideration with the proposed policy that was discussed in the last school board meeting."

PRIOR ACTION(S)

N/A

FISCAL IMPACT

TBD

CONTACT(S)

Councilmember Misjuns

ATTACHMENT(S)

1. Email from Councilmember Misjuns
2. Letter to School Board - 2023 January 24

REVIEWED BY



Alicia Finney, Clerk of Council

Date: January 19, 2023

Finney, Alicia

From: Misjuns, Martin
Sent: Tuesday, January 17, 2023 9:25 PM
To: Benda, Wynter; Finney, Alicia
Cc: Faraldi, Chris; Helgeson, Jeff; Misjuns, Martin; Reed, Stephanie; Taylor, Larry; Tousignant Dolan, Maryjane; Wilder, Sterling
Subject: 24Jan2023 Meeting Agenda Items
Attachments: Letter to School Board - 2023 January 24.pdf

Wynter & Alicia,

Please see to it that the following items are placed on the agenda for next Tuesday's meeting:

1. Reducing the real estate tax rate retroactively as proposed by Councilman Helgeson to \$1.03, OR setting the real estate tax rate to \$0.99 from adoption forward if we don't want to deal with retroactively changing the rate. One of these two options should be on the agenda for a VOTE in the meeting on the 24th.
2. I have attached a letter to the school board with this email. Please see to it that there is a place on the agenda for this letter to be presented to City Council, and any members who agree with the content of the letter (that Lynchburg City Schools should seek parental permission before delivering sexually explicit/pornographic instructional materials to minors) has an opportunity to sign the letter. Once the council members who agree to sign on to this letter have done so, it would be submitted by city staff to the school board and superintendent for consideration with the proposed policy that was discussed in the last school board meeting.

Thank you, and I look forward to seeing these items on the agenda after the Mayoral/Vice Mayoral review. Please let me know if you have any questions.

Martin J. Misjuns

Lynchburg City Council
At-large Representative

Office: 434.455.3990

Mobile: 434.941.9882

www.lynchburgva.gov



"He heals the brokenhearted and binds up their wounds." — Psalms 147:3

CITY OF LYNCHBURG
City Council

900 Church Street | Lynchburg, VA | 24504



January 24, 2023

Lynchburg City School Board
915 Court Street
Lynchburg, VA 24504

Dear School Board Members,

Last November, Lynchburg's electorate chose a new direction for our city. Parents want to be empowered in their children's education, and Lynchburg City Council has a responsibility to represent these parents to our government, and the school board.

The identification of sexually explicit instructional materials and responsibility for parental notification is a step in the right direction for parental empowerment, but it doesn't go far enough. Parents should be the ultimate authority over their children, not government schools, which is why we request that you make this policy an "opt-in" policy instead of the current proposed language that makes it "opt-out."

Parents are the expert when it comes to their children, and it should be at the sole discretion of the parent to grant the school system permission to provide sexually explicit materials to minors. This is no different than seeking parental permission, or "opt-in," for a field trip.

We thank you for the strong review process that will be put in place to identify sexually explicit material in our public schools - this is a great step in the right direction to empower Lynchburg parents. We applaud this measure, but respectfully request that before the policy is finalized, you remove the language making it an opt-out policy and replace it with language making it opt-in.

Thank you for your service to our wonderful city.

Mayor Stephanie Reed
Councilmember (At-large)

Vice Mayor Chris Faraldi
Councilmember (Ward IV)

Jeff Helgeson
Councilmember (Ward III)

MaryJane Tousignant-Dolan
Councilmember (Ward I)

Sterling Wilder
Councilmember (Ward II)

Martin Misjuns
Councilmember (At-large)

Larry Taylor
Councilmember (At-large)

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cc: Dr. Crystal Edwards, Superintendent of Lynchburg City Schools

Enclosure: Lynchburg City Schools Proposed Policy (IIA-RZ - Identification and Notification Regarding Sexually Explicit Instructional Materials)

Book	Policy Manual
Section	Section I: Instruction
Title	Identification and Notification Regarding Sexually Explicit Instructional Materials
Code	IIA-RZ
Status	Proposed

IDENTIFICATION AND NOTIFICATION REGARDING SEXUALLY EXPLICIT INSTRUCTIONAL MATERIALS

The purpose of this document is to ensure compliance with the amendment established in the Code of Virginia in 22.1 - 16.8 in 2022 regarding parental notification of sexually explicit material. This document will encompass the following:

1. Directly identifying the specific instructional material and sexually explicit subjects;
2. Ensuring parental notification; and
3. Permitting the parent of any student to review instructional material that includes sexually explicit content and provide, as an alternative, nonexplicit instructional material and related academic activities to any student whose parent so requests.

DEFINITIONS

Instructional Materials

Any content used by one or more students for an educational purpose in connection with Lynchburg City Schools regardless of

1. Its format, whether printed, representational, audiovisual, electronic, or digital (such as materials, social media content, and software applications accessible through the internet), or
2. The time, place and manner in which the content is used. Library materials are considered instructional materials when used
 - a. For completion of an assignment from Lynchburg City Schools, or
 - b. As part of an academic or extracurricular education program conducted by Lynchburg City Schools.

This includes any division, school and/or classroom purchased or created assessments.

They do NOT include standardized national or state assessments, such as ACT, ST, NAEP (National Assessment of Educational Progress, AP (Advanced Placement) or SOL (Standards of Learning) exams.

Nudity

A state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

Sexually Explicit Content

1. Any description of or
2. any picture, photograph, drawing, motion picture film, digital image or similar visual representation depicting sexual bestiality, a lewd exhibition of nudity, as defined in this policy, sexual excitement, sexual conduct or adomasochistic abuse, as defined in this policy, coprophilia, urophilia, or fetishism. Instruction materials shall not be designated as sexually explicit based solely on the sexual orientation of the characters therein.

Sadomasochistic Abuse

Actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Identification of Sexually Explicit Instructional Material

When discussing the identification of sexually explicit instructional materials, the criteria for identifying such material is listed under Definitions.

Division Level

1. Lynchburg City Schools' (LCS) Department of Curriculum & Instruction will post a list on the LCS website of approved instructional materials deemed sexually explicit. The identified instructional material will be divided by subject and grade level.
2. Instructional material in question of being sexually explicit for English Language Arts will be reviewed by a minimum of three individuals. These individuals will include at least two teachers and the third individual can be a staff member, parent, or other community member.
3. Textbooks adopted by Lynchburg City Schools and questionable instructional material will be reviewed by the Department of Curriculum & Instruction or designees. If sexually explicit material is found, it will be listed on the LCS website by subject and grade level.

School Level

Any school planning to use instructional material with sexually explicit content will be required to list it on the school website if it is not listed on the LCS website. It will be the responsibility of teachers to notify the principal or the principal's designee who will ensure the instructional materials with sexually explicit content be on the website prior to utilization.

Parental Notification of Sexually Explicit Material

Division Level

Instructional material identified as containing sexually explicit content will be listed on the Curriculum & Instruction page on the LCS website. Materials will be listed by subject and grade level.

School Level

Each school website will have a section identified as Instructional Materials. The following will be included in this section:

1. A link to the LCS website to the instructional materials identified to contain sexually explicit content by subject and grade level.
2. School specific instructional material identified to contain sexually explicit content will be listed by subject and grade level.

Notice of Use of Sexually Explicit Material

Parents are to be notified a minimum of 30 days prior to the use of instructional material that is sexually explicit. Teachers are responsible for notifying principals or their designees, who will notify parents through written notification of the identity of the sexually explicit instructional material. Written notification to parents will

1. specifically identify the instructional materials with sexually explicit content
2. inform parents of their right to review such instructional materials, and
3. inform parents of their right to have their child use, in a non-punitive manner, alternative instructional materials that do not include sexually explicit content.

Such notice should be provided in writing to parents by email, and/or in person at a parent-teacher meeting.

Parental Access to Sexually Explicit Material

Parents will have access to review the instructional material with the sexually explicit content prior to use in the classroom. The material will be accessible through the LCS website, school website or other online platforms where

instructional materials are made available.

Parental Options for Sexually Explicit Material

1. Upon request, parents may have their child use alternative material in a non-punitive manner, that does not include sexually explicit content. Alternative material may not be available for AP Dual Enrollment or SOL exams.
2. If parents choose to request alternative material for a class, they must notify the teacher at a minimum of one week prior to the date of the planned instruction. This will allow teachers sufficient time to prepare alternative material.
3. Upon a parent's request, the teacher will be required to provide alternative instructional materials for the student that do not include sexually explicit content.
4. Parents have the right to rescind their request for alternative material by providing the school with written notice.
5. If parents disagree with the decision of LCS regarding identification of sexually explicit instructional material, they may reach out to the teacher, principal, or Curriculum & Instruction to discuss their concerns.

Legal Code of Virginia § 22.1-16.8

Cross References [IIA - Instructional Materials](#)
 [IIAA - Textbook Selection, Adoption and Purchase](#)
 [IIAB - Supplementary Materials Selection and Adoption](#)