

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: April 27, 2010			AGENDA ITEM NO.: 1
CONSENT:	REGULAR:	WORK SESSION: X	CLOSED SESSION: (Confidential)
ACTION: X		INFORMATION:	
ITEM TITLE: Subdivision Ordinance Amendments – Chapter 24.1			

RECOMMENDATION: Approval of the *Subdivision Ordinance* amendments.

SUMMARY: The purpose of this petition is to amend Chapter 24.1, *Subdivision Ordinance* of the City Code to update the requirements for the subdivision of property. City Council conducted a work session on the *Subdivision Ordinance* amendments on April 13, 2010. At the meeting, the staff presentation indicated that the ordinance would need to be re-advertised due to changes to one section of the ordinance. Upon further review, staff determined that the initial advertisement was valid and that additional advertisement and a subsequent public hearing are not required.

The following items have also been addressed since the last meeting:

- The last sentence of Section 24.1-38 has been corrected to reference that the “city engineer” may require a bona fide estimate of cost improvements and determine the surety bond rather than the “city planner”.
- A copy of the Subdivision Ordinance Committee roster has been forwarded to each member of City Council.
- A link for the proposed revisions to Chapter 24.1 Subdivision Ordinance has been posted on the main page of the City’s website.
- The effective date of the ordinance has been changed to July 1, 2010.
- A clause has been included within the ordinance providing that plats filed prior to July 1, 2010 are subject to the prior ordinance.

PRIOR ACTION(S):

June 25, 2008:	Planning Commission appointed a Subdivision Ordinance Committee to review proposed changes to Chapter 24.1 of the City Code regarding the subdivision of land.
June 10, 2009	The Subdivision Ordinance Committee concluded its review of the ordinance and recommended changes for consideration by the Planning Commission.
June 24, 2009	Planning Commission conducted a work session on the <i>Subdivision Ordinance</i> amendments.
July 8, 2009	Planning Commission conducted a second work session on the <i>Subdivision Ordinance</i> amendments.
July 22, 2009	The Planning Division recommended approval of the <i>Subdivision Ordinance</i> amendments. Planning Commission conducted a public hearing on the proposed <i>Subdivision Ordinance</i> amendments. The Planning Commission closed the public hearing and tabled discussion about the ordinance until the August 12, 2009 meeting.
August 12, 2009	Planning Commission recommended approval (5-1 with one member absent, Worthington) of the <i>Subdivision Ordinance</i> amendments.

September 22, 2009	City Council conducted a public hearing on the proposed <i>Subdivision Ordinance</i> amendments. The ordinance was referred to an October 27, 2009 work session.
October 27, 2009	City Council conducted a work session on the <i>Subdivision Ordinance</i> amendments. City Council referred the proposed amendments back to the Planning Commission for their recommendation regarding the removal of access management provisions, clarification of clerical items and the dedication and naming of streets.
January 13, 2010	Planning Commission conducted a work session on the <i>Subdivision Ordinance</i> amendments. The item was forwarded to a February 24, 2010 work session.
February 24, 2010	Planning Commission conducted a work session on the <i>Subdivision Ordinance</i> amendments. The commission recommended that staff incorporate revised language that would allow for comment from Planning Commission for the approval of street dedications and street naming petitions.
March 10, 2010	Planning Commission recommended approval (5-0 with two members absent, Barnes, Oglesby) of the <i>Subdivision Ordinance</i> amendments.
April 13, 2010	City Council conducted a work session on the <i>Subdivision Ordinance</i> amendments.

FISCAL IMPACT: N/A

CONTACTS:

Tom Martin, City Planner - 455-3900; Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development - 455-3900

ATTACHMENT(S):

Ordinance (containing changes only) – Chapter 24.1
Ordinance (containing changes only) – Chapter 35 – Streets and Sidewalks
Chapter 24.1 - Subdivision Ordinance (entire ordinance for comparison)
Planning Division Memo Section 24.1 Proposed Changes – February 10, 2010
Planning Commission Minutes – February 24, 2010
Planning Commission Minutes – March 10, 2010

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY AMENDING SECTIONS 24.1-1. SUBDIVISION REGULATIONS, 24.1-3. PURPOSE, 24.1-5. WORDS AND TERMS, 24.1-6. AGENT, OR HIS DESIGNEE, 24.1-7. DUTIES, 24.1-9. PLATTING AND RECORDING REQUIRED, 24.1-10. DRAW AND CERTIFY, 24.1-11. OWNER'S STATEMENT, 24.1-12. NO LAND EXEMPT, 24.1-16.1. POSSIBLE FLOOD PLAIN, 24.1-17.1. BUILDING LINE, 24.1-18. LOT SIZES, 24.1-19. LOT SIZE, WATER OR SEWER, 24.1-20. LOT SIZE, NEITHER WATER NOR SEWER AVAILABLE, 24.1-21. SEPTIC TANKS, 24.1-21.1. DEVELOPMENT OF LARGE LOTS GENERALLY, 24.1-23. EASEMENTS, 24.1-24. FIRE PROTECTION, 24.1-25. BOND, 24.1-26. IMPROVEMENTS, 24.1-27. CITY OBLIGATION, 24.1-28. LOTS, 24.1-28.1. FLAG LOTS, 24.1-30. STREETS, 24.1-31. PUBLIC WATER SUPPLY AND SANITARY SEWER SYSTEM REQUIRED, 24.1-32. STORM DRAINAGE, 24.1-33. MONUMENTS, 24.1-34. RESERVATION OF LAND FOR PUBLIC PURPOSES, 24.1-34.1. VACATION OF BOUNDARY LINES, 24.1-36. PRELIMINARY SKETCH (NOT REQUIRED), 24.1-37. PRELIMINARY PLAT, 24.1-38. PROCEDURE, 24.1-39. PRELIMINARY PLAT MAY BE SUBMITTED AS FINAL PLAT, 24.1-42. FINAL PLAT, 24.1-44. APPROVAL, 24.1-45. EXCEPTIONS, 24.1-46. PENALTIES, 24.1-49. AMENDMENTS; TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, AS AMENDED, BY ADDING THERETO SECTIONS 24.1-16.2. FLOOD CONTROL AND DRAINAGE AND 24.1-25.1. PARTIAL AND FINAL RELEASE OF CERTAIN PERFORMANCE GUARANTEES; TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY REPEALING SECTIONS 24.1-4. MUTUAL RESPONSIBILITY, 24.1-8. TO CONSULT, 24.1-22. FLOOD CONTROL AND DRAINAGE AND 24.1-50. EFFECTIVE DATE, THE AMENDED, NEW AND REPEALED SECTIONS RELATING TO THE REGULATION OF THE SUBDIVISION OF LAND WITHIN THE CITY.

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

1. That in order to promote the public necessity, convenience, general welfare, and good zoning practice Sections 24.1-1, 24.1-3, 24.1-5, 24.1-6, 24.1-7, 24.1-9, 24.1-10, 24.1-11, 24.1-12, 24.1-16.1, 24.1-17.1, 24.1-18, 24.1-19, 24.1-20, 24.1-21, 24.1-21.1, 24.1-23, 24.1-24, 24.1-25, 24.1-26, 24.1-27, 24.1-28, 24.1-28.1, 24.1-30, 24.1-31, 24.1-32, 24.1-33, 24.1-34, 24.1-34.1, 24.1-36, 24.1-37, 24.1-38, 24.1-39, 24.1-42, 24.1-44, 24.1-45, 24.1-46, and 24.1-49 of the Code of the City of Lynchburg, 1981, as amended, be and the same are hereby amended and reenacted as follows:

Sec. 24.1-1. Subdivision regulations.

The following regulations are hereby adopted for the subdivision of land within the corporate limits of the City of Lynchburg and from and after the effective date of this ordinance, every ~~owner or proprietor~~ subdivider of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court, within deeds conveying such land are required by law to be recorded. A copy of said plat shall also be filed in the office of the city assessor. For any subdivision plat recorded prior to the adoption of this ordinance for which construction contracts for required improvements have not been signed, the subdivider shall be required to submit final plat documentation for approval by the city planner ~~agent~~ before such contracts are signed and sale or development of lots may be undertaken.

Sec. 24.1-3. Purpose.

The purpose of this ordinance is to establish certain subdivision standards and procedures for the City of Lynchburg, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth and restoration of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when land and acreage become urban in character as a result of development for residential and non-residential purposes; to encourage the redevelopment of the central city; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner.

Sec. 24.1-5. Words and terms.

For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

~~(1) Agent: The representative of the City of Lynchburg who has been designated to serve as the agent of the city in administering this ordinance.~~

~~(2)~~(1) Alley: A permanent service way providing a secondary means of access to abutting properties.

(2) Arterial road: A moderate or high-capacity road which carries large volumes of traffic between areas in urban centers. Arterial roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

(3) Block: An area of land containing two (2) or more lots and bounded by streets providing access to such lots.

(4) Building line: A line set with respect to the frontage of a ~~plot~~ lot of land which is fixed by statute, ordinance, deed or contract and beyond which the owner of the land may not build.

(5) Building setback: The minimum distance that a building must be set back from the street line on which the lot abuts.

(6) Collector road: A moderate-capacity road which leads traffic from local roads or sections of neighborhoods to activity areas within the city. Collector roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

~~(6)~~ (7) Commission: The planning commission of the City of Lynchburg, Virginia.

~~(7)~~ (8) Cul-de-sac: A street with only one (1) outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

~~(8)~~ (9) Dedicate(tion): An appropriation of land to some public use, made by the ~~owner~~ subdivider, and accepted for such use by or on behalf of the public.

~~(9) Developer: An owner of property being subdivided, whether or not represented by an agent.~~

(10) Driveway: The means of access to the building on a lot, connecting the building to the street on which the lot has frontage.

(11) Easement: A grant by a property owner subdivider of the use of land for a specific purpose or purposes.

(12) Flag lot: A lot which has less than the usual required street frontage and which meets the requirements of Section 24.1-28.1. Flag lots. Lots fronting on a cul-de-sac are not considered flag lots and are regulated by Section 35.1-22. Buildings, uses and lots.

(13) Governing body: The city council of the City of Lynchburg, Virginia.

(14) Health official: ~~The Health, director of the City of Lynchburg, or a sanitarian.~~ Central Virginia Health District of the Virginia Department of Health.

(15) Jurisdiction: The area or territory subject to the legislative control of the governing body.

(16) Lot: A tract or parcel of land intended for transfer of ownership, use or improvement.

(17) Lot, double frontage: A lot, the opposite ends of which abut on streets.

(18) Lot of record: A lot, the plat of which has been recorded in the office of the clerk of the circuit court.

(19) Lynchburg ~~general plan~~ comprehensive plan: The comprehensive plan of the City of Lynchburg as adopted and amended by the city council.

(20) Monuments: Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey.

(21) Plat: Includes the terms: map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided. When used as a verb "plat" is synonymous with "subdivide."

(22) Property: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

(23) Public water or sewer: A water or sewer system designed to accommodate more than two (2) family residences, whether owned by the City of Lynchburg or by a private individual ~~or concern~~. This definition shall not apply to nonresidential subdivisions.

~~(24) Sight distance (across intersections): A straight line with unobstructed view measured in either direction across the corner between points, each fifty (50) feet back from the theoretical intersection of the edges of the pavement prolonged; both points three (3) feet above the grade of the pavement edge.~~

~~(25)~~ (24) Sight distance ~~(along road)~~: A straight line with unobstructed view measured between a point three (3) feet above the finished grade of a road, at the center line of each traffic lane, and a point at a given minimum distance away from the first point, located six (6) inches above finished grade at a center line of the same traffic lane.

~~(26)~~ (25) Street, private: An improved access road which has been approved by the City of Lynchburg as part of a planned unit development, cluster commercial development, or townhouse ~~lots for sale~~ complex development, where an owners' association owns and maintains the access road. Also an improved access road which by a plat, deed or agreement recorded on or before September 12, 1989,

has established joint usage rights and maintenance responsibilities among the owners of properties fronting on said improved access road.

~~(27)~~(26) Street, public: An improved dedicated right-of-way, or an improved road which has become public by right of use, for access use by the public, usually having a minimum pavement width of thirty (30) feet and a minimum right-of-way width of fifty (50) feet unless the regulations of the City of Lynchburg require otherwise.

~~(28)~~(27) Street, width: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

~~(29)~~(28) Subdivision: Division of any tract, parcel or lot of land into two (2) or more parts ~~at one time or any extended period of time~~. For the purposes of this ordinance, the alternation or reconfiguration of existing lot lines involving more than two (2) lots is also considered to be a subdivision. ~~However, the following exceptions apply:~~

a. The term "subdivision" shall not include the division of land into ten (10) acres or more for agricultural purposes, provided no new streets are required.

b. The city planner~~agent~~ may, however, permit the separation of one (1) parcel from a tract of land without complying with all requirements of this ordinance if it is (1) not in conflict with the general meaning and purpose of the ordinance, and (2) no new streets are required to serve the parcel.

~~c. The word "subdivide" and any derivative derivative thereof shall have reference to the term "subdivision" as defined in Section 24.1-5(26).~~

~~(30)~~(29) Subdivider: Any ~~one (1) or more individual, corporation or registered partnership, owning any owner of a tract, lot or parcel of land to be subdivided, or a group of two (2) or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or their legal representative~~ executing the legal requirements of the subdivision.

~~(31)~~(30) Technical review committee (TRC): A committee for review and recommendation to the city manager, planning commission, and city council, consisting of the city planner, city engineer, city traffic engineer, superintendent of inspections building official, director of utilities, urban forester and fire marshal or their designees and other city staff as appropriate.

Sec. 24.1-6. City planner~~Agent~~, or his designee.

This ordinance ~~will~~ shall be administered by the city planner, or his designee, in collaboration with the technical review committee who shall jointly determine compliance with the regulations contained herein. The city planner shall administer ~~with these~~ these regulations contained herein. The city planner~~agent~~ shall administer all subdivisions, ~~provided no new streets are required to serve the parcel, in which case final approval may only be given by the city council~~ not approve any subdivision requiring a new street or street extension until the right-of-way has been accepted and the street name approved by the city manager after review by the technical review committee with comment from the planning commission. ~~Where a subdivision has been approved administratively by the city planner, no additional subdivision of these lots or of the residue tract will be approved within a period of two (2) years from the date of approval, unless the land is industrially zoned or the two-year time limit is waived by the planning commission.~~ In so acting, the city planner shall be considered the agent of the governing body, and approval or disapproval by the city planner~~agent~~ shall constitute approval or disapproval as though it were given by the governing body. An appeal of right from any decision of the city planner~~agent~~ shall lie to the commission, thence to city council, thence to the circuit court of the City of Lynchburg.

Sec. 24.1-7. Duties.

The city planner~~agent~~ shall perform his or her duties regarding subdivision and subdividing in accordance with this ordinance and ~~Chapter 11, Article 7, Sections 15.1-465 through 15.1-485 Chapter 22, Article 6, Sections 15.2-2240 through 15.2-2276~~, and other applicable sections of the Code of Virginia (1950), as amended.

Sec. 24.1-9. Platting and recording required.

Any ~~developer~~ subdivider of any tract of land situated within the City of Lynchburg ~~who subdivides the same as defined herein~~ shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court of the City of Lynchburg. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified by the city planner~~agent~~ in accordance with the regulations set forth in this ordinance. No lot shall be sold in the subdivision before the plat shall have been recorded. Before any permits are issued to begin construction, the subdivider shall submit a notarized letter, or a copy of the plat with the clerk of courts' seal and signature, to the ~~superintendent of inspections, the city planner, and the city engineer~~city planner certifying that the plat has been recorded with the clerk of the circuit court.

Sec. 24.1-10. Draw and certify.

Every such plat shall be prepared by a licensed professional surveyor ~~or other persons certified appropriately licensed~~ by the State Commonwealth of Virginia, who shall endorse upon each plat a certificate ~~signed by him~~, setting forth: (1) the source of the title of the land subdivided; and (2) the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one (1) source of title, the outlines of the several tracts shall be indicated upon the plat, within an insert block, or by means of a dotted boundary line. ~~When any part of the land proposed for subdivision lies in a drainage district, such fact shall be set forth on the plat of the proposed subdivision.~~

Sec. 24.1-11. Owner's Subdivider's statement.

Every such plat, or the deed of dedication to which the plat is attached, shall contain in addition to the surveyor's certificate a statement to the effect that "the above and foregoing" subdivision of (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, ~~proprietors and trustees, if any~~ which shall be signed by the owners, ~~proprietors and trustees, if any~~ and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved, as herein specified, shall be filed and recorded in the office of the clerk of the circuit court of the City of Lynchburg, Virginia, and indexed under the names of the landowners signing such statement and under the name of the subdivision.

Sec. 24.1-12. No land exempt.

No tract of land shall be subdivided ~~that is located within the City of Lynchburg, Virginia~~, unless it conforms with the provisions of this ordinance.

Sec. 24.1-16.1. Possible flood plain.

To ensure that owners will have sufficient land upon which to build a structure which is flood free, compliance with floodway widths and the one hundred (100) year flood elevations contained within the city's Federal Emergency Management Agency (FEMA) flood insurance study (FIS) is mandatory. The city planner ~~agent~~ may require the subdivider to provide elevation and flood profiles based on a one hundred (100) year flood plain (which means a flood of a magnitude likely to happen, on the average, only once every century) sufficient to demonstrate the land to be completely free of the danger of flood water at an elevation of at least three (3) feet below any probable floor level of any building for human occupancy.

Sec. 24.1-17.1. Building line.

The building line shall comply with subdivision plat restrictions. This line shall not be closer to the street ~~line~~ than the required building setback in the zoning ordinance ~~(Section 24.1-17)~~.

Sec. 24.1-18. Lot sizes.

Lot sizes shall be in accordance with minimum requirements of the zoning ordinance, or the following subsections, whichever is more restrictive ~~shall apply~~:

(1) Lot size, public water and sewer: Lots served by both public water and sewerage systems shall be in accordance with the zoning ordinance.

(2) The following statement shall be shown on the plat when sewer and water lines are available, but not in place:

~~"The owner of this subdivision~~ subdivider agrees to construct a public water and sanitary sewerage system within the boundaries of the subdivision to meet the policies, regulations, and standards of the city."

Sec. 24.1-19. Lot size, public water or sewer.

(a) Residential subdivisions of five (5) lots or less may be served by private wells or septic tanks provided, that water and/or sewer are not available as defined by Section 24.1-31(c) and that no new roads are required and that lots served by only one (1) of water or sewerage system shall be twenty thousand (20,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider agrees to construct a water or a sanitary sewerage system to meet the policies, regulations, and standards of the city and/or ~~Lynchburg health~~ Virginia Department of Health. Before the construction of any dwelling can begin the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water or the sanitary sewerage system in relation to the location of the dwellings."

(b) Non-residential lots served by only one (1) of public water or sewerage system shall meet the requirements of the ~~Lynchburg health department official~~ and the city, ~~except where exempted by city ordinance or current city policy~~.

Sec. 24.1-20. Lot size, neither public water nor sewer available.

(a) Residential subdivisions of five (5) lots or less may be served by both private wells and septic tanks provided no new roads are required and lots served by neither public water nor sewerage systems shall be twenty-five thousand (25,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider does not agree to construct either a public water or a sanitary sewerage system. Before the construction of any dwelling can begin the city and the Lynchburg health department official shall ~~be consulted to ensure~~ approve the proper location of the water and sewer systems in relation to the location of the proposed dwellings."

(b) Nonresidential lots served by neither public water nor sewerage systems shall meet the requirements of the Lynchburg health office department official and the city, ~~except where exempted by the city ordinance or current city policy.~~

Sec. 24.1-21. Septic tanks.

The city planner~~agent~~ shall not approve any subdivision where sanitary sewers are not provided unless the subdivision is of five (5) lots or less and the city planner~~agent~~ receives in writing from the health official, a statement to the effect that the area contained in the subdivision is satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health. Final approval as to site suitability will be made prior to approval of the plat, ~~at the time of application for a building permit.~~

(a) Greater lot areas may be required or certain lots may be disapproved where individual septic tanks or individual wells are to be used, if the health official determines that there are factors ~~or~~ such as drainage, soil condition, or other conditions to cause potential health problems. Drainfield location shall be approved by the Lynchburg health department official.

(b) Public water and sewer required: The city planner~~agent~~ shall not approve any subdivision of more than five (5) lots unless the subdivision is served by the city ("public") water and sewer system.

Sec. 24.1-21.1. Development of large lots generally.

Notwithstanding any other provisions of this article, subdivisions without public sewer service may be approved by the city council when the following conditions are met:

(a) Each proposed lot must have at least one (1) acre in area.

(b) The large lot development must have a minimum size of six (6) lots.

(c) City sewer service is not reasonably available and economically feasible to extend, as defined in Section 24.1-31(c) of the subdivision ordinance, and sewer service extension is not planned in the city's current capital improvements program.

~~(d) If the capital improvements program is revised to include sewer service extension to the area within twelve (12) months of the date of approval of the subdivision plat, or if funds are appropriated for sewer extension within the said twelve (12) months in connection with another development or plan, and a requested large lot development has not yet had an approved plat recorded or construction begun according to approved plans, then any large lot approval that has been given by the city council is hereby rescinded and the proposed development must meet all appropriate land development and sewer service regulations.~~

~~(e)~~ (d) The subdivision plat must include all usual standard sewer service easements requested by the city, in order that the development can be readily connected to city sewer service in the future.

~~(f)~~ (e) The ~~Commonwealth of Virginia department of health~~ official must approve each of the requested large lots as having sufficient area to accommodate two (2) septic disposal fields prior to subdivision approval by the city.

~~(g)~~ (f) All other city land development regulations must be met.

~~(h)~~ (g) The city council may disapprove any large lot development if it believes the development will be detrimental to the orderly development of the area or the efficient provision of public services.

Sec. 24.1-23. Easements.

~~Easements of seven and one-half (7 1/2) twenty (20) feet minimum in width on each side of the center line of the easement shall be provided for water, sewer, power and telephone lines and other utilities, as well as cable television service lines, storm drainage in the subdivision. Such easements shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. Such easements shall be laid out so as to ensure continuity of the for utilities from block to block and to adjacent property. Such utility easement shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. In situations when pipes exceeding thirty-six (36) inches in diameter and or pipes exceeding eight (8) feet in depth are necessary, an additional ten (10) feet of easement width may be required.~~

Easements shall be provided for electric, telephone, cable television and natural gas of sufficient width and location as determined by the appropriate utility company.

Nothing in this section is intended to prohibit the placement of public utilities within dedicated rights-of-way. Placement of private water and sewer lines is prohibited in the public right-of-way. The city planner~~agent~~ may require that easements for drainage through adjoining property be provided by the subdivider.

Sec. 24.1-24. Fire protection.

The installation of adequate fire hydrants and mains in a subdivision may be required by the city at locations approved by the city of Lynchburg, provided necessary public water is available. Fire protection shall meet the requirements of the applicable sections of the City of Lynchburg Fire Code.

Sec. 24.1-25. Bond.

Every subdivider shall provide to the city a guarantee of performance prior to the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof in which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line or part of a public system, or other improvement, or phase thereof as approved, site-related improvements required by the agent on the final plat, financed or to be financed local ordinances for vehicular ingress and egress, traffic signalization and control, structures necessary to ensure stability of critical slopes, stormwater management facilities, or other improvement dedicated for public use that is to be constructed in whole or in part by private funds, shall be accepted only if and is to be maintained by the owner or city. To guarantee such performance the subdivider: (1) certifies shall: (i) certify to the city engineer that the construction costs have been paid to the person constructing such facilities, or (2) furnishes : (ii) furnish to the city engineer a certified check or, a

financial institution's letter of credit, a cash escrow in the amount of the estimated costs of construction account, or a personal, corporate or property bond, or other financial arrangement with surety satisfactory to the city, hereinafter referred to as the "performance guarantee", in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities, and a contractor's bond, with like surety, in like amount, and so conditioned, or furnishes to the governing body a bank or savings and loan association's (iii) furnish to the city engineer a financial institution's letter of credit on certain designated funds satisfactory to the governing body city engineer as to the bank or savings and loan association financial institution, the amount and the form. The bond, in an amount calculated by the city, shall be based upon a two-year projection of cost from the date of starting construction of said improvements to ensure that required improvements are completed in a workmanlike manner in accordance with specifications and construction schedules established by the city. The improvements shall be completed within two (2) years from date of starting construction and the bond shall guarantee such performance. The bond shall not be released until the construction has been inspected and approved by the city. The amount of such performance guarantee shall equal the total estimated cost of construction based on unit prices for new construction in the city plus a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five (25) percent of the estimated construction costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

~~(1) Within fifteen (15) days, after notification by the owner that the construction is complete, the city shall inspect the construction and notify the owner in writing of those items of construction which are not satisfactory, or that the construction is approved. The city may release fifty (50) percent of the bond upon notification by the owner that fifty (50) percent of the construction is complete. The owner shall certify that all construction costs have been paid to persons constructing the facilities and the city shall inspect the facilities, to ensure that fifty (50) percent of the work is complete, within fifteen (15) days of notification by the owner.~~

~~(2) The developer and the development principals thereof shall provide the city with a guarantee of warranty against defects for a period of one (1) year following acceptance of the subdivision public improvements by the city.~~

If a subdivider records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the city a performance guarantee as defined above for facilities to be dedicated for public use and to be maintained by the city within said section, the developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five (5) years from the recordation date of the first section subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

Notwithstanding other provisions of this section, and provided the subdivider and the city have agreed on the delineation of sections within a proposed development, the subdivider shall not be required to furnish to the city a performance guarantee for the estimated cost of construction of facilities to be dedicated for public use within each section of the development until such time as construction plans are submitted for the section in which such facilities are to be located.

Sec. 24.1-26. Improvements.

Minimum improvements and construction standards required of all subdivisions are set forth in these regulations and in the applicable design standards and specifications of the public works department of the City of Lynchburg Manual of Specifications and Standard Details for construction. Prior to beginning any subdivision construction improvements, the developer subdivider shall have a registered professional civil engineer or other persons appropriately licensed by the Commonwealth of Virginia prepare for the city's approval, a complete set of engineering plans and specifications. The city shall approve, or notify the subdivider of those plans and specifications which are not satisfactory, in writing

within fifteen (15) days of official submittal of such plans and specifications and provided the final plat has been approved by the ~~city planner agent~~. These processes may run concurrently, however, any changes required to the plat shall be at the expense of the subdivider.

Sec. 24.1-27. City obligation.

Nothing herein shall be construed as creating an obligation upon the city to pay for grading or paving, or for sidewalks, sewers, curb and gutter improvements or construction or any other costs in connection therewith, other than that which has been specified ~~for certain required improvements elsewhere in this chapter.~~

Sec. 24.1-28. Lots.

Lots platted shall be in conformance with the following:

(a) Shape: The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable ~~for normal purposes.~~

(b) Location:

(1) Each lot shall have frontage on a public street or an existing private street, as defined in Section 24.1-5. Words and terms, reflected on the subdivision plat, or on a street which has become public by right of use, except lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes~~ developments.

(2) Lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes~~ developments may front on private common drives and/or easements within the development which have access to an improved public street. Responsibility for maintenance of said private streets shall be with the association charged with management and ownership of common open space, property and facilities and shall be so stated on the plat.

~~(3) Each lot shall be located and designed such that a usable driveway can be built to access the lot directly from the street on which it has the required street frontage, except for lots in approved planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.~~

(c) Corner lots: Corner lots shall have extra width sufficient for maintenance of required building lines on both streets as required by the zoning or subdivision ordinance, whichever is more restrictive.

~~(d) Sight distance (across intersections): Clear sight triangles of fifty (50) feet measured along edge of pavement lines from their points of junction shall be provided at all intersections, and no building, structure, grade or planting higher than three (3) feet above the center line of the street shall be permitted within such sight triangle.~~

~~(e)~~ (d) Side lines: Side lines of lots shall be approximately at right angles, or radial to the street line and be marked plainly before inspection by the city.

~~(f)~~ (e) Remnants: All remnants of lots below minimum size, as required in the zoning ordinance, left over after subdividing of a tract must be added to adjacent lots.

~~(g)~~ (f) Separate ownership: Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more

lots, a signed statement with free consent by all owners, proprietors and trustees shall accompany the final plat and lot sizes and arrangement shall meet the requirements of this ordinance. Said statement is to be deposited with the ~~clerk of council~~ city planner and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

~~(h)~~ (g) House numbers and street names: House numbering and street naming shall be in accordance with the ~~Lynchburg city~~ city street naming/house numbering ordinance.

~~(i)~~ (h) Standards for cluster housing developments: All units for sale in cluster housing developments must meet minimum standards specified in Section 35.1-56 of the zoning ordinance.

~~(j) County boundary lines: No proposed lot shall be split by a county boundary line where it is practical to create the lot otherwise. In no case will a permit be issued to build a structure which would be split by a county boundary line.~~

Sec. 24.1-28.1. Flag lots.

The creation of flag lots will only be considered in those instances where severe topographic constraints or unusual existing lot lines make this type of lot arrangement the only feasible way to develop the tract. In such cases the proposed subdivision may be approved by the city planner when the following conditions are met:

(a) Each flag lot shall have a minimum of fifty (50) feet of frontage on a street, public or private as defined in Section 24.1-5. Words and terms, except for a lot on a cul-de-sac which shall have a minimum street frontage of thirty (30) feet.

(b) The required minimum lot area shall meet the zoning ordinance requirement of the district in which it is located and shall not include the area of the long narrow "flagpole" portion.

(c) Not more than two (2) adjacent flag lots shall be created.

(d) The development of one (1) flag lot behind another flag lot shall be prohibited.

(e) A flag lot shall not be further subdivided until a public street to serve the proposed lot(s) is dedicated and constructed with a minimum right-of-way of fifty (50) feet, or unless a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex development~~ is approved for the property, and a note to this effect shall be placed on each subdivision plat which contains a flag lot.

(f) A note shall be placed on the final subdivision plat stating that public services such as refuse collection, snow removal, and street maintenance will only be provided to the point where the flag lot meets the public street right-of-way.

(g) Flag lots with flagpole access strips greater than two hundred (200) feet in length shall provide, at the ~~developer's~~ subdivider's expense, a driveway which is capable of supporting emergency vehicles and which is at least ten (10) feet in width for the front half closest to the street and at least twenty (20) feet in width for the rear half to allow for the pass-by of vehicles.

(h) The maximum length for the flagpole access strip shall be seven hundred (700) feet in order to provide adequate fire protection.

(i) The house on a flag lot must have a setback of at least fifty (50) feet from all property lines.

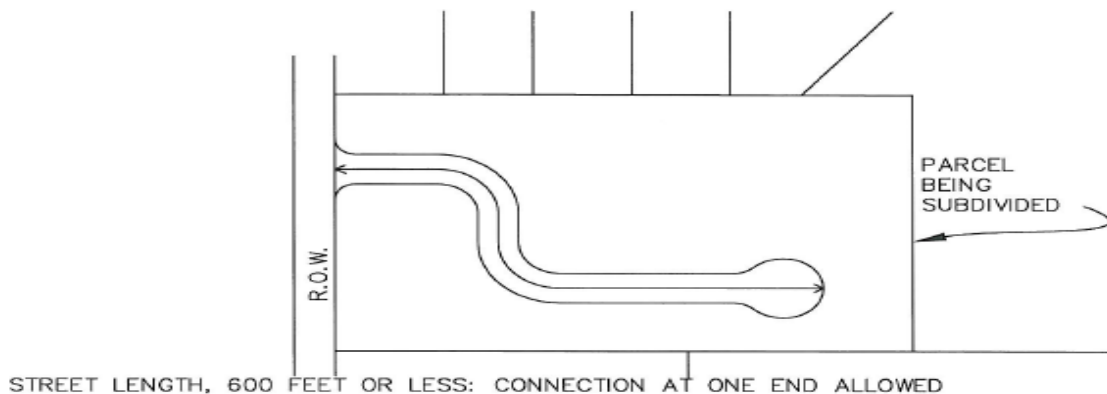
(j) A driveway on a residential flag lot shall be located a minimum of five (5) feet from all lot lines, unless approval has been obtained from a shared driveway with one (1) of the adjacent lots.

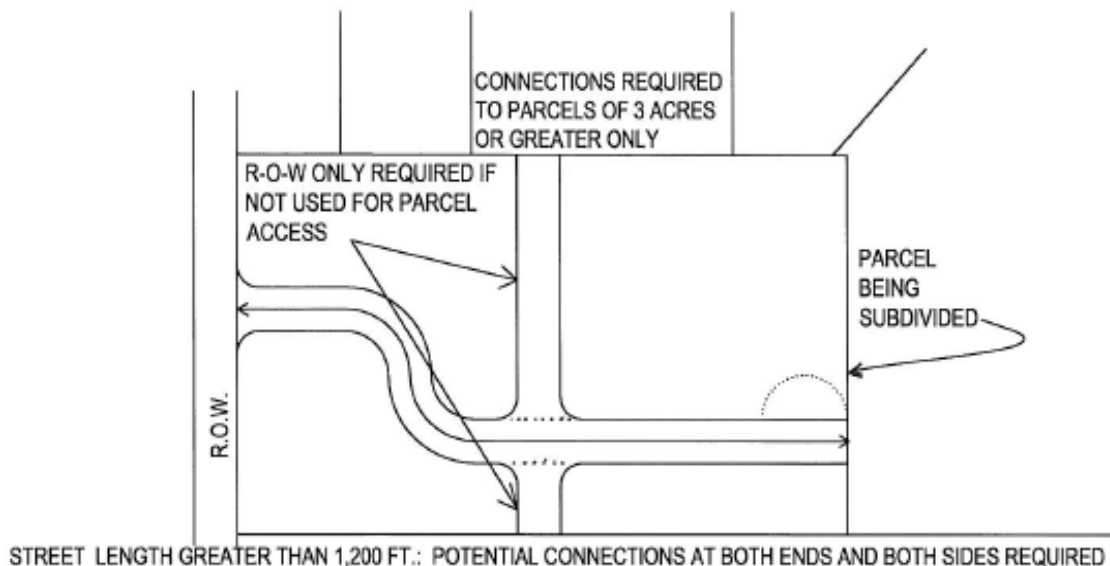
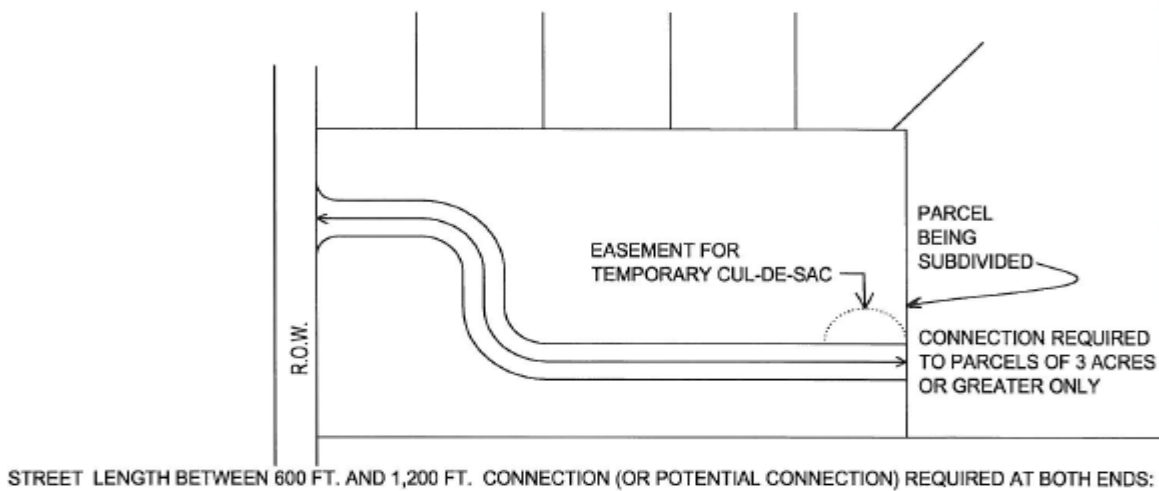
Sec. 24.1-30. Streets.

(a) (1) Residential: In residential subdivisions where the streets are dedicated to public use, all street and drainage improvements, ~~excluding curbs and gutters~~, shall be installed by the subdivider ~~at his cost~~. The subdivider shall clear and grade every street to the full width of the right-of-way with provisions for mowable three (3) to one (1) or flatter slopes on private property, except where topography prohibits. Specifications and requirements shall be in accordance with the standards established ~~by the city~~ in the City of Lynchburg, Manual of Specifications and Standard Details.

(2) Nonresidential: In nonresidential subdivisions where the streets are dedicated to public use, the cost and installation of all streets and drainage improvements shall be in accordance with current city policy, as established by city council.

(b) Alignment and layout: The arrangement of streets in new subdivisions shall make provision for the continuation of existing, proposed and future streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. In residential and commercial subdivisions, street segments of six hundred (600) feet in length or greater shall have right-of-way dedicated to provide street connections at each end. Street segments of one thousand two hundred (1,200) feet in length or greater shall have right of way dedicated to provide street connections at each end and at least one (1) potential connection to the left and one (1) potential connection to the right adjoining properties. Notwithstanding other requirements of this section, connections shall not be required to any adjoining parcel of less than three (3) acres in size. Whenever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the city. Where topographical features are prohibitive, no dedication for street continuation shall be required.





(c) Improvements required: The subdivider shall improve right-of-way one hundred (100) feet beyond the beginning of the furthest parcel or the end of the furthest driveway location, whichever is farther. This improvement shall include a turnaround facility as detailed by the Manual of Specifications and Standard Details. The subdivider shall improve the full length of any right-of-way within the subdivision that connects to an existing or proposed street.

(d) Improvements not required: Except where specifically required by paragraph (c) above, whenever right-of-way is dedicated solely to provide required connections to adjoining property, the subdivider shall only be required to dedicate an unimproved right-of-way_ to give convenient access, acceptable to the city, to owners of adjoining property except where the subdivider's lots front on such right-of-way, the right-of-way shall be improved and extended to the property line of the adjoining property owners and where topographical features are prohibitive, no dedication for access shall be required.

(e) Service drives: Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, where adequate access is not provided, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway or expressway and the proposed subdivision. Such distance shall be determined with due consideration of the minimum distance required for ingress and

egress to the limited access highway or expressway. The right-of-way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

~~(d)~~ (f) Approach angle: Streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees, unless the ~~city~~ engineer shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

~~(e)~~ (g) Minimum widths: The minimum width of proposed streets, measured from lot line to lot line, shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. ~~Street widths are typically but not always~~ However, in no case shall a street be less than fifty (50) feet in width. The street width shall be based on the post development average daily traffic and shall be of sufficient width to accommodate the typical street cross section designated therein. If an existing street is to be utilized for access and such street is not of sufficient width per the criteria of the City of Lynchburg Manual of Specifications and Standard Details and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen the street to accommodate the standard street width. ~~Alleys, if permitted, shall be not less than twenty (20) feet, nor more than twenty-eight (28) feet in width. If an existing street is to be utilized and such street is not fifty (50) feet in width and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen such street to fifty (50) feet or the standard width of that street, whichever is greater. Should the subdivider subdivision abut on only one (1) side of an existing street, the subdivider shall dedicate enough land so that then provisions shall be made on the plat to widen one-half (1/2) of the width of such street, to accommodate the standard street width as measured from the centerline to the subdivision property line, shall be twenty-five (25) feet or one-half (1/2) the standard width of such street, whichever is greater of the existing street.~~

Alleys for vehicular access, if permitted, shall be not less than fourteen (14) feet in width for one way traffic nor more than twenty eight (28) feet in width for two way traffic.

~~(f)~~ (h) Grading and paving widths: Grading and paving of all streets dedicated to public use shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details.

~~(g)~~ (i) Grades: The grades of streets shall be in accordance with specifications established by the city, and such grades as submitted on subdivision plats shall be approved by the city prior to final action by the city planner ~~agent~~. ~~Wherever feasible, Maximum allowable street grades should not exceed ten (10) percent and the maximum allowable grade shall be fifteen (15) percent, unless otherwise approved by the city engineer.~~

~~(h)~~ (j) Cul-de-sacs: ~~Minor~~ Terminal streets (cul-de-sacs), designed to have one (1) end permanently closed, ~~shall be not longer than twelve hundred (1,200) feet to the beginning of the turnaround unless approved by the city. Each cul-de-sac must shall be terminated by a permanent or temporary turnaround per the Manual of Specifications and Standard Details. of one hundred (100) feet in right-of-way diameter. This requirement does not apply to nonresidential subdivisions as these streets will be approved by the city.~~

~~(i)~~ (k) Curbs, ~~and gutters and sidewalks~~: Curbs, and gutters are required ~~and in accordance with~~ regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. Except where pedestrian traffic is explicitly prohibited, sidewalks are required (i) on at least one (1) side of all streets, (ii) on both sides of streets with a post-development traffic count of greater than six thousand (6,000) vehicles per day. The cost of said curbs, and gutters and sidewalks shall be borne fifty (50) percent by the city and fifty (50) percent by the developer subdivider. Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision.

~~(j) Sidewalks: Sidewalks shall be provided by the subdivider where need is demonstrated by the agent with consideration to each subject location with respect to: (1) pedestrian safety, speed limit, street width and street alignment; (2) vicinity of schools, parks, playgrounds, and/or commercial development; (3) street traffic with 6,000 minimum vehicles per day; and~~

~~(4) pedestrian traffic with minimum of 75 people per day. Where need for sidewalks is determined by the agent, cost shall be borne 50 percent by the city and 50 percent by the subdivided.~~

~~(k) (l)~~ Alleys: Deadend alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the city.

~~(l) (m)~~ Identification signs: Street name signs shall be installed by the city at cost to the subdivider.

~~(m) (n)~~ Street lighting: Where the subdivider desires street lighting, no installation cost shall be borne by the city. ~~Where underground utilities are installed, the subdivider shall install conduit and markers for mounting bases to permit future installation of street lighting.~~

Sec. 24.1-31. Public water supply and sanitary sewer system required.

Subdivisions of more than five (5) lots shall be served by the city ("public") water and sewer systems.

(a) Sewer and/or water available: Where a public water supply and/or a public sanitary sewer system are (reasonably accessible as defined in Section 24.1-31(c)) the said water supply and/or sanitary sewer system shall be designed and extended to adequately serve all lots within the subdivision, according to the design standards issued by the city public works department. All plans are to be approved by the city.

The cost of installing the sanitary sewer and water system including all appurtenances, except connections and meters, within the subdivision boundaries shall be paid one hundred (100) per-cent by the subdivider for the size mains needed to serve the subdivision. The minimum size main shall be as determined by the city. If larger mains are required by the city to serve other areas, then the difference in cost, based on the city's annual bid prices, shall be paid by the city. The city will extend and pay one hundred (100) percent of the cost to provide water and/or sewer lines to the subdivision boundary according to Section 24.1-31(c).

Service connections for both water and/or sanitary sewer shall be constructed to each lot within the subdivision. ~~The cost of these connections will be paid one hundred (100) percent by the city based on the city's annual bid prices.~~ Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision. The subdivision plat will contain a notation to the effect that appropriate sewer/water connection and availability fees will be charged by the city at the time of connection to the system.

(b) Sewer and/or water not available: Where a public water supply and/or a public sanitary sewer system are not reasonably accessible as defined in Section 24.1-31(c). the extension of these systems by the subdivider will not be required; however, where the subdivider desires the extension of such systems which exceeds the ratio stated in Section 24.1-31(c) and agrees to pay the additional cost of the extension to the subdivision boundary, then the city shall extend the lines in accordance with Section 24.1-31(a).

(c) Water/sewer lines availability defined: Reasonably available water and/or sewer lines are defined as those lines which are economically feasible to extend from water and sewer lines mandated by the 1976 annexation decree and/or other lines previously constructed.

To be economically feasible in a residential subdivision, there must be at least one (1) lot for each one hundred (100) feet of utility line construction. The following are examples of feasibility ratios:

Feet of water/sewer line construction	Required number of lots
5,000	50
3,000	30
1,000	10
500	5

For extensions to multi-family subdivisions the feasibility ratio would require two (2) dwelling units per one hundred (100) feet of extension. Thus:

Feet of water/sewer line construction	Required number of dwelling units
5,000	100
3,000	60
1,000	20
500	10

(d) Lots in cluster developments including townhouses ~~for sale~~ and condominiums: Public water and sewer systems shall serve each individual lot in all cluster developments including townhouses ~~for sale~~ and condominiums. The public system shall be brought to an appropriate location(s) on the property line of the development adjacent to a public right-of-way or through a public easement. ~~From that appropriate location(s), the cluster development shall provide private system connecting each unit to the public system. Said private system and payment for service shall become the responsibility of the association charged with management and ownership of common open space, property, and facilities and shall be so stated on the plat.~~

(e) In cases where an obstacle (such as a stream, railroad, or highway crossing, etc.) increases the construction cost beyond twenty (20) percent of the normal distance to dollar ratios, based on the city's annual contract pricing, the subdivider may be required to pay a larger share of the sewer and water facility construction costs as determined by the city's physical development committee.

Sec. 24.1-32. Storm drainage.

A storm drainage system shall be required to adequately provide for drainage of the subdivision. The subdivider shall pay the cost of this system. The subdivider may be required to pay ~~his~~ the pro rata share of sewerage and drainage facilities outside ~~his~~ the subdivision property limits which are necessitated by the construction or improvement of ~~his~~ the subdivision or development.

Sec. 24.1-33. Monuments.

(a) Visible for inspection: Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the city are clearly visible for inspection and use. Such monuments shall be inspected and approved by the city before any improvements are accepted by the governing body. All monuments shall be set by a surveyor licensed by the Commonwealth of Virginia.

(b) Location—concrete, ~~stone~~: Two (2) permanent reinforced monuments as prescribed by the city shall be placed on the longest street tangent intervisible. Such permanent monuments shall be ~~stone or reinforced concrete at least twenty-four (24) inches long and six (6) inches square and shall be set to approved finished grades as practicable~~ as specified in the City of Lynchburg, Manual of Specifications and Standard Details.

(c) Location—iron: All other lot corners shall be marked with pipe or solid iron not less than one-half (1/2) inch in diameter and fifteen (15) inches long and driven so as to be flush with the finished grade. When rock is encountered, surveyor shall determine a suitable method for providing a permanent marker.

Sec. 24.1-34. Reservation of land for public purposes.

The city may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public uses, subject to the following regulations:

(a) Subdividers shall not be required to reserve land for public purposes other than streets and drainage, except on a reimbursement basis. The subdivider shall be reimbursed by the jurisdiction or agency requiring the land. The city shall be required to obtain an option upon the property involved for a negotiated period following the recording of the plat for such purchase. If the land is not purchased within the said negotiated period by the city and the subdivider, it may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on ~~his~~ the final plat, by dotted lines and dotted numbers, the sizes and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.

(b) The city shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of ~~his~~ the subdivision.

(c) Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the zoning ordinance.

Sec. 24.1-34.1. Vacation or alteration of boundary lines.

(a) The ~~city planner agent~~ may approve the vacation, relocation, or alteration of boundary lines of any lot or parcel of land shown on a valid and properly recorded plat of a subdivision or re-subdivision approved as provided for in this subdivision ordinance and executed by the owner or owners of such land, as provided in Section 24.1-42. Such approval may be given provided that the vacation, relocation, or alteration of a lot line does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas; and, provided further, that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding an interest therein.

(b) The city planner may approve a plat altering or relocating the boundary line between no more than two (2) lots or parcels provided that all monuments necessary to alter or relocate the boundary line and at least one (1) lot corner are indicated on the plat. All other information may be indicated by providing reference to and as shown on a valid and properly recorded subdivision plat.

(c) The city planner may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the city planner. The deed shall reference the recorded plat by which the lot line was originally created.

Sec. 24.1-36. Preliminary sketch (not required).

The subdivider may, ~~if he so chooses, submit to the planning division~~ submit to the planning division a preliminary sketch of the proposed subdivision to the planning division prior to his preparing an engineering preliminary and/or final plat. Submission of the preliminary plat shall not constitute the official filing of a proposed subdivision. The purpose of such preliminary sketch is to permit the planning division to advise the subdivider whether his plans, in general, are in accordance with the requirements of this ordinance. The planning division, upon submission of any preliminary sketch, shall study it, and advise the subdivider within fifteen (15) days ~~wherein whether~~ whether it appears that changes would be necessary. The planning division may mark the preliminary sketch indicating necessary changes and any such marked sketch should be returned to the planning division with the preliminary plat. The preliminary sketch shall be as follows:

The preliminary sketch may be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to scale. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

Sec. 24.1-37. Preliminary plat.

The subdivider shall present to the planning division the appropriate number, as the city planner determines are needed, of ~~eighteen (18)~~ copies of a preliminary layout at a scale of not less than one hundred (100) feet to the inch and on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches as a preliminary plat and the preliminary plat shall be accompanied by plan and profile sheets at a scale of fifty (50) feet to the inch horizontal and ten (10) feet to the inch vertical.

The preliminary plat shall include the following information:

- (a) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, true and/or magnetic north point and scale.
- (b) Location of proposed subdivision by an insert map with a north arrow and scale at a scale of not less than two (2) inches equal one (1) mile showing adjoining roads, their name and number, counties, subdivisions and other landmarks.
- (c) The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in five thousand (5,000), total acreage, acreage of subdivided area, number and approximate area and frontage of all building lots, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, delineation of flood plain districts, and names of owners and their property lines adjoining such boundaries.
- (d) All existing platted streets, including alleyways, and all proposed streets, their names and widths; existing and proposed utility or other easements, public areas and parking spaces, culverts, drains and water courses, their names and other pertinent data.
- (e) All parcels of land to be dedicated for public use and the conditions of such dedication.
- (f) Topography at maximum intervals of five (5) feet.
- (g) Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith, or as necessary for the city to reasonably interpret the intention of the subdivider. Major grade changes shall be indexed to profile sheets.

(h) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.

(i) Provisions for collecting and discharging surface drainage and preliminary descriptions of any structures that may be required.

Sec. 24.1-38. Procedure.

The city planner~~agent~~ or his appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not ~~his~~ the preliminary plat generally conforms to the requirements of the subdivision ordinance.

The subdivider shall then be advised in writing within fifteen (15) days, which may be by formal letter or by meaningful markings or descriptions on ~~his~~ the copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements and the amount of the surety bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the surety bond, the city engineer~~agent~~ may require the subdivider to furnish a bona fide estimate of the cost of improvements to assist the city engineer~~agent~~ in determining the amount of surety bond.

Sec. 24.1-39. Preliminary plat ~~may be submitted~~ approval as final plat.

The preliminary plat may be submitted as the final plat where approved by the city planner~~agent~~ and provided no change, erasure or revision shall be made on any preliminary or final plat nor on accompanying data sheets after approval of the city planner~~agent~~ has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the city planner~~agent~~.

Sec. 24.1-42. Final plat.

~~If no preliminary plat is submitted in accordance with Section 24.1-39,~~ The submission of a final plat shall constitute the official filing of a proposed subdivision. ~~Twenty (20)~~ The appropriate number, as the city planner determines are needed, of copies of the final plat shall be submitted to the city for final approval and subsequent recording. Blue or black line prints (surveyor's copies) shall be clearly and legibly drawn at a scale of not more than one hundred (100) feet to the inch on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches.

For any subdivision of five (5) lots or more the digital data associated with the creation of the subdivision plat shall be provided to the city planner~~agent~~ in a format approved by the city. The digital data shall be "georeferenced" to the State Plane Coordinate System, North American Datum 1983, Virginia South Zone #4502. The data shall be certified by a licensed ~~engineer or surveyor or other persons~~ appropriately licensed by the Commonwealth of Virginia for accuracy and correctness. Where the subdivider can show that the subdivision plat was not created using computer aided design (CAD) software, or adherence to these requirements would produce unnecessary hardships the city planner~~agent~~ may grant an exception in whole or in part to the requirements for digital data submission.

The final plat shall include the following information and all information which is required on the preliminary plat shall be provided on the final plat:

(a) Name of subdivision, city, state, owner, true and/or magnetic north point and scale of drawing and number of sheets. If shown on more than one (1) sheet, matched lines shall clearly indicate where the several sheets join. A space shall be reserved for the signature of the city engineer and the city planner clerk of council if no new streets are dedicated. If the plat includes the acceptance of right-of-way, a space shall be reserved for the signature of the city engineer and the city manager.

(b) Location of proposed subdivision by an insert map with north arrow and scale at a scale of not less than two (2) inches equal one (1) mile indicating adjoining roads, their names and numbers, counties, subdivisions and other landmarks.

(c) A boundary survey with an error of closure within the limits of one (1) in five thousand (5,000) related to the magnetic meridian and showing the location of all monuments and their type of material within the boundary of the subdivision. The survey may be related to the U. S. Coast and Geodetic Survey state grid north if the coordinate of two (2) adjacent corners of the subdivision are shown.

(d) ~~Certificates signed by the surveyor setting forth~~ The source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

(e) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements to deeds.

(f) When the subdivision consists of land acquired from more than one (1) source of title the outlines of the various tracts shall be indicated by dotted lines and identification of the respective tracts shall be placed on the plat.

(g) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines, boundaries of all proposed or existing easements and utilities, existing parks, school sites or other public areas, the number and area of all building lots, all existing public and private streets, their names, numbers and widths, water courses and their names, if any, delineation of flood plain ~~districts~~ zones, names of owners and their property lines within the boundary of the subdivision and the names of owners and their property lines adjoining said boundaries.

(h) All dimensions shall be shown in feet and decimals of a foot to the closest two (2) decimal points, all bearings shall be shown in degrees and minutes to the nearest minute.

(i) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following; delta angle, radius, arc, tangent, chord and chord bearings.

(j) Any restrictions imposed by the subdivider shall be shown on the plat, or on attached sheet(s) in which case it shall be stated on the plat that deed restrictions are on the said attached sheet(s) or as filed in Plat Cabinet number (identify number) of the office of the clerk of the circuit court.

(k) Where public water and or sewer systems are to be provided it shall be indicated on the plat and shall reflect whether such facilities will be owned by the City of Lynchburg or privately owned, indicating the name or title of the owner.

(l) A statement as to whether utilities will be placed overhead or underground.

(m) All other applicable minimum standards for surveys as defined within Chapter 20 of the Virginia Administrative Code.

A house number shall be assigned to each lot created by the subdivision as provided in section 35-114 and chapter 35, article VII of the city code.

Sec. 24.1-44. Approval.

The ~~city planner~~agent shall not approve the final plat until ~~he has received~~ receipt of a written statement from the ~~health department official~~ that the subject property is suitable for the proposed development; nor shall ~~he approve~~ the plat be approved when city public water and/or sewer is to be provided until the ~~city planner~~agent receives in writing that the system has been approved and accepted by the City of Lynchburg or the subdivider has the required surety in place. Where a subdivision has been approved administratively by the city planner, no additional subdivision of the new lots or of the residue tract shall be approved within a period of two (2) years from the date of approval, unless the land is industrially-zoned or the two-year time limit is waived by the city planner.

(a) Approval of the final plat shall be written on the face of the plat by the city engineer and city planner clerk of council if no new streets are dedicated. Approval of the final plat that includes acceptance of right-of-way shall be written on the face of the plat by the city engineer and city manager; all copies shall be retained by the ~~clerk of council~~city planner until the subdivider is ready to record same. (See also Section 24.1-28(g).) The ~~city planner~~agent shall notify the subdivider in writing when the plat is approved and the subdivider shall record the plat within six (6) months after final approval. The ~~city planner~~agent may, on written request of the subdivider, grant an extension of this time, otherwise he shall mark the plat void and return same to the subdivider.

(b) The city council, commission or ~~other agent~~city planner shall render a decision on the proposed plat right-of-way within sixty (60) days after it has been submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore.

Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

If the city council, commission or ~~other agent~~city planner fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the commission or ~~city planner~~agent, may petition the circuit court of the city ~~or county in which the land involved, or the major part thereof, is located~~, to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

If the city council, commission or ~~other agent~~city planner disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be.

The time requirements contained in this section shall not apply to the submission of any preliminary subdivision plat.

Sec. 24.1-45. Exceptions.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, or where, because of topographical or other conditions peculiar to the site, in the opinion of the ~~city planner~~agent a departure may be made without destroying the intent of such provisions, the ~~city planner~~agent may authorize an exception. When the ~~city planner~~agent or subdivider desires, the matter shall be referred first to the commission ~~or~~ and thence to city council for review. Any exceptions authorized under the provisions of this section shall be stated in writing on the plat, by the city

planner agent, commission or city council with the reasoning set forth on which the departure was justified.

~~The agent may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights of way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the agent. The deed shall reference the recorded plat by which the lot line was originally created.~~

Sec. 24.1-46. Penalties.

~~Any person violating the foregoing provisions of this ordinance shall not be granted a building permit or extended public utilities and shall be subject to a fine of not more than one hundred dollars (\$100.00) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.~~

(a) Any person violating the provisions of this chapter shall not be granted a building permit or extended public utilities and any violation of this chapter shall be a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) for each lot or parcel of land subdivided, transferred or sold and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding ten (10)-day period shall constitute a separate misdemeanor offense for each ten (10)-day period punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).

(b) Any violation or attempted violation of this chapter, or of any regulation adopted hereunder may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding. At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate a zoning ordinance violation and where the owner of the real property is a party to such proceeding, the zoning administrator may record a memorandum of lis pendens pursuant to Section 8.01-268 of the Code of Virginia. Any memorandum of lis pendens admitted to record in an action to enforce a zoning ordinance shall expire after one hundred eighty (180) days. If the city has initiated an enforcement proceeding against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than fifty (50) percent, the pending enforcement proceeding shall continue to be enforced against the owner.

Sec. 24.1-49. Amendments.

This ordinance may be amended in whole or in part. The commission on its own initiative may, or at the request of the city council shall, prepare and recommend amendments to this ordinance. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance; provided, that no such amendment shall be adopted by the governing body without a reference of the proposed amendment to the commission for recommendation, nor until sixty (60) days after such reference, if no recommendation is made by the commission. Provided, further, that the provisions of ~~Section 15.1-431~~ Section 15.2-2204 of the Code of Virginia (1950), as amended, regarding advertisement and public hearings have been complied with.

2. That in order to promote the public necessity, convenience, general welfare, and good zoning practice by adding thereto Sections 24.1-16.2. Flood control and drainage and 24.1-25.1. Partial and final release of certain performance guarantees, as follows:

Sec. 24.1-16.2. Flood control and drainage.

The subdivider shall provide that information necessary to determine what improvements are required to develop the subject property, including topography, drainage plans and flood control devices. The plans for such improvements shall include a statement from a licensed professional engineer or other persons appropriately licensed by the Commonwealth of Virginia, that such improvements when installed will be adequate for development. In subdivisions where the streets are dedicated to public use, the city engineer shall either approve or disapprove the plans.

Sec. 24.1-25.1. Partial and final release of certain performance guarantees.

(a) The city shall provide for the periodic partial and final complete release of any performance guarantee required by the city under this article within thirty (30) days after receipt of written notice by the subdivider of completion of part or all of any required public facilities unless the city engineer notifies the subdivider in writing of nonreceipt of approval, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty (30) day period. Any inspection of such public facilities shall be based solely upon conformance with the Manual of Specification and Standard Details and the approved design plan for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the city or a person who has contracted with the city.

(b) If no such action is taken by the city within the time specified above, the request shall be deemed approved, and a partial release shall be granted to the subdivider. No final release shall be granted until after expiration of such thirty (30)-day period and there is an additional request in writing sent by certified mail return receipt to the city manager. The city engineer shall act within ten (10) working days of receipt of the request; then if no action is taken, the request shall be deemed approved and final release granted to the subdivider.

(c) After receipt of the written notices required above, if the city takes no action within the times specified above and the subdivider files suit in the local circuit court to obtain partial or final release of a performance guarantee, the circuit court, upon finding the city was without good cause in failing to act, shall award such subdivider his reasonable costs and attorney's fees.

(d) The city shall not refuse to make a periodic partial or final release of a performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said performance guarantee.

(e) Upon the completion of at least thirty (30) percent of the public facilities covered by any performance guarantee, and upon written request by the subdivider, the city shall make periodic partial releases of such performance guarantee in a cumulative amount equal to no less than ninety (90) percent of the original amount of the completed work for which the performance guarantee was taken. The city shall not be required to execute more than three (3) periodic partial releases in any twelve (12)-month period. Upon final completion and acceptance of the public facilities, the city shall release any remaining performance guarantee to the subdivider. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

3. That in order to promote the public necessity, convenience, general welfare, and good zoning practice by repealing Sections 24.1-4. Mutual responsibility, 24.1-8. To consult, 24.1-22. Flood control and drainage, and 24.1-50. Effective date, as follows:

~~Sec. 24.1-4. Mutual responsibility.~~

~~There is a mutual responsibility between the subdivider and the city of Lynchburg to divide the land so as to improve the general use pattern of the land being subdivided.~~

~~Sec. 24.1-8. To consult.~~

~~In the performance of his duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the technical review committee, and the health official.~~

~~Sec. 24.1-22. Flood control and drainage.~~

~~The subdivider may be required to provide that information necessary to determine what improvements are required to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The plans for such improvements shall include a statement from an engineer, or any other person certified by the State of Virginia, that such improvements when properly installed will be adequate for proper development. In subdivisions where the streets are dedicated to public use the city council shall either approve or disapprove the plans.~~

~~Sec. 24.1-50. Effective date.~~

~~This ordinance was duly considered, following a required public hearing, and was adopted by the City of Lynchburg, Virginia, on November 14, 1978.~~

4. Any subdivision plats submitted to the Department of Community Development for review and approval prior to the effective date of July 1, 2010 shall be reviewed and approved under the provisions of the current Subdivision Ordinance.

5. That this ordinance shall become effective July 1, 2010.

Adopted

Certified:

Interim Clerk of Council

044L1

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTIONS 35-101, 35-108 AND 35-111 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTIONS RELATING TO THE NAMING OF STREETS WITHIN THE CITY.

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

1. That Sections 35-101, 35-108 and 35-111 of the Code of the City of Lynchburg, 1981, be and the same are hereby amended and reenacted as follows:

Sec. 35-101. Compliance with article.

Except as provided in the city's subdivision ordinance A~~all~~ dedicated streets, public ways, and all private roads coming under this article, established or acquired after the twenty-sixth day of July, 1977, shall be named or renamed in accordance with the provisions of this article.

Sec. 35-108. Procedure generally.

Except as provided in the city's subdivision ordinance T~~the~~ procedure for naming or renaming any street within the city limits on or after the twenty-sixth day of July, 1977, shall be as provided in sections 35-109 through 35-114.

Sec. 35-111. Review of proposed names.

Except as provided in section 24.1-6 and 24.1-30 of the city's subdivision ordinance P~~p~~roposed street names will be reviewed by the city technical review committee, planning commission and council, with the final decision resting with the council.

2. That this ordinance shall become effective July 1, 2010.

Adopted:

Certified:

Interim Clerk of Council

044L2

MINUTES FROM THE FEBRUARY 24, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

Mr. Martin explained that the Subdivision Ordinance had gone to City Council on October 27, 2009. City Council recommended that it come back to the Planning Commission because some of the changes proposed by staff were significant. Staff thought that the principles of access management might have been applied too heavily in the Subdivision Ordinance by applying them to the entire City. They tried to take access management out of the Subdivision Ordinance and develop access management corridors instead.

The change to replace the proposed term "subdivider" with the original text referencing the "owner" of the land in Section 24.1-5(5) on page 3 was accepted.

The change to add "involving more than two (2) lots" on page 6 was accepted.

There was discussion about removing Planning Commission and City Council as approving bodies for street naming and right-of-way acceptance in Section 24.1-6. This change is being proposed in order to expedite the subdivision and street acceptance policy. It was presented to City Council as Planning Commission and City Council still being involved with the understanding that the petition would move along as quickly as possible. City Council discussed the issue and accepted the proposal of it being done as an administrative process but sent it back to the Planning Commission for their comment.

Commissioner Swienton's impression is that it is the City Manager's desire for Planning Commission and City Council to be removed and the process to be done administratively. He did not perceive that Council had an opinion other than to take it back to Planning Commission. Commissioner Swienton would like it put back in and if Council strikes it, he understands that is their decision to make. Commissioner Swienton finds it helpful to have the street namings and right-of-way acceptances to come to the commission because he can see the concept of what a developer plans to do. However, he does not want to hold up anything unnecessarily. He would like to see these taken to Council at the very next meeting after Planning Commission sees them. He made the points that it is a land use item and that he thinks the number of street dedications or extensions they will have in the future will be relatively low.

Commissioner Barnes noted that in the absence of the City Manager's rationale and argument for making this change, he would agree with Commissioner Swienton. Street connections have implications for land use. It is Mr. Martin's understanding, although he cannot speak for the City Manager, that street dedications are normally approved very easily. Handling them the way the current ordinance is written puts a time burden on the developer in terms of getting the subdivision approved.

Commissioner Sale asked if a by-right development could be held up by a negative vote the commission and City Council. Mr. Martin said it could but there would have to be some very good reasons for not accepting a street. Ultimately, Mr. Martin thought it would end up in a court case. There is nothing that Mr. Martin is aware of that mandates that the City accept the dedication of a street but he was not sure why it would not be accepted in the case of a by-right development.

Mr. Martin thought that there are valid reasons for doing the process either way. The revised Subdivision Ordinance has attempted to address some issues like street connectivity and making sure that cul-de-sacs are not terminated unnecessarily. However, it is a good idea for the commission to have a pulse on development patterns. If the Planning Commission were removed from the process, staff could still keep the commission informed of what subdivisions are occurring.

Commissioner Swienton pointed out that the current process allows the public to be informed of what is going on around them. He views that as being very important. Commissioner Barnes' main concern from a planning perspective is that someone in a by-right development might want to put in a street that didn't connect well with the surrounding properties. Mr. Martin said they have tried to write language in the Subdivision Ordinance that would address some of their concerns.

Mr. Martin noted that another approach could be to have the Planning Commission review the namings and extensions as part of the administrative process. The commissioners liked this as a possible compromise. Commissioner Swienton commented that he does not want to slow down the process and wants to be sensitive to the cost a developer incurs when the process is delayed. Mr. Martin will attempt to draft some compromise language and bring it back to the commission. The Planning Commission would see the namings and extensions after they have gone to the Technical Review Committee. Commissioner Swienton asked how much time this would save a developer if this process were implemented. Mr. Martin estimated at least thirty days.

The changes to delete Section 24.1-5(25 and the graphic, renumber "Words and Terms" section and delete Section 24.1-28(d) on pages 4 and 5 were all accepted.

The change to restore building "line" and delete street "line" in Section 24.1-17.1 on page 1 was accepted.

The change to delete "except where exempted by the city ordinance or current policy" in Section 24.1-19(b) water or sewer and Section 24.1-20(b) on page 12 was accepted.

The change to replace "agent" with "city engineer" in Section 24.1-25(iii) on page 15 was accepted.

The change to restore "civil engineer" and delete "surveyor" in Section 24.1-26 on page 18 was accepted.

The changes to delete Section 24.1-28(b)(3) and Section 24.1-28(4) on page 19 and 20 were accepted.

There was discussion about the changes to add "or alteration" on page 31, language allowing approval of a plat altering or relocating a boundary line by referencing a valid and properly recorded plat on page 32 and relocating language allowing vacating of lot lines by deed from Section 24.1-45 on page 32. Mr. Martin explained that a surveyor had raised some issues with this section. If a small portion of a lot line is moved between one parcel and another, the current regulations of the Subdivision Ordinance require that both properties are entirely surveyed instead of being able to reference previous plats. These proposed changes would allow the approval of a plat in those circumstances. Previous plats would have to be referenced and at least one corner would have to be surveyed.

Mr. Martin was not sure the City Surveyor liked these changes, but the City Assessor who actually makes the parcel changes thought the changes were fine. The surveyor who brought this up felt it would be significantly cheaper to survey the line that is moving rather than surveying the lot boundaries. That is not permitted the way the ordinance is currently written. The commissioners thought that was a valid point. Mr. Talian thought that the City Surveyor's argument pertained to smaller lots. The City Surveyor felt that if you did not go around the entire parcel someone might not actually be aware of where their boundary lines truly are. A previous error could cause someone to make a poor decision about giving up a portion of their property. The commissioners wondered how often this happens and thought it was probably pretty rare. Mr. Talian and Mr. Martin were not sure how often it occurs.

After some discussion, the commissioners thought the way the ordinance is currently written does put a significant financial burden on the property owners and that it is the property owner's responsibility to know his boundary lines. They felt it was an imposition of additional time and cost to require the surveying of both lots every time a boundary line is moved. The commissioners pointed out that one or both parties could pay a partial or full survey of the entire boundary if there were any concerns.

Mr. Martin and Commissioner Swienton will discuss some proposed compromise language and the Subdivision Ordinance will be brought back to the March 10, 2010 meeting.

MINUTES FROM THE MARCH 10, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

There was some discussion about the changes to Section 24.1-6 dealing with the review of street dedications. This section has been reworked to allow for comment by the Planning Commission after review by the Technical Review Committee (TRC). Mr. Martin explained that new streets and extensions will be administratively approved by the City Manager. Before the City Manager approves them, they will go to TRC and the Planning Commission. Chair Hamilton did not think this actually changed the length of the process. Mr. Martin said that it does; it takes at least one to two months off the process because they will not have to go to City Council. As soon as Planning Commission comments, the City Manager could approve the street the next day.

Commissioner Swienton commented that it does bring them to the attention of the public and significantly shortens the approval process. The commission still has the ability to provide comment should they see something that needs amending. Any comments could be addressed by staff without it coming back to the commission and the City Manager could approve the street after any comments are addressed.

Chair Hamilton asked Mr. Martin to remind them how all the shared direct access items would be addressed now that they have been taken out of the *Subdivision Ordinance*. Mr. Martin reminded them that it was decided during the review of Chapter 14 Transportation that access management corridors would be studied. Those would be corridors like Old Forest Road, Lakeside Drive and Campbell Avenue, for some examples. Region 2000 and the City are working together to study Old Forest Road in more detail.

Commissioner Hannon made a motion, which was seconded by Commissioner Swienton, to approve the *Subdivision Ordinance* and forward it to City Council.

Commissioner Hannon commended the Planning Division for their hard work. Commissioner Sale agreed with that comment and voiced his appreciation for staff coming to all the Planning Commission meetings. He thinks it will be a valuable asset to the City. Commissioner Swienton thanked staff for their hard work and for the recent work on the compromise language dealing with street dedications and namings. Chair Hamilton thought they had come to some good conclusions on some of the philosophical arguments.



MEMORANDUM

The Department of Community Development

Planning Division

455-3900

To: Planning Commission
From: Tom Martin, AICP, City Planner
Subject: Section 24.1 – Subdivision Ordinance
Date: February 10, 2010

On October 27, 2009, City Council conducted a work session on the proposed changes to City Code Section 24.1 – Subdivision Ordinance. At the meeting, staff offered additional changes to the DRAFT ordinance that had not previously been discussed with either Planning Commission or City Council. Staff also recommended that the ordinance be referred back to Planning Commission for their review since some of the staff suggestions are significantly different than those originally recommended. The changes include:

- Replace the proposed term “subdivider” with the original text referencing the “owner” of the land in Section 24.1-5(5). **(page 3)**
- Add “involving more than two (2) lots”. **(page 5)**
- Remove Planning Commission and City Council as approving bodies for street naming and right of way acceptance in Section 24.1-6. The approval process would be administrative through the Technical Review Committee and City Manager with appeals to Planning Commission, City Council and the Circuit Court. Section 24.1-42(a) and 24.1-44(a) would also be amended to reflect the signature process. **(pages 6; 36; 38)**
- Delete Section 24.1-5(25) and the graphic; re-number “Words and Terms” section. Delete Section 24.1-28(d). Staff recommends that the reference to sight distance be included as part of future revisions to the *Zoning Ordinance* that reflect adoption of Transportation Master Plan policies. **(pages 4; 19)**
- Restore building “line” and delete street “line” in Section 24.1-17.1. **(page 10)**
- Delete “except where exempted by the city ordinance or current policy” in Section 24.1-19(b) water or sewer and Section 24.1-20 (b), respectively. **(page 11-12)**
- Replace “agent” with “city engineer” in Section 24.1-25(iii). **(page 15)**
- Restore “civil engineer” and delete “surveyor” in Section 24.1-26. **(page 17)**

- Delete Section 24.1-28(b)(3) and Section 24.1-28(4), respectively. Staff recommends that the references to residential driveways, shared direct access and internal vehicle circulation be included as part of future revisions to the *Zoning Ordinance* that reflect adoption of Transportation Master Plan policies. **(pages 18-19)**
- Add “or alteration” to Section 24.1-34.1. **(page 30)**
- Add language allowing approval of a plat altering or relocating a boundary line by referencing a valid and properly recorded plat to Section 24.1-34.1(b). **(page 30)**
- Relocate language allowing vacating of lot lines by deed from Section 24.1-45 to Section 24.1-34.1(b). **(page 30)**

Attachments:

DRAFT Section 24.1 – Subdivision Ordinance (revised with comments from the October 27, 2009 City Council meeting)

ARTICLE I. EFFECT OF ORDINANCE

Sec. 24.1-1. Subdivision regulations.

The following regulations are hereby adopted for the subdivision of land within the corporate limits of the City of Lynchburg and from and after the effective date of this ordinance, every ~~owner or proprietor~~ subdivider of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court, within deeds conveying such land are required by law to be recorded. A copy of said plat shall also be filed in the office of the city assessor. For any subdivision plat recorded prior to the adoption of this ordinance for which construction contracts for required improvements have not been signed, the subdivider shall be required to submit final plat documentation for approval by the city planner~~agent~~ before such contracts are signed and sale or development of lots may be undertaken.

ARTICLE II. PURPOSE AND TITLE

Sec. 24.1-2. Title.

This ordinance is known and shall be cited as the "Subdivision Ordinance of the City of Lynchburg."

Sec. 24.1-3. Purpose.

The purpose of this ordinance is to establish certain subdivision standards and procedures for the City of Lynchburg, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth and restoration of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when

land and acreage become urban in character as a result of development for residential and non-residential purposes; to encourage the redevelopment of the central city; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner.

Sec. 24.1-4. ~~Mutual responsibility.~~ Repealed

~~There is a mutual responsibility between the subdivider and the city of Lynchburg to divide the land so as to improve the general use pattern of the land being subdivided.~~

ARTICLE III. DEFINITIONS

Sec. 24.1-5. Words and terms.

For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

~~(1) Agent: The representative of the City of Lynchburg who has been designated to serve as the agent of the city in administering this ordinance.~~

~~(2)~~(1) Alley: A permanent service way providing a secondary means of access to abutting properties.

(2) Arterial road: A moderate or high-capacity road which carries large volumes of traffic between areas in urban centers. Arterial roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

(3) Block: An area of land containing two (2) or more lots and bounded by streets providing access to such lots.

(4) Building line: A line set with respect to the frontage of a ~~plot~~ lot of land which is fixed by statute, ordinance, deed or contract and beyond which the owner of the land may not build.

(5) Building setback: The minimum distance that a building must be set back from the street line on which the lot abuts.

(6) Collector road: A moderate-capacity road which leads traffic from local roads or sections of neighborhoods to activity areas within the city. Collector roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

~~(6)~~ (7) Commission: The planning commission of the City of Lynchburg, Virginia.

~~(7)~~ (8) Cul-de-sac: A street with only one (1) outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

~~(8)~~ (9) Dedicate(tion): An appropriation of land to some public use, made by the ~~owner~~ subdivider, and accepted for such use by or on behalf of the public.

~~(9) Developer: An owner of property being subdivided, whether or not represented by an agent.~~

(10) Driveway: The means of access to the building on a lot, connecting the building to the street on which the lot has frontage.

(11) Easement: A grant by a property ~~owner~~ subdivider of the use of land for a specific purpose or purposes.

(12) Flag lot: A lot which has less than the usual required street frontage and which meets the requirements of Section 24.1-28.1. Flag lots. Lots fronting on a cul-de-sac are not considered flag lots and are regulated by Section 35.1-22. Buildings, uses and lots.

(13) Governing body: The city council of the City of Lynchburg, Virginia.

(14) Health official: ~~The Health, director of the City of Lynchburg, or a sanitarian.~~ Central Virginia Health District of the Virginia Department of Health.

(15) Jurisdiction: The area or territory subject to the legislative control of the governing body.

(16) Lot: A tract or parcel of land intended for transfer of ownership, use or improvement.

(17) Lot, double frontage: A lot, the opposite ends of which abut on streets.

(18) Lot of record: A lot, the plat of which has been recorded in the office of the clerk of the circuit court.

(19) ~~Lynchburg general plan~~ comprehensive plan: The comprehensive plan of the City of Lynchburg as adopted and amended by the city council.

(20) Monuments: Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey.

(21) Plat: Includes the terms: map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided. When used as a verb "plat" is synonymous with "subdivide."

(22) Property: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

(23) Public water or sewer: A water or sewer system designed to accommodate more than two (2) family residences, whether owned by the City of Lynchburg or by a private individual ~~or concern~~. This definition shall not apply to nonresidential subdivisions.

~~(24) Sight distance (across intersections): A straight line with unobstructed view measured in either direction across the corner between points, each fifty (50) feet back from the theoretical intersection of the edges of the pavement prolonged; both points three (3) feet above the grade of the pavement edge.~~

~~(25)~~(24) Sight distance ~~(along road)~~: A straight line with unobstructed view measured between a point three (3) feet above the

finished grade of a road, at the center line of each traffic lane, and a point at a given minimum distance away from the first point, located six (6) inches above finished grade at a center line of the same traffic lane.

~~(26)~~(25) Street, private: An improved access road which has been approved by the City of Lynchburg as part of a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex~~ development, where an owners' association owns and maintains the access road. Also an improved access road which by a plat, deed or agreement recorded on or before September 12, 1989, has established joint usage rights and maintenance responsibilities among the owners of properties fronting on said improved access road.

~~(27)~~(26) Street, public: An improved dedicated right-of-way, or an improved road which has become public by right of use, for access use by the public, usually having a minimum pavement width of thirty (30) feet and a minimum right-of-way width of fifty (50) feet unless the regulations of the City of Lynchburg require otherwise.

~~(28)~~(27) Street, width: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

~~(29)~~(28) Subdivision: Division of any tract, parcel or lot of land into two (2) or more parts ~~at one time or any extended period of time~~. For the purposes of this ordinance, the alteration or reconfiguration of existing lot lines involving more than two (2) lots is also considered to be a subdivision. ~~However, the following exceptions apply:~~

a. The term “subdivision” shall not include the division of land into ten (10) acres or more for agricultural purposes, provided no new streets are required.

b. The city planner~~agent~~ may, however, permit the separation of one (1) parcel from a tract of land without complying with all requirements of this ordinance if it is (1) not in conflict with the general meaning and purpose of the ordinance, and (2) no new streets are required to serve the parcel.

~~c. The word “subdivide” and any derivative derivative thereof shall have reference to the term “subdivision” as defined in Section 24.1-5(26).~~

~~(30)~~(29) Subdivider: Any ~~one (1) or more individual, corporation or registered partnership, owning any~~ owner of a tract, lot or parcel of land to be subdivided, a group of two (2) or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or their legal representative executing the legal requirements of the subdivision.

~~(31)~~(30) Technical review committee (TRC): A committee for review and recommendation to the city manager, planning commission, and city council, consisting of the city planner, city engineer, city traffic engineer, superintendent of inspections building official, director of utilities, urban forester and fire marshal or their designees and other city staff as appropriate.

ARTICLE IV. ADMINISTRATION

Sec. 24.1-6. City planner~~Agent~~, or his designee.

This ordinance ~~will~~ shall be administered by the city planner, or his designee, in collaboration with the technical review committee who shall jointly determine compliance with the regulations contained herein. The city planner shall administer ~~with these~~ these regulations contained herein. The city planner shall administer ~~all subdivisions, provided no new streets are required to serve the parcel, in which case final approval may only be given by the city council~~ not approve any subdivision requiring a new street or street extension until the right-of-way has been accepted and the street name approved by the city manager after review by the technical review committee with comment from the planning commission. ~~Where a subdivision has been approved administratively by the city planner, no additional subdivision of these lots or of the residue tract will be approved within a period of two (2) years from the date of approval, unless the land is industrially zoned or the two year time limit is waived by the planning commission.~~ In so acting, the city planner shall be considered the agent of the governing body, and approval or disapproval by the city planner~~agent~~ shall constitute approval or disapproval as though it were given by the governing body. An appeal of right from any decision of the city planner~~agent~~ shall lie to the commission, thence to city council, thence to the circuit court of the City of Lynchburg.

Sec. 24.1-7. Duties.

The ~~city planner~~agent shall perform his or her duties regarding ~~subdivision and subdividing~~ in accordance with this ordinance and ~~Chapter 11, Article 7, Sections 15.1-465 through 15.1-485 Chapter 22, Article 6, Sections 15.2-2240 through 15.2-2276~~, and other applicable sections of the Code of Virginia (1950), as amended.

Sec. 24.1-8. ~~To consult.~~ Repealed

~~In the performance of his duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the technical review committee, and the health official.~~

ARTICLE V. PROCEDURE FOR PREPARING AND RECORDING PLATS

Sec. 24.1-9. Platting and recording required.

Any ~~developer~~ subdivider of any tract of land situated within the City of Lynchburg ~~who subdivides the same as defined herein~~ shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court of the City of Lynchburg. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified by the ~~city planner~~agent in accordance with the regulations set forth in this ordinance. No lot shall be sold in the subdivision before the plat shall have been recorded. Before any permits are issued to begin construction, the subdivider shall submit a notarized letter, or a copy of the plat with the clerk of courts' seal and signature, to the ~~superintendent of inspections, the city planner, and the city engineer~~city planner certifying that the plat has been recorded with the clerk of the circuit court.

Sec. 24.1-10. Draw and certify.

Every such plat shall be prepared by a licensed professional surveyor ; or other persons ~~certified~~ appropriately licensed by the ~~State~~ Commonwealth of Virginia, who shall endorse upon each plat a certificate ~~signed by him~~, setting forth: (1) the source of the title of the land subdivided; and (2) the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one (1) source of title, the outlines of the several tracts shall be indicated upon the plat, within an insert block, or by means of a dotted boundary line. ~~When any part of the land proposed for subdivision lies in a drainage district, such fact shall be set forth on the plat of the proposed subdivision.~~

Sec. 24.1-11. ~~Owner's~~ Subdivider's statement.

Every such plat, or the deed of dedication to which the plat is attached, shall contain in addition to the surveyor's certificate a statement to the effect that "the above and foregoing" subdivision of (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, ~~proprietors and trustees, if any~~ which shall be signed by the owners, ~~proprietors and trustees, if any~~ and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved, as herein specified, shall be filed and recorded in the office of the clerk of the circuit court of the City of Lynchburg, Virginia, and indexed under the names of the landowners signing such statement and under the name of the subdivision.

Sec. 24.1-12. No land exempt.

No tract of land shall be subdivided ~~that is located within the City of Lynchburg, Virginia,~~ unless it conforms with the provisions of this ordinance.

Sec. 24.1-13. Private contracts.

This ordinance bears no relation to any private easement, covenant, agreement or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein by any public official. When this ordinance calls for more restrictive standards than are required by private contract, the provisions of this ordinance shall control.

Sec. 24.1-14. Necessary changes.

No change, erasure or revision shall be made on any preliminary or final plat, nor any accompanying data sheets after approval of the city planner~~agent~~ has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

Sec. 24.1-15. Fees.

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the city planner~~agent~~. At the time of filing the plat, the subdivider shall deposit with the city planner~~agent~~ a check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by city council.

ARTICLE VI. GENERAL REGULATIONS

Sec. 24.1-16. Flooding.

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life, or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional flooding or shall not produce conditions contrary to public welfare.

Sec. 24.1-16.1. Possible flood plain.

To ensure that owners will have sufficient land upon which to build a structure which is flood free, compliance with floodway widths and the one hundred (100) year flood elevations contained within the ~~city's~~ Federal Emergency Management Agency (FEMA) flood insurance study (FIS) is mandatory. The ~~city planner~~agent may require the subdivider to provide elevation and flood profiles based on a one hundred (100) year flood plain (which means a flood of a magnitude likely to happen, on the average, only once every century) sufficient to demonstrate the land to be completely free of the danger of flood water at an elevation of at least three (3) feet below any probable floor level of any building for human occupancy.

Sec. 24.1-16.2. Flood control and drainage

The subdivider shall provide that information necessary to determine what improvements are required to develop the subject property, including topography, drainage plans and flood control devices. The plans for such improvements shall include a statement from a licensed professional engineer or other persons appropriately licensed by the Commonwealth of Virginia, that such improvements when installed will be adequate for development. In subdivisions where the streets are dedicated to public use, the city engineer shall either approve or disapprove the plans.

Sec. 24.1-17. Building site and setback.

The site and setback of buildings within a subdivision shall comply with the zoning ordinance.

Sec. 24.1-17.1. Building line.

The building line shall comply with subdivision plat restrictions. This ~~line~~ shall not be closer to the street ~~line~~ than the required building setback in the zoning ordinance (~~Section 24.1-17~~).

Sec. 24.1-18. Lot sizes.

Lot sizes shall be in accordance with minimum requirements of the zoning ordinance, or the following subsections, whichever is more restrictive ~~shall apply~~:

(1) Lot size, public water and sewer: Lots served by both public water and sewerage systems shall be in accordance with the zoning ordinance.

(2) The following statement shall be shown on the plat when sewer and water lines are available, but not in place:

~~"The owner of this subdivision~~ subdivider agrees to construct a public water and sanitary sewerage system within the boundaries of the subdivision to meet the policies, regulations, and standards of the city."

Sec. 24.1-19. Lot size, public water or sewer.

(a) Residential subdivisions of five (5) lots or less may be served by private wells or septic tanks provided, that water and/or sewer are not available as defined by Section 24.1-31(c) and that no new roads are required and that lots served by only one (1) of water or sewerage system shall be twenty thousand (20,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider agrees to construct a water or a sanitary sewerage system to meet the policies, regulations, and standards of the city and/or ~~Lynchburg health~~ Virginia Department of Health. Before the construction of any dwelling can begin the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water or the sanitary sewerage system in relation to the location of the dwellings."

(b) Non-residential lots served by only one (1) of public water or sewerage system shall meet the requirements of the ~~Lynchburg health department official~~ and the city, ~~except where exempted by city ordinance or current city policy~~.

Sec. 24.1-20. Lot size, neither public water nor sewer available.

(a) Residential subdivisions of five (5) lots or less may be served by both private wells and septic tanks provided no new roads are required and lots served by neither public water nor sewerage systems shall be twenty-five thousand (25,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider does not agree to construct either a public water or a sanitary sewerage system. Before the construction of any dwelling can begin the city and the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water and sewer systems in relation to the location of the proposed dwellings."

(b) Nonresidential lots served by neither public water nor sewerage systems shall meet the requirements of the ~~Lynchburg health office department official~~ and the city, ~~except where exempted by the city ordinance or current city policy.~~

Sec. 24.1-21. Septic tanks.

The ~~city planner~~ agent shall not approve any subdivision where sanitary sewers are not provided unless the subdivision is of five (5) lots or less and the ~~city planner~~ agent receives in writing from the health official, a statement to the effect that the area contained in the subdivision is satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health. Final approval as to site suitability will be made prior to approval of the plat. ~~at the time of application for a building permit.~~

(a) Greater lot areas may be required or certain lots may be disapproved where individual septic tanks or individual wells are to be used, if the health official determines that there are factors ~~or~~ such as drainage, soil condition, or other conditions to cause potential health problems. Drainfield location shall be approved by the ~~Lynchburg health department official~~.

(b) Public water and sewer required: The ~~city planner~~ agent shall not approve any subdivision of more than five (5) lots unless the subdivision is served by the city ("public") water and sewer system.

Sec. 24.1-21.1. Development of large lots generally.

Notwithstanding any other provisions of this article, subdivisions without public sewer service may be approved by the city council when the following conditions are met:

- (a) Each proposed lot must have at least one (1) acre in area.
- (b) The large lot development must have a minimum size of six (6) lots.
- (c) City sewer service is not reasonably available and economically feasible to extend, as defined in Section 24.1-31(c) of the subdivision ordinance, and sewer service extension is not planned in the city's current capital improvements program.
- ~~(d) If the capital improvements program is revised to include sewer service extension to the area within twelve (12) months of the date of approval of the subdivision plat, or if funds are appropriated for sewer extension within the said twelve (12) months in connection with another development or plan, and a requested large lot development has not yet had an approved plat recorded or construction begun according to approved plans, then any large lot approval that has been given by the city council is hereby rescinded and the proposed development must meet all appropriate land development and sewer service regulations.~~
- (e) (d) The subdivision plat must include all ~~usual~~ standard sewer service easements requested by the city, in order that the development can be readily connected to city sewer service in the future.
- ~~(f) (e)~~ (e) The ~~Commonwealth of Virginia department of health~~ official must approve each of the requested large lots as having sufficient area to accommodate two (2) septic disposal fields prior to subdivision approval by the city.
- ~~(g) (f)~~ (f) All other city land development regulations must be met.
- ~~(h) (g)~~ (g) The city council may disapprove any large lot development if it believes the development will be detrimental to the orderly development of the area or the efficient provision of public services.

Sec. 24.1-22. Flood control and drainage. Repealed

~~The subdivider may be required to provide that information necessary to determine what improvements are required to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The plans for such improvements shall include a statement from an engineer, or any other person certified by the State of Virginia, that such improvements when properly installed will be adequate for proper development. In subdivisions where the streets are dedicated to public use the city council shall either approve or disapprove the plans.~~

Sec. 24.1-23. Easements.

~~Easements of seven and one-half (7 1/2) twenty (20) feet minimum in width on each side of the center line of the easement shall be provided for water, sewer, power and telephone lines and other utilities, as well as cable television service lines, storm drainage in the subdivision. Such easements shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. Such easements shall be laid out so as to ensure continuity of the for utilities from block to block and to adjacent property. Such utility easement shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. In situations when pipes exceeding thirty-six (36) inches in diameter and or pipes exceeding eight (8) feet in depth are necessary, an additional ten (10) feet of easement width may be required.~~

Easements shall be provided for electric, telephone, cable television and natural gas of sufficient width and location as determined by the appropriate utility company.

Nothing in this section is intended to prohibit the placement of public utilities within dedicated rights-of-way. Placement of private water and sewer lines is prohibited in the public right-of-way. The city planner~~agent~~ may require that easements for drainage through adjoining property be provided by the subdivider.

Sec. 24.1-24. Fire protection.

The installation of adequate fire hydrants and mains in a subdivision may be required by the city at locations approved by the city of Lynchburg, provided necessary public water is available. Fire

protection shall meet the requirements of the applicable sections of the City of Lynchburg Fire Code.

Sec. 24.1-25. Bond.

Every subdivider shall provide to the city a guarantee of performance prior to the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof in which any street, curb, gutter, sidewalk, bicycle trail, drainage or sewer system, water line, site-related improvements required by local ordinances for vehicular ingress and egress, traffic signalization and control, structures necessary to ensure stability of critical slopes, stormwater management facilities, or other improvement dedicated for public use that is to be constructed in whole or in part by private funds, and is to be maintained by the city. To guarantee such performance the subdivider shall: (i) certify to the city engineer that the construction costs have been paid to the person constructing such facilities (ii) furnish to the city engineer a certified check, a financial institution's letter of credit, a cash escrow account, or a personal, corporate or property bond, with surety satisfactory to the governing body city engineer, hereinafter referred to as the "performance guarantee," in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned, or (iii) furnish to the city engineer a financial institution's letter of credit on certain designated funds satisfactory to the city engineer agent as to the financial institution, the amount and the form. The amount of such performance guarantee shall equal the total estimate cost of construction based on unit prices for new construction in the city plus a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five (25) percent of the estimated construction costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

~~(1) Within fifteen (15) days, after notification by the owner that the construction is complete, the city shall inspect the construction and notify the owner in writing of those items of construction which are not satisfactory, or that the construction is approved. The city may release fifty (50) percent of the bond upon notification by the owner that fifty (50) percent of the construction is complete. The owner shall certify that all construction costs have been paid to persons constructing the facilities and the city shall inspect the facilities, to~~

~~ensure that fifty (50) percent of the work is complete, within fifteen (15) days of notification by the owner.~~

~~(2) The developer and the development principals thereof shall provide the city with a guarantee of warranty against defects for a period of one (1) year following acceptance of the subdivision public improvements by the city.~~

If a subdivider records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the city a performance guarantee as defined above for facilities to be dedicated for public use and to be maintained by the city within said section, the developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five years from the recordation date of the first section subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

Notwithstanding other provisions of this section, and provided the subdivider and the city have agreed on the delineation of sections within a proposed development, the subdivider shall not be required to furnish to the city a performance guarantee for the estimate cost of construction of facilities to be dedicated for public use within each section of the development until such time as construction plans are submitted for the section in which such facilities are to be located.

Sec. 24.1-25.1 Partial and final release of certain performance guarantees.

(a) The city shall provide for the periodic partial and final complete release of any performance guarantee required by the city under this article within thirty (30) days after receipt of written notice by the subdivider of completion of part or all of any required public facilities unless the city engineer notifies the subdivider in writing of nonreceipt of approval, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty (30)-day period. Any inspection of such public facilities shall be based solely upon conformance with the Manual of Specification and Standard Details and the approved design plan for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the city or a person who has contracted with the city.

(b) If no such action is taken by the city within the time specified above, the request shall be deemed approved, and a partial release shall be granted to the subdivider. No final release shall be granted until after expiration of such thirty (30)-day period and there is an additional request in writing sent by certified mail return receipt to the city manager. The city engineer shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider.

(c) After receipt of the written notices required above, if the city takes no action within the times specified above and the subdivider files suit in the local circuit court to obtain partial or final release of a performance guarantee, the circuit court, upon finding the city was without good cause in failing to act, shall award such subdivider his reasonable costs and attorneys' fees.

(d) The city shall not refuse to make a periodic partial or final release of a performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said performance guarantee.

(e) Upon the completion of at least thirty (30) percent of the public facilities covered by any performance guarantee, and upon written request by the subdivider, the city shall make periodic partial releases of such performance guarantee in a cumulative amount equal to no less than ninety percent of the original amount of the completed work for which the performance guarantee was taken. The city shall not be required to execute more than three periodic partial releases in any twelve-month period. Upon final completion and acceptance of the public facilities, the city shall release any remaining performance guarantee to the subdivider. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

Sec. 24.1-26. Improvements.

Minimum improvements and construction standards required of all subdivisions are set forth in these regulations and in the applicable design standards and specifications of the ~~public works department of~~ the City of Lynchburg Manual of Specifications and Standard Details for

construction. Prior to beginning any subdivision construction improvements, the ~~developer~~ subdivider shall have a ~~registered~~ professional civil engineer or other persons appropriately licensed by the Commonwealth of Virginia prepare for the city's approval, a complete set of engineering plans and specifications. The city shall approve, or notify the subdivider of those plans and specifications which are not satisfactory, in writing within fifteen (15) days of official submittal of such plans and specifications and provided the final plat has been approved by the city planner~~agent~~. These processes may run concurrently, however, any changes required to the plat shall be at the expense of the subdivider.

Sec. 24.1-27. City obligation.

Nothing herein shall be construed as creating an obligation upon the city to pay for grading or paving, or for sidewalks, sewers, curb and gutter improvements or construction or any other costs in connection therewith, other than that which has been specified ~~for certain required improvements~~ elsewhere in this chapter.

Sec. 24.1-28. Lots.

Lots platted shall be in conformance with the following:

(a) Shape: The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable ~~for normal purposes.~~

(b) Location:

(1) Each lot shall have frontage on a public street or an existing private street, as defined in Section 24.1-5. Words and terms, reflected on the subdivision plat, or on a street which has become public by right of use, except lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes~~ developments.

(2) Lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes~~ developments

may front on private common drives and/or easements within the development which have access to an improved public street. Responsibility for maintenance of said private streets shall be with the association charged with management and ownership of common open space, property and facilities and shall be so stated on the plat.

~~(3) Each lot shall be located and designed such that a usable driveway can be built to access the lot directly from the street on which it has the required street frontage, except for lots in approved planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.~~

(c) Corner lots: Corner lots shall have extra width sufficient for maintenance of required building lines on both streets as required by the zoning or subdivision ordinance, whichever is more restrictive.

~~(d) Sight distance (across intersections): Clear sight triangles of fifty (50) feet measured along edge of pavement lines from their points of junction shall be provided at all intersections, and no building, structure, grade or planting higher than three (3) feet above the center line of the street shall be permitted within such sight triangle.~~

~~(e)~~ (d) Side lines: Side lines of lots shall be approximately at right angles, or radial to the street line and be marked plainly before inspection by the city.

~~(f)~~ (e) Remnants: All remnants of lots below minimum size, as required in the zoning ordinance, left over after subdividing of a tract must be added to adjacent lots.

~~(g)~~ (f) Separate ownership: Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, a signed statement with free consent by all owners, proprietors and trustees shall accompany the final plat and lot sizes and arrangement shall meet the requirements of this ordinance. Said statement is to be deposited with the ~~clerk of council~~ city planner and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

~~(h)~~ (g) House numbers and street names: House numbering and street naming shall be in accordance with the ~~Lynchburg~~ city street naming/house numbering ordinance.

(i) (h) Standards for cluster housing developments: All units for sale in cluster housing developments must meet minimum standards specified in Section 35.1-56 of the zoning ordinance.

~~(j) County boundary lines: No proposed lot shall be split by a county boundary line where it is practical to create the lot otherwise. In no case will a permit be issued to build a structure which would be split by a county boundary line.~~

Sec. 24.1-28.1. Flag lots.

The creation of flag lots will only be considered in those instances where severe topographic constraints or unusual existing lot lines make this type of lot arrangement the only feasible way to develop the tract. In such cases the proposed subdivision may be approved by the city planner when the following conditions are met:

(a) Each flag lot shall have a minimum of fifty (50) feet of frontage on a street, public or private as defined in Section 24.1-5. Words and terms, except for a lot on a cul-de-sac which shall have a minimum street frontage of thirty (30) feet.

(b) The required minimum lot area shall meet the zoning ordinance requirement of the district in which it is located and shall not include the area of the long narrow "flagpole" portion.

(c) Not more than two (2) adjacent flag lots shall be created.

(d) The development of one (1) flag lot behind another flag lot shall be prohibited.

(e) A flag lot shall not be further subdivided until a public street to serve the proposed lot(s) is dedicated and constructed with a minimum right-of-way of fifty (50) feet, or unless a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex~~ development is approved for the property, and a note to this effect shall be placed on each subdivision plat which contains a flag lot.

(f) A note shall be placed on the final subdivision plat stating that public services such as refuse collection, snow removal, and street maintenance will only be provided to the point where the flag lot meets the public street right-of-way.

(g) Flag lots with flagpole access strips greater than two hundred (200) feet in length shall provide, at the ~~developer's~~ subdivider's expense, a driveway which is capable of supporting emergency vehicles and which is at least ten (10) feet in width for the front half closest to the street and at least twenty (20) feet in width for the rear half to allow for the pass-by of vehicles.

(h) The maximum length for the flagpole access strip shall be seven hundred (700) feet in order to provide adequate fire protection.

(i) The house on a flag lot must have a setback of at least fifty (50) feet from all property lines.

(j) A driveway on a residential flag lot shall be located a minimum of five (5) feet from all lot lines, unless approval has been obtained from a shared driveway with one (1) of the adjacent lots.

Sec. 24.1-29. Blocks.

(a) Residential: Residential blocks shall be in conformance with the following:

(1) Length: The maximum length of blocks generally shall be twelve hundred (1,200) feet and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet unless topographic conditions prohibit the same.

(2) Width: Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, unless prevented by topographical conditions or size of the property. Where the parcel fronts on a major thoroughfare, the city may approve a single tier of lots of minimum depth.

(3) Orientation: Where a subdivision adjoins a major thoroughfare, the city may require that the lesser dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

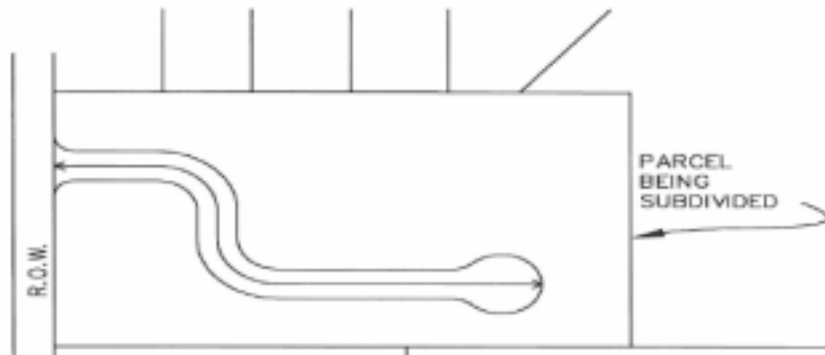
(b) Nonresidential: Blocks intended for nonresidential use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities in accordance with the zoning ordinance.

Sec. 24.1-30. Streets.

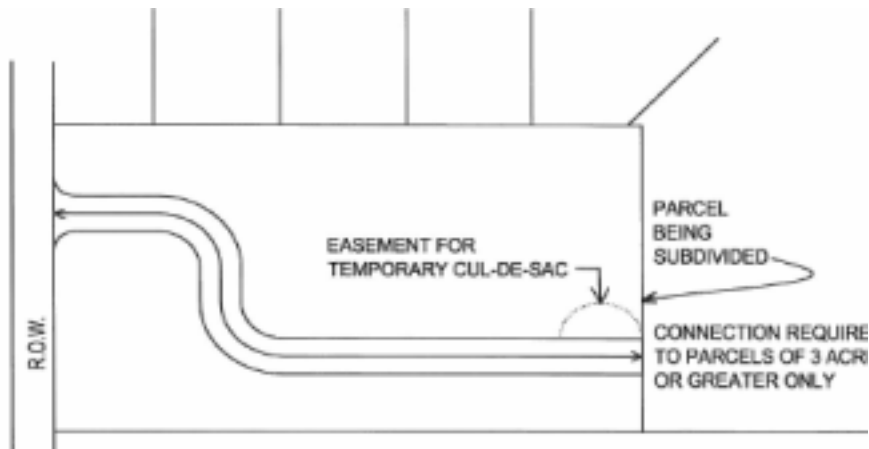
(a) (1) Residential: In residential subdivisions where the streets are dedicated to public use, all street and drainage improvements, ~~excluding curbs and gutters,~~ shall be installed by the subdivider ~~at his cost.~~ The subdivider shall clear and grade every street to the full width of the right-of-way with provisions for mowable three (3) to one (1) or flatter slopes on private property, except where topography prohibits. Specifications and requirements shall be in accordance with the standards established by the city in the City of Lynchburg, Manual of Specifications and Standard Details.

(2) Nonresidential: In nonresidential subdivisions where the streets are dedicated to public use, the cost and installation of all streets and drainage improvements shall be in accordance with current city policy, as established by city council.

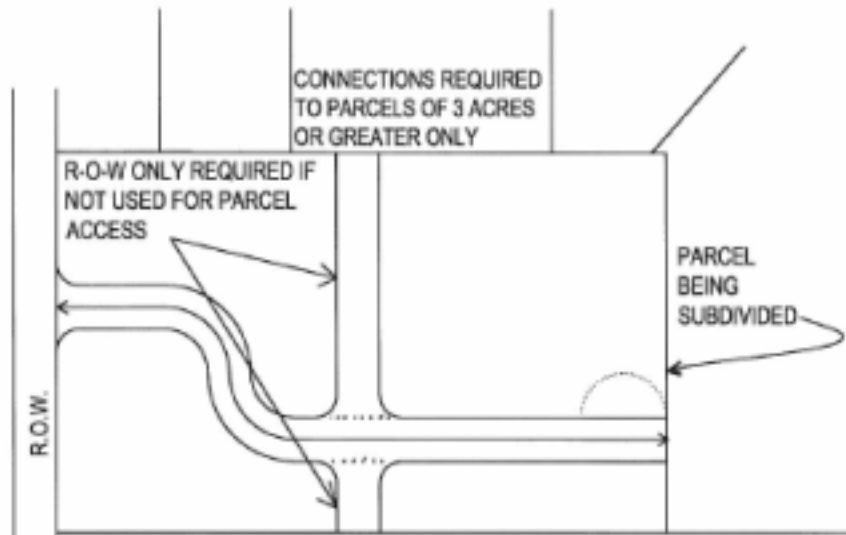
(b) Alignment and layout: The arrangement of streets in new subdivisions shall make provision for the continuation of existing, proposed and future streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. In residential and commercial subdivisions, street segments of six hundred (600) feet in length or greater shall have right-of-way dedicated to provide street connections at each end. Street segments of one thousand two hundred (1,200) feet in length or greater shall have right of way dedicated to provide street connections at each end and at least one (1) potential connection to the left and one (1) potential connection to the right adjoining properties. Notwithstanding other requirements of this section, connections shall not be required to any adjoining parcel of less than three (3) acres in size. Whenever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the city. Where topographical features are prohibitive, no dedication for street continuation shall be required.



Street Length: Less than 600 Feet



Street Length: 600 - 1,199 Feet.
 Connection (or potential connection) required at both ends.



Street Length: 1,200 feet or greater.

Potential connections required at both ends and both sides.

(c) Improvements Required: The subdivider shall improve right-of-way one hundred (100) feet beyond the beginning of the furthest parcel or the end of the furthest driveway location, whichever is farther. This improvement shall include a turnaround facility as detailed by the Manual of Specifications and Standard Details. The subdivider shall improve the full length of any right-of-way within the subdivision that connects to an existing or proposed street.

(d) Improvements Not Required: Except where specifically required by paragraph (c) above, whenever right-of-way is dedicated solely to provide required connections to adjoining property, the subdivider shall only be required to dedicate an unimproved right-of-way_ to give convenient access, acceptable to the city, to owners of adjoining property except where the subdivider's lots front on such right-of-way, the right-of-way shall be improved and extended to the property line of the adjoining property owners and where topographical features are prohibitive, no dedication for access shall be required.

(e) (e) Service drives: Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, where adequate access is not provided, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway or expressway and the proposed subdivision. Such distance shall be determined with due consideration of the minimum distance required for ingress and egress to the limited access highway or

expressway. The right-of-way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

~~(d)~~ (f) Approach angle: Streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees, unless the ~~city~~ city engineer shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

~~(e)~~ (g) Minimum widths: The minimum width of proposed streets, measured from lot line to lot line, shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. ~~Street widths are typically but not always~~ However, in no case shall a street be less than fifty (50) feet in width. The street width shall be based on the post development average daily traffic and shall be of sufficient width to accommodate the typical street cross section designated therein. If an existing street is to be utilized for access and such street is not of sufficient width per the criteria of the City of Lynchburg Manual of Specifications and Standard Details and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen the street to accommodate the standard street width. Alleys, if permitted, shall be not less than twenty (20) feet, nor more than twenty-eight (28) feet in width. If an existing street is to be utilized and such street is not fifty (50) feet in width and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen such street to fifty (50) feet or the standard width of that street, whichever is greater. Should the subdivider subdivision abut on only one (1) side of an existing street, the subdivider shall dedicate enough land so that then provisions shall be made on the plat to widen one-half (1/2) of the width of such street, to accommodate the standard street width as measured from the centerline to the subdivision property line, shall be twenty-five (25) feet or one-half (1/2) the standard width of such street, whichever is greater of the existing street.

Alleys for vehicular access, if permitted, shall be not less than fourteen (14) feet in width for one way traffic nor more than twenty-eight (28) feet in width for two way traffic.

~~(f)~~ (h) Grading and paving widths: Grading and paving of all streets dedicated to public use shall be in accordance with regulations

established by the City of Lynchburg, Manual of Specifications and Standard Details.

~~(g)~~ (i) Grades: The grades of streets shall be in accordance with specifications established by the city, and such grades as submitted on subdivision plats shall be approved by the city prior to final action by the city planner~~agent~~. ~~Wherever feasible, Maximum allowable~~ street grades should not exceed ten (10) percent ~~and the maximum allowable grade shall be fifteen (15) percent~~, unless otherwise approved by the city engineer.

~~(h)~~ (j) Cul-de-sacs: ~~Minor~~ Terminal streets (cul-de-sacs), designed to have one end permanently closed, ~~shall be not longer than twelve hundred (1,200) feet to the beginning of the turnaround unless approved by the city. Each cul-de-sac must~~ shall be terminated by a permanent or temporary turnaround per the Manual of Specifications and Standard Details. ~~of one hundred (100) feet in right-of-way diameter. This requirement does not apply to nonresidential subdivisions as these streets will be approved by the city.~~

(i) (k) Curbs, and gutters and sidewalks: Curbs, and gutters are required ~~and in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details~~. Except where pedestrian traffic is explicitly prohibited, sidewalks are required (i) on at least one (1) side of all streets, (ii) on both sides of streets with a post-development traffic count of greater than six thousand (6,000) vehicles per day. The cost of said curbs, ~~and gutters and sidewalks~~ shall be borne fifty (50) percent by the city and fifty (50) percent by the developer subdivider. Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision.

~~(j) Sidewalks: Sidewalks shall be provided by the subdivider where need is demonstrated by the agent with consideration to each subject location with respect to: (1) pedestrian safety, speed limit, street width and street alignment; (2) vicinity of schools, parks, playgrounds, and/or commercial development; (3) street traffic with 6,000 minimum vehicles per day; and~~

~~(4) pedestrian traffic with minimum of 75 people per day. Where need for sidewalks is determined by the agent, cost shall be borne 50 percent by the city and 50 percent by the subdivided.~~

~~(k)~~ (l) Alleys: Deadend alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the city.

~~(l)~~ (m) Identification signs: Street name signs shall be installed by the city at cost to the subdivider.

~~(m)~~ (n) Street lighting: Where the subdivider desires street lighting, no installation cost shall be borne by the city. ~~Where underground utilities are installed, the subdivider shall install conduit and markers for mounting bases to permit future installation of street lighting.~~

Sec. 24.1-31. Public water supply and sanitary sewer system required.

Subdivisions of more than five (5) lots shall be served by the city ("public") water and sewer systems.

(a) Sewer and/or water available: Where a public water supply and/or a public sanitary sewer system are (reasonably accessible as defined in Section 24.1-31(c)) the said water supply and/or sanitary sewer system shall be designed and extended to adequately serve all lots within the subdivision, according to the design standards issued by the city public works department. All plans are to be approved by the city.

The cost of installing the sanitary sewer and water system including all appurtenances, except connections and meters, within the subdivision boundaries shall be paid one hundred (100) percent by the subdivider for the size mains needed to serve the subdivision. The minimum size main shall be as determined by the city. If larger mains are required by the city to serve other areas, then the difference in cost, based on the city's annual bid prices, shall be paid by the city. The city will extend and pay one hundred (100) percent of the cost to provide water and/or sewer lines to the subdivision boundary according to Section 24.1-31(c).

Service connections for both water and/or sanitary sewer shall be constructed to each lot within the subdivision. ~~The cost of these connections will be paid one hundred (100) percent by the city based on the city's annual bid prices.~~ Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision. The subdivision plat will contain a notation to the effect

that appropriate sewer/water connection and availability fees will be charged by the city at the time of connection to the system.

(b) Sewer and/or water not available: Where a public water supply and/or a public sanitary sewer system are not reasonably accessible as defined in Section 24.1-31(c). the extension of these systems by the subdivider will not be required; however, where the subdivider desires the extension of such systems which exceeds the ratio stated in Section 24.1-31(c) and agrees to pay the additional cost of the extension to the subdivision boundary, then the city shall extend the lines in accordance with Section 24.1-31(a).

(c) Water/sewer lines availability defined: Reasonably available water and/or sewer lines are defined as those lines which are economically feasible to extend from water and sewer lines mandated by the 1976 annexation decree and/or other lines previously constructed.

To be economically feasible in a residential subdivision, there must be at least one (1) lot for each one hundred (100) feet of utility line construction. The following are examples of feasibility ratios:

Feet of water/sewer line construction	Required number of lots
5,000	50
3,000	30
1,000	10
500	5

For extensions to multi-family subdivisions the feasibility ratio would require two (2) dwelling units per one hundred (100) feet of extension. Thus:

Feet of water/sewer line construction	Required number of dwelling units
5,000	100
3,000	60
1,000	20
500	10

(d) Lots in cluster developments including townhouses ~~for sale~~ and condominiums: Public water and sewer systems shall serve each individual lot in all cluster developments including townhouses ~~for sale~~ and condominiums. The public system shall be brought to an appropriate location(s) on the property line of the development adjacent to a public right-of-way or through a public easement. ~~From that appropriate location(s). the cluster development shall provide~~

~~private system connecting each unit to the public system. Said private system and payment for service shall become the responsibility of the association charged with management and ownership of common open space, property, and facilities and shall be so stated on the plat.~~

(e) In cases where an obstacle (such as a stream, railroad, or highway crossing, etc.) increases the construction cost beyond twenty (20) percent of the normal distance to dollar ratios, based on the city's annual contract pricing, the subdivider may be required to pay a larger share of the sewer and water facility construction costs as determined by the city's physical development committee.

Sec. 24.1-32. Storm drainage.

A storm drainage system shall be required to adequately provide for drainage of the subdivision. The subdivider shall pay the cost of this system. The subdivider may be required to pay ~~his~~ the pro rata share of sewerage and drainage facilities outside ~~his~~ the subdivision property limits which are necessitated by the construction or improvement of ~~his~~ the subdivision or development.

Sec. 24.1-33. Monuments.

(a) Visible for inspection: Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the city are clearly visible for inspection and use. Such monuments shall be inspected and approved by the city before any improvements are accepted by the governing body. All monuments shall be set by a surveyor licensed by the Commonwealth of Virginia.

(b) Location—~~concrete, stone~~: Two (2) permanent reinforced monuments as prescribed by the city shall be placed on the longest street tangent intervisible. Such permanent monuments shall be ~~stone or reinforced concrete at least twenty-four (24) inches long and six (6) inches square and shall be set to approved finished grades as practicable~~ as specified in the City of Lynchburg, Manual of Specifications and Standard Details.

(c) Location—iron: All other lot corners shall be marked with pipe or solid iron not less than one-half (1/2) inch in diameter and fifteen (15) inches long and driven so as to be flush with the finished grade. When

rock is encountered, surveyor shall determine a suitable method for providing a permanent marker.

Sec. 24.1-34. Reservation of land for public purposes.

The city may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public uses, subject to the following regulations:

(a) Subdividers shall not be required to reserve land for public purposes other than streets and drainage, except on a reimbursement basis. The subdivider shall be reimbursed by the jurisdiction or agency requiring the land. The city shall be required to obtain an option upon the property involved for a negotiated period following the recording of the plat for such purchase. If the land is not purchased within the said negotiated period by the city and the subdivider, it may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on ~~his~~ the final plat, by dotted lines and dotted numbers, the sizes and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.

(b) The city shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of ~~his~~ the subdivision.

(c) Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the zoning ordinance.

Sec. 24.1-34.1. Vacation or alteration of boundary lines.

(a) The ~~city planner~~~~agent~~ may approve the vacation, relocation, or alteration of boundary lines of any lot or parcel of land shown on a valid and properly recorded plat of a subdivision or re-subdivision approved as provided for in this subdivision ordinance and executed by the owner or owners of such land, as provided in Section 24.1-42. Such approval may be given provided that the vacation, relocation, or

alteration of a lot line does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas; and, provided further, that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding an interest therein.

(b) The city planner may approve a plat altering or relocating the boundary line between no more than two (2) lots or parcels provided that all monuments necessary to alter or relocate the boundary line and at least one (1) lot corner are indicated on the plat. All other information may be indicated by providing reference to and as shown on a valid and properly recorded subdivision plat.

(c) The city planner may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the city planner. The deed shall reference the recorded plat by which the lot line was originally created.

ARTICLE VII. APPROVAL OF PLATS

Sec. 24.1-35. Approval required before construction and sale.

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider shall comply with the following requirements regarding approval of plats.

Sec. 24.1-36. Preliminary sketch (not required).

The subdivider may, ~~if he so chooses,~~ submit ~~to the planning division~~ a preliminary sketch of the proposed subdivision to the planning division prior to his preparing an engineering preliminary and/or final plat. Submission of the preliminary plat shall not constitute the official filing of a proposed subdivision. The purpose of such preliminary sketch is to permit the planning division to advise the subdivider whether his plans, in general, are in accordance with the requirements of this ordinance. The planning division, upon submission of any preliminary sketch, shall study it, and advise the subdivider within fifteen (15)

days ~~wherein~~ whether it appears that changes would be necessary. The planning division may mark the preliminary sketch indicating necessary changes and any such marked sketch should be returned to the planning division with the preliminary plat. The preliminary sketch shall be as follows:

The preliminary sketch may be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to scale. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

Sec. 24.1-37. Preliminary plat.

The subdivider shall present to the planning division the appropriate number, as the city planner determines are needed, of eighteen (18) copies of a preliminary layout at a scale of not less than one hundred (100) feet to the inch and on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches as a preliminary plat and the preliminary plat shall be accompanied by plan and profile sheets at a scale of fifty (50) feet to the inch horizontal and ten (10) feet to the inch vertical.

The preliminary plat shall include the following information:

(a) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, true and/or magnetic north point and scale.

(b) Location of proposed subdivision by an insert map with a north arrow and scale at a scale of not less than two (2) inches equal one (1) mile showing adjoining roads, their name and number, counties, subdivisions and other landmarks.

(c) The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in five thousand (5,000), total acreage, acreage of subdivided area, number and approximate area and frontage of all building lots, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, delineation

of flood plain districts, and names of owners and their property lines adjoining such boundaries.

(d) All existing platted streets, including alleyways, and all proposed streets, their names and widths; existing and proposed utility or other easements, public areas and parking spaces, culverts, drains and water courses, their names and other pertinent data.

(e) All parcels of land to be dedicated for public use and the conditions of such dedication.

(f) Topography at maximum intervals of five (5) feet.

(g) Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith, or as necessary for the city to reasonably interpret the intention of the subdivider. Major grade changes shall be indexed to profile sheets.

(h) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.

(i) Provisions for collecting and discharging surface drainage and preliminary descriptions of any structures that may be required.

Sec. 24.1-38. Procedure.

The city planner~~agent~~ or his appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not ~~his~~ the preliminary plat generally conforms to the requirements of the subdivision ordinance.

The subdivider shall then be advised in writing within fifteen (15) days, which may be by formal letter or by meaningful markings or descriptions on ~~his~~ the copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements and the amount of the surety bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the surety bond, the city engineer~~agent~~ may require the subdivider to furnish a bona fide estimate of the cost of

improvements to assist the city engineer~~agent~~ in determining the amount of surety bond.

Sec. 24.1-39. Preliminary plat ~~may be submitted~~ approval as final plat.

The preliminary plat may be submitted as the final plat where approved by the city planner~~agent~~ and provided no change, erasure or revision shall be made on any preliminary or final plat nor on accompanying data sheets after approval of the city planner~~agent~~ has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the city planner~~agent~~.

Sec. 24.1-40. No guarantee.

Approval by the city planner~~agent~~ of the preliminary plat does not constitute a guarantee of approval of the final plat.

Sec. 24.1-41. Twelve months' limit.

The subdivider shall have not more than twelve (12) months after receiving official notification concerning the preliminary plat to file with the city a final subdivision plat in accordance with this ordinance. Failure to do so shall make preliminary approval null and void. The city planner~~agent~~ may, on written request and with good cause shown by the subdivider, grant an extension of this time limit.

Sec. 24.1-42. Final plat.

~~If no preliminary plat is submitted in accordance with Section 24.1-39,~~
The submission of a final plat shall constitute the official filing of a proposed subdivision. ~~Twenty (20)~~ The appropriate number, as the city planner determines are needed, of copies of the final plat shall be submitted to the city for final approval and subsequent recording. Blue or black line prints (surveyor's copies) shall be clearly and legibly drawn at a scale of not more than one hundred (100) feet to the inch on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches.

For any subdivision of five (5) lots or more the digital data associated with the creation of the subdivision plat shall be provided to the city planner~~agent~~ in a format approved by the city. The digital data shall be "georeferenced" to the State Plane Coordinate System, North American Datum 1983, Virginia South Zone #4502. The data shall be certified by a licensed ~~engineer or surveyor or other persons~~ appropriately licensed by the Commonwealth of Virginia for accuracy and correctness. Where the subdivider can show that the subdivision plat was not created using computer aided design (CAD) software, or adherence to these requirements would produce unnecessary hardships the city planner~~agent~~ may grant an exception in whole or in part to the requirements for digital data submission.

The final plat shall include the following information and all information which is required on the preliminary plat shall be provided on the final plat:

(a) Name of subdivision, city, state, owner, true and/or magnetic north point and scale of drawing and number of sheets. If shown on more than one (1) sheet, matched lines shall clearly indicate where the several sheets join. A space shall be reserved for the signature of the city engineer and the city planner ~~clerk of council~~ if no new streets are dedicated. If the plat includes the acceptance of right-of-way, a space shall be reserved for the signature of the city engineer and the city manager.

(b) Location of proposed subdivision by an insert map with north arrow and scale at a scale of not less than two (2) inches equal one (1) mile indicating adjoining roads, their names and numbers, counties, subdivisions and other landmarks.

(c) A boundary survey with an error of closure within the limits of one (1) in five thousand (5,000) related to the magnetic meridian and showing the location of all monuments and their type of material within the boundary of the subdivision. The survey may be related to the U. S. Coast and Geodetic Survey state grid north if the coordinate of two (2) adjacent corners of the subdivision are shown.

(d) ~~Certificates signed by the surveyor setting forth~~ The source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

(e) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the

owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements to deeds.

(f) When the subdivision consists of land acquired from more than one (1) source of title the outlines of the various tracts shall be indicated by dotted lines and identification of the respective tracts shall be placed on the plat.

(g) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines, boundaries of all proposed or existing easements and utilities, existing parks, school sites or other public areas, the number and area of all building lots, all existing public and private streets, their names, numbers and widths, water courses and their names, if any, delineation of flood plain ~~districts~~ zones, names of owners and their property lines within the boundary of the subdivision and the names of owners and their property lines adjoining said boundaries.

(h) All dimensions shall be shown in feet and decimals of a foot to the closest two (2) decimal points, all bearings shall be shown in degrees and minutes to the nearest minute.

(i) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following; delta angle, radius, arc, tangent, chord and chord bearings.

(j) Any restrictions imposed by the subdivider shall be shown on the plat, or on attached sheet(s) in which case it shall be stated on the plat that deed restrictions are on the said attached sheet(s) or as filed in Plat Cabinet number (identify number) of the office of the clerk of the circuit court.

(k) Where public water and or sewer systems are to be provided it shall be indicated on the plat and shall reflect whether such facilities will be owned by the City of Lynchburg or privately owned, indicating the name or title of the owner.

(l) A statement as to whether utilities will be placed overhead or underground.

(m) All other applicable minimum standards for surveys as defined within Chapter 20 of the Virginia Administrative Code.

A house number shall be assigned to each lot created by the subdivision as provided in section 35-114 and chapter 35, article VII of the city code.

Sec. 24.1-43. Conditions.

The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this ordinance and has made satisfactory arrangements of surety bond to cover the cost of necessary improvements to the satisfaction of the city.

Sec. 24.1-44. Approval.

The ~~city planner~~~~agent~~ shall not approve the final plat until ~~he has received receipt of~~ a written statement from the ~~health department official~~ that the subject property is suitable for the proposed development; nor shall ~~he approve~~ the plat ~~be approved~~ when city public water and/or sewer is to be provided until the ~~city planner~~~~agent~~ receives in writing that the system has been approved and accepted by the City of Lynchburg or the subdivider has the required surety in place. Where a subdivision has been approved administratively by the city planner, no additional subdivision of the new lots or of the residue tract shall be approved within a period of two (2) years from the date of approval, unless the land is industrially-zoned or the two-year time limit is waived by the city planner.

(a) Approval of the final plat shall be written on the face of the plat by the city engineer and ~~city planner~~ ~~clerk of council~~ if no new streets are dedicated. Approval of the final plat that includes acceptance of right-of-way shall be written on the face of the plat by the city engineer and city manager; all copies shall be retained by the ~~clerk of council~~ city planner until the subdivider is ready to record same. (See also Section 24.1-28(g).) The ~~city planner~~~~agent~~ shall notify the subdivider in writing when the plat is approved and the subdivider shall record the plat within six (6) months after final approval. The ~~city planner~~~~agent~~ may, on written request of the subdivider, grant an extension of this time, otherwise he shall mark the plat void and return same to the subdivider.

(b) The city council, commission or ~~other agent~~city planner shall render a decision on the proposed plat right-of-way within sixty (60) days after it has been submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore.

Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

If the city council, commission or ~~other agent~~city planner fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the commission or city planner~~agent~~, may petition the circuit court of the city ~~or county in which the land involved, or the major part thereof, is located,~~ to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

If the city council, commission or ~~other agent~~city planner disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be.

The time requirements contained in this section shall not apply to the submission of any preliminary subdivision plat.

ARTICLE VIII. EFFECTUAL CLAUSES

Sec. 24.1-45. Exceptions.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, or where, because of topographical or other conditions peculiar to the site, in the opinion of the city planner~~agent~~ a departure may be made without destroying the intent of such provisions, the city planner~~agent~~ may authorize an exception. When the city planner~~agent~~ or subdivider desires, the matter shall be referred first to the commission ~~or and~~

thence to city council for review. Any exceptions authorized under the provisions of this section shall be stated in writing on the plat, by the city planner~~agent~~, commission or city council with the reasoning set forth on which the departure was justified.

~~The agent may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the agent. The deed shall reference the recorded plat by which the lot line was originally created.~~

Sec. 24.1-46. Penalties.

~~Any person violating the foregoing provisions of this ordinance shall not be granted a building permit or extended public utilities and shall be subject to a fine of not more than one hundred dollars (\$100.00) for each lot or parcel ot of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.~~

(a) Any person violating the provisions of this chapter shall not be granted a building permit or extended public utilities and any violation of this chapter shall be a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) for each lot or parcel of land subdivided, transferred or sold and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding ten (10)-day period shall constitute a separate misdemeanor offense for each ten (10)-day period punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).

(b) Any violation or attempted violation of this chapter, or of any regulation adopted hereunder may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding. At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate a zoning ordinance violation and where the owner of the real property is a party to such proceeding, the zoning administrator may record a memorandum of lis pendens pursuant to Section 8.01-268 of the Code of Virginia. Any memorandum of lis pendens admitted to record in an action to enforce a zoning ordinance shall expire after one hundred eighty (180) days. If the city has initiated an enforcement proceeding against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than fifty (50) percent, the pending enforcement proceeding shall continue to be enforced against the owner.

Sec. 24.1-47. Validity.

Should any section, subsection or provision of this subdivision ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of such subdivision ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Sec. 24.1-48 Repealed.

Sec. 24.1-49. Amendments.

This ordinance may be amended in whole or in part. The commission on its own initiative may, or at the request of the city council shall, prepare and recommend amendments to this ordinance. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance; provided, that no such amendment shall be adopted by the governing body without a reference of the proposed amendment to the commission for recommendation, nor until sixty (60) days after such reference, if no recommendation is made by the commission. Provided, further, that the provisions of ~~Section 15.1-431~~

Section 15.2-2204 of the Code of Virginia (1950), as amended, regarding advertisement and public hearings have been complied with.

~~Sec. 24.1-50. Effective date. Repealed~~

~~This ordinance was duly considered, following a required public hearing, and was adopted by the City of Lynchburg, Virginia, on November 14, 1978.~~

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 27, 2010**

AGENDA ITEM NO.: 2 & 8

CONSENT:

REGULAR: **X**

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **FY 2010 Third Quarter Budget Adjustments**

RECOMMENDATION: For review and discussion during work session on April 27, 2010, with a public hearing scheduled for the regular meeting.

Hold a public hearing and adopt a resolution to amend the FY 2010 Adopted Budget and appropriate funds to implement revenue, expenditure, and transfer adjustments as identified on Attachments A and B for the General Operating, City/Federal/State Aid, City Capital Projects, Regional Airport Operating, Fleet Services, Asset Forfeiture, Comprehensive Services Act, Sewer Operating, Sewer Capital Projects, and School Operating Funds.

SUMMARY: In March staff began a review of FY 2010 operating revenues and expenditures of the City's various funds to determine if adjustments were needed prior to the end of the fiscal year. Departments were requested to submit any adjustments that needed to be considered prior to the end of the fiscal year. Attachments A and B provide a list of proposed expenditure and revenue adjustments based on a third quarter review.

Adjustments include:

- increased expenses for ambulance billing related to increased revenue projections (\$39,000)
- increased local match for the Safe and Stable Families Grant due to increased federal and State allocations (\$2,312)
- transfer from the Fire Department budget to the City/Federal/State Aid Fund to close-out old grants for the State Homeland Security Program for HazMat equipment and Assistance to Firefighters Grants for equipment and training (\$296)
- Compensation Board adjustments for the Sheriff (\$24,859)
- expenses related to temporary detention orders served by the Sheriff's Department (\$27,000)
- increased unemployment expenses (\$40,000)
- expenses related to the Adopt-A-Bed Program (\$5,468)
- expenses for snow removal to be funded with the Snow, Street and Bridge Reserve (\$250,000) and Reserve for Contingencies (\$361,884)
- increased electric and natural gas costs at the Community Market (\$14,000)
- costs for the acquisition of parking management equipment - handheld units and 2 pay stations (\$59,448); with funding from additional fine revenue
- increased federal and State funding for Social Services programs (\$1,396,560)
- a reduction in the General Fund subsidy to the Airport (\$13,539) due to increased revenues (\$204,658)
- increased costs for the Comprehensive Services Act Fund, partially funded by additional State revenue (\$730,994) with the local portion to be funded by the Reserve for Contingencies (\$200,000)
- set up a designated reserve from operational savings in FY 2011 for a staff bonus to be paid July 1, 2010 (\$539,596) **[NOTE: This will fund the full cost of the \$500/\$250 bonus from the current fiscal year. It is recommended that the \$270,000 set aside for this purpose in the Proposed FY 2011 Budget, as amended, be combined with the \$110,000 set aside for public safety positions to fund a total of six (6) sworn positions, three (3) in the Police Department, and three (3) in the Fire Department from those that had been recommended to remain vacant.]**
- adjustments to the City/Federal/State Aid Fund to appropriate additional funds from the State and federal governments and adjust the grant budgets equal to the amounts awarded by the State and federal governments (\$967,447 net)

- adjustments to the City Capital Projects Fund revenues to reflect federal and State grant funding with a net reduction (\$88,053)
- funding for the design of Miller Center Renovations (\$79,395), from Capital Fund balance
- funding for Wards Road Pedestrian and Bicycle Improvements (\$1,000,000) transferred from the J & DR Courthouse project
- appropriating Fleet Services Fund auction revenue to be used to purchase vehicles for the Police and Sheriff's Departments (\$185,413)
- appropriating asset forfeiture funds for Commonwealth Attorney's Office (\$16,411) and Police Department (\$118,887)
- transfer from the Sewer Operating Fund to the Sewer Capital Projects Fund for previously appropriated CSO projects (\$1,000,000)
- adjustments to the School Operating Fund to adjust the grant budgets equal to the amounts awarded by the State and federal governments (\$2,971,509 net)

PRIOR ACTION(S): Adoption of the FY 2010 Operating Budget: May 26, 2009

BUDGET IMPACT: These adjustments have little net impact on the FY 2010 Adopted Budget. The General Fund is still projected to end the year with a slight positive balance.

CONTACT(S): Donna Witt, Director of Financial Services 455-3968

ATTACHMENT(S): Attachment A: FY 2010 Third Quarter Detail – Revenues and Expenditures
Attachment B: FY 2010 Third Quarter Schools Grant Adjustments

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the General Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the City/Federal/State Aid Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the City Capital Projects Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Regional Airport Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Fleet Services Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Asset Forfeiture Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Comprehensive Services Act Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg up to the sums for the Sewer Operating Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg up to the sums for the Sewer Capital Projects Fund as identified on the FY 2010 Third Quarter Detail by Fund; and

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Schools Operating Fund as identified on the FY 2010 Third Quarter Detail by Fund.

Introduced:

Adopted:

Certified:

Interim Clerk of Council

046L

FY 2010 THIRD QUARTER DETAIL

GENERAL FUND

DEPARTMENT/DIVISION	REVENUES	EXPENDITURES	PURPOSE
Fire		\$39,000	Appropriate additional ambulance billing fees.
Fire		(\$296)	Reduce Fire Department Operating Budget and Transfer to City/Federal/State Aid Fund to close out old grants.
Transfer to City/Federal/State Aid Fund		\$2,312	Local match for increased federal and state allocations for Safe and Stable Families Grant.
Transfer to City/Federal/State Aid Fund		\$296	Transfer from Fire Department Budget to City/Federal/State Aid Fund to close out old grants.
Sheriff	\$24,859	\$24,859	Increase in state funding for Master Deputy promotions and part-time hours.
Sheriff		\$27,000	Funding for temporary detention orders.
Non-departmental		\$40,000	Appropriation for unemployment costs.
Public Works	\$5,468	\$5,468	Appropriate revenues for Adopt-A-Bed-Program.
Public Works	\$250,000	\$250,000	Appropriate snow, street and bridge reserves to fund snow removal expenditures.
Public Works		\$361,884	Appropriate funds from Reserve for Contingencies for snow storm expenditures.
Parks and Recreation - Community Market		\$14,000	Appropriation for additional electricity and natural gas costs.
Parking Management		\$59,448	Appropriation for parking management equipment.
Social Services	\$1,396,560	\$1,396,560	Appropriate expenditures for ongoing social services programs based upon increased federal and state revenues. No additional local match is required.
Transfer to Airport		(\$13,539)	Reduction in subsidy from General Fund due to increased Airport revenues.
Transfer to CSA		\$200,000	Transfer to CSA fund for additional CSA expenditures from the General Fund Reserve for Contingencies.
Designated Reserve		\$539,596	Set up Designated Reserve for Staff Bonus July 1, 2010 from operational savings in FY 2010
GENERAL FUND TOTAL	\$1,676,887	\$2,946,588	The Reserve for Contingencies, managed vacancy savings and revised revenue projections are being used to fully fund expenditures.

FY 2010 THIRD QUARTER DETAIL

CITY/FEDERAL/STATE AID FUND

DEPARTMENT/DIVISION	REVENUES	EXPENDITURES	PURPOSE
Commonwealth Attorney	\$17,560	\$17,560	Appropriate in-kind match for Violence Against Women Stimulus grant.
Museum	\$2,993	\$2,993	Appropriate Federal American Heritage Preservation grant to purchase preservation materials for the Lynchburg Museum.
Region 2000	\$759,864	\$759,864	Appropriate ARRA funding for Workforce Investment Act grant.
Fire - Multiple Grants	\$296	\$296	Transfer from Fire Department General Fund Budget to close out old grants.
Fire - Fire Programs	\$10,070	\$10,070	Increased funding in Fire Programs Aid to Localities.
Fire - EMS 4 for Life	\$6,841	\$6,841	Adjustment to final award letter.
Fire - Homeland Security Grant	\$98,571	\$98,571	Appropriate Homeland Security Grant.
Social Services - Destiny	\$35,150	\$35,150	Appropriate Federal and State funds for Destiny grant.
Social Services - Independent Living	\$2,093	\$2,093	Increase in Federal and State revenues for Independent Living grant.
Social Services - Education Support	\$19,091	\$19,091	Increase in Federal and State revenues for Education Support grant.
Social Services - Safe and Stable Families	\$14,918	\$14,918	Increase of \$12,606 in Federal and State revenues, and \$2,312 local match for Safe and Stable Families grant.
CITY/FEDERAL/STATE AID FUND TOTAL	\$967,447	\$967,447	

FY 2010 THIRD QUARTER DETAIL

CITY CAPITAL PROJECTS FUND

DEPARTMENT/DIVISION	REVENUES	EXPENDITURES	PURPOSE
Snow, Street, and Bridge Reserve		(\$250,000)	Eliminate Snow, Street, and Bridge Reserve to fund snow removal expenditures in General Fund.
Transfer to General Fund		\$250,000	Transfer to General Fund to fund snow removal expenditures.
Parks and Recreation	(\$32,400)	(\$32,400)	Rescind unspent VDEQ grant appropriation for Allen Morrison site due to favorable bids.
Parks and Recreation		\$79,395	Appropriate funds for Miller Center Renovations design to be funded with Pay-As-You-Go Capital Funds.
Transportation	\$40,000	\$40,000	Appropriate Federal and State funds for Greenview Drive Phase II.
Transportation	(\$30,906)	(\$30,906)	Adjustment to match grant award for Daniel's Hill Historic Street Preservation. VDOT funding was less than anticipated.
Transportation		\$1,000,000	Appropriate funds for Wards Road Pedestrian and Bicycle Improvements.
Transportation	(\$64,747)	(\$64,747)	Adjustment to Kemper Street Bridge and Midtown Phase I projects to align budget to match Virginia Department of Transportation funding.

CITY CAPITAL PROJECTS FUND TOTAL	(\$88,053)	\$991,342	Revenues are less than expenditures due to the realignment of pay as you go cash for the Miller Center Renovations and the Wards Road Pedestrian Improvements. Funds are available from cash previously appropriated for the J&DR Court Building.
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FUND	REVENUES	EXPENDITURES	PURPOSE
Airport	(\$13,539)	(\$13,539)	Reduction in subsidy from General Fund due to increased Airport revenues.
Airport	\$204,658	\$204,658	Net increase to multiple revenue categories resulting from receipts that are higher than anticipated.
REGIONAL AIRPORT FUND	\$191,119	\$191,119	
FLEET SERVICES FUND	\$185,413	\$185,413	Auction revenue used to purchase vehicles for Sheriff and Police.
ASSET FORFEITURE FUND	\$135,298	\$135,298	Appropriate revenue received for Commonwealth Attorney's Office (\$16,411), and Police Department (\$118,887)
COMPREHENSIVE SERVICES ACT FUND	\$730,994	\$730,994	Appropriate \$530,994 State Revenue, and \$200,000 local for additional CSA expenditures.
SEWER OPERATING FUND		\$1,000,000	Appropriate up to \$1,000,000 of funds from the Sewer Operating Fund for additional CSO projects to comply with the special order and financial ratio criteria.
SEWER CAPITAL PROJECTS FUND	\$1,000,000	\$1,000,000	Appropriate up to \$1,000,000 of funds from the Sewer Operating Fund for additional CSO projects to comply with the special order and financial ratio criteria.
SCHOOLS OPERATING FUND	\$2,971,509	\$2,971,509	Adjust grants and special programs to match actual award (Attachment B).

	FY 2009-2010	FY 2009-2010	FY 2009-2010	FY 2009-2010	FY 2009-2010
	ADOPTED	AMENDED	STIMULUS	ADJUST FOR	ADJUSTED
	BUDGET	BUDGET	APPROPRIATED	GRANT AWARDS	BUDGET
FUND 1 OPERATING	86,976,567.00	86,476,567.00	2,322,955.00	404,130.62	89,203,652.62
					-
FUND 5 GRANTS					
FEDERAL:					
CARL PERKINS VOC FUNDS	233,979.00	233,979.00		29,764.07	263,743.07
GEAR UP GRANT	46,700.00	46,700.00	-	2,744.00	49,444.00
619-A PRESCHOOL SPED	62,854.00	62,854.00	78,222.00	30,994.95	172,070.95
21ST CENTURY GRANT	-	-	-	496,041.71	496,041.71
DISTINGUISHED SCHOOLS	-	-	-	8,488.00	8,488.00
TITLE I, PART A	3,005,099.00	3,005,099.00	2,779,108.00	1,336,810.33	7,121,017.33
TITLE I, PART D N&D	302,470.00	302,470.00	78,958.00	(8,537.62)	372,890.38
TITLE II, PART A	673,750.00	673,750.00	-	251,735.74	925,485.74
TITLE II, PART D	31,000.00	31,000.00	91,797.00	27,641.07	150,438.07
TITLE III, PART A	-	-	-	19,771.53	19,771.53
TITLE IV, PART A SDFSCA	60,000.00	60,000.00	-	1,964.22	61,964.22
ALL OTHER ACCOUNTS	42,674.00	42,674.00	-	-	42,674.00
	4,458,526.00	4,458,526.00	3,028,085.00	2,197,418.00	9,684,029.00
COMMONWEALTH OF VA:					
BLUE RIDGE CONSORT	-	-	-	1,570.16	1,570.16
BLUE RIDGE REG JAIL	195,719.00	195,719.00	-	(12,957.00)	182,762.00
DETENTION HOME/CDC	519,830.00	519,830.00	-	241,644.00	761,474.00
ED TECH SERIES	-	-	-	52,000.00	52,000.00
MENTOR TEACHERS	6,456.00	6,456.00	-	3,184.34	9,640.34
QUALITY INITIATIVE	-	-	-	5,063.00	5,063.00
NATIONAL BOARD INCENTIVE	-	-	-	12,500.00	12,500.00
PROJECT GRADUATION	-	-	-	9,616.65	9,616.65
ALL OTHER ACCOUNTS	812,336.00	812,336.00	-	-	812,336.00
	1,534,341.00	1,534,341.00	-	312,621.15	1,846,962.15
LOCAL GRANTS AND PROGRAMS:					
PARTNERS IN EDUCATION	10,195.00	10,195.00	-	11,548.55	21,743.55
PERRY POETS' FUND	-	-	-	700.00	700.00
TITLE VII - HOMELESS GRANT	-	-	-	10,507.31	10,507.31
WEYERHAEUSER GRANT-HES	-	-	-	2,759.10	2,759.10
ISTATION - PERRYMONT	-	-	-	6,500.00	6,500.00
PLAY IT SMART	-	-	-	25,323.92	25,323.92
ALL OTHER ACCOUNTS	12,000.00	12,000.00	-	-	12,000.00
	22,195.00	22,195.00	-	57,338.88	79,533.88
TOTAL GRANTS FUND	6,015,062.00	6,015,062.00	3,028,085.00	2,567,378.03	11,610,525.03
TOTAL OPERATING AND GRANT	92,991,629.00	92,491,629.00	5,351,040.00	2,971,508.65	100,814,177.65

// 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 public 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

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 27, 2010**

AGENDA ITEM NO.: 6

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Hearing – Lease Agreement with Centra Health**

RECOMMENDATION: After a public hearing, approve a lease agreement with Centra Health for a 6,000 square foot area of City-owned property at Lynchburg Regional Airport for the purpose of locating a temporary mobile office and living quarters unit in the general aviation area (adjacent to Hangar 6).

SUMMARY: Due to more stringent insurance requirements recently imposed on hospitals that provide inflight medical services for patient transport, Centra Health has indicated that it will be discontinuing its partnership with the Virginia State Police aviation unit located at Lynchburg Regional Airport as of May 1, 2010. Generally, the new insurance requirements stipulate that all air medical aircraft be licensed under Federal Air Regulation Part 135 and be certified as a commercial air carrier. Since the State Police were apparently not in a position to upgrade their operation to Part 135, therefore, Centra Health has arranged to sub-contract the flight portion of these services to Petroleum Helicopters International (PHI) Air Medical. To accommodate its one helicopter, Centra Health will sub-lease a portion of Hangar 6 from Virginia Aviation, but in addition also needs office/living quarters for pilots and flight nurse personnel. In order to provide for this, Centra has arranged to locate a mobile office and crew quarters trailer to be placed on a site adjacent to the Virginia Aviation hangar they will be sub-leasing. The term of the necessary land lease for the trailer is for a period of 38 months (May 1, 2010 – June 30, 2013).

The Lynchburg Regional Airport Commission at its March 22, 2010 meeting recommended that City Council authorize a lease to permit this operation.

There is a statutory requirement for a public hearing prior to leasing City property.

PRIOR ACTION(S): None

FISCAL IMPACT: For the first 14 months of the lease term, the monthly rent will be \$500.00 with the rent increasing by 2.5% each July thereafter.

CONTACT(S): Mark F. Courtney 455-6091 Airport Director

ATTACHMENT(S): 1) Resolution

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED That the Lynchburg City Council approves a lease agreement by and between the City of Lynchburg and Centra Health for lease of a certain area of land located at the Lynchburg Regional Airport; and,

BE IT FURTHER RESOLVED That the City Manager is authorized to execute the lease agreement on behalf of the City.

Adopted:

Certified:

Interim Clerk of Council

043L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 27, 2010**

AGENDA ITEM NO.: 7

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Re-authorize a \$15,000,000 Line of Credit for Interim Capital Financing**

RECOMMENDATION: City Council is requested to take the following actions to reauthorize a \$15,000,000 Line of Credit for capital projects interim financing.

- (a) Conduct a Public Hearing in accordance with Section 15.2-2606.A of the *Code of Virginia*, 1950, for the issuance of \$15,000,000 General Obligation Public Improvement Bond Anticipation Notes (BANS).
- (b) Adopt a Resolution authorizing the issuance of \$15,000,000 General Obligation Public Improvement Bond Anticipation Notes to evidence borrowings under the March 27, 2008 \$15,000,000 Line of Credit with SunTrust Bank.
- (c) Adopt a resolution amending the FY 2010 General Fund Adopted Budget and appropriate \$10,125 from the General Fund Reserve for Contingencies for seventy-three percent (73%) of the re-authorizing costs.

SUMMARY: In 1997 the City established a Line of Credit to provide interim financing for accelerated water and sewer projects for the Lynchpin Industrial Park. Subsequent to its expiration in January 2002, the City established for a second time a five (5) year, \$15,000,000 Line of Credit in June 2002, which expired in August 2007. That Line of Credit provided interim financing for accelerated construction schedules to renovate E. C. Glass High School. The Line of Credit provided interim financing for the timely construction of capital projects which needed to occur prior to the receipt of bond proceeds. For a third time, the Line of Credit was established in March 2008 for interim financing used for construction of the new Sandusky Middle School while the City awaited the Qualified School Construction Bond proceeds. Additionally, it provided interim financing for water capital needs until the August 2009 general obligation public improvement bond issue permanently financed those projects. Because all projects have been permanently financed by the last two bond issues, future use of the Line of Credit requires a re-authorization approval by City Council. In order to address interim financing needs until the Line of Credit expires in March 2013, the following categories are being presented for City Council's approval. The \$15,000,000 will be allocated as follows: \$4,000,000 for water and sewer capital projects and \$11,000,000 for general government and schools capital projects. It will only finance interim capital needs and will not be utilized for any City operating expenditures. This action will facilitate the City's objectives of not issuing bonds in FY 2011 as well as issuing bonds on an every other year basis and/or when the market environment is more favorable.

The following summarizes the proposed costs:

Costs	FY 2010 Estimate
Bond Counsel	\$12,500
Public Hearing Notice and Miscellaneous	1,000
Total	\$13,500

PRIOR ACTION(S): March 4, 2008 Finance Committee
March 11, 2008 City Council Meeting
April 27, 2010 Finance Committee

FISCAL IMPACT: Line of Credit principal debt retirement will be reflected in future operating budgets annual debt service payments when permanent bond financing occurs. The utilization of interim financing through the Line of Credit along with its related permanent bond financing will be in accordance with the City's Financial Management Policies. The General Fund Reserve for Contingencies will fund \$10,125, or 73%, of the re-authorizing costs, while the Water Fund will fund \$3,375, or 27%, of the remaining re-authorizing costs from the existing FY 2010 Adopted Budget.

CONTACT(S): Donna S. Witt, Director of Financial Services, 455-3968

ATTACHMENT(S): Re-authorizing Resolution for Line of Credit and authorization for City Manager to execute the appropriate documents; Appropriation Resolution for Re-authorization Costs

REVIEWED BY: lkp

A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED FIFTEEN MILLION (\$15,000,000) PRINCIPAL AMOUNT OF BONDS OF THE CITY OF LYNCHBURG, VIRGINIA, AND AUTHORIZING AND PROVIDING WITH RESPECT TO THE ISSUANCE AND SALE OF A LIKE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE AND SALE OF SUCH BONDS

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

SECTION 1. The Council (the "Council") of the City of Lynchburg, Virginia (the "City"), finds and determines as follows:

(a) On March 11, 2008, the Council adopted Resolution No. R-08-030, entitled "A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED FIFTEEN MILLION DOLLARS (\$15,000,000) PRINCIPAL AMOUNT OF BONDS OF THE CITY OF LYNCHBURG, VIRGINIA, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF PUBLIC IMPROVEMENT PROJECTS OF AND FOR SUCH CITY AND AUTHORIZING AND PROVIDING WITH RESPECT TO THE ISSUANCE AND SALE OF A LIKE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE AND SALE OF SUCH BONDS".

(b) On March 27, 2008, the City, pursuant to the authorization contained in Resolution No. R-08-030, entered into a Financing Agreement, dated March 27, 2008, by and between the City and SunTrust Bank (the "Financing Agreement"), and issued its General Obligation Public Improvement Bond Anticipation Note, Series 2008, dated March 27, 2008, in the principal amount of \$15,000,000 (the "SunTrust Note"), to SunTrust Bank pursuant to the Financing Agreement.

(c) The City has heretofore drawn approximately \$11,500,000 under the Financing Agreement, such draws having been evidenced by the SunTrust Note. Of such draws, the amount of \$7,500,000 is allocable to public school improvement projects and the amount of \$4,000,000 is allocable to water and sewer improvement projects.

(d) The City has heretofore repaid such draws by the City under the Financing Agreement, but wishes to reauthorize the principal amount of the advances available to be drawn under the Financing Agreement up to the amount of \$15,000,000.

(e) The Financing Agreement provides that the City shall not request any advance and SunTrust Bank shall not make any advance to the extent that such advance would cause the total of all principal advances outstanding under the SunTrust Note to exceed \$15,000,000 (*provided* that to the extent the aggregate of all such principal advances, regardless of whether then outstanding, exceeds \$15,000,000, no additional principal advances shall be requested or made unless such excess amount, including the requested principal advance, has been authorized by resolution of the Council adopted subsequent to adoption of Resolution No. R-08-030, which authorizes the issuance of bonds and notes in anticipation thereof in amounts at least equal to such excess and SunTrust Bank has received an opinion of Bond Counsel for the City that such excess has been authorized by the City and will be a valid and binding general obligation of the City, the interest on which is excluded from the gross income of the owners thereof for federal and Virginia income tax purposes).

(f) In the judgment of the Council, it is necessary and expedient to authorize the issuance and sale of not to exceed Fifteen Million Dollars (\$15,000,000) of additional Bonds of the City, of which the amount of \$11,000,000 shall be issued to finance the costs of public school improvement projects and public buildings, streets and bridges and general municipal improvement projects of and for the City and the amount of \$4,000,000 shall be issued to finance the costs of water and sewer improvement projects of

and for the City, and to authorize the issuance and sale of a like principal amount of General Obligation Public Improvement Bond Anticipation Notes in anticipation of the issuance and sale of such Bonds, for the purpose of restoring the amount of the advances the City is authorized to request, and SunTrust Bank is authorized to make, under the Financing Agreement and the SunTrust Note to the full amount permitted by the Financing Agreement.

SECTION 2. Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950 (the same being the Public Finance Act of 1991), for the purpose of providing funds to finance the costs of various public improvement projects of and for the City, of which the amount of \$11,000,000 shall be issued to finance the costs of public school improvement projects and public buildings, streets and bridges and general municipal improvement projects of and for the City and the amount of \$4,000,000 shall be issued to finance the costs of water and sewer improvement projects of and for the City, there are authorized to be issued not to exceed Fifteen Million Dollars (\$15,000,000) principal amount of bonds of the City (the "Bonds"). There is hereby delegated to the City Manager the authority to determine the principal amount of the Bonds authorized to be issued hereunder up to but not in excess of the principal amount authorized in the immediately preceding sentence. The form, denomination and other details of the Bonds, including the subsection of Article VII, Section 10(a) of the Constitution of Virginia, 1971, pursuant to which any portion of the Bonds shall be issued if any such portion of the Bonds shall not be secured by the full faith and credit of the City, the security pledged to the payment of such portion of the Bonds and any covenants pertaining to the status of the interest on the Bonds for purposes of federal and Commonwealth of Virginia income taxation, shall be provided for by the subsequent resolution of this Council.

SECTION 3. (a) In anticipation of the issuance and sale of the Bonds authorized for issuance pursuant to Section 2 hereof, there are authorized to be issued and sold not to exceed Fifteen Million Dollars (\$15,000,000) principal amount of general obligation public improvement bond anticipation notes of the City for the purposes for which the Bonds in anticipation of which they issued are authorized, to be designated "City of Lynchburg, Virginia, General Obligation Public Improvement Bond Anticipation Notes" (the "Notes"). There is hereby delegated to the City Manager the authority to determine the principal amount of the Notes authorized to be issued hereunder up to but not in excess of the principal amount authorized in the immediately preceding sentence and to certify the same to SunTrust Bank in accordance with the provisions of the Financing Agreement referred to in Section 1 hereof in order to restore the amount of the advances the City is authorized to request, and SunTrust Bank is authorized to make, under the Financing Agreement and the SunTrust Note up to the amount of \$15,000,000. The Notes shall mature and be payable within five (5) years of the date of their initial issuance. The issuance and details of the Notes shall be governed by the applicable provisions of the Public Finance Act of 1991, including the provisions of Section 15.2-2628 of the Code of Virginia, 1950. The Bonds in anticipation of which the Notes are issued pursuant to this Section 3(a) may be issued and sold in accordance with the provisions of this Resolution at any time or from time to time; *provided* that in any event such Bonds shall be issued and sold not later than five (5) years from the date of the original issuance of the first Notes issued in anticipation of such Bonds.

(b) The Notes shall be issued in fully registered form and the Notes of a given series shall be numbered from R-1 upwards in order of issuance. There is hereby delegated to the City Manager the authority, without further action of the Council, to fix the denomination or denominations of the Notes and to sell the Notes at competitive or negotiated sale at such price plus accrued interest and on such other terms and conditions as shall be determined by the City Manager. There is hereby further delegated to the City Manager the authority to determine, in accordance with and subject to the provisions of this Resolution and without further action of this Council: the date or dates of the Notes, the rate of interest per annum to be borne by the Notes or the method for calculating the rate of interest to be borne by the Notes from time to time, *provided* that in no event shall the Notes bear interest at a rate in excess of 6% per annum, the basis of computing interest on the Notes (*e.g.*, either a 360-day year comprised of twelve

30-day months or a 365- or 366 day year and actual days elapsed or such other basis as shall be determined by the City Manager), the interest payment dates thereof, the maturity date or dates thereof, the amount of principal maturing on each maturity date, the place or places of payment thereof and the paying agent or paying agents therefor, the place or places of registration, exchange or transfer thereof and the registrar therefor and whether or not the Notes shall be subject to redemption prior to their stated maturity or maturities and, if the Notes shall be subject to redemption, the premiums, if any, payable upon such redemption; *provided* that no such premium shall exceed 2% of the principal amount of the Notes and the respective periods in which such premiums are payable and the method and timing for giving notices of redemption of the Notes.

(c) The City Manager is hereby authorized, without further action of the Council, to execute and deliver a revolving credit facility or revolving loan agreement providing for the issuance of the Notes as evidence of advances made thereunder in a principal amount not to exceed the principal amount of the Notes authorized for issuance pursuant to Section 3(a) hereof and is hereby further authorized to cause to be paid on behalf of the City the fees and expenses payable to the issuer of such revolving credit facility or revolving loan agreement pursuant to the terms thereof. All actions taken by officials, employees, agents and attorneys of the City with respect to the preparation, solicitation and receipt of proposals for a credit facility or loan agreement or line of credit financing agreement providing for the issuance of the Notes as evidences of advances made thereunder prior to the date hereof are hereby ratified and confirmed.

SECTION 4. (a) The Notes shall be executed, for and on behalf of the City, by the manual or facsimile signature of the Mayor and shall have an impression of the corporate seal of the City or a facsimile thereof embossed or imprinted thereon, attested by the manual or facsimile signature of the Clerk of Council or the Interim Clerk of Council. The certificate of authentication on the Notes shall be executed by the Registrar for the Notes designated by the City Manager.

(b) The execution and authentication of the Notes in the manner above set forth is adopted as a due and sufficient execution and authentication of the Notes.

SECTION 5. (a) Both the principal of and interest on the Notes shall be payable in such coin or currency of the United States of America as at the respective dates of payment thereof is legal tender for public and private debts.

(b) Interest on the Notes shall be payable by check mailed by the Registrar to the registered owners of such Notes at their respective address as such addresses appear on the books of registry kept pursuant to the provisions of this Section 5. Principal on the Notes shall be payable on presentation and surrender thereof at the office of the Registrar.

(c) At all times during which any Note of any series remains outstanding and unpaid, the Registrar for such series shall keep or cause to be kept at its office books of registry for the registration, exchange and transfer of Notes of such series. Upon presentation at its office for such purpose the Registrar, under such reasonable regulations as it may prescribe, shall register, exchange, transfer, or cause to be registered, exchanged or transferred, on the books of registry the Notes as hereinbefore set forth.

(d) The books of registry shall at all times be open for inspection by the City or any duly authorized officer thereof.

(e) Any Note may be exchanged at the office of the Registrar for such series of Notes for a like aggregate principal amount of such Notes in other authorized principal sums of the same series, interest rate and maturity.

(f) Any Note of any series may, in accordance with its terms, be transferred upon the books of registry by the person in whose name it is registered, in person or by his duly authorized agent, upon surrender of such Notes to the Registrar for such series for cancellation, accompanied by a written instrument of transfer duly executed by the registered owner in person or his duly authorized agent, in form satisfactory to the Registrar.

(g) All transfers or exchanges pursuant to this Section 5 shall be made without expense to the registered owner of such Notes, except as otherwise herein provided, and except that the Registrar for such series of Notes shall require the payment by the registered owner of the Note requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange. All Notes surrendered pursuant to this Section 5 shall be cancelled.

SECTION 6. The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on the Notes as the same become due. In each year while the Notes, or any of them, are outstanding and unpaid, the Council shall be authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on the Notes to the extent such principal and interest shall not be paid from the proceeds of the Bonds of the City in anticipation of which the Notes are issued or from other funds of the City lawfully available and appropriated for such purpose.

SECTION 7. CUSIP identification numbers may be printed on the Notes, but no such number shall constitute a part of the contract evidenced by the particular Note upon which it is printed and no liability shall attach to the City or any officer or agent thereof (including any paying agent for the Notes) by reason of such numbers or any use made thereof (including any use thereof made by the City, any such officer or any such agent) or by reason of any inaccuracy, error or omission with respect thereto or in such use. All expenses in relation to the printing of such numbers on the Notes shall be paid by the City including the CUSIP Service Bureau charge for the assignment of such numbers.

SECTION 8. The City covenants and agrees that it shall comply with the provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986 and the applicable Treasury Regulations promulgated thereunder so long as any Note is outstanding.

SECTION 9. The Notes shall be in the form approved by the City Manager.

SECTION 10. The City Attorney is directed to file a copy of this Resolution, certified by the Clerk of Council or the Interim Clerk of Council to be a true and correct copy hereof, with the Circuit Court in accordance with Section 15.2-2607 the Code of Virginia, 1950.

SECTION 11. All ordinances, resolutions and proceedings in conflict herewith are, to the extent of such conflict, repealed.

SECTION 12. This Resolution shall take effect upon its adoption.

Adopted:

Certified:

Interim Clerk of Council

RESOLUTION:

BE IT RESOLVED THAT the FY 2010 General Fund's Adopted Budget is amended; and, \$10,125 is appropriated from the General Fund Reserve for Contingencies for costs related to the re-authorization of the March 2008 Line of Credit.

Introduced:

Adopted:

Certified:

Interim Clerk of Council

042L2

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 27, 2010**

AGENDA ITEM NO.: 2 & 8

CONSENT:

REGULAR: **X**

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **FY 2010 Third Quarter Budget Adjustments**

RECOMMENDATION: For review and discussion during work session on April 27, 2010, with a public hearing scheduled for the regular meeting.

Hold a public hearing and adopt a resolution to amend the FY 2010 Adopted Budget and appropriate funds to implement revenue, expenditure, and transfer adjustments as identified on Attachments A and B for the General Operating, City/Federal/State Aid, City Capital Projects, Regional Airport Operating, Fleet Services, Asset Forfeiture, Comprehensive Services Act, Sewer Operating, Sewer Capital Projects, and School Operating Funds.

SUMMARY: In March staff began a review of FY 2010 operating revenues and expenditures of the City's various funds to determine if adjustments were needed prior to the end of the fiscal year. Departments were requested to submit any adjustments that needed to be considered prior to the end of the fiscal year. Attachments A and B provide a list of proposed expenditure and revenue adjustments based on a third quarter review.

Adjustments include:

- increased expenses for ambulance billing related to increased revenue projections (\$39,000)
- increased local match for the Safe and Stable Families Grant due to increased federal and State allocations (\$2,312)
- transfer from the Fire Department budget to the City/Federal/State Aid Fund to close-out old grants for the State Homeland Security Program for HazMat equipment and Assistance to Firefighters Grants for equipment and training (\$296)
- Compensation Board adjustments for the Sheriff (\$24,859)
- expenses related to temporary detention orders served by the Sheriff's Department (\$27,000)
- increased unemployment expenses (\$40,000)
- expenses related to the Adopt-A-Bed Program (\$5,468)
- expenses for snow removal to be funded with the Snow, Street and Bridge Reserve (\$250,000) and Reserve for Contingencies (\$361,884)
- increased electric and natural gas costs at the Community Market (\$14,000)
- costs for the acquisition of parking management equipment - handheld units and 2 pay stations (\$59,448); with funding from additional fine revenue
- increased federal and State funding for Social Services programs (\$1,396,560)
- a reduction in the General Fund subsidy to the Airport (\$13,539) due to increased revenues (\$204,658)
- increased costs for the Comprehensive Services Act Fund, partially funded by additional State revenue (\$730,994) with the local portion to be funded by the Reserve for Contingencies (\$200,000)
- set up a designated reserve from operational savings in FY 2011 for a staff bonus to be paid July 1, 2010 (\$539,596) **[NOTE: This will fund the full cost of the \$500/\$250 bonus from the current fiscal year. It is recommended that the \$270,000 set aside for this purpose in the Proposed FY 2011 Budget, as amended, be combined with the \$110,000 set aside for public safety positions to fund a total of six (6) sworn positions, three (3) in the Police Department, and three (3) in the Fire Department from those that had been recommended to remain vacant.]**
- adjustments to the City/Federal/State Aid Fund to appropriate additional funds from the State and federal governments and adjust the grant budgets equal to the amounts awarded by the State and federal governments (\$967,447 net)

- adjustments to the City Capital Projects Fund revenues to reflect federal and State grant funding with a net reduction (\$88,053)
- funding for the design of Miller Center Renovations (\$79,395), from Capital Fund balance
- funding for Wards Road Pedestrian and Bicycle Improvements (\$1,000,000) transferred from the J & DR Courthouse project
- appropriating Fleet Services Fund auction revenue to be used to purchase vehicles for the Police and Sheriff's Departments (\$185,413)
- appropriating asset forfeiture funds for Commonwealth Attorney's Office (\$16,411) and Police Department (\$118,887)
- transfer from the Sewer Operating Fund to the Sewer Capital Projects Fund for previously appropriated CSO projects (\$1,000,000)
- adjustments to the School Operating Fund to adjust the grant budgets equal to the amounts awarded by the State and federal governments (\$2,971,509 net)

PRIOR ACTION(S): Adoption of the FY 2010 Operating Budget: May 26, 2009

BUDGET IMPACT: These adjustments have little net impact on the FY 2010 Adopted Budget. The General Fund is still projected to end the year with a slight positive balance.

CONTACT(S): Donna Witt, Director of Financial Services 455-3968

ATTACHMENT(S): Attachment A: FY 2010 Third Quarter Detail – Revenues and Expenditures
Attachment B: FY 2010 Third Quarter Schools Grant Adjustments

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the General Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the City/Federal/State Aid Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the City Capital Projects Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Regional Airport Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Fleet Services Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Asset Forfeiture Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Comprehensive Services Act Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg up to the sums for the Sewer Operating Fund as identified on the FY 2010 Third Quarter Detail by Fund;

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg up to the sums for the Sewer Capital Projects Fund as identified on the FY 2010 Third Quarter Detail by Fund; and

BE IT FURTHER RESOLVED that the FY 2010 budget is amended and that there be appropriated from the funds and resources of the City of Lynchburg the sums for the Schools Operating Fund as identified on the FY 2010 Third Quarter Detail by Fund.

Introduced:

Adopted:

Certified:

Interim Clerk of Council

046L

FY 2010 THIRD QUARTER DETAIL

GENERAL FUND

DEPARTMENT/DIVISION	REVENUES	EXPENDITURES	PURPOSE
Fire		\$39,000	Appropriate additional ambulance billing fees.
Fire		(\$296)	Reduce Fire Department Operating Budget and Transfer to City/Federal/State Aid Fund to close out old grants.
Transfer to City/Federal/State Aid Fund		\$2,312	Local match for increased federal and state allocations for Safe and Stable Families Grant.
Transfer to City/Federal/State Aid Fund		\$296	Transfer from Fire Department Budget to City/Federal/State Aid Fund to close out old grants.
Sheriff	\$24,859	\$24,859	Increase in state funding for Master Deputy promotions and part-time hours.
Sheriff		\$27,000	Funding for temporary detention orders.
Non-departmental		\$40,000	Appropriation for unemployment costs.
Public Works	\$5,468	\$5,468	Appropriate revenues for Adopt-A-Bed-Program.
Public Works	\$250,000	\$250,000	Appropriate snow, street and bridge reserves to fund snow removal expenditures.
Public Works		\$361,884	Appropriate funds from Reserve for Contingencies for snow storm expenditures.
Parks and Recreation - Community Market		\$14,000	Appropriation for additional electricity and natural gas costs.
Parking Management		\$59,448	Appropriation for parking management equipment.
Social Services	\$1,396,560	\$1,396,560	Appropriate expenditures for ongoing social services programs based upon increased federal and state revenues. No additional local match is required.
Transfer to Airport		(\$13,539)	Reduction in subsidy from General Fund due to increased Airport revenues.
Transfer to CSA		\$200,000	Transfer to CSA fund for additional CSA expenditures from the General Fund Reserve for Contingencies.
Designated Reserve		\$539,596	Set up Designated Reserve for Staff Bonus July 1, 2010 from operational savings in FY 2010
GENERAL FUND TOTAL	\$1,676,887	\$2,946,588	The Reserve for Contingencies, managed vacancy savings and revised revenue projections are being used to fully fund expenditures.

FY 2010 THIRD QUARTER DETAIL

CITY/FEDERAL/STATE AID FUND

DEPARTMENT/DIVISION	REVENUES	EXPENDITURES	PURPOSE
Commonwealth Attorney	\$17,560	\$17,560	Appropriate in-kind match for Violence Against Women Stimulus grant.
Museum	\$2,993	\$2,993	Appropriate Federal American Heritage Preservation grant to purchase preservation materials for the Lynchburg Museum.
Region 2000	\$759,864	\$759,864	Appropriate ARRA funding for Workforce Investment Act grant.
Fire - Multiple Grants	\$296	\$296	Transfer from Fire Department General Fund Budget to close out old grants.
Fire - Fire Programs	\$10,070	\$10,070	Increased funding in Fire Programs Aid to Localities.
Fire - EMS 4 for Life	\$6,841	\$6,841	Adjustment to final award letter.
Fire - Homeland Security Grant	\$98,571	\$98,571	Appropriate Homeland Security Grant.
Social Services - Destiny	\$35,150	\$35,150	Appropriate Federal and State funds for Destiny grant.
Social Services - Independent Living	\$2,093	\$2,093	Increase in Federal and State revenues for Independent Living grant.
Social Services - Education Support	\$19,091	\$19,091	Increase in Federal and State revenues for Education Support grant.
Social Services - Safe and Stable Families	\$14,918	\$14,918	Increase of \$12,606 in Federal and State revenues, and \$2,312 local match for Safe and Stable Families grant.
CITY/FEDERAL/STATE AID FUND TOTAL	\$967,447	\$967,447	

FY 2010 THIRD QUARTER DETAIL

CITY CAPITAL PROJECTS FUND

DEPARTMENT/DIVISION	REVENUES	EXPENDITURES	PURPOSE
Snow, Street, and Bridge Reserve		(\$250,000)	Eliminate Snow, Street, and Bridge Reserve to fund snow removal expenditures in General Fund.
Transfer to General Fund		\$250,000	Transfer to General Fund to fund snow removal expenditures.
Parks and Recreation	(\$32,400)	(\$32,400)	Rescind unspent VDEQ grant appropriation for Allen Morrison site due to favorable bids.
Parks and Recreation		\$79,395	Appropriate funds for Miller Center Renovations design to be funded with Pay-As-You-Go Capital Funds.
Transportation	\$40,000	\$40,000	Appropriate Federal and State funds for Greenview Drive Phase II.
Transportation	(\$30,906)	(\$30,906)	Adjustment to match grant award for Daniel's Hill Historic Street Preservation. VDOT funding was less than anticipated.
Transportation		\$1,000,000	Appropriate funds for Wards Road Pedestrian and Bicycle Improvements.
Transportation	(\$64,747)	(\$64,747)	Adjustment to Kemper Street Bridge and Midtown Phase I projects to align budget to match Virginia Department of Transportation funding.

CITY CAPITAL PROJECTS FUND TOTAL	(\$88,053)	\$991,342	Revenues are less than expenditures due to the realignment of pay as you go cash for the Miller Center Renovations and the Wards Road Pedestrian Improvements. Funds are available from cash previously appropriated for the J&DR Court Building.
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FUND	REVENUES	EXPENDITURES	PURPOSE
Airport	(\$13,539)	(\$13,539)	Reduction in subsidy from General Fund due to increased Airport revenues.
Airport	\$204,658	\$204,658	Net increase to multiple revenue categories resulting from receipts that are higher than anticipated.
REGIONAL AIRPORT FUND	\$191,119	\$191,119	
FLEET SERVICES FUND	\$185,413	\$185,413	Auction revenue used to purchase vehicles for Sheriff and Police.
ASSET FORFEITURE FUND	\$135,298	\$135,298	Appropriate revenue received for Commonwealth Attorney's Office (\$16,411), and Police Department (\$118,887)
COMPREHENSIVE SERVICES ACT FUND	\$730,994	\$730,994	Appropriate \$530,994 State Revenue, and \$200,000 local for additional CSA expenditures.
SEWER OPERATING FUND		\$1,000,000	Appropriate up to \$1,000,000 of funds from the Sewer Operating Fund for additional CSO projects to comply with the special order and financial ratio criteria.
SEWER CAPITAL PROJECTS FUND	\$1,000,000	\$1,000,000	Appropriate up to \$1,000,000 of funds from the Sewer Operating Fund for additional CSO projects to comply with the special order and financial ratio criteria.
SCHOOLS OPERATING FUND	\$2,971,509	\$2,971,509	Adjust grants and special programs to match actual award (Attachment B).

	FY 2009-2010	FY 2009-2010	FY 2009-2010	FY 2009-2010	FY 2009-2010
	ADOPTED	AMENDED	STIMULUS	ADJUST FOR	ADJUSTED
	BUDGET	BUDGET	APPROPRIATED	GRANT AWARDS	BUDGET
FUND 1 OPERATING	86,976,567.00	86,476,567.00	2,322,955.00	404,130.62	89,203,652.62
					-
FUND 5 GRANTS					
FEDERAL:					
CARL PERKINS VOC FUNDS	233,979.00	233,979.00		29,764.07	263,743.07
GEAR UP GRANT	46,700.00	46,700.00	-	2,744.00	49,444.00
619-A PRESCHOOL SPED	62,854.00	62,854.00	78,222.00	30,994.95	172,070.95
21ST CENTURY GRANT	-	-	-	496,041.71	496,041.71
DISTINGUISHED SCHOOLS	-	-	-	8,488.00	8,488.00
TITLE I, PART A	3,005,099.00	3,005,099.00	2,779,108.00	1,336,810.33	7,121,017.33
TITLE I, PART D N&D	302,470.00	302,470.00	78,958.00	(8,537.62)	372,890.38
TITLE II, PART A	673,750.00	673,750.00	-	251,735.74	925,485.74
TITLE II, PART D	31,000.00	31,000.00	91,797.00	27,641.07	150,438.07
TITLE III, PART A	-	-	-	19,771.53	19,771.53
TITLE IV, PART A SDFSCA	60,000.00	60,000.00	-	1,964.22	61,964.22
ALL OTHER ACCOUNTS	42,674.00	42,674.00	-	-	42,674.00
	4,458,526.00	4,458,526.00	3,028,085.00	2,197,418.00	9,684,029.00
COMMONWEALTH OF VA:					
BLUE RIDGE CONSORT	-	-	-	1,570.16	1,570.16
BLUE RIDGE REG JAIL	195,719.00	195,719.00	-	(12,957.00)	182,762.00
DETENTION HOME/CDC	519,830.00	519,830.00	-	241,644.00	761,474.00
ED TECH SERIES	-	-	-	52,000.00	52,000.00
MENTOR TEACHERS	6,456.00	6,456.00	-	3,184.34	9,640.34
QUALITY INITIATIVE	-	-	-	5,063.00	5,063.00
NATIONAL BOARD INCENTIVE	-	-	-	12,500.00	12,500.00
PROJECT GRADUATION	-	-	-	9,616.65	9,616.65
ALL OTHER ACCOUNTS	812,336.00	812,336.00	-	-	812,336.00
	1,534,341.00	1,534,341.00	-	312,621.15	1,846,962.15
LOCAL GRANTS AND PROGRAMS:					
PARTNERS IN EDUCATION	10,195.00	10,195.00	-	11,548.55	21,743.55
PERRY POETS' FUND	-	-	-	700.00	700.00
TITLE VII - HOMELESS GRANT	-	-	-	10,507.31	10,507.31
WEYERHAEUSER GRANT-HES	-	-	-	2,759.10	2,759.10
ISTATION - PERRYMONT	-	-	-	6,500.00	6,500.00
PLAY IT SMART	-	-	-	25,323.92	25,323.92
ALL OTHER ACCOUNTS	12,000.00	12,000.00	-	-	12,000.00
	22,195.00	22,195.00	-	57,338.88	79,533.88
TOTAL GRANTS FUND	6,015,062.00	6,015,062.00	3,028,085.00	2,567,378.03	11,610,525.03
TOTAL OPERATING AND GRANT	92,991,629.00	92,491,629.00	5,351,040.00	2,971,508.65	100,814,177.65

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 27, 2010**

AGENDA ITEM NO.: 9

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Authorize the Lynchburg Redevelopment and Housing Authority (LRHA) To Pursue Acquisition of Blighted Property at 416 Pine Street

RECOMMENDATION: Adopt a resolution authorizing LRHA to pursue acquisition of blighted property at 416 Pine Street under Section 36-19.5 of the Code of Virginia. The property owner has not taken any steps to correct the code violations and, instead, has asked that the Housing Authority make an offer on the property. The Housing Authority is unable to initiate acquisition without the resolution of Council.

SUMMARY: Please see attached information from LRHA including notification to the property owner.

PRIOR ACTION(S): March 23, 2010: public hearing held regarding the property. Council directed that the matter be postponed for 30 days, or until April 27, to give the owner time to respond.

FISCAL IMPACT: NA

CONTACT(S): Edward H. McCann 845-9011

ATTACHMENT(S):

- Resolution
- Letter from LRHA provided the latest information.

REVIEWED BY: lkp

RESOLUTION AUTHORIZING THE ACQUISITION OF REAL PROPERTY

WHEREAS, it appearing to City Council from the evidence presented at the public hearing that the structure located at 416 Pine Street, parcel 048-40-013 (i) has deteriorated to such an extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare; (ii) that such structure is likely to continue to deteriorate unless corrected; (iii) that the continued deterioration of such structure will contribute to the blighting or deterioration of the area immediately surrounding 416 Pine Street; (iv) that such structure is a blighted property in accordance with §1-219.1 of the Code of Virginia in that its condition endangers the public health or safety, and the structure is a public nuisance or is beyond repair or unfit for human occupancy or use; (v) that the owner of 416 Pine Street was given 60 days notice by certified mail of the condition of the structure and has failed to correct the deterioration; and (vi) that 416 Pine Street lies within the Lynchburg Redevelopment and Housing Authority's area of operation; and

WHEREAS, it further appearing to City Council from the evidence presented at the public hearing that the acquisition of 416 Pine Street by the Lynchburg Redevelopment and Housing Authority is to serve a public purpose and not for private benefit or gain; and

WHEREAS, it further appearing to City Council from the evidence presented at the public hearing that the primary purpose for acquiring 416 Pine Street by the Lynchburg Redevelopment and Housing Authority is not to increase any tax base or taxable revenues, or to increase employment;

NOW, THEREFORE BE IT RESOLVED that as provided by Section 36-19.5 of the Code of Virginia the Lynchburg City Council does hereby designate, authorize, and direct the Lynchburg Redevelopment and Housing Authority to acquire the property located at 416 Pine Street by purchase, lease, gift or through the exercise of eminent domain for the purposes set forth in subsection A of Section 36-19.5 of the Code of Virginia, including, but not limited to, the renovation, rehabilitation and disposition of the structure at 416 Pine Street;

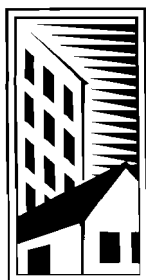
BE IT FURTHER RESOLVED that the Lynchburg Redevelopment and Housing Authority is hereby designated, authorized, and directed to act on the City's behalf in the acquisition of the property at 416 Pine Street, and in the event the Lynchburg Redevelopment and Housing Authority files a petition in the Lynchburg Circuit Court to acquire the property located at 416 Pine Street through the use of the power of eminent domain, the Lynchburg Redevelopment and Housing Authority shall be deemed to be acting as, and on behalf of, the City of the Lynchburg for the purposes of such petition.

Adopted:

Certified:

Interim Clerk of Council

024L



LYNCHBURG
REDEVELOPMENT AND
HOUSING AUTHORITY

EDWARD H. McCANN
Executive Director

April 19, 2010

Mr. Kimball Payne
City Manager
City of Lynchburg
900 Church Street
Lynchburg, Virginia 24504

Re: 416 Pine Street
Parcel 048-40-013
Lynchburg, Virginia

Dear Mr. Payne:

This is a follow up to the Authority's request on March 23, 2010, that City Council adopt a resolution authorizing the Authority to acquire the above property. As requested by Council, enclosed is a report regarding the status of the property.

Authority staff has inspected the property a minimum of once a week since the public hearing on March 23, 2010. The condition of the property has remained the same as of April 16, 2010. Staff spoke with the owner via the telephone on April 15, 2010, and enclosed is information concerning the conversation.

The above Code section provides that an authority may acquire blighted property after a public hearing and approval of such acquisition by the governing body of the city within which the property is located. This is to request that City Council hold a public hearing to consider the request of the Lynchburg Redevelopment and Housing Authority for authorization to acquire these properties pursuant to the above referenced code. Enclosed is a copy of the resolution adopted by the Commissioners of the Authority, proposed resolution for City Council's consideration, updated report to Council, updated chronology, notice sent to the owner and past and current pictures of the property.

Please let me know if you need any further information.

Very truly yours,

enclosures

Updated Report to City Council

April 19, 2010

As requested by Council at the meeting on March 23, 2010, this is an updated report concerning the blighted property located at 416 Pine Street. Council postponed taking action for 30 days and Authority staff has monitored the property making weekly inspections. Staff also spoke with the owner on April 15, 2010, and information concerning the conversation is included. Correspondence related to the conversation is also included for Council's review.

As part of the collaborative effort between the City of Lynchburg and the Lynchburg Redevelopment and Housing Authority to address blighted property through our local Spot Blight Abatement Program, the City's Inspection personnel referred the property at 416 Pine Street to the Authority for action. As outlined on the attached updated chronology, attempts by the Authority to have the owner correct the deficiencies have been unsuccessful and the property remains blighted.

Attached is a resolution adopted by the Commissioners of the Authority requesting that City Council authorize the acquisition of the property as well as a recommended resolution for City Council's consideration. Also attached are copies of correspondence sent to the owner, pictures of the property and a listing of deficiencies.

Members of the Authority's staff will be available at the Council meeting to address this issue.

RESOLUTION NO. 1014**Resolution Authorizing the Executive Director to seek approval of City Council for the acquisition of the property at 416 Pine Street, Parcel 048-40-013, Lynchburg, Virginia pursuant to Code section 36-19.5**

WHEREAS, the Commissioners of the Lynchburg Redevelopment and Housing Authority (the Authority) have undertaken the exercise of additional powers granted to the Authority pursuant to section 36-19.5 of the Code of Virginia, as amended; and

WHEREAS, one of the major objectives to be achieved in exercising powers granted to the Authority under Code section 36-19.5 is to prevent single-family or multi-family dwelling units within the Authority's area of operation from contributing to the blighting or deterioration of the area immediately surrounding such dwelling unit as a result of the continued deterioration of such dwelling unit and further, to prevent the deterioration of such dwelling unit to such an extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare; and

WHEREAS, the Commissioners of the Authority have made a finding that the dwelling unit located at 416 Pine Street, Lynchburg, Virginia (the property), (i) has deteriorated to such extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare; (ii) that the property is likely to continue to deteriorate unless corrected; and (iii) that the continued deterioration of the property may contribute to the blighting or deterioration of the area immediately surrounding the dwelling unit; and

WHEREAS, the Commissioners of the Authority have made a further finding that, unless the property is brought into full compliance with the applicable building codes of the City of Lynchburg, Virginia, the acquisition of the property pursuant to Code section 36-19.5 (B) will further the objectives of, and is necessary for, the purposes of the Authority; and

WHEREAS, as a prerequisite to the acquisition of the property by the City of Lynchburg, on behalf of the Authority, in accordance with Code section 36-19.5 (B), the required notice has been given to the landowner to correct the deterioration of the dwelling unit; and

WHEREAS, the owner has failed to correct the deteriorated condition of the dwelling unit.

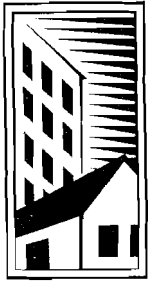
THEREFORE, BE IT RESOLVED, by the Commissioners of the Authority that the Executive Director of the Authority, in consultation with the Authority's legal counsel, is hereby authorized and directed to request that the City Council of the City of Lynchburg hold a public hearing to consider the Authority's request to acquire the property at 416 Pine Street, Lynchburg, Virginia, in accordance with the provisions of Code section 36-19.5, for the purpose of development and redevelopment, including, but not limited to, renovation, rehabilitation and disposition of the property.

Chronology for 416 Pine Street

- September 2009, the City's inspections staff referred this property to the Authority's Spot Blight Program.
- September 2009, Authority staff inspected the property and noted the exterior deficiencies.
- November 4, 2009, Authority commissioners accepted staff's report of deficiencies and authorized staff to send the Authority's 60-day notice to the owner.
- November 5, 2009, the owner was notified by the Authority by certified mail of the deficiencies under section 36-19.5 of the Code of Virginia and given notice to submit either a written plan of correction within 30 days or to correct the deficiencies within 60 days.
- November 7, 2009, the owner received the Authority's 60-day notice.
- November 9, 2009, the owner called Authority staff to say that he planned to demolish the property. As of February 3, 2010, the owner had not obtained a demolition permit from the City's inspections department.
- February 3, 2010, the Authority commissioners adopted a resolution authorizing the Executive Director to request City Council conduct a public hearing to consider the Authority's request to acquire this property.
- February 8, 2010, Authority staff has not observed any change in the condition of the property.

Activity since Council meeting on March 23, 2010

- In preparation to provide Council with a report, Authority staff spoke with the owner concerning the status of the property on April 15, 2010. The owner indicated that he would like to know what the Authority's offering price would be before deciding if he would sell or repair the property. Staff explained the Authority's acquisition process related to its Spot Blight Program which would require City Council to adopt a resolution authorizing the Authority to acquire the property prior to appraisals being performed. Staff also explained that should Council adopt such resolution, two independent appraisals would be performed and reviewed by another appraiser. Subsequently, the Authority's commissioners would review the appraisals and determine the fair market value. Next, the commissioners would authorize staff to make the owner an offer to acquire the property. Staff asked the owner to submit his plans in writing. Please see the enclosed copy of staff's follow up letter summarizing the phone conversation.
- April 15, 2010, the owner emailed his plans in which he is requesting a "bid" from the Authority to purchase the property and then he will determine if he will sell or repair the property. The email is also enclosed for review.
- April 16, 2010, Authority staff observed no change in the condition of the exterior of the property. Pictures are enclosed that were taken during this inspection.



LYNCHBURG
REDEVELOPMENT AND
HOUSING AUTHORITY

EDWARD H. McCANN
Executive Director

November 5, 2009

Eugene R. Banks
5376 Nevada Avenue NW
Washington, DC 20015

Re: Parcel Number: 048-40-013
416 Pine Street
Lynchburg, Virginia

Dear Mr. Banks:

In a cooperative effort with the City of Lynchburg, the Board of Commissioners of the Lynchburg Redevelopment and Housing Authority has directed our staff to identify residential properties that are deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare, that are likely to deteriorate unless corrected, and that may contribute to the blighting or deterioration of the surrounding area. We have been made aware of the above property which city records show to be owned by you. We observed the dwelling on September 22, 2009, and found the following conditions:

- Condemned 7/30/09
- Roof deteriorated
- Siding deteriorated
- Structure and property overgrown with vines and trees
- Windows boarded and not painted per City code
- Front porch ceiling deteriorated and peeling paint
- Front porch deck deteriorated
- Front porch foundation deteriorated
- Gutters and downspouts deteriorated and sections missing
- Side porch ceiling deteriorated
- Window sashes deteriorated
- Broken window pane
- Rear porch collapsed with tree growing in it
- Recommend demolishing
- Fence and gate deteriorated

Eugene R. Banks
Page 2
November 5, 2009

We are requesting that you:

1. Present a written plan within thirty (30) calendar days of receipt of this notice for consideration and approval by the Commissioners which would address the correction of these deficiencies and include a timetable and financing arrangements and identify who would complete the work;

or

2. Correct these deficiencies and any other non-compliance with the local building code within sixty (60) days of receipt of this notice.

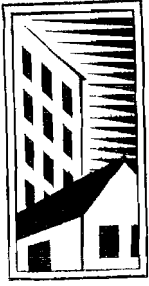
Should the above plan not be received within thirty (30) days and subsequently approved by the Commissioners and then implemented by you, or, in the alternative, if no plan is presented and these deficiencies are not corrected within the 60 day time period, the Authority Commissioners, pursuant to 36-19.5 Code of Virginia, may request Lynchburg City Council to conduct a public hearing to determine the appropriateness of authorizing the Authority to acquire the property for the purpose of development or redevelopment, including but not limited to, renovation, rehabilitation, and disposition of the property.

Please contact Connie Snively of our staff if you wish to discuss this.

Very truly yours,



Certified Mail - Return Receipt Requested



LYNCHBURG
REDEVELOPMENT AND
HOUSING AUTHORITY

April 15, 2010

Mr. Eugene R. Banks
5376 Nevada Avenue, NW
Washington, D.C. 20015

Re: 416 Pine Street
Parcel 048-40-013
Lynchburg, Virginia

Dear Mr. Banks:

This is a follow up to our phone conversation today in which you indicated that you would like to know what the Authority's offering price would be before deciding whether you would sell the above property or repair it. I explained that before the Authority could begin its acquisition process, City Council would have to adopt a resolution authorizing the Authority to acquire the property. As we discussed, I will provide City Council with a report concerning the status of the property since they postponed taking action for 30 days at the meeting on March 23, 2010.

After our phone conversation, I received your email dated April 15, 2010. It stated that you would like a bid for the sale of the property and depending on that bid you will determine whether you will sell the property to the Authority or repair it.

Thank you for providing the email and update concerning your plans for the property. This will be conveyed to City Council in my report. I may be contacted at (434) 485-7213 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Connie Snavelly".

Connie Snavelly

rec'd 4/15/10
CS



Fw: 416 Pine Street

Connie J Snavely

04/15/2010 02:18 PM

Vicki Rafel
Community Development Assistant
(434) 485-7200

----- Forwarded by Vicki H Rafel/L.RHA/COI. on 04/15/2010 02:06 PM -----

From: eugene banks <erbanks@msn.com>
To: <vicki.rafel@lynchburgva.gov>
Date: 04/15/2010 02:09 PM
Subject: RE: 416 Pine Street

Ms. Connie Snavely

Per our conversation I am responding to 416 Pine St. Lynchburg, Va. I am requesting a bid for the sale of property 416 pine st. from Lynchburg Redevelopment and Housing Authority. This bid for sale will determine whether or not the property would be sold as is to the housing authority or make the necessary repairs that were requested.

Your response would be greatly appreciated. Thanks.

Eugene Banks

To: erbanks@msn.com
CC: cjs@lynchburgva.gov
Subject: RE: 416 Pine Street
From: Vicki.Rafel@lynchburgva.gov
Date: Tue, 16 Mar 2010 15:53:04 -0400

Mr. Banks,

I am unable to open the letter.

Vicki Rafel
Community Development Assistant
(434) 485-7200

From: eugene banks <erbanks@msn.com>
To: <vicki.rafel@lynchburgva.gov>
Date: 03/16/2010 12:36 PM
Subject: RE: 416 Pine Street

TO: Ms. Connie J. Snavely

Per our conversation, attached is a letter requesting my concerns for 416 Pine St.

416 Pine Street



Pictures taken April 16, 2010



416 Pine Street



Pictures taken April 9, 2010



416 Pine Street



Pictures taken March 22, 2010



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 27, 2010**

AGENDA ITEM NO.: 10

CONSENT: REGULAR: **X**

WORK SESSION: CLOSED SESSION:
(Confidential)

ACTION: **X** INFORMATION:

ITEM TITLE: **Adoption of an Ordinance Creating an Arts & Cultural District**

RECOMMENDATION: Approve ordinance establishing an Arts & Cultural District.

SUMMARY: State Code permits localities to create Arts & Cultural Districts to provide incentives to attract and grow arts and cultural organizations. The attraction and growth of artists and cultural organizations will further revitalize Lynchburg's historic downtown, creating an "entertainment cluster", add jobs and increase an important element in Community Livability.

The ordinance establishing Harrisonburg's Arts & Cultural District is attached for information.

PRIOR ACTION(S): Council discussed the creation of an Arts & Cultural District at its work session on February 23, 2010.

FISCAL IMPACT: Amusement Tax collected from existing "qualified arts organizations" in the proposed District for 2009 was \$32,000.00

CONTACT(S): Marjette G. Upshur – 455-4492

ATTACHMENT(S): Excerpt from the Code of Virginia regarding the establishment of Arts & Cultural District; Harrisonburg Arts & Cultural District information; proposed ordinance establishing an Arts & Cultural District

REVIEWED BY: lkp

Excerpt from the Code of Virginia:

§ 15.2-1129.1. Creation of arts and cultural district.

A. Any locality may by ordinance establish within its boundaries an arts and cultural district for the purpose of increasing awareness and support for the arts and culture in the locality. Each locality may provide incentives for the support and creation of arts and cultural venues in the district. Each locality may also grant tax incentives and provide certain regulatory flexibility in an arts and cultural district.

B. The tax incentives may be provided for up to 10 years and may include, but not be limited to: (i) reduction of permit fees; (ii) reduction of user fees; and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.

C. Each locality may also provide for regulatory flexibility in such zone which may include, but not be limited to: (i) special zoning for the district; (ii) permit process reform; (iii) exemption from ordinances; and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

(2001, c. [550](#); 2005, c. [330](#); 2006, c. [482](#); 2007, cc. [236](#), [251](#), [280](#); 2008, c. [290](#); 2009, cc. [300](#), [637](#), [738](#).)

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO CHAPTER 13.1 CONTAINING SECTIONS NUMBERED 13.1 THROUGH 13.1-10, THE NEW CHAPTER AND SECTIONS RELATING TO THE ESTABLISHMENT OF AN ARTS AND CULTURAL DISTRICT WITHIN THE CITY.

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 Chapter 13.1, containing sections numbered 13.1-1 through 13.1-10 as follows:

CHAPTER 13.1

ARTS AND CULTURAL DISTRICT

ARTICLE 1. IN GENERAL

Sec. 13.1-1. Purpose.

The Lynchburg City Council finds that the continued development and success of its arts and cultural venues requires incentives, and determines that the most appropriate method of offering incentives for the area described below is to create an arts and cultural district in that area, as authorized by Section 15.21129.1 of the Code of Virginia. City Council believes the establishment of an arts and cultural district will improve the economic conditions of this geographic area located in the central portion of the City which could, in turn, benefit the welfare of the citizens of Lynchburg.

Sec. 13.1-2. Administration.

The administrator of the City's Arts and Cultural District shall be the City Manager or his designee. The administrator shall determine the procedures for obtaining the benefits created by this chapter and for the administration of this chapter.

Sec. 13.1-3 Definitions.

For the purposes of this chapter, the following phrases shall have the following meanings, unless clearly indicated to the contrary:

Qualified arts organization--The term qualified arts organization shall mean a business or not-for-profit organization physically located within the Arts and Cultural District which, by the determination of the administrator, positively contributes to the spectrum of arts and cultural activities and venues available to the public. Examples may include, but are not limited to, theatres, art galleries, museums, dance studios, music venues, performance spaces, and artists and artisans creating art within the district.

Qualified artist--The term qualified artist shall mean an individual who within the Arts and Cultural District creates visual or performing art such as but not limited painting, sculpture, textiles, dance, or music and derives 50% or more of his or her income from such creative activities.

Sec. 13.1-4. Boundaries.

The Arts and Cultural District shall consist of all the land and buildings in the Central Business district extending up Fifth Street to Taylor Street to include the Old City Cemetery and Legacy Museum and up Rivermont Avenue to Bedford Avenue.

Sec. 13.1-5. Regulatory Flexibility.

The administrator may provide for regulatory flexibility in the District which may include, but not be limited to: (i) special zoning for the District; (ii) permit process reform; (iii) exemption from ordinances; and (iv) any other incentive adopted by ordinance.

Sec. 13.1-6. Promotion.

The administrator is authorized to promote the development of and visitation to the Arts and Cultural District and their benefits through use of appropriate funds, grants and revenues.

Secs. 13.1-7 through 13.1-9. Reserved.

ARTICLE 2. TAX EXEMPTIONS

Sec. 13.1-10. Taxes eligible for exemption.

(a) Business, professional and occupational license taxes and fees--Qualified arts organizations and artists shall be exempted from the payment of the business, professional and occupational license (BPOL) taxes and fees for three full years following the actual occupation and/or certification of the qualified arts organization within the arts and cultural district. To secure the above exemption, the arts organization or artist shall file all necessary tax applications and apply to the administrator for certification as a qualified arts organization. Upon certification by the administrator and proof that no taxes are outstanding at the time of the application, the arts organization shall be entitled to the exemption created by this section.

(b) Admissions taxes--The fees for admission taxes imposed by the City Code and collected by qualified arts organizations in the District shall be redistributed to promote and market the district and to improve aesthetic infrastructure in the District. This distribution is subject to annual appropriation by City Council.

Secs. 13.1-11 through 13.1-19. Reserved.

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

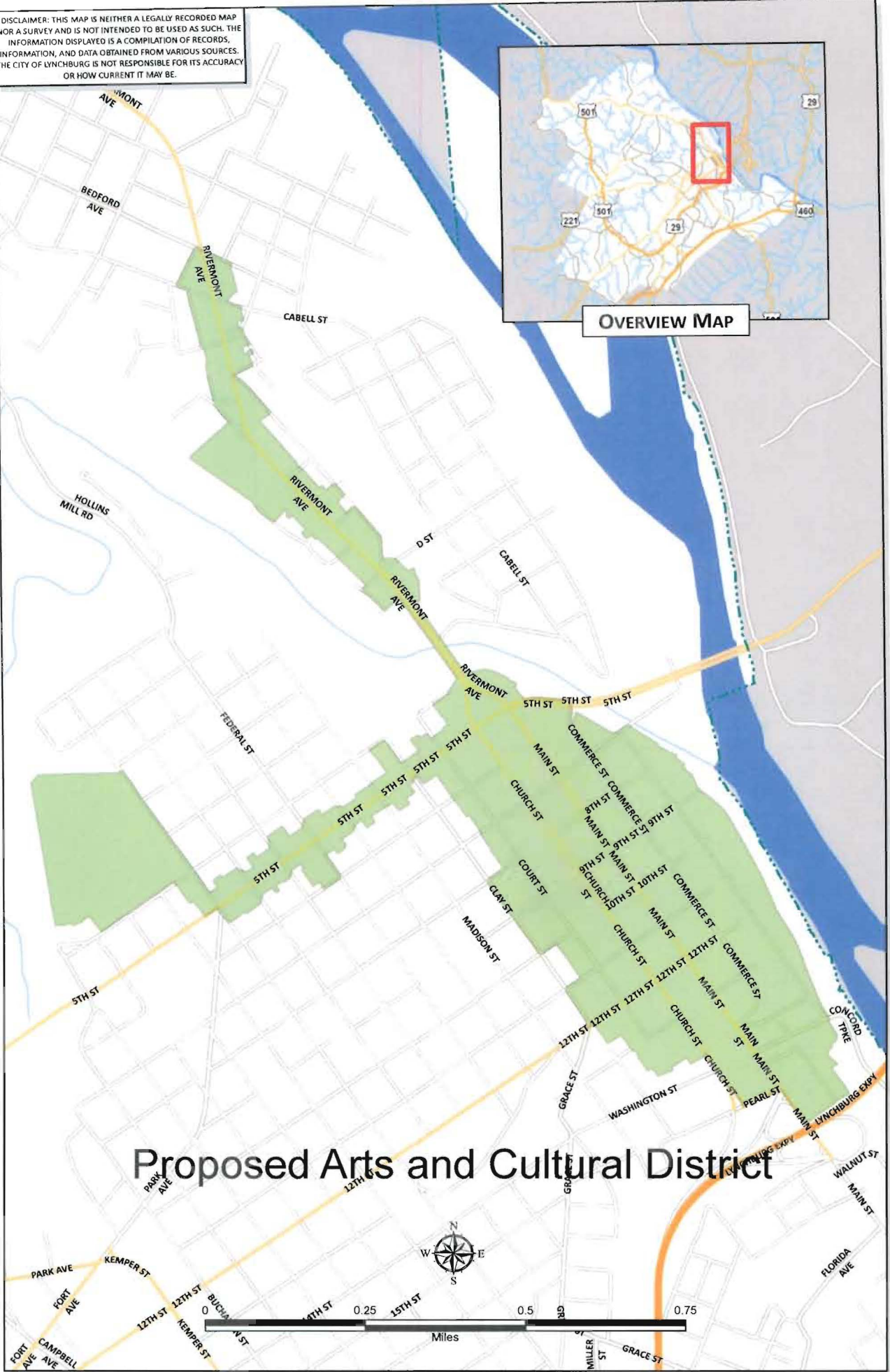
Adopted:

Certified:

Interim Clerk of Council

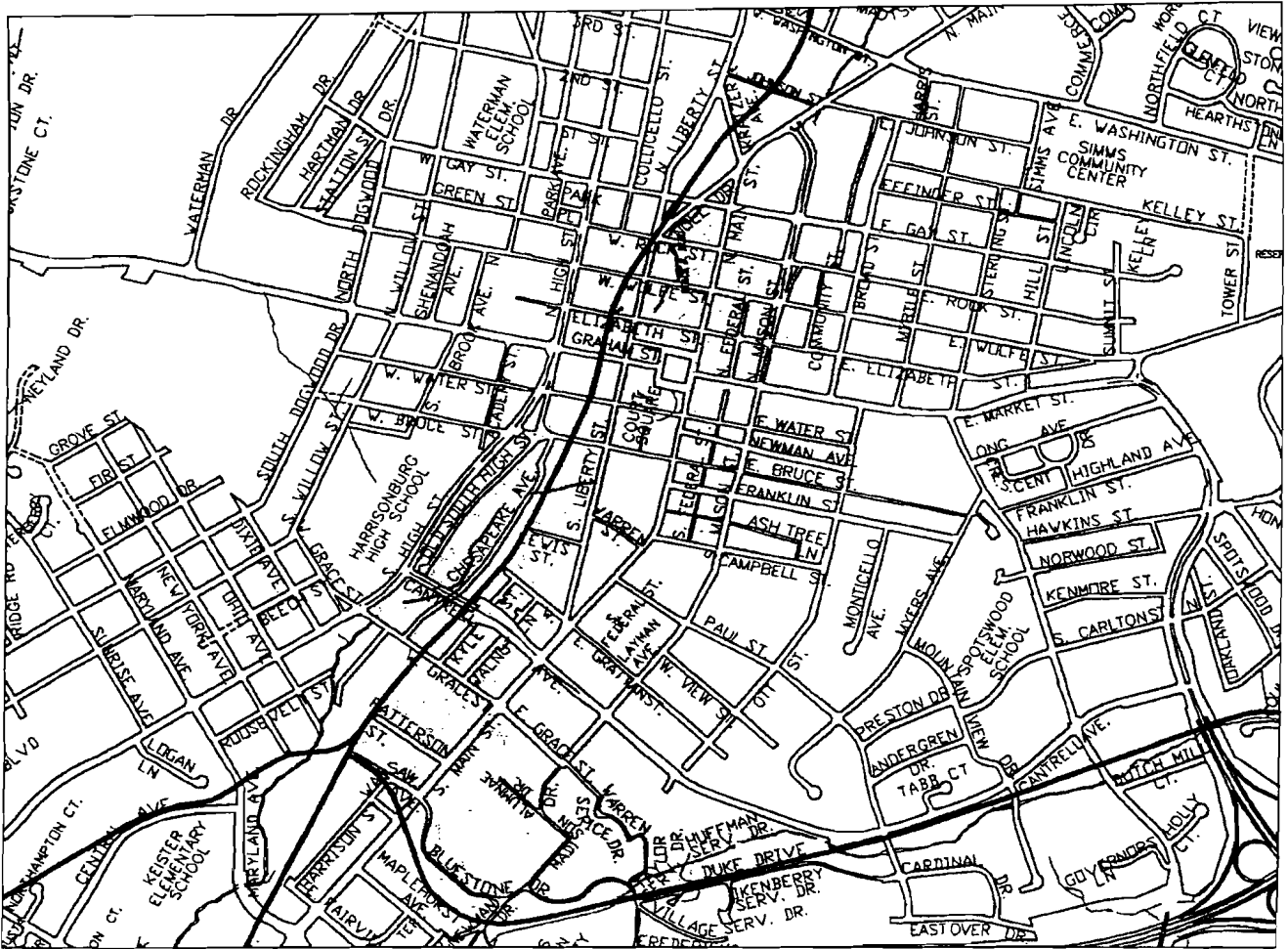
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DISCLAIMER: THIS MAP IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS SUCH. THE INFORMATION DISPLAYED IS A COMPILATION OF RECORDS, INFORMATION, AND DATA OBTAINED FROM VARIOUS SOURCES. THE CITY OF LYNCHBURG IS NOT RESPONSIBLE FOR ITS ACCURACY OR HOW CURRENT IT MAY BE.



Proposed Arts and Cultural District

Downtown Harrisonburg Arts and Cultural Overlay District



The Downtown Harrisonburg Arts and Cultural Overlay District begins at the north intersection of Washington and Main Streets. The line follows Washington Street west to the railroad track, then follows the track south to Rock Street; west to High Street; south to Grace Street; east to the railroad track; around JMU's bluestone campus to Cantrell Avenue; west to Mason Street; north to Newman Avenue; east to Ott Street; north to Elizabeth Street; west to Community Street; north to Johnson Street; east to Harris Street; north to Washington Street.

Incentives are offered to artists and arts organizations located within this district. For more information, please contact Brian Shull, Harrisonburg Economic Development, at 540-432-7701 or econ_dev@ci.harrisonburg.va.us

ORDINANCE ENACTING CHAPTER 5 OF TITLE 9

OF THE

HARRISONBURG CITY CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:

That Chapter 5 of Title 9 be enacted as follows:

TITLE 9

PARKS, RECREATION AND CULTURAL AFFAIRS

CHAPTER 5. ARTS AND CULTURAL DISTRICT

Article A. General Provisions

Section 9-5-1. Purpose.

The City of Harrisonburg finds that the continued development and success of its arts and cultural venues requires incentives, and determines that the most appropriate method of offering incentives for the area described below is to create an arts and cultural district in that area, as authorized by Section 15.2-1129.1 of the Code of Virginia. The City believes that the establishment of an arts and cultural district will improve the economic conditions of this geographic area located in the central portion of the City which could, in turn, benefit the welfare of the citizens of Harrisonburg.

Section 9-5-2. Administration.

The Administrator of the Harrisonburg Arts and Cultural District shall be the City Manager or his designee. The Administrator shall determine the procedures for obtaining the benefits created by this chapter and for the administration of this chapter.

Section 9-5-3. Definitions.

For the purposes of this chapter, the phrase below shall have the following meaning, unless clearly indicated to the contrary:

QUALIFIED ARTS ORGANIZATION. The term qualified arts organization shall mean a business or not-for-profit organization physically located within the Harrisonburg Arts and Cultural District which, by the determination of the Administrator, positively contributes to the spectrum of arts and cultural activities and venues available to the public. Examples may include, but are not limited to, theatres, art galleries, museums, and dance studios.

Section 9-5-4. Boundaries.

The arts and cultural district shall be located in the central portion of the City, defined by the following borders. Beginning at the intersection of Washington and Main Streets, the boundary line follows Washington Street northwest to the railroad tracks, then follows the tracks southwest to Rock Street; west along Rock Street to High Street; south along High Street to Grace Street; east along Grace Street to the railroad tracks; follows the railroad tracks southeast through the James Madison University campus to Cantrell Avenue; west along Cantrell Avenue to Mason Street; north along Mason Street to Newman Avenue; east along Newman Avenue to Ott Street; north along Ott Street to Market Street; west along Market Street to Broad Street; north along Broad Street to Elizabeth Street; west along Elizabeth Street to Community Street; north along Community Street to Johnson Street; east along Johnson Street to Harris Street; north along Harris Street to Washington Street; northwest along Washington Street to the intersection with Main Street. All parcels located within the boundaries described above are included in the Harrisonburg Arts and Cultural District.

Section 9-5-5 through 9-5-9. Reserved.

Article B. Tax Exemptions

Section 9-5-10. Taxes eligible for exemption.

1. **Business, Professional, and Occupational License taxes and fees**
Qualified arts organizations shall be exempted from the payment of the business, professional and occupational license (BPOL) taxes and fees imposed by Chapter 1 of Title 12 of the Harrisonburg City Code for the first three (3) full years following the actual occupation and/or certification of the qualified arts organization within the arts and cultural district. To secure the above exemption, the arts organization shall file all necessary tax applications and apply to the Administrator for certification as a qualified arts organization. Upon certification by the Administrator and proof that no taxes are outstanding at the time of the application, the arts organization shall be entitled to the three (3) year exemption created by this section.
2. **Admissions taxes**
Qualified arts organizations shall be exempt from the fees for admissions tax imposed by Chapter 2 of Title 4 of the Harrisonburg City Code.
3. **Partial exemption for certain rehabilitated, renovated or replacement residential and commercial structures**
Title 4, Chapter 2, Article B, Section 28 of the Harrisonburg City Code offers a partial exemption from taxation to qualified applicants within the B-1 Central Business District. Real estate within the arts and cultural district that is either owned or majority leased by a qualified arts organization for use as an arts and cultural venue may also be eligible for the partial exemption. Majority in this section is defined as fifty percent (50%) or more of the total square footage of the structure or structures. All requirements imposed by Chapter 2 of Title 4 of the Harrisonburg City Code shall also apply to arts organizations seeking partial tax exemption under this section of the Code. Upon certification by the Administrator, verification by the Commissioner of the Revenue, and proof that no taxes are outstanding prior to or upon the completion of the rehabilitation, renovation, or replacement project, the qualified arts organization or lessor shall be entitled to the partial exemption for a period no longer than five (5) years.

Sections 9-5-11 through 9-5-19. Reserved.

This ordinance shall be effective July 1, 2001.

ADOPTED AND APPROVED this 12th day of June, 2001.

MAYOR

ATTEST:

CITY CLERK

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 27, 2010**

AGENDA ITEM NO.: 11

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: August 13, 2009 General Obligation Public Improvement Bonds, Series 2009B-Taxable Build America Bonds, Reallocation of \$1,079,395 of Proceeds from the Public Schools Capital Projects to Public Buildings Capital Projects Category

RECOMMENDATION: Adopt a resolution to authorize a reallocation of \$1,079,395 of the August 13, 2009 General Obligation Public Improvement Bonds, Series B, issued for Public Schools Capital Projects to the Public Buildings Capital Projects category.

SUMMARY: The City issued \$27,420,000 of General Obligation Public Improvement Bonds, Series B, Taxable Build America Bonds, as part of its August 13, 2009 General Obligation Public Improvement Bond Issue; Series A, B, and C totaling \$57,450,000 for capital projects. As part of the public hearing notice to issue bonds, the Public Finance Act of 1991 requires a plan for how the bond proceeds will be used. The City provides this plan in categories. The bond issue included Public Schools Capital Projects and Public Buildings Capital Projects as two of the categories. Since that time, changes in project funding for the new Sandusky Middle School due to the issuance of General Obligation Qualified School Construction Bonds have resulted in \$1,079,395 of the August 13, 2009 bond proceeds being available for reallocation to the Juvenile & Domestic Relations Court (J & DR Court). The J & DR Court was funded predominately by pay-as-you-go cash from the sale of the landfill. The available pay-as-you-go cash from the J & DR Court will be reallocated to the Wards Road Pedestrian Crossing project (\$1,000,000) and the Miller Center Renovations Design (\$79,395). The appropriation of the \$1,079,395 is included in the Third Quarter Adjustments Agenda Item.

PRIOR ACTION(S): June 23, 2009 Finance Committee
July 14, 2009 Public Hearing and Resolution Authorizing the August 13, 2009 General Obligation Public Improvement Bonds, Series A, B, and C
April 27, 2010 Finance Committee

FISCAL IMPACT: Debt Service allocation for the \$1,079,395 will be General Fund instead of General Fund designated for Schools. Total General Fund debt service remains the same.

CONTACT(S): Donna S. Witt, Director of Financial Services 455-3968

ATTACHMENT(S): August 13, 2009 General Obligation Public Improvement Bonds Reallocation Resolution

REVIEWED BY: lkp

**A RESOLUTION OF THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA,
REALLOCATING A PORTION OF THE PROCEEDS OF ITS GENERAL OBLIGATION
PUBLIC IMPROVEMENT BONDS, SERIES 2009B (TAXABLE–BUILD AMERICA BONDS)**

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

SECTION 1. Findings and Determinations. The Council (the “Council”) of the City of Lynchburg, Virginia (the “City”), hereby finds and determines as follows:

(a) On August 13, 2009, the City issued \$27,420,000 principal amount of its General Obligation Public Improvement Bonds, Series 2009B (Taxable-Build America Bonds), dated August 13, 2009 (the “Series 2009B Bonds”), the proceeds of sale of \$10,530,000 principal amount of which were to be allocated to pay the costs of Public Schools.

(b) Of the proceeds of the sale of Series 2009B Bonds so allocated to Public Schools, the Council desires to reallocate the amount of \$1,079,395 of such proceeds to Public Buildings.

SECTION 2. Reallocation of Series 2009B Bond Proceeds to Public Buildings from Public Schools. The Council hereby reallocates to the payment of the costs of the Public Buildings the amount of \$1,079,395 of the proceeds of sale of the Series 2009B Bonds heretofore allocated to the payment of the costs of the Public Schools.

SECTION 3. Effectiveness of Resolution. This resolution shall take effect upon its adoption.

Adopted:

Certified:

Interim Clerk of Council

045L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 27, 2010**

AGENDA ITEM NO.: 12

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Issuance of Not to Exceed \$12,000,000 General Obligation Public Improvement Refunding Bonds, Series 2010

RECOMMENDATION: City Council is requested to take the following actions to authorize an advance refunding of all or a portion of the City's outstanding General Obligation Public Improvement Bonds, Series 2001 and 2004.

- (a) Adopt a resolution authorizing the issuance of not to exceed \$12,000,000 principal amount of General Obligation Public Improvement Refunding Bonds, Series 2010.
- (b) Adopt a resolution amending the FY 2010 General, Water and Sewer Funds' Adopted Budgets and appropriate \$97,645, \$23,687 and \$28,868 respectively with resources from the refunding bond proceeds for a total of \$150,200 for estimated issuance costs.

This is an anticipatory measure. The refunding will be implemented when marked conditions produce net savings of 3% or better.

SUMMARY: Due to lower interest rates, the City's financial advisor, Davenport & Company LLC, recommended that the City advance refund a portion of the General Obligation Public Improvement Bonds, Series 2001 and 2004 through the issuance of General Obligation Public Improvement Refunding Bonds, Series 2010 of the City. Requests for Proposals for a private placement with a fixed rate or for a public sale were distributed to financial institutions on April 8, 2010. Proposals will be received on April 21, 2010 and evaluated by the City staff and financial advisor. A status update with the results of the evaluations will be provided to the Finance Committee and City Council on April 27, 2010.

The following summarizes the proposed costs of issuance:

Cost Component	FY 2010 Estimate
Bond Counsel	\$45,000
Bond Ratings	54,200
Financial Advisor	31,000
Official Statement Preparation & Printing	5,000
Advertising	2,000
Verification	3,500
Copying, Postage, & Overnight Mailings, etc.	2,000
Miscellaneous	5,000
Escrow Agent	2,500
Total	\$150,200

PRIOR ACTION(S): April 27, 2010 Finance Committee

FISCAL IMPACT: Refunding bonds are long-term debt; this financing includes funding the issuance costs with the 2010 Refunding Bonds proceeds.

CONTACT(S): Donna S. Witt, Financial Services Director, 455-3968

ATTACHMENT(S): Appropriation Resolution for Issuance Costs, Refunding Bond Resolution,

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED THAT the FY 2010 General, Water and Sewer Funds' Adopted Budgets are amended; and, \$97,645, \$23,687 and \$28,868 are appropriated respectively with resources of \$150,200 from refunding bond proceeds to fund issuance costs related to the General Obligation Public Improvement Refunding Bonds, Series 2010. City Administration is authorized to realign appropriations for issuance costs among the Funds as necessary due to this refunding. City Administration also is authorized to record appropriations associated with underwriter's discounts and expenses as determined with the bond sale and funded with bond proceeds.

Introduced:

Adopted:

Certified:

Interim Clerk of Council

047L1

A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED TWELVE MILLION DOLLARS (\$12,000,000) PRINCIPAL AMOUNT OF GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BONDS OF THE CITY OF LYNCHBURG, VIRGINIA, FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND IN ADVANCE OF THEIR STATED MATURITIES AND REDEEM CERTAIN OUTSTANDING GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS OF SUCH CITY; AUTHORIZING THE SALE OF SUCH BONDS; FIXING THE FORM, DENOMINATION AND CERTAIN OTHER DETAILS OF SUCH BONDS; PROVIDING FOR THE SALE OF SUCH BONDS AND DELEGATING TO THE CITY MANAGER CERTAIN POWERS WITH RESPECT THERETO; AUTHORIZING THE PREPARATION AND DELIVERY OF THE PRELIMINARY OFFICIAL STATEMENT AND FINAL OFFICIAL STATEMENT RELATING TO SUCH BONDS; AUTHORIZING THE CITY MANAGER TO EXECUTE AND DELIVER A CONTINUING DISCLOSURE CERTIFICATE OR A CONTINUING DISCLOSURE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE APPOINTMENT OF AN ESCROW AGENT; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT BY AND BETWEEN THE CITY AND SUCH ESCROW AGENT AND THE PURCHASE OF THE SECURITIES TO BE HELD THEREUNDER; AND AUTHORIZING THE DESIGNATION OF THE REFUNDED BONDS FOR REDEMPTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA, AS FOLLOWS:

SECTION 1. The Council of the City of Lynchburg, Virginia (the "City"), hereby finds and determines as follows:

(a) Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950, and resolutions duly adopted by the Council of the City (the "Council" or this "Council"), there were authorized to be issued, sold and delivered the City's Fourteen Million Six Hundred Twenty Thousand Dollars (\$14,620,000) principal amount of General Obligation Public Improvement Bonds, Series 2001, dated August 1, 2001 and maturing in varying amounts on August 1 in each of the years 2002 through 2021, both inclusive, on August 1, 2026 and on August 1, 2031 (the "Series 2001 Bonds").

(b) Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950, and resolutions duly adopted by the Council, there were authorized to be issued, sold and delivered the City's Twenty-Eight Million One Hundred Sixty Thousand Dollars (\$28,160,000) principal amount of General Obligation Public Improvement Bonds, Series 2004, dated June 1, 2004 and maturing in varying amounts on June 1 in each of the years 2005 through 2034, both inclusive (the "Series 2004 Bonds").

(c) The City has been advised by the City's Financial Advisor that the refunding in advance of their stated maturities of all or a portion of the Series 2001 Bonds and the Series 2004 Bonds and certain maturities of certain other currently outstanding issues of general obligation public improvement bonds of the City would result in annual debt service cost savings to the City.

(d) The Council desires to authorize the issuance and sale of General Obligation Public Improvement Refunding Bonds to provide for the refunding in advance of their stated maturities and redemption of all or a portion of the Series 2001 Bonds and the Series 2004 Bonds and certain maturities such other outstanding general obligation public improvement bonds, the refunding of which shall be recommended by the City's Financial Advisor (such bonds to be refunded in advance of their stated maturities being referred to hereinafter as the "Refunded Bonds").

(e) Pursuant to Article 5 of Chapter 26 of Title 15.2 of the Code of Virginia, 1950 (the same being referred to herein as the "Public Finance Act of 1991"), the City is authorized to issue refunding bonds to refund all or a portion of its bonds in advance of their stated maturities.

(f) In the judgment of this Council, it is necessary and expedient to authorize the issuance and sale of General Obligation Public Improvement Refunding Bonds of the City in the principal amount of not to exceed Twelve Million Dollars (\$12,000,000) for the purpose of refunding all or a portion of the Refunded Bonds and paying certain costs related to the issuance of such bonds.

SECTION 2. (a) Pursuant to the Public Finance Act of 1991, there are authorized to be issued not to exceed Twelve Million Dollars (\$12,000,000) general obligation bonds of the City, for the purpose of refunding the Refunded Bonds and paying certain costs related to the issuance of such bonds, such general obligation bonds to be designated "City of Lynchburg, Virginia, General Obligation Public Improvement Refunding Bonds, Series 2010" (the "Bonds").

(b) The Bonds shall be issued and sold in their entirety at one time, or from time to time in part in series, as shall be determined by the Director of Financial Services. The Bonds may be sold at the same time as other general obligation bonds are sold by the City. The Bonds shall be issued in fully registered form and shall be in the denomination of \$5,000 or any integral multiple thereof. The Bonds shall be numbered from R-1 upwards in order of issuance, shall mature annually, commencing in such year and on such date in each year and in such amount in each year as shall be determined by the Director of Financial Services, and shall bear interest at such rate or rates per annum as shall be determined by the City Manager pursuant to the provisions of Section 8 hereof, such interest being payable on the day which is not more than one (1) year from the date of the Bonds of such series and semiannually thereafter and, unless otherwise provided in the proceedings authorizing the issuance of the Bonds of any such series, such interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months. The Director of Financial Services is authorized to determine, in accordance with and subject to the provisions of this Resolution: the date or dates of the Bonds, the interest payment dates thereof, the maturity dates thereof (*provided* that the final maturity of the Bonds of any series shall be not later than forty (40) years from the date the first Bonds of such series are issued under this Resolution), the amount of principal maturing on each maturity date, the place or places of payment thereof and the paying agent or paying agents therefor, the place or places of registration, exchange or transfer thereof and the registrar therefor, and whether or not the Bonds shall be subject to redemption prior to their stated maturity or maturities and if subject to such redemption, the premiums, if any, payable upon such redemption and the respective periods in which such premiums are payable.

(c) In the event the Bonds of any series shall be dated as of a date other than the first day of a calendar month or the dates on which interest is payable on such series are other than the first days of calendar months, the provisions of Section 3 hereof with regard to the authentication of such Bonds and of Section 10 with regard to the forms of such Bonds shall be modified as the Director of Financial Services shall determine to be necessary or appropriate.

(d) If the Bonds of a given series are subject to redemption and if any Bonds of such series (or portions thereof in installments of \$5,000 or any integral multiple thereof) are to be redeemed, notice of such redemption specifying the date, numbers and maturity or maturities of the Bond or Bonds to be redeemed, the date and place or places fixed for their redemption, and if less than the entire principal amount of a Bond called for redemption is to be redeemed, that such Bond must be surrendered in exchange for payment of the principal amount thereof to be redeemed and the issuance of a new Bond or Bonds equalling in principal amount that portion of the principal amount of the Bond to be surrendered not to be redeemed, shall be mailed not less than thirty (30) days prior to the date fixed for redemption, by first class mail, postage prepaid, to the registered owner of such Bond at his address as it appears on the books of registry kept by the registrar for the Bonds (the "Registrar") as of the close of business on the forty-fifth (45th) day next preceding the date fixed for redemption. If any Bonds shall have been called for redemption and notice thereof shall have been given as hereinabove set forth, and payment of the principal amount of such Bonds (or the principal amount thereof to be redeemed) and of the accrued interest payable upon such redemption shall have been duly made or provided for, interest on such Bonds shall cease to accrue from and after the date so specified for their redemption.

(e) The Bonds shall be issued, upon initial issuance, in fully registered form and registered in the name of Cede & Co., a nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds, and immobilized in the custody of DTC. One fully registered Bond of the principal amount of each maturity of each series of the Bonds shall be registered to Cede & Co. Beneficial owners of Bonds shall not receive physical delivery of Bonds. Individual purchases of Bonds may be made in book-entry form only in principal amounts of \$5,000 and integral multiples thereof. Principal and interest payments on the Bonds shall be made to DTC or its nominee as registered owner of such Bonds on the applicable payment date.

Transfers of principal and interest payments to the participants of DTC, which include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations (the "Participants"), shall be the responsibility of DTC. Transfers of principal and interest payments to beneficial owners of the Bonds by the Participants is the responsibility of the Participants and other nominees of such beneficial owners. The City shall notify DTC of any notice required to be given pursuant to this Resolution, not less than fifteen (15) calendar days prior to the date upon which such notice is required to be given; *provided* that the failure to provide such notice to DTC shall not invalidate any action taken or notice given by the City hereunder.

Transfers of ownership interests in the Bonds shall be made by DTC and its Participants, acting as nominees of the beneficial owners of the Bonds, in accordance with rules specified by DTC and its Participants. The City makes no assurance that DTC, its Participants or other

nominees of the beneficial owners of the Bonds shall act in accordance with such rules or on a timely basis.

(f) Replacement Bonds (the “Replacement Bonds”) shall be issued directly to beneficial owners of Bonds rather than to DTC, or its nominee, but only in the event that:

(i) DTC determines not to continue to act as securities depository for the Bonds; or

(ii) The City has advised DTC of its determination that DTC is incapable of discharging its duties; or

(iii) The City has determined that it is in the best interest of the beneficial owners of the Bonds not to continue the book-entry system of transfer.

Upon occurrence of the events described in clause (i) or (ii) above the City shall attempt to locate another qualified securities depository. If the City fails to locate another qualified securities depository to replace DTC, the City shall execute and deliver Replacement Bonds substantially in the form set forth in Section 10 hereof to the Participants. In the event the City makes the determination noted in clause (ii) or (iii) above (the City undertakes no obligation to make any investigation to make any such determination) and has made provisions to notify the beneficial owners of Bonds by mailing an appropriate notice to DTC, the City shall execute and deliver Replacement Bonds substantially in the form set forth in Section 10 hereof to any Participants making a request for such Replacement Bonds. The City shall be entitled to rely on the records provided by DTC as to the Participants entitled to receive Replacement Bonds. Principal of and interest on the Replacement Bonds shall be payable and such Replacement Bonds will be transferable and exchangeable in accordance with Section 4 of this Resolution.

So long as the Bonds shall be in book-entry form only and registered in the name of Cede & Co., as a nominee of DTC, the Director of Financial Services of the City shall serve as registrar and paying agent for the Bonds.

SECTION 3. (a) The Bonds shall be executed, for and on behalf of the City, by the manual or facsimile signature of the Mayor of the City and shall have an impression of the corporate seal of the City or a facsimile thereof embossed or imprinted thereon, attested by the manual or facsimile signature of the Clerk of Council, the Deputy Clerk of Council or the Interim Clerk of Council of the City.

(b) The Director of Financial Services shall direct the Registrar for the Bonds of a given series to authenticate such Bonds and no such Bond shall be valid or obligatory for any purpose unless and until the certificate of authentication endorsed on each Bond shall have been manually executed by an authorized signator of the Registrar. Upon the authentication of any Bonds, the Registrar shall insert in the certificate of authentication the date as of which such Bonds are authenticated as follows: (i) if the Bond is authenticated prior to the first interest payment date, the certificate shall be dated as of the date of the initial issuance and delivery of the Bonds of the issue of which such Bond is one, (ii) if the Bond is authenticated upon an interest payment date, the certificate shall be dated as of such interest payment date, (iii) if the Bond is authenticated after the fifteenth (15th) day of the calendar month next preceding an interest payment date and prior to such following interest payment date, the certificate shall be dated as of such following

interest payment date, and (iv) in all other instances the certificate shall be dated as of the actual date upon which the Bond is authenticated by the Registrar.

(c) The execution of the Bonds in the manner above set forth is adopted as a due and sufficient authentication of the Bonds.

SECTION 4. (a) The principal of and interest on the Bonds shall be payable in such coin or currency of the United States of America as at the respective dates of payment thereof is legal tender for public and private debts.

(b) Interest on the Bonds shall be payable by check mailed by the Registrar to the registered owners of such Bonds at their respective addresses as such addresses appear on the books of registry kept pursuant to the provisions of this Section 4; *provided, however*, that so long as the Bonds are in book-entry form and registered in the name of Cede & Co., as nominee of DTC, or in the name of such other nominee of DTC as may be requested by an authorized representative of DTC, interest on the Bonds shall be paid directly to Cede & Co. or such other nominee of DTC by wire transfer. Principal of the Bonds shall be payable on presentation and surrender thereof at the office of the Registrar.

(c) At all times during which any Bond of any series remains outstanding and unpaid, the Registrar for such series shall keep or cause to be kept at its office books of registry for the registration, exchange and transfer of Bonds of such series. Upon presentation at its office for such purpose the Registrar, under such reasonable regulations as it may prescribe, shall register, exchange or transfer, or cause to be registered, exchanged or transferred, on the books of registry the Bonds as hereinbefore set forth.

(d) The books of registry shall at all times be open for inspection by the City or any duly authorized officer thereof.

(e) Any Bond may be exchanged at the office of the Registrar for such series of Bonds for a like aggregate principal amount of such Bonds in other authorized principal sums of the same series, interest rate and maturity.

(f) Any Bond of any series may, in accordance with its terms, be transferred upon the books of registry by the person in whose name it is registered, in person or by his duly authorized agent, upon surrender of such Bond to the Registrar for such series of cancellation, accompanied by a written instrument of transfer duly executed by the registered owner in person or his duly authorized agent, in form satisfactory to the Registrar.

(g) All transfers or exchanges pursuant to this Section 4 shall be made without expense to the registered owners of such Bonds, except as otherwise herein provided, and except that the Registrar for such series of Bonds shall require the payment by the registered owner of a Bond requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange. All Bonds surrendered pursuant to this Section 4 shall be cancelled.

SECTION 5. The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on the Bonds as the same become due. In each year while the Bonds, or any of them, are outstanding and unpaid, the Council shall be authorized and

required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on the Bonds to the extent other funds of the City are not lawfully available and appropriated for such purpose.

SECTION 6. CUSIP identification numbers may be printed on the Bonds, but no such number shall constitute a part of the contract evidenced by the particular Bond upon which it is printed and no liability shall attach to the City or any officer or agent thereof (including any paying agent for the Bonds) by reason of such numbers or any use made thereof (including any use thereof made by the City, any such officer or any such agent) or by reason of any inaccuracy, error or omission with respect thereto or in such use. All expenses in relation to the printing of such numbers on the Bonds shall be paid by the initial purchasers of the Bonds including the CUSIP Service Bureau charge for the assignment of such numbers.

SECTION 7. The City covenants and agrees that it shall comply with the provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986 and the applicable Treasury Regulations promulgated under such Sections 103 and 141-150 so long as any Bonds are outstanding.

SECTION 8. (a) The Bonds shall be sold in one or more series in accordance with the provisions of Section 2 at competitive or negotiated sale at not less than ninety-eight percent (98%) of the principal amount thereof (less any original issue discount) and on such other terms and conditions as are provided in the Notice of Sale thereof or in the Purchase Contract relating thereto.

(b) If the Bonds are sold at competitive sale, they may be sold contemporaneously with other bonds of the City under a combined Notice of Sale. If the Bonds are sold at competitive sale, the Director of Financial Services is hereby authorized to cause to be published and distributed a Notice of Sale of the Bonds in such form and containing such terms and conditions as the may deem advisable, subject to the provisions hereof. In lieu of publishing the full text of the Notice of Sale in accordance with the provisions of the immediately preceding sentence, the Director of Financial Services is hereby authorized to cause a Summary Notice of Sale in such form as the Director of Financial Services shall approve to be published in *The Bond Buyer* on a date selected by the Director of Financial Services.

(c) Upon the determination by the Director of Financial Services to sell the Bonds at competitive or negotiated sale, the City Manager is hereby authorized, without further notice to or action by the Council, to determine the rates of interest the Bonds shall bear; *provided that*:

(i) in no event shall the true interest cost for the Bonds exceed four and one-half percent (4.5%);

(ii) in no event shall the premium payable by the City upon the redemption of the Bonds exceed two percent (2%) of the principal amount thereof; and

(iii) the Bonds of any series issued to refund the Refunded Bonds may be issued and sold only if the refunding of the Refunded Bonds refunded thereby will result in net present value savings of not less than three percent (3%) to the City, calculated by using the amount of such

net present value savings as the numerator and the Refunded Bonds refunded thereby which are subject to optional redemption as the denominator.

(d) If the Bonds are sold at negotiated sale, the City Manager is hereby authorized to, without further notice to or action by the Council, to select the underwriters for the Bonds (the "Underwriters") and to execute and deliver to the Underwriters a Bond Purchase Contract relating to the Bonds.

(e) The Director of Financial Services is hereby authorized to cause to be prepared and distributed a Preliminary Official Statement and a final Official Statement relating to the Bonds. Either or both of the City Manager and the Director of Financial Services is hereby further authorized to certify that the Preliminary Official Statement for the Bonds of each series authorized hereunder is "deemed final" for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934. The Mayor is hereby authorized to execute and deliver the final Official Statement for the Bonds of each series authorized hereunder, and the City Manager, the Director of Financial Services and the City Attorney are hereby authorized to execute and deliver to the purchasers of the Bonds of each series certificates in the forms provided for in the Official Statement for the Bonds of such series.

SECTION 9. The City Manager is hereby authorized to execute and deliver to the purchasers of the Bonds of each series authorized hereunder a Continuing Disclosure Certificate or a Continuing Disclosure Agreement evidencing the City's undertaking to comply with the continuing disclosure requirements of Paragraph (b)(5) of such Rule 15c2-12 to the extent applicable to the Bonds, such Continuing Disclosure Certificate or Continuing Disclosure Agreement to be in such form as shall be approved by the City Manager upon the advice of counsel (including the City Attorney or Bond Counsel to the City), such approval to be conclusively evidenced by his execution of such Continuing Disclosure Certificate or Continuing Disclosure Agreement.

SECTION 10. The Bonds, the certificate of authentication of the Registrar and the assignment endorsed on the Bonds, shall be in substantially the forms set forth in Exhibit A together with such changes in format as may be appropriate to conform with customs and practices applicable to comparable securities.

SECTION 11. (a) Subject to the issuance, sale and delivery of the Bonds pursuant to this Resolution for the purpose of refunding the Refunded Bonds and paying certain costs related to the issuance of such Bonds, this Council hereby designates for redemption on such dates as shall determined by the City Manager or the Deputy City Manager the Refunded Bonds selected for refunding by the City Manager or the Deputy City Manager. The City Manager or the Deputy City Manager is hereby authorized and directed to select a bank or trust company to serve, or the City may itself serve, as Escrow Agent, if necessary, and to deliver to such Escrow Agent or applicable City officials irrevocable written instructions to give notices, or to cause such notices to be given, in the name and on behalf of the City, to the holders of the Refunded Bonds of the redemption of such Refunded Bonds on the date fixed for the redemption thereof, such notices to be given in the manner and at the time or times provided in proceedings authorizing the issuance of the Refunded Bonds. The City Manager or the Deputy City Manager is hereby further authorized and directed to select a verification agent, if necessary, in connection

with effecting the redemption of the Refunded Bonds. The City Manager and the Deputy City Manager are hereby authorized to take all such actions as they shall deem to be necessary or desirable to effect the redemption of the Refunded Bonds.

(b) The City Manager or the Deputy City Manager is hereby authorized and directed to execute and deliver an Escrow Deposit Agreement by and between the City and the Escrow Agent in such form as shall be approved by the City Manager or the Deputy City Manager upon the advice of counsel (including the City Attorney or Bond Counsel), such approval to be conclusively evidenced by the execution of the Escrow Deposit Agreement by the City Manager or the Deputy City Manager.

(c) The City Manager and the Deputy City Manager, or either of them, are hereby authorized to execute, on behalf of the City, subscriptions for United States Treasury Obligations - State and Local Government Series, if any, to be purchased by the Escrow Agent from moneys deposited in the Escrow Deposit Fund created and established under any Escrow Deposit Agreement. Such United States Treasury Obligations - State and Local Government Series, if any, so purchased shall be held by the Escrow Agent under and in accordance with the provisions of the related Escrow Deposit Agreement. The City Manager and Deputy City Manager, or either of them, are hereby authorized to enter into such purchase agreements, including forward supply agreements, if any, as shall be required in connection with the purchase by the Escrow Agent, from moneys deposited in the Escrow Deposit Fund created and established under any Escrow Deposit Agreement, of Government Securities (as defined in the Escrow Deposit Agreement) other than United States Treasury Obligations - State and Local Government Series.

SECTION 12. All actions and proceedings heretofore taken by this Council, the City Manager, the Deputy City Manager, the Director of Financial Services and the other officers, employees, agents and attorneys of the City in connection with the authorization, issuance and sale of the Bonds are hereby ratified, confirmed and approved.

SECTION 13. The City Attorney of the City is directed to file a copy of this Resolution, certified by the Clerk of Council of the City to be a true and correct copy hereof, with the Circuit Court of the City in accordance with Section 15.2-2607 of the Code of Virginia, 1950.

SECTION 14. All ordinances, resolutions and other proceedings in conflict herewith are, to the extent of such conflict, repealed.

SECTION 15. This Resolution shall take effect upon its adoption.

Adopted:

Certified:

Interim Clerk of Council

**UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
CITY OF LYNCHBURG
GENERAL OBLIGATION PUBLIC IMPROVEMENT
BOND, SERIES 2010**

REGISTERED

REGISTERED

NO. R-1

\$_____

**INTEREST
RATE:**

**MATURITY
DATE:**

DATE OF BOND:

CUSIP NO.:

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM:

DOLLARS

The City of Lynchburg, a municipal corporation of the Commonwealth of Virginia (the "City"), for value received, acknowledges itself indebted and hereby promises to pay to the Registered Owner (named above), or registered assigns, on the Maturity Date (specified above), unless this Bond shall have been duly called for previous redemption and payment of the redemption price duly made or provided for, the Principal Sum (specified above) and to pay interest on such Principal Sum until the payment of such Principal Sum in full, at the Interest Rate (specified above) per annum, on _____, ____ and semiannually on each _____ and _____ thereafter (each such date is hereinafter referred to as an "interest payment date"), from the date hereof or from the interest payment date next preceding the date of authentication hereof to which interest shall have been paid, unless such date of authentication is an interest payment date if interest shall have been paid to that date, in which case from such interest payment date, or unless such date of authentication is within the period from the sixteenth (16th) day to the last day of the calendar month next preceding the following interest payment date, in which case from such following interest payment date. *[To be substituted if the interest payment date is the 15th day of the month:* or unless such date of authentication is within the period from the first (1st) day to the fourteenth (14th) day of the calendar month in which the following interest payment date shall occur, in which event from such following interest payment date]. Such interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months. Such interest is payable on each interest payment date by check mailed by the Registrar hereinafter mentioned to the Registered Owner hereof at his address as it appears on such books of registry kept by the Registrar, as of the close of business on the fifteenth (15th) day (whether or not a business day) of the calendar month next preceding each interest payment date. *[To be substituted if the interest payment date is the 15th day of the month:* Such interest is payable on each interest payment date by check mailed by the Registrar hereinafter mentioned to the Registered Owner hereof at his address as it appears on the books of registry kept by the Registrar, as of the close of business on the last day (whether or not a business day) of the calendar month next preceding each interest payment date.]; *provided, however,* that so long as this Bond is in book-entry only form and registered in the name of Cede

& Co., as nominee of The Depository Trust Company ("DTC"), or in the name of such other nominee of DTC as may be requested by an authorized representative of DTC, interest on this Bond shall be paid directly to Cede & Co. or such other nominee of DTC by wire transfer.

The principal of this Bond is payable on presentation and surrender hereof at the office of the **Director of Financial Services of the City**, as Registrar, in the City of Lynchburg, Virginia. The principal of and interest on this Bond are payable in such coin or currency of the United States of America as at the respective dates of payment thereof is legal tender for public and private debts.

This Bond is one of an issue of Bonds aggregating _____ Dollars (\$_____) in principal amount issued for the purpose of providing funds to refund in advance of their stated maturities certain outstanding general obligation public improvement bonds of the City, under and pursuant to and in full compliance with the Constitution and statutes of the Commonwealth of Virginia, including Chapter 15.2 of the Code of Virginia, 1950 (the same being the Public Finance Act of 1991), and resolutions and other proceedings of the Council of the City duly adopted and taken under the Public Finance Act of 1991.

The Bonds of the issue of which this Bond is one (or portions of the principal amount thereof in installments of \$5,000 or any integral multiple thereof) maturing on and after _____, _____ are subject to redemption at the option of the City prior to their stated maturities, on or after _____, _____, in whole or in part on any date, in such order as may be determined by the City (except that if at any time less than all of the Bonds of a given maturity are called for redemption, the particular Bonds of such maturity or portions thereof in installments of \$5,000 to be redeemed shall be selected by lot), upon payment of a redemption price equal to 100% of the principal amount of the Bonds to be redeemed, together with the interest accrued thereon to the date fixed for the redemption thereof.

If this Bond is redeemable and this Bond (or any portion of the principal amount hereof) shall be called for redemption, notice of the redemption hereof, specifying the date, number and maturity of this Bond, the date and place or places fixed for its redemption, and if less than the entire principal amount of this Bond is to be redeemed, that this Bond must be surrendered in exchange for the principal amount hereof to be redeemed and a new Bond or Bonds issued equalling in principal amount that portion of the principal amount hereof not to be redeemed, shall be mailed not less than thirty (30) days prior to the date fixed for redemption, by first class mail, postage prepaid, to the Registered Owner hereof at his address as it appears on the books of registry kept by the Registrar as of the close of business on the forty-fifth (45th) day next preceding the date fixed for redemption. If notice of the redemption of this Bond shall have been given as aforesaid, and payment of the principal amount of this Bond (or of the portion of the principal amount hereof to be redeemed) and of the accrued interest payable upon such redemption shall have been duly made or provided for, interest hereon shall cease to accrue from and after the date so specified for the redemption hereof.

Subject to the limitations and upon payment of the charges, if any, provided in the proceedings authorizing the Bonds of the issue of which this Bond is one, this Bond may be exchanged at the office of the Registrar for a like aggregate principal amount of Bonds of other authorized principal amounts and of the same issue, interest rate and maturity. This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, on the books of registry kept by the Registrar for such purpose at the office of the

Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the proceedings authorizing the Bonds of the issue of which this Bond is one, and upon the surrender hereof for cancellation. Upon such transfer a new Bond or Bonds of authorized denominations and of the same aggregate principal amount, issue, interest rate and maturity as the Bond surrendered will be issued to the transferee in exchange herefor.

The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on this Bond as the same become due. In each year while this Bond is outstanding and unpaid, the Council of the City is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on this Bond to the extent other funds of the City are not lawfully available and appropriated for such purpose.

This Bond shall not be valid or obligatory unless the certificate of authentication hereon shall have been manually signed by or on behalf of the Registrar.

It is certified, recited and declared that all acts, conditions and things required to exist, happen or be performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limitation of indebtedness prescribed by the Constitution or statutes of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signature of its Mayor, a facsimile of the corporate seal of the City to be imprinted hereon, attested by the manual or facsimile signature of the Clerk of Council [or the Deputy Clerk of Council or the Interim Clerk of Council] of the City, and this Bond to be dated the date first above written.

CITY OF LYNCHBURG, VIRGINIA

[SEAL]

Mayor

Attest:

[Deputy][Interim] Clerk of Council

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds delivered pursuant to the within-mentioned proceedings.

By: _____
Director of Financial Services,
as Registrar

Date of Authentication: _____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto _____

(Please print or typewrite name and address, including zip code, of Assignee)

PLEASE INSERT SOCIAL SECURITY OR
OTHER TAX IDENTIFYING NUMBER OF ASSIGNEE

the within-mentioned Bond and hereby irrevocably constitutes and appoints _____, agent, to transfer the same on the books of registry in the office of registrar with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of The New York Stock Exchange Inc. or a commercial bank or trust company.

(Signature of Registered Owner)
NOTICE: The signature to this assignment must correspond with the name as written on the face of the within Bond in every particular, without alteration, enlargement or any change whatsoever.