

8-22-89 Minutes

A regular meeting of the Council of the City of Bedford, Virginia, was held in the Council Hall of the Municipal Building at 7:30 p.m., August 22, 1989.

Members present: Mayor G. Michael Shelton; Councilman Larry D. Brookshier; Councilwoman Joanne A. Grahame; Councilman E. Thomas Messier; Vice Mayor John M. Owen, III; Councilman Ronnie C. Rice; and Councilman James A. Vest.

Members absent: None.

Staff present: City Manager Jack A. Gross; City Attorney W. W. Berry, IV; and Clerk of the Council Teresa W. Hatcher.

Mayor Shelton opened the meeting and led all present in saying the Pledge of Allegiance to the Flag.

Mayor Shelton declared that the minutes of a regular Council meeting held on August 8, 1989, were approved as mailed.

City Manager Gross gave the following report on real estate and personal property tax status as of August 15, 1989:

REAL ESTATE TAXES

YEAR: 1988-89 UNCOLLECTED: \$9,970.60

ASSESSMENT: \$1,062,140.60 PERCENTAGE COLLECTED: 99.06%

PERSONAL PROPERTY TAXES

YEAR: 1988 UNCOLLECTED: \$2,863.56

ASSESSMENT: \$ 601,605.37 PERCENTAGE COLLECTED: 99.53%

Councilman Messier asked members of Council to observe the changes taking place at the Bedford Middle School. He stated that Mr. English, Director of Community & Economic Development, should be commended on the job he is doing in supervising renovations.

The City Manager stated that Council may want to consider having an open house just prior to the opening the Middle School.

Councilman Rice commended the City and County Recreation Departments for their job in handling the softball World Series that recently took place in the City. Mr. Rice suggested that the City and County should recognize the softball team that went to the World Championship in Colorado.

Mayor Shelton commented on the success of the World Series, and stated that the City and County Recreation Directors deserve recognition from Council. The City Manager is to prepare the appropriate document.

Councilman Brookshier, Water and Sewer Committee, stated that the Committee recommends that Council

approve the request of Tommy Reynolds and Oscar Padgett for water and sewer connections outside the City limits, North Hills, Bedford County. He stated that based upon the submitted proposal of 12 lots, the Committee recommends that 10 single family dwellings be approved, as submitted to Council at its meeting of August 8, 1989. Mr. Brookshier stated that the approval would not imply approval of any other hookups, and would be subject to the usual conditions, i.e. construction must begin within six months and be completed within 18 months.

Vice Mayor Owen stated that the Committee recommends that Council consider this item at the next meeting.

Mayor Shelton stated that this item be deferred until the next regular meeting so that Council can have the opportunity to review all the information.

On motion by Councilman Messier, seconded by Councilman Rice, voted upon and carried unanimously, Council waived the reading of an ordinance repealing the existing ordinance concerning pool rooms and billiard rooms and enacting a new ordinance regulating pool rooms and commercial recreation centers.

Councilman Rice moved that the ordinance be adopted. The motion was seconded by Councilwoman Grahame, voted upon and carried by the following roll call vote:

Councilman Brookshier	aye
Councilwoman Grahame	aye
Councilman Messier	aye
Vice Mayor Owen	nay
Councilman Rice	aye
Councilman Vest	aye
Mayor Shelton	aye

The ordinance follows as adopted:

AN ORDINANCE REPEALING THE EXISTING ORDINANCE CONCERNING POOL ROOMS AND BILLIARD ROOMS AND ENACTING A NEW ORDINANCE REGULATING POOL ROOMS AND COMMERCIAL RECREATION CENTERS.

BE IT ORDAINED, by the Council of the City of Bedford, Virginia:

Section 1. Section 14-41 (Pool Rooms & Billiard Rooms) is hereby repealed.

Section 2. The following new ordinance is enacted and added as Chapter 7.3 of the City Code:

Chapter 7.3

POOL ROOMS AND COMMERCIAL RECREATION CENTERS

ARTICLE 1. DEFINITIONS

Sec. 7.3-1

For the purposes of this chapter, the following words and phrases shall have the meanings that are ascribed to them in this section:

(a) A "poolroom" shall be any place wherein there is a table or tables at which billiards or pool is played for which a sum is charged or imposed upon those persons wishing to play. Such terms shall not include a club or business established in which there are kept or operated, as incident to the operation of the club or business, not more than three miniature pool tables having a gross playing surface each of 3,200 square inches or less at which billiards or pool is played.

(b) A "commercial recreation center" is defined as any establishment where foosball, table tennis, shuffleboard, video games, or any other game of recreation or amusement is displayed for public patronage, where the insertion of a coin, slug or token for the payment of a fee is required and where three or more of such game machines are in use. There is excepted from such term and the regulations contained herein game machines operated as an incident to a club or business establishment duly licensed and regulated for on-premises consumption by the State Alcohol Beverage Control Board.

(c) A "family billiard center" is a poolroom where minors under the age of eighteen years are allowed under a special license issued pursuant to this chapter.

ARTICLE II. REGULATION OF BILLIARD ROOMS AND POOL ROOMS

Sec. 7.3-3 Hours of Operation

It shall be unlawful for any person owning, managing or operating a poolroom to keep open or operate the poolroom on any day between the hours of 12:00 midnight and 6:00 a.m. of the following day, except on Sunday when it shall be unlawful to open or operate a billiard room before 1:00 p.m. and after midnight. It shall be unlawful for any person, except employees, to enter a poolroom during the hours in which it is closed.

Sec. 7.3-3 Glass Fronts

Every poolroom shall have a clear glass front, with no blinds or screens, in order to afford a clear and unobstructed view of the interior where the tables are located. The poolroom shall have no partitioned or closed off areas other than those for toilet facilities, office space, and store rooms.

Sec. 7.3-4 Minors not Permitted Without a Permit

It shall be unlawful for any person under the age of 18 years to visit, frequent, play in or loiter in any

public pool room or be permitted by the proprietor thereof or his agent to visit, frequent play in or loiter in any such public poolroom or billiard room within the City, except minors may enter a "family pool room" pursuant to section 7.3-5.

Sec. 7.3-5 Entry by Persons Under 18 in "Family Billiard Center"

If a poolroom has been licensed as a "family billiard center" pursuant to the provisions of Article IV of this chapter, then any person owning, managing or operating the poolroom in his discretion, may allow minors between the ages of 16 and 18 years to play or watch the play of billiards or pool in the poolroom, and in his discretion may allow minors under the age of 16 years to play or watch the billiards in a billiard room when such minor is accompanied by one of his or her parents or a person in loco parentis or a legal guardian.

Sec. 7.3-6 Operation in Manner Other than is Provided

(a) It shall be unlawful for any person owning, managing or operating a poolroom to permit any minor under the age of 18 years to enter the billiard room unless the billiard room is licensed as a "family billiard room."

(b) It shall be unlawful for any person owning, managing or operating a billiard room to permit any minor under the age of 16 years to enter a family billiard room unless accompanied by one of his or her parents, or person in loco parentis or legal guardian.

(c) It shall be unlawful for a parent, person in loco parentis or legal guardian to permit his or her child who is under the age of 16 years to enter a billiard room unless the child is accompanied by such parent, person or guardian, and it shall be unlawful for such parent, person in loco parentis or legal guardian having accompanied his or her child in the billiard room to leave the billiard room without the child.

(d) It shall be unlawful for any minor under 18 years of age to enter a billiard room unless it is licensed as a "family billiard room," and it shall be unlawful for any minor who is under the age of 16 years to enter the billiard room without one of his or her parents, or the person in loco parentis of the minor or the minor's legal guardian.

(e) Any minor between the age of 16 and 18 years shall be solely responsible for establishing his or her age to the owner or manager of the billiard room. The person accompanying a minor under the age of 16 years shall be solely responsible for establishing the age of the minor and the relationship of the minor to such person.

(f) It shall be an affirmative defense to any prosecution for violation of this section if the person owning, managing or operating a billiard room in good faith has required production of a birth certificate, school record, or Division of Motor Vehicle identification showing the child's age and has not relied solely on oral allocations or apparent age of the child.

**ARTICLE III. COMMERCIAL RECREATION CENTER AND
FAMILY BILLIARD CENTER**

Sec. 7.3-6

No commercial recreation center or family billiard center (herein referred to as "center") shall be

operated except in compliance with the following requirements:

(a) The operator or owner shall obtain a permit under Article IV of this chapter.

(b) The center shall be illuminated throughout its interior with lighting sufficient to make the appearance of all patrons and other persons who are in the room easily discernible upon entering the premises.

(c) The location shall provide separate restroom facilities for both sexes.

(d) The center shall at all times be under management and controlled by a person at least 18 years of age who shall be on the premises of the center at all times during the hours of operation.

(e) The center shall have no partitioned or closed off areas other than those for the toilet facilities, office space and storerooms.

(f) The center shall be situated on the ground level floor of the building in which it is situated; it shall also have a window or windows with a total of not less than 100 square feet of glass facing the street which shall not be covered or otherwise obstructed during hours of business.

(g) The center shall be open for observation without warrant by any law enforcement official at any time during normal hours of operation and no owner, operator or employee in any way shall hinder any fire prevention or law enforcement officer who wishes to inspect the premises.

(h) The center shall display in a conspicuous manner the permit issued and the license obtained for operation of the center.

(i) The center shall provide permanently maintained off street parking for personnel and patrons at the rate of one and a half parking spaces for each game table or machine displayed whether in use or not.

Off street parking shall not be required for centers located in the "Centertown" area of the City of Bedford. Off street parking for patrons shall be in an area designated exclusively for the center and which shall be subject to its control and supervision.

(j) No alcoholic beverages shall be sold in the center for on-premises consumption, and the owner or operator shall not permit any alcoholic beverages or illegal drugs to be consumed in the center and shall not permit any person to remain in the center who is under the influence of alcohol or drugs at the location, including any required parking area.

(k) A center may not operate on any day between the hours of midnight and 8:00 a.m. of the following day.

(l) The City Manager shall be supplied with the names of all employees which shall be kept current by the licensed owner or operator, and such names shall be posted conspicuously.

Sec 7.3-7 Operation in Violation of Provisions

It shall be unlawful for any person to conduct, operate, or maintain a commercial recreation center

without first obtaining a permit pursuant to Article IV of this chapter or to conduct or operate a commercial recreation center in any manner or mode other than as provided in this Article.

Sec. 7.3-8 Exceptions for Existing Businesses

Any center operating lawfully prior to August 22, 1989, shall be required to obtain a permit, but as long as there is no change in the existing ownership the center shall not be required to comply with the requirements of sub-paragraphs (c), (d), (e), (f), (i), of Sec. 7.3-6.

ARTICLE IV. PERMITS

Sec. 7.3-9 Application

Any person desiring to own or operate a "family billiard center" or "commercial recreation center" shall apply for and obtain permit from the City Manager. The application shall contain the following information:

(a) Name and address of the applicant, age, social security number, race, sex, date and place of birth and the relationship of the applicant, if any, to any company, corporation or entity

which has an interest in the ownership or management of the center.

(b) A list of all employees who are expected to serve in a managerial capacity in the center.

(c) Prior criminal convictions, excluding traffic offenses, of the applicant and of all employees.

(d) Prospective location of the center.

(e) Maximum number of patrons center will accommodate and number of machines or games.

(f) A certification by the applicant that all requirements of this chapter have been complied with.

Sec. 7.3-10 Application Fee

At the time of filing his application, the applicant for a permit required by the provisions of this chapter shall pay a fee of \$50 which shall not be refundable.

Sec. 7.3-11 Investigation

(a) Upon receiving application for a permit required by this chapter, the City Manager immediately shall cause an investigation to be made concerning the qualifications of the applicant and whether the proposed center is in compliance with all applicable law.

(b) The Chief of Police shall conduct a criminal background investigation of the applicant and all designated employees to determine if the past criminal conduct of such persons would be incompatible with the operation of the center.

Sec. 7.3-12

The City Manager shall grant or deny any permit applied for under the provisions of this chapter and shall notify the applicant of his action within 30 days of the filing of the application. If the City Manager denies such permit, he shall state in writing his reasons for such action.

Sec. 7.3-13 Grounds for Denial

The following factors shall constitute grounds for the denial of a permit required by the provisions of this division:

- (a) A finding by the City Manager that the applicant has falsified his application in a material manner.
- (b) A finding by the City Manager that the applicant or any employee has a criminal record which reveals any convictions for violations of any drug control law or any pattern of criminal misconduct involving moral turpitude which would be incompatible with the operation of the center.
- (c) A finding by the City Manager that the applicant consistently fails to cooperate with law enforcement personnel in the exercise of their official duties.
- (d) A finding by the City Manager that the application is not properly completed as required herein.
- (e) A finding by the City Manager that the proposed center fails to comply with the provisions of this article.

No other factors shall be sufficient grounds for denial of an application for a permit.

Sec. 7.3-14 Assignment

No permit issued under this division shall be assignable in any manner whatsoever.

Sec. 7.3-15 Expiration

When the holder of a permit issued under the provisions of this division shall cease to operate the center for a period of sixty (60) days, the permit shall be void.

Sec. 7.3-16 Revocation or Suspension

The City Manger may suspend for a period of thirty (30) days or revoke the permit for the operation of a commercial recreation center if he finds:

- (a) That the premises have been declared a common nuisance by a court of competent jurisdiction.
- (b) That the permittee has consistently failed to operate the center in an orderly manner.
- (c) That the permittee has failed to take prompt and vigorous action to prevent violations of criminal statutes occurring on the premises which are known or should have been known to the permittee.
- (d) That circumstances exist which would have justified a denial of such permit at the time of its issuance.
- (e) That the permittee has failed to comply with the provisions of this article.

Sec. 7.3-17 Hearing

A permittee under this chapter shall be entitled to a hearing before the City Manager before any

permit is revoked or suspended. The City Manager shall give the permittee five (5) days notice of his intention to revoke or suspend such permit, along with his grounds for revocation or suspension by certified mail, return receipt requested, or by personal service by an appropriate law enforcement officer. The hearing shall be held not more than twenty (20) days after the giving of the notice.

Sec. 7.3-18 Appeal to City Council

Any person who has been denied a permit by the City Manger or whose permit has been revoked or suspended by the City Manager may appeal such action by the City Manager to the City Council by notifying the City Clerk within five (5) days of notification by such person of such denial or revocation or suspension. The City Council shall conduct a hearing at its next regularly scheduled meeting which is more than five days after receipt of notice of the appeal, and the action of the City Manager shall not become effective unless affirmed by the City Council.

ARTICLE V. MISCELLANEOUS

Sec. 7.3-19 Penalties

(a) Where any act is prohibited or is made or declared to be unlawful or the doing of any act is required or the failure to do any act is declared to be unlawful, such violation shall constitute a class 1 misdemeanor and be punished as described in Section 1-7 of the City Code.

(b) Each day any violation of this chapter shall constitute a separate offense.

Sec. 7.3-20 Severability

If for any reason any one or more sections, sentences, clauses, or parts of this ordinance are held legally invalid, such judgment shall not prejudice, affect, impair, or invalidate the remaining sections, sentences, clauses or parts of this ordinance.

Section 3.

This ordinance shall become effective one week after publication in the Bedford Bulletin or after posting at three (3) or more places in the City for one week pursuant to Section 19 of the City Charter.

Mayor Shelton adjourned the meeting at 7:48 p.m.