

9-26-89 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., September 26, 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 meeting held on September 12, 1989, were approved as corrected.

On motion by Councilman Brookshier, seconded by Councilwoman Grahame, voted upon and carried unanimously, the following item was added to the agenda: Law Enforcement Communication Equipment Program of 1989-90 - Grant.

Councilman Vest reported that Centerfest will be held this weekend in the downtown area.

Mayor Shelton reported on the statement he made at the Grayson Commission Public Hearing held on September 25, 1989, in Roanoke. The Mayor stated that the Commission did not receive his comments in a welcome fashion. Mayor Shelton said that the Commission did take issue with some of the comments that were made relative to their lack of study of the proposals of which they presented. The City Manager also commented on the public hearing. The Mayor reviewed part of what is being proposed under this legislation.

On motion by Councilwoman Grahame, seconded by Councilman Brookshier, voted upon and carried, six members voting aye, one member abstaining from voting and discussion (Messier), Elizabeth

Bailey, 846 College Street, was appointed to the City School Board to fill an existing vacancy, said term expiring June 3, 1990.

Mr. Charles Anderson of Frantz-Chappelear Associations presented a preliminary report on the suitability of the yellow stucco building as a library facility. Mr. Anderson reviewed estimates for the renovation of the building.

Discussion ensued.

City Manager Gross reviewed cost estimates for repairs for temporary use of the Bedford Middle School gymnasium (in the yellow stucco building). Mr. Gross stated that the estimated cost of the minimum repairs to allow the gymnasium to be used would be \$23,217.00. The City Manager cautioned that money spent on that building at this time is in limbo because of the Grayson Commission proposals.

Mayor Shelton asked that the Property Committee review this report and come back to Council with a recommendation as to proceeding;

taking into consideration the report from Frantz-Chappelear Associates, looking at the cost benefits as compared to the possibility of that building eventually being utilized as a library; and also looking at it from the standpoint of the expenditure that is proposed here in light of some of the unknowns that the City is dealing with from the General Assembly. Mayor Shelton also asked the Committee to come back with a recommendation concerning a field house if using the gym would be cost-prohibitive.

Councilman Messier stated that he was a member of the committee that negotiated the school contract. He stated that the Superintendent of Schools, during negotiations, was aware that there would not be a gym provided for the Middle School at this time, and it did not bother him in the least. Councilman Messier stated that at a later meeting the Superintendent of Schools stated that he could use the old shop area for physical education, or could use the gym at the Armory, Bedford Educational Center, or Liberty High School; and could get by without a gym for the present. Councilman Messier suggested that Council should go on the advice of the Superintendent.

Mayor Shelton further charged the Property Committee to take into full consideration the study that was conducted by the City Council School Committee and the City School Board School Committee.

City Attorney Berry stated that Council had asked him to review a provision of the 1982 Wells Agreement between the City and Bedford County. Mr. Berry read aloud Paragraph 3 of the wells agreement, as follows: "City agrees not to charge any County customer of the City water system more than 115% of the rate paid by City customers of the City water system". Mr. Berry reviewed the history of this agreement and stated that the City due to drought conditions, had decided that it needed to supplement the reservoir with deep wells and located a site near Kelso, which lies in Bedford County. He said that under the water laws of Virginia, the City had to obtain approval of the project by the Board of Supervisors and requested such approval; and the Board rejected the City's application. Following the water laws, the City petitioned to the Circuit Court, and a three judge court was appointed to review the action by the County. Mr. Berry stated that the Court determined that the County had acted unreasonably and did not have a good justification for turning the City's request down. The County then noted an appeal of that decision to the Supreme Court, and arising from that controversy and the appeal, came the Wells Agreement. Mr. Berry stated that he had checked the minutes of the City Council meeting of April 13, 1982, which approved the agreement. Mr. Berry then read aloud the following applicable excerpts of the minutes:

"The City Attorney reported that the Board of Supervisors has approved a proposed agreement for deep wells with certain changes. Mr. Thorpe then reviewed these changes with Council. A discussion ensued regarding Section (3) Water Rates and the City agreeing not to charge any County customer of the City water system more than 115% of the rate paid by City customers. It was the consensus of Council that the 115% rate differential would not be binding on future Councils". City Attorney Berry stated that he believes that to be in line with a general legal principle in Virginia. The City Attorney read aloud from a common law developed by the courts, as follows: "Since the fixing of water rates by a municipality is a legislative and governmental power, one council may not by contract or ordinance, deprive succeeding councils of such power." Mr. Berry stated that was the advice given by the City Attorney at that time. Mr. Berry continued reading aloud from the Council minutes of April 13, 1982, as follows: "Councilman Messier moved to authorize acceptance of the agreement as presented (deep wells agreement), and authorize the Mayor to sign it; with the understanding that it is this Council's intent to abide by the 115% differential as mentioned in Item #3 and hope that future Councils will also abide by this differential. The motion was seconded by Council Anders and carried, five members voting aye, two members absent". Mr. Berry stated that he felt the minutes reflected accurately what was said at the time.

Councilman Rice asked if there is a problem at this time.

City Attorney Berry stated that the only matter he was aware of is that in some joint meetings with the Board of Supervisors, there has been a suggestion that the City should increase the rates for customers outside of the City limits; and then in subsequent discussions, the City was reminded that this provision was in the

agreement. A brief discussion ensued.

The City Manager stated that Council received a memorandum from Chief of Police Russell concerning the Law Enforcement Communication Equipment matching grant. He said this memorandum indicates that the City is eligible to apply for up to \$35,000 with a 9% local match, which would be approximately \$3,150. Mr. Gross stated that if the City is successful in this endeavor, the City will be able to purchase new communications equipment for the Police Department using the money set aside in the capital budget for communication equipment improvements.

Councilman Rice moved that Council authorize the City Manager to apply for Law Enforcement Communication Equipment Program of 1989-90 matching grant funds, the City's matching amount not to exceed \$3,150. The motion was seconded by Councilman Messier, voted upon and carried unanimously.

City Manager Gross reported that the State Water Control Board met officially yesterday and approved the City's grant for the Sewer Treatment Plant improvements at zero percent interest. Mr. Gross stated that this would save the City approximately \$250,000.

Councilman Messier stated that this was not an interest rate that was offered by the State, but that this was something that the City Manager negotiated.

Mayor Shelton adjourned the meeting at 8:51 p.m.