

11-24-92 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., November 24, 1992.

Members present: Mayor G. Michael Shelton; Councilman Larry D. Brookshier; Councilwoman Joanne A. Grahame; Councilman Payton M. Otey; Councilman Ronnie C. Rice; Councilman W. D. Tharp; and Vice Mayor 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 November 10, 1992, and the minutes of an adjourned Council meeting held on November 14, 1992, were approved as mailed.

On motion by Councilman Brookshier, seconded by Councilman Rice, voted upon and carried unanimously, the following items were added to the agenda:

Executive Session - Possible Real Estate Transaction, pursuant to Section 2.1-344(a)(3) of the Code of Virginia of 1950, as amended.

Consideration of Readoption of Previously Approved Lawsuit Settlement Agreement with Bedford County Concerning Annexation and Water and Sewer Issues

Mayor Shelton stated that City Manager Gross has been selected by

Governor Doug Wilder to help represent local governments in Virginia on the Virginia World Technology Fair Commission.

The City Manager received City Council's approval to officially accept the appointment.

The Consent Agenda consisted of the following item:

Appointment of Mr. William P. Pickett and Mr. James C. McIvor to four-year terms on the Industrial Development Authority, said terms to expire November 30, 1996.

On motion by Councilwoman Grahame, seconded by Councilman Otey, voted upon and carried unanimously, the Consent Agenda was adopted.

The City Manager stated that Council had received copies of the proposed ordinance imposing a meals tax on prepared foods and beverages sold in the City. Mr. Gross indicated that the ordinance has been amended as a result of the public hearing, by including a provision for an administrative fee of two percent on taxes collected by businesses.

Mr. Harry Wills stated that he felt this tax is discriminatory and that other taxes should be raised instead of imposing a meals tax.

Mr. Neil Dinwiddie, Terrace House Restaurant, expressed the opinion that the tax will not produce the revenue that Council expects.

Mayor Shelton indicated that Council had received a letter from Mr. Clark Lin, Owner/Manager of the Best Western Terrace House Inn, in opposition to the proposed tax.

Councilman Tharp moved that Council waive the reading of the proposed ordinance levying a food and beverage tax. The motion was seconded by Councilman Brookshier, voted upon and carried unanimously.

On motion by Vice Mayor Vest, seconded by Councilman Tharp, voted upon and carried unanimously by the following roll call vote, Council adopted the ordinance levying a food and beverage tax:

Councilman Brookshier	aye
Councilwoman Grahame	aye
Councilman Otey	aye
Councilman Rice	aye
Councilman Tharp	aye
Vice Mayor Vest	aye
Mayor Shelton	aye

AN ORDINANCE IMPOSING A MEALS TAX ON PREPARED FOODS AND BEVERAGES SOLD IN THE CITY AND REQUIRING COLLECTION BY SELLERS.

Ordinance No. 1992-001

BE IT ORDAINED by the Council of the City of Bedford as follows:

Section 1.

1. Chapter 22 (Taxation) of the Code of the City of Bedford (1974), as amended, shall be amended, and reordained by the addition of a new Article V (Meals Tax on Prepared Food and Beverage) to read and provide as follows:

Article V

Meals Tax On Prepared Foods and Beverages

Section 22-60. Definitions. The following words and phrases, when used in this Article, shall have the following respective meanings, except when the context clearly indicates a different meaning:

Caterer: A person who furnishes or delivers meals on or to the premises of another, for compensation.

Restaurant: Any place in the City, from which or in which meals are sold, including but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, delicatessen, confectionery, bakery, eating house, eatery, drug store, lunch wagon or truck, push cart or other mobile facility from which food is sold, public or private club, resort, bar or lounge. The word "restaurant" shall include bakeries, delicatessens, grocery stores, convenience stores, and other establishments from which or in which prepared sandwiches, hot dogs, fountain drinks, delicatessen food, salads, fried or baked chicken, baked turkey or ham, baked or fried fish, or other prepared foods are sold for consumption at one time.

Meal: Any prepared food or drink, including alcoholic beverages, offered or held out for sale by a restaurant or caterer for the purpose of being consumed by an individual or individuals at one time. All such food and drink shall be included, whether intended for consumption on the seller's premises or elsewhere, whether designated as breakfast, lunch, dinner, supper, brunch or any other name, and without regard to the manner, time or place of service. Meals shall not include sales of

unopened bottles or cans of soft drinks; unopened packages of peanuts, popcorn, doughnuts, crackers, potato chips, or chewing gum; and other prepackaged items normally considered as grocery items not to be consumed at one time unless such items are served with other items as part of a meal.

Person: Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.

Purchaser: Any person who purchases a meal from a restaurant or from a caterer.

Commissioner: The Commissioner of Revenue of the City and any duly authorized deputies or agents.

Treasurer: The Treasurer of the City and any duly authorized deputies or agents.

Seller: (a) Where the restaurant or catering business is a corporation, the president of the corporation.

(b) Where the restaurant or catering business is an unincorporated partnership or association, the general partner or partners or the managing agent of such unincorporated partnership or association.

(c) Where the restaurant or catering business is a sole proprietorship, the owner of the proprietorship.

(d) Where the restaurant or catering business is a non-profit organization, the organization or its executive director.

(e) In any of the above organizations, such other person as has been duly designated and authorized as an agent for the purpose of collecting the tax herein.

Section 22-61. Levy of Tax.

A. In addition to all other taxes and fees of any kind now or hereafter imposed by law, there is imposed or levied by the City a tax on the purchaser of every meal served, sold or delivered in the City by a restaurant or caterer amounting to five percent (5%) of the amount of the charge for such meal. Any fractional cent shall be rounded to the next higher cent.

B. The tax imposed by this Article applies to all sales of meals by a restaurant or caterer whose place of business is located within the City of

Bedford, Virginia, without regard to the locality of delivery or possible use by the purchaser. The term "sale" of meals means a final sale to the ultimate consumer.

Section 22-62. Exemptions.

The following classes of meals shall not be subject to tax under this Article:

A. Meals furnished by restaurants to employees as part of their compensation when no charge is made to the employee.

B. Meals sold and served by non-profit day care centers and by public or private elementary or secondary schools.

C. Meals furnished by a non-profit, charitable organization to elderly, infirmed, handicapped or needy persons in their homes or central locations.

D. Meals furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirmed or handicapped, or other extended care facility to patients or residents thereof. Any sales to persons who are not residents or patients of the facility described above are not exempt from the tax imposed by this Article.

E. Meals prepared and sold by a church or religious society, but meals sold by a caterer to a church are taxed.

F. Meals sold by a non-profit, educational, charitable or benevolent organization as a fund raising activity and on an occasional basis and not as a recurring periodic event.

G. Meals or food sold from coin operated vending machines.

H. Any other sale of a meal which is exempt from taxation under the Virginia Retail Sales and Use Tax Act (Code of Va. §58.1-600 et seq), or administrative rules and regulations issued pursuant thereto.

Section 22-63. Tips and Service Charges.

(a) Where a purchaser provides a tip for an employee of a seller, and the amount of the tip is wholly in the discretion of the purchaser, the tip is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided, in the latter case, the full amount of the tip is turned over to the employee by the seller.

(b) An amount or percentage, whether designated as a tip or a service charge, that is added to the price of a meal by the seller, and required to be paid by the purchaser, is a part of the selling price of the meal and is subject to the tax imposed by this Article.

Section 22-64. Duty to Collect Tax

(a) Every seller or his agent or employee who sells meals with respect to which a tax is levied under this Article shall collect the amount of tax imposed under this Article from the purchaser on whom the same is levied at the time payment for such meal becomes due and payable, whether payment is to be made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the meal by the seller or his agent or employee, and the seller shall pay the taxes collected to the City as provided in this Article.

(b) All amounts collected as taxes by the seller under this Article shall be deemed to be held in trust by the hotel collecting the same, until remitted to the City as provided in this Article. If the amounts collected as taxes are not paid as and when due, they shall thereafter become a debt of the hotel due to the City.

Section 22-65. Reports and Remittances and Compensation of Sellers.

A. All sellers in the City shall register as such with the Commissioner of Revenue for collection of the tax imposed in this Article.

B. Every seller which is required to collect such tax shall file a report with the Commissioner within twenty (20) days after the last day of each calendar month on forms prescribed by the Commissioner, signed by the seller, reporting the meal charges collected and the amount of taxes due thereon for the preceding month. Each such report shall be accompanied by a remittance of the amount of the taxes to the City, payable to the Treasurer.

C. All remittances received by the Commissioner shall be transmitted immediately to the City Treasurer.

D. For the purpose of compensating any Seller for accounting for and remitting the tax levied under this Article, the Seller shall be allowed a commission of two percent (2%) of the amount of tax due and accounted for in the form of a deduction of that amount in submitting his monthly

report and remittance; provided the amount paid was not delinquent at the time of payment.

Section 22-66. Interest and Penalties for Failure to File A Report or Make Remittances.

A. When any seller shall fail to make any report or remit the tax required by this Article, there shall be imposed, in addition to any other penalties herein provided, a specific penalty to be added to the tax in the amount of Ten Percent (10%); provided, however, in no case shall the penalty be less than Ten Dollars (\$10.00), and such minimum penalties shall apply whether or not any tax is due for the period for which the report was required.

B. Interest shall accrue at the rate of 10% per annum which shall be computed on the taxes and penalty commencing Thirty (30) Days from the date the report or remittance is due.

C. If the failure to make any report is due to good cause shown to the satisfaction of the Commissioner, such report with or without remittances may be accepted exclusive of penalties.

Section 22-67. Records to be kept.

Every seller required to make a report or to pay and collect any tax under this article shall keep and preserve, for a period of three years, such suitable records of revenues taxable pursuant to this Article and such other records of account as may be reasonably necessary to determine the amount of taxes due pursuant to this Article. The Commissioner may inspect such records at reasonable times.

Section 22-68. Obligations Upon Going Out of Business.

Whenever any person required to collect and pay to the City a tax under this Article shall cease to operate or otherwise dispose of his business, any tax payable hereunder to the City become shall immediately due and payable through such date, and the person shall make a report and remittance thereof within 10 days of such date.

Section 22-69. Assessments by Commissioner for Failure to Report Tax Properly.

A. If any check tendered for any amount due under this chapter is not paid by the bank on which such check was drawn, the person for whom such check was tendered shall remain liable for the payment of such amount the same as if such check had not been tendered.

B. Any person who shall make, draw, utter or deliver a check tendered for any amount due under this chapter, knowing, at the time of such making, drawing, uttering or delivery, that the account upon which such check, draft or order is drawn has not sufficient funds or credits with such bank, banking institution, trust company, or other depository for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of a Class 1 misdemeanor.

The word "credit" as used herein shall be construed to mean any agreement or understanding with the bank, banking institution, trust company, or other depository for the payment of such check, draft or order.

If such person shall fail to pay to the Treasurer the amount due together with interest within five days after receiving written notice that such check, draft or order has not been paid to the holder thereof, then in any prosecution under this section the making or drawing or uttering or delivery, payment of which is refused by the drawee because of lack of funds or credit, shall be prima facie evidence of intent to defraud or of knowledge of insufficient funds. Notice mailed by certified or registered mail, evidenced by return receipt, to the last known address of the maker or drawer, shall be deemed sufficient and equivalent to notice having been received by the maker or drawer, and all other provisions of Code of Va. § 18.2-183 shall be applicable to such prosecution.

In addition to the criminal penalty set forth herein, such person shall be personally liable in any civil action brought upon such check, draft or order. penalties and interest.

Section 22-70. Civil Warrant for Collection of Delinquent Tax.

The Treasurer is authorized, when any tax becomes delinquent under this Article, to cause a civil warrant to be issued for the collection of the tax, penalty and interest as soon as the tax becomes delinquent against the seller or person liable for payment of the same.

Section 22-71. Advertising Payment or Absorption of Tax Prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed under this Article will be paid or absorbed by the seller or by anyone else, or that the seller or anyone else will relieve any purchaser of the payment of all or any part of the tax.

Section 22-72. Promulgation of Regulations.

A. The Commissioner shall monitor and oversee the accuracy, timeliness and completeness of the filing of reports and payment of taxes levied under this Article. The Commissioner shall adopt and promulgate such rules and regulations and such forms not inconsistent with the provisions of this Article as deemed necessary for the effective administration of this Article.

B. In administering the provisions of this Article, the Commissioner may give any seller ten (10) days' notice to appear before the Commissioner or the designee of the Commissioner, with such books, records and papers as the Commissioner may require relating to the hotel's business for the taxable period in question. The Commissioner may require that such seller or its agents and employees give testimony or answer interrogatories under oath administered by the Commissioner or his designated agent respecting the lodging provided and the revenues therefrom which are or may be subject to the tax imposed hereby, or the failure to make a report thereof as herein provided.

Section 22-72. Issuing Bad Check in Payment of Taxes.

A. If any check tendered for any amount due under this chapter is not paid by the bank on which such check was drawn, the person for whom such check was tendered shall remain liable for the payment of such amount the same as if such check had not been tendered.

B. Any person who shall make, draw, utter or deliver a check tendered for any amount due under this chapter, knowing, at the time of such making, drawing, uttering or delivery, that the account upon which such check, draft or order is drawn has not sufficient funds or credits with such bank, banking institution, trust company, or other depository for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of a Class 1 misdemeanor.

The word "credit" as used herein shall be construed to mean any agreement or understanding with the bank, banking institution, trust company, or other depository for the payment of such check, draft or order.

If such person shall fail to pay to the Treasurer the amount due together with interest within five days after receiving written notice that such check, draft or order has not been paid to the holder thereof, then in any prosecution under this section the making or drawing or uttering or delivery, payment of which is refused by the drawee because of lack of funds or credit, shall be prima facie evidence of intent to defraud or of

knowledge of insufficient funds. Notice mailed by certified or registered mail, evidenced by return receipt, to the last known address of the maker or drawer, shall be deemed sufficient and equivalent to notice having been received by the maker or drawer, and all other provisions of Code of Va. § 18.2-183 shall be applicable to such prosecution.

In addition to the criminal penalty set forth herein, such person shall be personally liable in any civil action brought upon such check, draft or order.

Section 22-73. Criminal Penalties for Violation.

Any person subject to the provisions of this Article failing or refusing to collect the full amount of the tax levied hereby, failing to make payment thereof to the City, failing or refusing to furnish any report herein required to be made, failing or refusing to furnish supplemental or other data required by the Commissioner, making a false or fraudulent claim for refund, or violating any other provision of this Article shall be guilty of a Class 1 misdemeanor. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense. Conviction of such violation shall not relieve such person from the liability for taxes, penalties and interest or from the duty of collection and remittance of the tax provided for herein. An agreement by any person to pay the taxes provided for in this Article by a series of installment payments shall not relieve any person of criminal liability for violation of this Article until the full amount of taxes agreed to be paid by such person is received by the Treasurer.

Section 2.

This Ordinance shall become effective on January 1, 1993. At least thirty (30) days prior to such effective date the City Clerk shall cause a copy of the Ordinance to be published one week in the Bedford Bulletin, or said Ordinance shall be posted at three or more places in the City for one week pursuant to Section 19 of the City Charter.

Vice Mayor Vest explained to Council a wording change in the proposed ordinance levying a transient occupancy tax on Page 3, paragraph D, changing the word "person" to "hotel" in that particular paragraph.

Councilwoman Grahame moved that Council waive the reading of the proposed ordinance levying a transient occupancy tax. The motion was seconded by Councilman Otey, voted upon and carried unanimously.

On motion by Vice Mayor Vest, seconded by Councilman Tharp, voted upon and carried by the following roll call vote, Council adopted the ordinance levying a transient occupancy tax:

Councilwoman Grahame	aye
Councilman Otey	aye
Councilman Rice	aye
Councilman Tharp	aye
Vice Mayor Vest	aye
Councilman Brookshier	aye
Mayor Shelton	aye

AN ORDINANCE IMPOSING A TAX UPON TRANSIENT ROOM RENTALS AND PROVIDING FOR COLLECTION BY PERSONS FURNISHING LODGING TO TRANSIENTS.

Ordinance No. 1992-002

BE IT ORDAINED by the Council of the City of Bedford as follows:

1. Chapter 22 (Taxation) of the Code of the City of Bedford (1974), as amended, shall be amended, and reordained by the addition of a new Article 5, (Transient Room Rentals), to read and provide as follows:

Article V

Transient Room Rentals

Section 22-40. Definitions. The following words and phrases, when used in this Article, shall have the following respective meanings, except when the context clearly indicates a different meaning.

Hotel: Any public or private hotel, inn, hostelry, bed and breakfast, tourist home or house, motel, rooming house or other lodging place within the City offering lodging for compensation to any transient.

Lodging: Any room or space furnished to any transient.

Transient: Any person who, for any period of not more than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any space in any hotel, for which lodging or use of space a charge is made.

Commissioner: The Commissioner of Revenue of the City and any duly authorized deputies or agents.

Treasurer: The Treasurer of the City and any duly authorized deputies or agents.

Room Rental: The total charge, exclusive of any taxes imposed on such charge, made by any hotel for lodging or space furnished any transient. If the charge made by such hotel to such transient includes any charge for services or accommodations in addition to that of lodging or use of space, then such portion of the total charge as represents only room or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

Section 22-41. Levy of Tax and Rate.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, there is hereby imposed and levied by the City on each transient a tax equivalent to five percent (5%) of the total amount paid for room rental by or for such transient to any hotel. Any fractional cent shall be rounded to the next highest cent.

Section 22-42. Exemptions.

No tax shall be payable under this Article for any of the following businesses:

A. On charges for lodging paid to any hospital, medical clinic, convalescent home or home for the aged.

B. On room rental paid by any federal, state or city official or employee when on official business, and the government concerned either pays the rental or reimburses the employee or official.

Section 22-43. Duty to Collect Tax.

A. Every person receiving any payment for room rental with respect to which a tax is levied under this Article shall collect the amount of tax hereby imposed from the transient or from the person paying for such room at the time the room rental becomes due and payable, whether payment is to be made in cash or on credit by means of the credit card or otherwise. The hotel shall add the tax to the amount charged for the lodging and shall pay the taxes collected to the City, as provided in this article.

B. All amounts collected as taxes by the hotel under this Article shall be deemed to be held in trust by the hotel collecting the same, until remitted to the City as provided in this Article. If the amounts collected as taxes are not paid as and when due, they shall thereafter become a debt of the hotel due to the City.

Section 22-44. Reports and Remittances and Compensation of Hotels.

A. All hotels in the City shall register as such with the Commissioner of Revenue for collection of the tax imposed in this Article.

B. Every hotel which is required to collect such tax shall file a report with the Commissioner within twenty (20) days after the last day of each calendar month on forms prescribed by the Commissioner, signed by the person representing the hotel, reporting the room rental charges collected and the amount of taxes due thereon for the preceding month. Each such report shall be accompanied by a remittance of the amount of the taxes to the City, payable to the Treasurer. In the case of cash payments, the Commissioner will review the required reports and will direct the hotel to pay the cash directly to the Treasurer.

C. All remittances received by the Commissioner shall be transmitted immediately to the City Treasurer.

D. For the purpose of compensating any hotel for accounting for and remitting the tax levied under this Article, such hotel shall be allowed a commission of two percent (2%) of the amount of tax due and accounted for in the form of a deduction of that amount in submitting his monthly report and remittance; provided the amount paid was not delinquent at the time of payment.

Section 22-45. Interest and Penalties for Failure to File A Report or Make Remittances.

A. When any hotel shall fail to make any report or remit the tax required by this Article, there shall be imposed, in addition to any other penalties herein provided, a specific penalty to be added to the tax in the amount of Ten Percent (10%) provided, however, in no case shall the penalty be less than Ten Dollars (\$10.00), and such minimum penalties shall apply whether or not any tax is due for the period for which the report was required.

B. Interest shall accrue at the rate of 10% per annum which shall be computed on the taxes and penalty commencing Thirty (30) Days from the date the report or remittance is due.

C. If the failure to make any report is due to good cause shown to the satisfaction of the Commissioner, such report with or without remittances may be accepted exclusive of penalties.

Section 22-46. Records to be kept.

Every hotel required to make a report or to pay and collect any tax under this article shall keep and preserve, for a period of three years, such suitable records of revenues taxable pursuant to this Article and such other records of account as may be reasonably necessary to determine the amount of taxes due pursuant to this Article. The Commissioner may inspect such records at reasonable times.

Section 22-47. Obligations Upon Going Out of Business.

Whenever any person required to collect and pay to the City a tax under this Article shall cease to operate or otherwise dispose of his business, any tax payable hereunder to the City shall become immediately due and payable through such date, and the person shall make a report and remittance thereof within 10 days of such date.

Section 22-48. Assessments by Commissioner for Failure to Report Tax Properly.

A. If any hotel shall fail or refuse to collect the tax levied by this Article and to make, within the time provided in this Article, any report and remittance required by this Article, the Commissioner, based upon the best facts and information available to him, shall make an estimate for the taxable period of the revenue of the hotel subject to the tax imposed hereby and shall assess the tax plus penalties and interest provided for in this Article. The Commissioner shall send a written notification by registered mail to the hotel stating the total amount of such tax, interest and penalties and stating that the total amount thereof shall be payable within ten days from the date of such notice.

B. Before the Commissioner shall make any determination and assessment that any hotel or person is liable for any tax, penalty and interest under this Section, the Commissioner shall give such hotel or person notice or an opportunity to be heard concerning such possible determination and assessment. The assessment so made shall be deemed prima facie correct.

Section 22-49. Civil Warrant for Collection of Delinquent Tax.

The Treasurer is authorized, when any tax becomes delinquent under this Article, to cause a civil warrant to be issued for the collection of the tax, penalty and interest as soon as the tax becomes delinquent against the hotel or person liable for payment of the same.

Section 22-50. Advertising Payment or Absorption of Tax Prohibited.

No hotel shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed under this Article will be paid or absorbed by the hotel or by anyone else, or that the hotel or anyone else will relieve any transient of the payment of all or any part of the tax.

Section 22-51. Promulgation of Regulations.

A. The Commissioner shall monitor and oversee the accuracy, timeliness and completeness of the filing of reports and payment of taxes levied under this Article. The Commissioner shall adopt and promulgate such rules and regulations and such forms not inconsistent with the provisions of this Article as deemed necessary for the effective administration of this Section.

B. In administering the provisions of this Article, the Commissioner may give any hotel ten (10) days' notice

to appear before the Commissioner or the designee of the Commissioner, with such books, records and papers as the Commissioner may require relating to the hotel's business for the taxable period in question. The Commissioner may require that such hotel or its agents and employees give testimony or answer interrogatories under oath administered by the Commissioner or his designated agent respecting the lodging provided and the revenues therefrom which are or may be subject to the tax imposed hereby, or the failure to make a report thereof as herein provided.

Section 22-52. Issuing Bad Check in Payment of Taxes.

A. If any check tendered for any amount due under this chapter is not paid by the bank on which such check was drawn, the person for whom such check was tendered shall remain liable for the payment of such amount the same as if such check had not been tendered.

B. Any person who shall make, draw, utter or deliver a check tendered for any amount due under this chapter, knowing, at the time of such making, drawing, uttering or delivery, that the account upon which such check, draft or order is drawn has not sufficient funds or credits with such bank, banking institution, trust company, or other depository for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of a Class 1 misdemeanor.

The word "credit" as used herein shall be construed to mean any agreement or understanding with the bank, banking institution, trust company, or other depository for the payment of such check, draft or order.

If such person shall fail to pay to the Treasurer the amount due together with interest within five days after receiving written notice that such check, draft or order has not been paid to the holder thereof, then in any prosecution under this section the making or drawing or uttering or delivery, payment of which is refused by the drawee because of lack of funds or credit, shall be prima facie evidence of intent to defraud or of knowledge of insufficient funds. Notice mailed by certified or registered mail, evidenced by return receipt, to the last known address of the maker or drawer, shall be deemed sufficient and equivalent to notice having been received by the maker or drawer, and all other provisions of Code of Va. § 18.2-183 shall be applicable to such prosecution.

In addition to the criminal penalty set forth herein, such person shall be personally liable in any civil action brought upon such check, draft or order.

Section 22-53. Criminal Penalties for Violation.

Any person subject to the provisions of this Article failing or refusing to collect the full amount of the tax levied hereby, failing to make payment thereof to the City, failing or refusing to furnish any report herein required to be made, failing or refusing to furnish supplemental or other data required by the Commissioner, making a false or fraudulent claim for refund, or violating any other provision of this Article shall be guilty of a Class 1 misdemeanor. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense. Conviction of such violation shall not relieve such person from the liability for taxes, penalties and interest or from the duty of collection and remittance of the tax provided for herein. An agreement by any person to pay the taxes provided for in this Article by a series of installment payments shall not relieve any person of criminal liability for violation of this Article until the full amount of taxes agreed to be paid by such person is received by the Treasurer.

Section 2.

This Ordinance shall become effective on January 1, 1993. At least thirty (30) days prior to such effective date the City Clerk shall cause a copy of the Ordinance to be published one week in the Bedford Bulletin, or said Ordinance shall be posted at three or more places in the City for one week pursuant to Section 19 of the City Charter.

Mayor Shelton stated that Council had before them the settlement agreement as adopted by the Bedford County Board of Supervisors at its meeting on November 23, 1992.

The City Manager explained to Council the changes in the current document as compared to the October 13, 1992, document.

On motion by Councilwoman Grahame, seconded by Councilman Tharp, voted upon and carried unanimously by the following roll call vote, Council readopted the Voluntary Settlement of Annexation and Utility Issues between the City of Bedford and the County of Bedford Agreement as previously approved, with the corrections or added amendments:

Councilman Otey

aye

Councilman Rice	aye
Councilman Tharp	aye
Vice Mayor Vest	aye
Councilman Brookshier	aye
Councilwoman Grahame	aye
Mayor Shelton	aye

The City Manager stated that Council had received a copy of a memorandum from H. D. Ballard, Engineering Project Manager, explaining the Virginia Department of Transportation's request that Council adopt a resolution concurring in the functional reclassification of the City of Bedford's streets. Mr. Gross indicated that the Department of Transportation is required to update the classification of all roads and streets as a result of the new Federal Intermodal Surface Transportation Efficiency Act.

The Clerk of Council read aloud the following proposed resolution:

RESOLUTION

WHEREAS, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, Section 1006, required that the Virginia Department of Transportation (VDOT) functionally reclassify the roads and streets in the Commonwealth by December 31, 1992, based on their current and anticipated functional usage; and,

WHEREAS, the Virginia Department of Transportation has previously functionally classified the state highways in accordance with the guidelines presented in the "Highway Functional Classification Manual" (Volume 26, Appendix 12, Highway Planning Program Manual); and,

WHEREAS, The Virginia Department of Transportation has updated the functional classification in accordance with the "Highway Functional Classification Manual" (Revised, March 1989) and aforementioned ISTEA of 1991,

NOW, THEREFORE, BE IT RESOLVED, that the City of Bedford concurs with the "1995 Highway Functional Classification" for

the City of Bedford as updated by the Virginia Department of Transportation.

Councilman Brookshier moved that the resolution be adopted. The motion was seconded by Councilman Tharp, voted upon and carried unanimously by the following roll call vote:

Councilman Rice	aye
Councilman Tharp	aye
Vice Mayor Vest	aye
Councilman Brookshier	aye
Councilwoman Grahame	aye
Councilman Otey	aye
Mayor Shelton	aye

On motion by Councilman Tharp, seconded by Councilman Brookshier, voted upon and carried unanimously by the following roll call vote, Council adjourned into executive session to discuss - Possible Real Estate Transaction, pursuant to Section 2.1-344(a)(3) of the Code of Virginia of 1950, as amended:

Councilman Tharp	aye
Vice Mayor Vest	aye
Councilman Brookshier	aye
Councilwoman Grahame	aye
Councilman Otey	aye
Councilman Rice	aye
Mayor Shelton	aye

Council adjourned into executive session at 8:03 p.m. Non-council members attending were: City Manager Gross, City Attorney Berry, and Clerk of the Council Hatcher.

Council reconvened into open session at 8:14 p.m.

The Clerk of Council read aloud the following proposed resolution:

BE IT RESOLVED that the Council of the City of Bedford hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Council.

Councilman Tharp moved that the resolution be adopted as read. The motion was seconded by Councilwoman Grahame, voted upon and carried unanimously by the following roll call vote:

Vice Mayor Vest	aye
Councilman Brookshier	aye
Councilwoman Grahame	aye
Councilman Otey	aye
Councilman Rice	aye
Councilman Tharp	aye
Mayor Shelton	aye

On motion by Councilman Brookshier, seconded by Vice Mayor Vest, voted upon and carried unanimously, the following item was added to the agenda:

Purchase of Property Owned by Mr. Harry Carter

Mayor Shelton stated that it is being recommended that Council approve the purchase of a small strip of property owned by Harry Carter adjacent to Bedford Public Library property for \$750.00.

Councilman Brookshier moved that Council approve the purchase of the small strip of property owned by Harry Carter for \$750.00. The motion was seconded by Councilman Tharp.

Councilman Brookshier then amended his motion to include: with the understanding that the City will be reimbursed by the Library Foundation. Councilman Tharp, who seconded the motion, agreed to the amendment.

The motion was then voted upon and carried unanimously by the following roll call vote:

Councilman Brookshier	aye
Councilwoman Grahame	aye
Councilman Otey	aye
Councilman Rice	aye
Councilman Tharp	aye
Vice Mayor Vest	aye
Mayor Shelton	aye

Mayor Shelton adjourned the meeting at 8:20 p.m.

Mayor

Clerk of the Council