

5-11-93 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., May 11, 1993.

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 welcomed the student participants in Local Government Day. Members of Council and the staff introduced the students.

Mayor Shelton declared that the minutes of a regular Council meeting held on April 27, 1993, were approved as mailed.

Councilman Brookshier asked that the Committee on Recycling review two problems that have been brought to his attention regarding the new mandatory recycling program: 1) Is refuse collection reduced to once a week for businesses? 2) A day care center in the City reported that their refuse collection on Mondays is creating a problem. The City Manager stated that he would bring both of these problems to the attention of the Recycling Coordinator.

Vice Mayor Vest thanked Councilman Otey for his work in organizing Local Government Day. Councilman Otey thanked Vice Mayor Vest for his help.

Mayor Shelton presented Laura Ayres with a Certification of Retirement, a Jefferson Cup, and a lapel pin in recognition of her retirement from the City on May 1, 1993, after 24 years of service.

The Clerk of Council read aloud the first paragraph of the following Notice of Public Hearing. The Notice follows in its entirety as published in the local newspaper:

## NOTICE OF PUBLIC HEARING

NOTICE is hereby given, pursuant to Section 15.1-1167.1 of the Code of Virginia (1950), as amended, that on Tuesday May 11, 1993 at 7:30 p.m. in the City Council Chambers located on the Second Floor of the Municipal Building at 215 East Main Street in the City of Bedford, Virginia, the City Council of the City of Bedford will hold a public hearing on a Voluntary Settlement of Annexation and Utility Issues between the City of Bedford and the County of Bedford (the "Agreement"), and the City Council will thereafter consider for passage an ordinance to approve and adopt the Agreement.

The Agreement is a voluntary settlement authorized by Section 15.1-1167.1 of the Code of Virginia (1950), as amended, and provides for the annexation to the City of approximately 26.7 acres of land, for the payment by the City of certain compensation to the County for the boundary change, for a waiver by the City by certain annexation rights, for the availability of water and sewer services to certain parcels of land in the County, for the undertaking of a utility rate study, and for other terms and conditions.

The City and the County presented the Agreement to the Commission on Local Government, which conducted a hearing as required by law and which issues its findings and recommendations in a Report dated April 1993. The Commission concluded that the Agreement is clearly in the best interests of the residents of the City and the County and it recommended its approval by the court authorized to review such voluntary settlements. The major provisions of the Agreement include the following:

1. Annexation. The boundaries of the City shall be modified as of midnight on June 30, 1993, by the annexation to the City of two parcels of county territory containing a total of approximately 26.7 acres. Metes and bounds descriptions of the two parcels are contained in the Agreement, and the parcels are further designated and described on survey plats attached to the Agreement. If the court convened to review the Agreement has not entered a final order prior to June 30, 1993 approving and affirming the Agreement, then the annexation shall become effective at midnight on the 31st day of December or at midnight on the 30th day of June following the date of entry of such order, whichever date is earlier.

2. Terms and Conditions of Annexation. Following the effective date of the annexation provided for in the Agreement, the City shall pay the County the sum of \$104,480 as compensation for the annexation of the two parcels. The City shall pay that sum in two equal annual installments, the first due on or before six months following the effective date of annexation and the second due twelve months after the initial payment. For a period of four years beginning July 1, 1992, the City shall waive its statutory rights to institute any action to annex County territory under Article 1 of Chapter 25 of Title 15.1 of the Code or any statute similar thereto, unless the County agrees to such an annexation. If any proceedings for the annexation of territory to the City are initiated by landowners or qualified voters during the four years beginning July 1, 1992, the City will maintain a position of neutrality in such proceedings, neither supporting nor opposing any such petition.

3. Provision of Water and Sewer Service. The City shall permit the owners of certain parcels of property in the County to connect to the City's water and/or sewer systems as

described in the Agreement. Specifically, the City shall allow the owners of approximately 107 residential lots located in platted subdivisions within the County to connect to the City's water facilities, pursuant to the City's standard water connection and extension policies as they exist at the time of application by each property owner. All lots that may be connected to the City's water system are identified on maps attached to the Agreement.

The City shall further allow the owners of the Wal-Mart Shopping Center out-parcel to obtain one connection to the City's water facilities and one connection to the City's sewer facilities for a single commercial use on the property, which is identified on a survey map attached to the Agreement. The City shall provide a maximum of 75,000 gallons of water per month to such property and receive for treatment a maximum of 75,000 gallons per month of sewage from such property. The City will also allow the owners of a parcel containing 4.69 acres of land along Route 460 East adjacent to the eastern boundary of the Wal-Mart Shopping Center to connect to the City's water facilities for a single business office on such property.

The City shall have no obligation to provide water and sewer service to any parcel of property in the County not currently receiving water or sewer service, except as provided in the Agreement. The City shall, however, give consideration to requests for connections of additional properties in the County to the City's water and sewer systems for purposes of economic development projects sponsored jointly by the City and the County.

The City's obligation to permit water and/or sewer connections to those properties described in the Agreement shall continue from fiscal year to fiscal year until terminated by the parties in accordance with the Agreement, but in no event shall the City's obligation terminate prior to June 30, 2001.

4. Utility Rates for County Customers. By an Agreement dated April 13, 1982 between the City and the County, the City agreed that it would not charge any County customers of the City water system more than 115% of the rate paid for water service by City customers of the City water system. Under the Agreement, the cap or ceiling on water rates shall be phased out. There will be no increase in the rate cap or ceiling during the 1992-93 fiscal year, but in the succeeding five years the rate cap or ceiling will increase 10% per year and beginning with the 1998-99 fiscal year, there will be no rate cap or ceiling.

The City shall give the County notice of any increase in water service rates applicable to County customers of the City water system at least 45 days prior to the effective date of any such rate increase, and the City shall provide a reasonable justification for any such increase.

5. Utility Rate Study. The City and the County shall conduct a rate study to determine the cost of providing water and sewer services to County customers. This study will serve as the basis for determining actual rates to be charged to County citizens who are customers of the City's water and/or sewer system. The procedure, methodology, and other terms for conducting such a study are set forth in the Agreement.

The City's obligation to use the results of the rate study as the basis for determining water and sewer rates to be charged County residents shall continue from fiscal year to fiscal year until terminated by the parties in accordance with the Agreement, but in no event shall the City's obligation terminate prior to June 30, 2001.

6. Court Approval. The City and the County shall promptly take steps required by Virginia law to obtain approval of the Agreement by a special court constituted for that purpose. If the Agreement is not affirmed without modification, then it shall be null and void unless the City and the County expressly agree to any such modifications.

7. Dismissal of Pending Proceedings. Upon entry of the final order of the special court approving and validating the Agreement, the City and the County shall jointly request the dismissal of annexation proceedings filed by Carriage Hill of Virginia, Ltd. and by Otterburn Homes, Inc. now pending in the Circuit Court for the County of Bedford. The County shall also dismiss with prejudice the pending action which it initiated in the Circuit Court for the County of Bedford styled County of Bedford and Board of Supervisors of Bedford County v. City of Bedford and Carriage Hill of Virginia, Ltd. (Case No. 15674).

8. Miscellaneous Provisions. The Agreement also contains provisions relating to the process by which the Agreement may be amended or supplemented in the future, the binding effect of the Agreement on future governing bodies of the City and the County and any successor to the City or the County, and the enforcement of the terms and conditions of the Agreement.

The foregoing description is only a summary of the Agreement and reference should be made to the full text for its complete terms and conditions. A true copy of the Agreement is on file and available for inspection by the public in the Clerk's Office of the Circuit Court of Bedford County.

Mr. Jack A. Gross, City Manager

The City Manager stated that Section 15.1-1167.1 of the Code of Virginia requires that a public hearing be held by both the City and the County on the voluntary settlement of annexation and utility issues. Mr. Gross indicated that the County held its public hearing on May 10.

Mayor Shelton opened the public hearing at 7:45 p.m.

As there were no comments, the Mayor closed the public hearing at 7:46 p.m.

The Clerk of Council read aloud the following public hearing notice:

NOTICE

SYNOPSIS OF BUDGET FOR FISCAL YEAR JULY 1, 1993

TO JUNE 30, 1994

## CITY OF BEDFORD, VIRGINIA

Notice is hereby given that a public hearing will be held by the City Council May 11, 1993, at 7:30 p.m. in the Council Hall of the City Municipal Building in relation to the budget for the City of Bedford for fiscal year 1993-94, at which time any citizen of the City shall have the right to attend and state his or her views. Detailed copies of the budget are available for inspection during normal office hours in the Office of the City Manager and the Office of the Clerk of Council.

City Manager Gross stated that the proposed budget for FY 1993-94 has been submitted for Council's review and public comment. Mr. Gross indicated that the annual financial plan proposes the balanced revenues and expenditures for the next fiscal year.

Mr. Barry Thompson, Assistant to the City Manager, reviewed charts of the proposed budget.

Mayor Shelton opened the public hearing at 7:57 p.m.

Mr. Price Stanley, 611 Orange Street, suggested that waste be cut in the City. Mr. Stanley was opposed to the proposed amount of raises for City employees.

As there were no further comments, Mayor Shelton closed the public hearing at 8:00 p.m.

Mayor Shelton thanked Ms. Robin Johnson, teacher from the Bedford Middle School, for her assistance in organizing Local Government Day.

The Local Government Day Mayor, Ashley Robertson, asked the student Clerk of Council, Teona Callaham, to read aloud the following proposed resolution:

### **RESOLUTION**

**WHEREAS**, the observation of the functions of local government is of primary importance in the study of local government; and

**WHEREAS**, the seventh grade students of Bedford Middle School have, on May 11, 1993, participated in the local government process by observing these officials in the carrying out of their duties; and

**WHEREAS**, these students will, on May 12, 1993, conduct Local Government Day activities in the Council Hall of the City of Bedford;

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Bedford, Virginia, that May 12, 1993 be, and it hereby is, designated as

## LOCAL GOVERNMENT DAY

in the City of Bedford.

On motion by Councilman Otey, seconded by Vice Mayor Vest, voted upon and carried unanimously by a roll call vote, Council adopted the resolution. Roll call vote follows:

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

City Manager Gross stated that Council had received copies of an ordinance to approve and adopt the Agreement for Voluntary Settlement of Annexation and Utility Issues between the City of Bedford and Bedford County and to authorize the Mayor to execute the Agreement on behalf of the City. Mr. Gross indicated that Council has previously reviewed and adopted the settlement agreement. The ordinance also authorizes the City Manager and legal counsel to petition the Circuit Court of Bedford County for an order affirming and validating the Agreement and establishing the rights of each locality as set forth in the Agreement. The City Manager stated that the ordinance has been posted in accordance with the provisions of Section 2-30 of the City Code. Mr. Gross reported that the Bedford County Board of Supervisors approved a similar ordinance on May 10, 1993.

The Clerk of Council read aloud the following proposed ordinance:

**AN ORDINANCE TO ADOPT A VOLUNTARY SETTLEMENT OF  
ANNEXATION AND UTILITY ISSUES BETWEEN THE CITY OF BEDFORD  
AND THE COUNTY OF BEDFORD  
AND TO AUTHORIZE THE FILING OF A PETITION  
IN THE CIRCUIT COURT OF BEDFORD COUNTY  
FOR AN ORDER ESTABLISHING THE RIGHTS OF  
THE LOCALITIES AS SET FORTH UNDER THE  
TERMS OF SAID AGREEMENT,  
PURSUANT TO SECTION 15.1-1167.1 OF THE CODE OF  
VIRGINIA (1950), AS AMENDED**

WHEREAS, in November, 1992, the City of Bedford ("City") and the County of Bedford ("County") approved a Voluntary Settlement of Annexation and Utility Issues (the "Agreement"), which constituted a voluntary settlement authorized by Section 15.1-1167.1 of the Code of Virginia;

WHEREAS, the Agreement provides for the annexation to the City of approximately 26.7 acres of land, for the payment by the City of certain compensation to the County as a result of the boundary change, for a waiver by the City of certain annexation rights, for the availability of water and sewer services to certain parcels of land in the County, for the undertaking of a utility rate study, and for other terms and conditions;

WHEREAS, in January, 1993, the City and the County presented the Agreement to the Commission on Local Government (the "Commission"), which conducted a hearing as required by law and which issued its findings and recommendations in a Report dated April 1993; and

WHEREAS, Section 15.1-1167.1 of the Code of Virginia (1950), as amended, requires the City and the County, subsequent to the Commission review, to approve the Agreement by an ordinance passed by a recorded vote of a majority of the members of each governing body after a duly advertised public hearing on the Agreement, and thereafter to petition the Circuit Court of Bedford County for an order affirming the Agreement and establishing the rights of the localities under the terms of the Agreement;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, VIRGINIA, THAT:

1. The City Council, by this ordinance, approves and adopts the Agreement, a copy of which is attached hereto, and hereby authorizes and directs its Mayor to execute the

Agreement on behalf of the City.

2. The City Council hereby authorizes the City Manager and its special legal counsel to petition the Circuit Court of Bedford County for an order, pursuant to Section 15.1-1167.1 of the Code of Virginia (1950), as amended, affirming and validating the Agreement and establishing the rights of each locality as set forth under the terms of the Agreement.

3. The City Manager shall take all other actions and employ such special assistants as may be needed to obtain the necessary Court approval of the Agreement.

4. This Ordinance shall be in full force and effect on the day of its adoption.

Councilman Rice moved that Council adopt the ordinance as read to approve the Agreement for the Voluntary Settlement of the Annexation and Utility Issues. The motion was seconded by Councilman Otey, voted upon and carried unanimously by the following roll call vote:

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

Mayor Shelton stated that Council had received a draft agreement for schools that has been prepared by the City School Board with suggested changes.

Mayor Shelton asked that the City-County Relations Committee, and Councilman Otey, who is Council's liaison to the City School Board, to review the proposed changes in the contract and report back to Council.

City School Board Chairman Janice Martinez stated that the School Board is requesting that the revised contract be adopted by July 1, 1993.

Ms. Martinez presented a report on the After-School Enrichment Program for children in grades K through 5 at Bedford Elementary School, which is sponsored by the Parks and Recreation Department. Ms. Martinez indicated that the program is scheduled to operate from September 1993 - June 1994.

Discussion ensued regarding proposed changes in the Code of Conduct for students and the guidance program.

Mayor Shelton stated that the topic for discussion at the Local Government Day meeting to be held by the students will be a youth center and youth activities in the Bedford area. The Mayor stated that he has asked the student Mayor and members of the student Council to attend a future Council meeting and report on the recommendations of the Local Government Day City Council.

Mayor Shelton adjourned the meeting at 8:45 p.m.