

8-22-95 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, 1995.

Members present: Mayor G. Michael Shelton; Vice Mayor Larry D. Brookshier; Councilwoman Mary L. Flood; Councilwoman Joanne A. Grahame; Councilwoman Linda Kochendarfer; Councilman Ronnie C. Rice; and Councilman W. D. Tharp.

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, 1995, and the minutes of a called meeting held on August 10, 1995, were approved as distributed.

City Manager Gross reminded Council of the hearing in Bedford Circuit Court on August 29 at 10:00 a.m. regarding the City's and County's eligibility to consolidate.

The City Manager reported that the Virginia Municipal League has recommended that all of its members study the Business Professional Occupational License (BPOL) tax particularly as it relates to a uniform ordinance.

Mayor Shelton referred study of the BPOL tax ordinance to the Finance Committee to work with the staff and report back to Council.

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

Approval of Form of Bond Purchase Agreement - Taxable Lease Revenue Bonds

Approval of Form of the Fourth Supplemental Trust Agreement - Taxable Lease Revenue Bonds

Mayor Shelton stated that a memorandum from the Citizens for Responsible Waste Management has been received which requests that Council consider combining the group with the Keep Bedford Beautiful Commission.

Council concurred with combining the Citizens for Responsible Waste Management with the Keep Bedford Beautiful Commission. The City Manager is to notify both groups of Council's concurrence.

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

NOTICE OF PUBLIC HEARING

On Tuesday, the 22nd day of August 1995, the Council of the City of Bedford, Virginia, will conduct a public hearing on the proposed issuance of taxable lease revenue bonds of the City in the estimated maximum amount of \$3,000,000.00. The purpose of the proposed bonds is to finance the acquisition of certain electric distribution facilities from the Appalachian Power Company.

The public hearing will be conducted at 7:30 p.m. in City Council Chambers, Municipal Building, 215 East Main Street, Bedford, Virginia. Interested persons may appear at such time and place and present their views.

Teresa W. Hatcher

Clerk of the Council of the

City of Bedford

City Manager Gross stated that at the Council meeting of August 8, an ordinance authorizing the issuance of taxable lease revenue bonds was introduced on first reading. Mr. Gross indicated that the bond issue is required in connection with the construction of an Electric Department substation known as the skimmer station by Appalachian Power Company. The purpose of the station is to provide power to the new Georgia-Pacific addition and to sections of the older plant. The station will be sold to the City and then leased back to Appalachian Power Company. City Manager Gross stated that the ordinance has been posted in accordance with the provisions of Section 2-30 of the City Code. The City Manager brought to Council's attention a change made since the first reading which is the addition of the first sentence in paragraph four that was recommended by the City Attorney.

Mayor Shelton opened the public hearing at 7:39 p.m.

Marge Rucker, 410 Avenel Avenue, asked how much revenue is projected to be made on this project.

The City Manager stated that the net earnings per year would be approximately \$58,576 to \$76,406. Mr. Gross indicated that at the end of the bond period, Appalachian Power Company will pay the City the entire cost of the construction of the substation, which is estimated at \$2,700,000.

As there were no further comments, Mayor Shelton closed the public hearing at 7:42 p.m.

The Consent Agenda consisted of the following item: Appointment of Council member Mary Flood to serve a three-year term on the Central Virginia Area Agency on Aging Board of Directors, said term to expire September 30, 1998.

Vice Mayor Brookshier moved that the Consent Agenda be approved. The motion was seconded by Councilwoman Kochendarfer, voted upon and carried unanimously.

The Clerk of Council read aloud the following proposed ordinance:

**ORDINANCE AUTHORIZING THE ISSUANCE OF
TAXABLE LEASE REVENUE BONDS,
OF THE CITY OF BEDFORD, VIRGINIA,
IN THE MAXIMUM AMOUNT OF \$3,000,000**

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

1. It is determined to be necessary and expedient for the City of Bedford, Virginia (the "City"), to finance the acquisition of certain electric distribution facilities (the "Project") from the Appalachian Power Company (the "Company") and to borrow money for such purpose and issue the City's lease revenue bonds therefore.

2. Pursuant to the City Charter and the Public Finance Act of 1991, there are authorized to be issued lease revenue bonds of the City in the maximum amount of \$3,000,000 to provide funds, together with other

available funds, to finance the Project and to pay costs of issuing such bonds.

3. The bonds shall bear such date or dates, mature at such time or times not exceeding 40 years from their date or dates, bear interest at such rate or rates, be in such denominations and form, be executed in such manner and be sold at such time or times and in such manner as the Council may hereafter provide by appropriate resolution or resolutions.

4. The bonds shall be limited obligations of the City payable solely from the payments of rent, if any, received by the City from the Company pursuant to the terms of an equipment sale and lease agreement and, to the extent necessary to pay interest due on the Bonds during the current fiscal year, from funds appropriated by the City Council and designated for such purpose. Neither the faith and credit of the Commonwealth of Virginia nor the faith and credit of any county, city, town or other political subdivision of the Commonwealth, including the City, shall be pledged to the payment of principal of, premium, if any, or interest on the bonds.

5. The City Clerk, in collaboration with the City Attorney, is authorized and directed to see to the immediate filing of a certified copy of this ordinance in the Circuit Court of the City of Bedford, Virginia.

6. This ordinance shall take effect immediately.

Councilman Rice moved that Council adopt the ordinance. The motion was seconded by Councilwoman Kochendarfer, voted upon and carried unanimously by the following roll call vote:

Vice Mayor Brookshier	aye
Councilwoman Flood	aye
Councilwoman Grahame	aye
Councilwoman Kochendarfer	aye
Councilman Rice	aye
Councilman Tharp	aye
Mayor Shelton	aye

City Manager Gross stated that Council has received copies of the Bond Purchase Agreement and the Fourth Supplement Trust Agreement in connection with the issuance of taxable lease revenue bonds in the maximum amount of \$3,000,000. The resolution providing for the issuance and sale of these bonds calls for the form of the Bond Purchase Agreement and Supplemental Trust Agreement to be approved.

On motion by Councilwoman Grahame, seconded by Councilwoman Kochendarfer, voted upon and carried unanimously by a roll call vote, Council approved the form of the Bond Purchase Agreement. Roll call vote follows:

Councilwoman Flood	aye
Councilwoman Grahame	aye
Councilwoman Kochendarfer	aye
Councilman Rice	aye
Councilman Tharp	aye
Vice Mayor Brookshier	aye
Mayor Shelton	aye

On motion by Councilwoman Kochendarfer, seconded by Councilman Rice, and carried by a roll call vote, Council approved the form of the Fourth Supplemental Agreement of Trust between the City of Bedford, Virginia, and Signet Trust Company, as Trustee. Roll call vote follows:

Councilwoman Grahame	aye
Councilwoman Kochendarfer	aye
Councilman Rice	aye
Councilman Tharp	aye
Vice Mayor Brookshier	aye
Councilwoman Flood	aye
Mayor Shelton	aye

The City Manager stated that it is necessary for Council to adopt a resolution providing for the issuance and sale of the bonds.

On motion by Councilman Rice, seconded by Councilwoman Grahame, voted upon and carried unanimously, Council waived the reading of the proposed resolution and directed that the preamble be read instead. The Clerk of Council then read aloud the preamble.

Vice Mayor Brookshier moved that Council adopt the resolution. The motion was seconded by Councilman Rice, voted upon and carried unanimously by the following roll call vote:

Councilwoman Kochendarfer	aye
Councilman Rice	aye
Councilman Tharp	aye
Vice Mayor Brookshier	aye
Councilwoman Flood	aye
Councilwoman Grahame	aye
Mayor Shelton	aye

The resolution follows as adopted:

RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF TAXABLE LEASE REVENUE BONDS, SERIES OF 1995, OF THE CITY OF BEDFORD, VIRGINIA, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$3,000,000, HERETOFORE AUTHORIZED AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

WHEREAS, by an ordinance adopted August 22, 1995, after a public hearing held on the same date, the City Council (the "Council") of the City of Bedford, Virginia (the "City"), authorized the issuance of lease revenue bonds of the City in the maximum principal amount of \$3,000,000 to provide funds, together with other available funds, to finance the acquisition of certain electric distribution facilities (the "Facilities") from the Appalachian Power Company ("APCO") and to pay costs incurred in connection with issuing such bonds (collectively, the "Project");

WHEREAS, the Council desires to acquire from, and to lease back to, APCO the Facilities pursuant to the terms of an Equipment Sale and Lease Agreement to be entered into between the City and APCO (the "Lease Agreement");

WHEREAS, the Council desires to exclude the Facilities and the revenues generated therefrom from the lien on the City's electric system created by the Agreement of Trust dated as of June 1, 1985, as supplemented and amended (the "Trust Agreement"), between the City and Bank of Virginia Trust Company (now Signet Trust Company), as trustee (the "Trustee"), by amending certain provisions of such Trust Agreement;

WHEREAS, the Council determined that it is necessary and expedient for the City to issue its lease revenue bonds in an aggregate principal amount not to exceed \$3,000,000 to provide funds for the Project;

WHEREAS, the Council determines that it is in the City's best interests to sell such bonds through a private placement with a limited number of qualifying investors pursuant to the terms of a bond purchase agreement (the "Bond Purchase Agreement") to be entered into by the City and each qualifying investor meeting the requirements of paragraph (d) (1) of Rule 15c2-12 promulgated by the Securities and Exchange Commission (individually, a "Qualified Investor" and collectively, the "Qualified Investors"); and

WHEREAS, there have been presented to this meeting the most recent draft of each of the following documents proposed in connection with the issuance and sale of such bonds:

(a) Draft dated August 21, 1995, of a Fourth Supplemental Agreement of Trust between the City and the Trustee (the "Fourth Supplemental Trust Agreement"), amending certain definitional provisions of the Trust Agreement; and

(b) Draft dated August 18, 1995, of the Bond Purchase Agreement;

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

1. Issuance and Sale. There shall be issued, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, lease revenue bonds of the City in an aggregate principal amount not to exceed \$3,000,000 (the "Bonds") to provide funds to finance the Project.

2. Bond Details. The Bonds shall be designated "Taxable Lease Revenue Bonds, Series of 1995," shall be in registered form, in denominations of \$100,000 and multiples thereof, and shall be numbered R-1 upward. The Bonds shall mature in installments or be subject to mandatory sinking fund redemption on dates to be determined in accordance with paragraph 4. Interest on the Bonds shall be payable semiannually on dates to be determined in accordance with paragraph 4, calculated on the basis of a 360-day-year and a 30-day-month. Principal and premium, if any, shall be payable to the registered owners upon surrender of the Bonds as they become due at the office of the registrar. Interest shall be payable by check or draft mailed to the registered owners at their addresses as they appear on the registration books kept by the registrar on the day that is fifteen days before each interest payment date. Principal, premium, if any, and interest shall be payable in lawful money of the United States of America.

The City Council authorizes the issuance and sale of the Bonds to the Qualified Investors on terms as shall be satisfactory to the City Manager; provided, however, that the Bonds (a) shall have a "true" or "Canadian" interest cost not to exceed 9.25%, and (b) shall be sold to the Qualified Investors at a price equal to 100% of the original aggregate principal amount thereof.

3. Redemption provisions. The Bonds may be subject to redemption prior to maturity at the option of the City on or after dates, if any, determined by the City Manager, in whole or in part at any time, at a redemption price equal to the principal amount of the Bonds, together with any accrued interest to the redemption date, plus a redemption premium not to exceed 3% of the principal amount of the Bonds, such redemption premium to be determined by the City Manager. Any term bonds may be subject to mandatory sinking fund redemption as determined by the City Manager.

In the event that APCO fails for any reason to acquire the Facilities and to commence making Lease Payments (as hereinafter defined), the Bonds shall be redeemed prior to maturity, on a date not later than the end of the City's current fiscal year (the "Mandatory Redemption Date"), as determined by the City Manager, in whole, upon payment of a redemption price of 100% of the principal amount thereof to be redeemed plus interest accrued to the redemption date, from and only to the extent of funds on deposit in the Acquisition Fund (as hereinafter defined) and available for such purpose.

4. Terms of Issuance and Sale of Bonds. The issuance and sale of the Bonds is authorized upon the following terms. The City Manager shall (a) be authorized to approve a lesser principal amount of the Bonds, (b)

determine the interest rates of the Bonds, subject to the limitations set forth in paragraph 2, (c) determine the maturity schedule of the Bonds, provided that the final maturity of the Bonds will not be later than June 30, 2026, (d) determine the interest payment dates of the Bonds, subject to the limitations set forth in paragraph 2, (e) determine the redemption provisions of the Bonds, including the Mandatory Redemption Date, subject to the limitations set forth in paragraph 3, and (f) determine the dated date of the Bonds, all as the City Manager determines to be in the best interests of the City.

Following the determination of the terms of the bonds and their sale, the City Manager is authorized and directed to execute and deliver to each Qualified Investor the Bond Purchase Agreement, the form of which is hereby approved, with such completions, insertions, omissions and changes not inconsistent with this resolution as may be approved by the City Manager, whose approval shall be evidenced conclusively by the execution and delivery of the Bond Purchase Agreement.

5. Pledge of Revenues and Other Funds. The Bonds are limited obligations of the City. Prior to the Mandatory Redemption Date, the Bonds will be payable solely from amounts on deposit in the Acquisition Fund and the interest earnings thereon, and to the extent such monies are insufficient to make the interest payments due on the Bonds, from funds to be appropriated by the City Council for such purpose. On and after the date on which the Conditions for Release of the Acquisition Fund (as hereinafter defined) occurs, the Bonds will be payable solely from revenues derived from lease payments (the "Lease Payments") to be made by APCO pursuant to the terms of the Lease Agreement.

Neither this Resolution nor the Bonds shall be deemed to constitute a debt or pledge of the faith and credit of the City within the meaning of any constitutional or statutory limitation, and neither the faith and credit nor the taxing power of the City is pledged to the payment of amounts payable under the Bonds or other costs incident thereto.

To the extent that earnings on the Acquisition Fund are insufficient to make interest payments due on the Bonds in the City's current fiscal year, the City Council hereby states its intent to make an appropriation for this fiscal year in an amount sufficient to make such payments. The City Council directs the City Manager, or such other officer as may be charged with the responsibility for preparing the City's annual budget, to include in an amendment to the budget for the current fiscal year an amount sufficient to make the interest payments due on the Bonds in the current fiscal year.

6. Establishment of Acquisition Fund. (a) There is hereby established the "City of Bedford, Virginia, Acquisition Fund" ("the Acquisition Fund") to be held by the City, separate and apart from all other funds of the City.

(b) All proceeds of the Bonds shall be deposited in the Acquisition Fund and used to pay interest due on the Bonds through the earlier of (i) the date on which APCO satisfies the Conditions for Release of the Acquisition Fund or (ii) the Mandatory Redemption Date. "Conditions for Release of the Acquisition Fund" shall be delivery of the Facilities to the City for acquisition, together with a certificate that upon acceptance of delivery by the City APCO will commence making the Lease Payments as provided in the Lease Agreement. On the date on which the Conditions for Release of the Acquisition Fund occur, all amounts in the Acquisition Fund, less amounts needed to pay interest due on the Bonds, shall be used to acquire the Facilities from APCO. If on the Mandatory Redemption Date the Conditions for Release of the Acquisition Fund have not occurred, amounts on deposit in the Acquisition Fund shall be used to redeem the Bonds on the Mandatory Redemption Date.

7. Establishment of Lease Revenue Fund. (a) There is hereby created and established the "City of Bedford, Virginia, Lease Revenue Fund" ("the Lease Revenue Fund") to be held by the City, separate and apart from all other funds of the City.

(b) All Lease Payments and other revenue received by the City pursuant to the Lease Agreement shall be collected and deposited in the Lease Revenue Fund and used as provided for in the Supplemental Resolution (as hereinafter defined).

8. Information for Investors. The City Manager is authorized and directed to have prepared and distributed, in accordance with standard practices of municipal securities, such information that is not inconsistent with this resolution and is necessary or desirable to make available to the limited number of Qualifying Investors pursuant to the Bond Purchase Agreement.

9. Fourth Supplemental Trust Agreement. The City Manager is authorized and directed to execute the Fourth Supplemental Trust Agreement and deliver it to the Trustee. The Fourth Supplemental Trust Agreement shall be in substantially the form presented to this meeting, which is approved, with such completions, omissions, insertions and changes as may be approved by the City Manager, the execution thereof by the City Manager to constitute conclusive evidence of the City Manager's approval of any such completions, omissions, insertions and changes of such Agreement.

10. Equipment Sale and Lease Agreement. The purchase of the Facilities from, and the lease of such Facilities to, APCO are hereby approved. The City Manager is authorized and directed to negotiate the terms of the Lease Agreement so that the payments under the Lease Agreement will be sufficient to make all payments under the Bonds after the Conditions for Release of the Acquisition Fund occur.

11. Supplemental Resolution. The City Manager is directed to present a supplemental resolution (the "Supplemental Resolution") to the City Council prior to the issuance of the Bonds that provides for the manner of execution and delivery of the Bonds, the registration and transfer of the Bonds, the preparation and delivery of the Bonds, the execution and delivery of the Lease Agreement and the assignment of the City's rights thereunder for the benefit of the Bondholders, the use of the amounts in the Lease Revenue Fund so that provision is made for the timely payment of the Bonds and transfer to the Revenue Fund (established under the Trust Agreement) of amounts not needed to provide for such timely payment, and such other matters so that the Lease Payments (whether regular rent payments, prepayments or amounts due on default) will be sufficient to pay principal of, premium, if any, and interest on the Bonds.

12. Other Actions. All other actions of officers of the City in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Bonds are approved and confirmed. The officers of the City are authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds.

13. Repeal of Conflicting Resolutions. All resolutions or parts of resolutions in conflict herewith are repealed.

14. Effective Date. This Resolution shall take effect immediately.

City Manager Gross stated that as a recipient of federal funds under the Housing & Community Development Act of 1974, as amended, the City is required to take certain actions in connection with the Community Development Block Grant for housing rehabilitation and reconstruction in the greater West King Street Neighborhood. These actions include the adoption of a fair housing certification resolution, adoption of a non-discrimination policy, approval of a residential anti-displacement and relocation assistance plan, and approval of the City's local business and employment plan.

The Clerk of Council read aloud the following proposed resolution:

FAIR HOUSING

CERTIFICATION

Compliance with Title VIII of the Civil Rights Act of 1968

WHEREAS, the City of Bedford has been offered and intends to accept federal funds authorized under the Housing & Community Development Act of 1974, as amended, and

WHEREAS, recipients of funding under the Act are required to take action to affirmatively further fair housing;

THEREFORE, the City of Bedford agrees to take at least one action to affirmatively further fair housing each grant year, during the life of its project funded with Community Development Grant funds. The action taken will be selected from a list provided by the Virginia Department of Housing and Community Development.

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

Councilman Rice	aye
Councilman Tharp	aye
Vice Mayor Brookshier	aye
Councilwoman Flood	aye
Councilwoman Grahame	aye
Councilwoman Kochendarfer	aye
Mayor Shelton	aye

On motion by Councilman Rice, seconded by Councilman Tharp, voted upon and carried unanimously, Council adopted the Non-Discrimination Policy.

The Non-Discrimination Policy follows as adopted:

NON-DISCRIMINATION POLICY

The City of Bedford or any employee thereof will not discriminate against an employee or applicant for employment because of race, age, handicap, creed, religion, color, sex, or national origin. Administrative and Personnel officials will take affirmative action to insure that this policy shall include, but not be limited to the following: employment, upgrading, demotion or transfer; rates of pay or other forms of compensation; and selection for training.

On motion by Councilman Rice, seconded by Councilwoman Grahame, voted upon and carried unanimously, Council adopted the Residential Anti-Displacement and Relocation Assistance Plan.

On motion by Councilman Tharp, seconded by Councilwoman Flood, voted upon and carried unanimously, Council approved the City of Bedford's Local Business and Employment Plan.

City Manager Gross stated that because the Library of Virginia is withholding the Library Services Construction Act Grant funds, it will be necessary for Council to make an appropriation of \$178,172 from the unappropriated contingency to Revenue Account No. 360410.0002, Library Grant, to cover the cost of completion of the library construction.

Councilman Tharp moved that Council appropriate \$178,172 from the unappropriated contingency to the Revenue Account as requested by the City Manager. The motion was seconded by Councilwoman Grahame, voted upon and carried unanimously by the following roll call vote:

Councilman Tharp	aye
Vice Mayor Brookshier	aye
Councilwoman Flood	aye
Councilwoman Grahame	aye
Councilwoman Kochendarfer	aye

Councilman Rice aye

Mayor Shelton aye

Vice Mayor Brookshier moved that Council adjourn into executive session pursuant to the Code of Virginia of 1950, as amended, Section 2.1-344(a)(7), for consultation with legal counsel and staff concerning tax assessment questions and possible litigation on the L.S.C.A. Grant, and Section 2.1-344(a)(3) concerning real property. The motion was seconded by Councilman Tharp, voted upon and carried unanimously by the following roll call vote:

Vice Mayor Brookshier aye

Councilwoman Flood aye

Councilwoman Grahame aye

Councilwoman Kochendarfer aye

Councilman Rice aye

Councilman Tharp aye

Mayor Shelton aye

Ms. Marge Rucker, 410 Avenel Avenue, stated that a neighborhood meeting will be held in the Library Community Meeting Room on August 30 at 7:30 p.m.

Council adjourned into executive session at 7:59 p.m. following a five minute recess declared by the Mayor. Non-council members attending were: City Manager Gross, City Attorney Berry, Director of Planning & Community Development Jay Scudder, and Clerk of the Council Hatcher.

Council reconvened into open session at 9:55 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.

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

Councilwoman Flood	aye
Councilwoman Grahame	aye
Councilwoman Kochendarfer	aye
Councilman Rice	aye
Councilman Tharp	aye
Vice Mayor Brookshier	aye
Mayor Shelton	aye

Mayor Shelton adjourned the meeting at 9:56 p.m.