

4-23-96 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., April 23, 1996.

Members present: Mayor G. Michael Shelton; Vice Mayor Larry D. Brookshier (arrived at 7:34 p.m.); 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 April 9, 1996, were approved as distributed.

The City Manager reported that the City has received written notification that the rezoning request for property located south of Baltimore Avenue and north of Norfolk Avenue at the intersection of Baltimore Avenue and Walnut Street submitted by S. Bobbitt, Inc., owner, has been withdrawn. City Manager Gross indicated that no action is required by Council.

On motion by Councilman Rice, seconded by Councilwoman Grahame, voted upon and carried, the agenda was amended to remove the Bobbitt rezoning request.

Vice Mayor Brookshier arrived at 7:34 p.m.

The City Manager reminded members of Council participating in the Christmas in April project to meet at the job site (the home of Mrs. Estelle Robinson at 419 Crenshaw Street) on April 27 at 8:00 a.m.

Councilman Rice thanked those persons present at the meeting from the Baltimore Street, Walnut Street, and Norfolk Avenue area. Councilman Rice suggested that the Property Committee work with Mr. Bobbitt on purchasing his land for the future development of the cemetery.

Councilman Rice also spoke of the safety problem regarding a drainage pipe under Baltimore Avenue.

The City Manager stated that Council could authorize emergency procurement for the plans for rectifying the problem there.

On motion by Councilman Rice, seconded by Councilman Tharp, voted upon and carried unanimously, the following item was added to the agenda: Consideration of Authorizing Emergency Procurement for the Plans for Rectifying the Problem on Baltimore Avenue.

Vice Mayor Brookshier spoke of the success of the "Youth Connections" dance on April 20 and asked Council to consider allocating funds in the proposed 1996-97 budget to support this program.

The Vice Mayor asked the City Manager to provide Council with the list of streets to be paved. The City Manager will do so.

Vice Mayor Brookshier asked if the mats for Bedford Elementary School were delivered in March. The City Manager will determine if the mats were delivered and inform the Vice Mayor of his findings.

Councilman Tharp asked about the new electric poles being installed along Longwood Avenue.

Electric Utility Director Socha explained that the Electric Department is increasing capacity along Longwood Avenue with the overhead primary conductors and it is also a conversion to relieve the load off of the Main Street substation and increase some of the capacity at the Orange Street substation.

The Vice Mayor passed around a publication by City Council from 1964 for Council's information.

Ms. Sharyn Behnke, CASA Program Director, made a presentation to Council regarding services of the CASA (Court Appointed Special Advocate) Program.

Judge Philip Wallace of the Juvenile and Domestic Relations Court spoke in support of the CASA Program and encouraged City Council to support the program and favorably consider their request for funding.

City Manager Gross stated that Council had received the following information related to the lease financing of the regional radio communications system serving the counties of Amherst and Bedford and the cities of Bedford and Lynchburg: 1. Resolution approving plan of lease financing; 2. Lease agreement between the Industrial Development Authority of the Town of Amherst and the above local jurisdictions; 3. Trust Agreement with the Industrial Development Authority of the Town of Amherst; 4. Intergovernment Agreement between the local jurisdictions, the Industrial Development Authority of the City of Bedford, and the Industrial Development Authority of the Town of Amherst.

The City Manager stated that the common infrastructure of the system, consisting of towers with related equipment and three dispatch centers, will be financed by a lease revenue bond issue through the Industrial Development Authority of the Town of Amherst. There will also be two smaller bond issues through the Industrial Development Authority of the City of Bedford. These will be for user equipment (mobile and portable radios, desk-top control stations and accessories) for Amherst County and for Bedford County. Council has also received preliminary financial analyses prepared by Craigie Incorporated, the financial advisor for the bond issues.

Councilwoman Grahame moved that Council waive the reading of the resolution and have the Clerk read the preamble only. The motion was seconded by Councilwoman Kochendarfer, voted upon and carried unanimously.

The Clerk read aloud the preamble of the resolution.

Councilwoman Kochendarfer moved that Council adopt the resolution approving the plan of lease financing with the Industrial Development Authority of the Town of Amherst for the regional radio communications system. The motion was seconded by Councilwoman Flood, 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

The resolution follows as adopted:

**A RESOLUTION APPROVING A PLAN OF LEASE
FINANCING WITH THE INDUSTRIAL DEVELOPMENT
AUTHORITY OF THE TOWN OF AMHERST, VIRGINIA FOR
THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF
A RADIO COMMUNICATIONS SYSTEM TO SERVE THE**

**FIRE, POLICE, EMERGENCY AND OTHER
COMMUNICATION NEEDS OF THE COUNTIES OF
AMHERST AND BEDFORD AND THE CITY OF
BEDFORD AND LYNCHBURG**

WHEREAS, the counties of Amherst and Bedford, Virginia, and the cities of Bedford and Lynchburg, Virginia (collectively, the "Local Jurisdictions"), each have the power to establish a communications system to serve their fire, police, emergency and other communications needs; and

WHEREAS, the City Council (the "Council") of the City of Bedford, Virginia (the "City"), has determined, in conjunction with the respective Boards and Councils of the other Local Jurisdictions, that it is in the best interest of all such parties to cause certain common facilities relating to a communications system (the "Project") to be acquired, constructed and equipped to serve the fire, police, emergency and other communication needs of the Local Jurisdictions; and

WHEREAS, pursuant to Section 15.1-21 of the Code of Virginia of 1950, as amended, the Local Jurisdictions have determined to exercise jointly their powers with respect to the Project; and

WHEREAS, the Industrial Development Authority of the Town of Amherst, Virginia (the "Authority"), has the power under the Industrial Development and Revenue Bond Act, Chapter 33 of Title 15.1 of the Code of Virginia of 1950, as amended, to finance facilities for the use of counties, cities and other governmental organizations; and

WHEREAS, there has been presented to the Council a plan for lease financing the Project that will not create debt of the City for purposes of the Virginia Constitution pursuant to the term of such Trust Agreement (as defined below); and

WHEREAS, the Council desires that the Authority (a) finance the costs of the Project by issuing its lease revenue bonds of the Authority in an aggregate principal amount not to exceed \$9,935,000 pursuant to the terms of a Trust Agreement (as defined below) and (b) lease the Project jointly to the City and the other Local Jurisdictions pursuant to the terms of a Lease Agreement (as defined below); and

WHEREAS, the Council has determined that it is in the best interest of the City to enter into an Intergovernmental Agreement (as defined below) in order to specify the relative rights, duties, responsibilities and obligations of the Local Jurisdictions between and among themselves; and

WHEREAS, the City Manager/Mayor has recommended that Hunton & Williams be selected as bond counsel ("Bond Counsel") and Craigie Incorporated be selected as financial advisor (the "Financial Advisor"); and

WHEREAS, the Financial Advisor has recommended that the Bonds be sold to a purchaser by means of a private placement rather than a public sale; and

WHEREAS, there have been presented to this meeting drafts of the following documents (collectively, the "Documents") in connection with the transactions described above:

(a) Lease Agreement between the Local Jurisdictions and the Authority (the "Lease Agreement"), conveying to the Local Jurisdictions a leasehold interest in the Project;

(b) Trust Agreement (the "Trust Agreement"), between the Authority and a corporate trustee to be selected, pursuant to which the Bonds are to be issued, which Agreement is to be acknowledged and approved by the Council; and

(c) Intergovernmental Agreement, among the Local Jurisdictions (the "Intergovernmental Agreement:").

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

1. The following plan for financing the Project is approved and the Authority is requested to issue the Bonds as provided therein. The Authority will issue the Bonds in the maximum amount of \$9,935,000 and use the proceeds thereof to finance the Project. The Authority will lease such facilities to the Local Jurisdictions under a "triple net lease" for the term of the Bonds at a rent sufficient to amortize the Bonds and to pay the fees or expenses of the Authority. The obligation of the Authority to pay principal, premium, if any, and interest on the Bonds will be limited to rent payments received from the Local Jurisdictions. The obligation of the City to pay rent will be subject to the Council making annual appropriations for such purpose. The Bonds will be secured by an assignment of rents to the Trustee for the benefit of the bondholders. If one or more of the Local Jurisdictions exercises its right not to appropriate

money for rent payments and the other Local Jurisdictions do not allocate sufficient funds to avoid a default under the Trust Agreement, the Trustee may terminate the Lease Agreement or otherwise exclude the Local Jurisdictions from possession of the Project.

2. The Project is hereby declared to be essential to the efficient operation of the City, and the Council anticipates that the Project will continue to be essential to the operation of the City during the term of the Lease Agreement. The Council, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make annual appropriations in future fiscal years in amounts sufficient to make all payments under the Lease Agreement and hereby recommends that future Councils do likewise during the term of the Lease Agreement.

3. The Council hereby approves of the selections of Bond Counsel and of the Financial Advisor.

4. The Mayor or Vice-Mayor, either of whom may act, is authorized and directed to execute or approve the Documents, which shall be in substantially the forms submitted to this meeting, which are approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officer executing them, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes.

5. In making completions to the Lease Agreement, the Mayor or Vice-Mayor, either of whom may act, shall provide for payments of rent in amounts equivalent to the City's portion of the payments on the Bonds, which shall be sold on terms as shall be satisfactory to the Mayor or Vice-Mayor, either of whom may act; provided, however, that the payments of rent shall be based on the Bonds maturing in installments ending not later than in 2011; having an interest rate not exceeding 5.72% per year; and being subject to optional redemption at a premium not exceeding 102% of their principal amount. The Mayor or Vice-Mayor, either of whom may act, are further authorized to approve (a) a lesser principal amount for the Bonds and (b) a maturity schedule, including serial maturities and term maturities, for the Bonds as the Mayor or Vice-Mayor shall determine to be in the best interest of the City.

The actions of the Mayor or Vice-Mayor in approving the terms of the Bonds shall be conclusive, and no further action shall be necessary on the part of the Council. As set forth in the Lease Agreement, the City agrees to pay such "late charges" and other charges as provided therein. The principal of and premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America.

6. The Mayor or Vice-Mayor, the City Manager, the City Treasurer and all other officers of the City are hereby authorized and directed to work with representatives of the Authority, its counsel, Bond Counsel, and the Financial Advisor to perform all services and prepare all documentation necessary to bring the Bonds to market, including without limitation final forms of the Documents.
7. All other acts of the Mayor or Vice-Mayor and other officers of the City that are in conformity with the purposes and intent of this resolution and in furtherance of the plan of financing, the issuance and sale of the Bonds and the undertaking of the Project are hereby approved and ratified.
8. This resolution shall take effect immediately.

The City Manager stated that the Industrial Development Authority of the City of Bedford met on Monday, April 22, and adopted resolutions, which Council has received, authorizing the issuance of lease revenue bonds for the benefit of Amherst County and Bedford County in connection with the financing of the user equipment portion of the regional radio communications system. The bond issue for the Bedford County project is in an amount not to exceed \$717,285, and the issue for the Amherst County project is in an amount not to exceed \$651,350. Mr. Gross indicated that Council had also received a revised resolution in connection with the financing of the user equipment. The City Manager reported that the City's bond counsel has removed language in the resolution concerning the City's approval of the issuance of the bonds pursuant to Section 147 of the Internal Revenue Code.

The Clerk of Council read aloud the following proposed revised resolution:

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF BEDFORD, VIRGINIA**

WHEREAS, the Industrial Development Authority of the City of Bedford, Virginia (the "Authority") has separately considered the proposal of Bedford County with respect to the issuance of the Authority's revenue bonds in an amount not to exceed \$717,285 (the "Bedford County Bonds"), and the proposal of Amherst County with respect to the issuance of the Authority's revenue bonds in an amount estimated not to exceed

\$651,350 (the "Amherst County Bonds," together with the Bedford County Bonds, the "Bonds") to finance the costs of certain user equipment (the "Project") to be used by Bedford County and Amherst County (the "Counties") in connection with a joint communications system to be constructed and equipped in Central Virginia to provide for fire, police, emergency medical services communications and other communications needs for Bedford County, Amherst County, the City of Bedford and the City of Lynchburg; and

WHEREAS, the Authority has requested the Council to "designate" the Bonds as "qualified tax-exempt obligations" for the purpose of Section 265(b) (3) of the Internal Revenue Code of 1986, as amended (the "Code"), to improve the marketability of the Bonds and reduce the cost of financing the Project; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bedford County Bonds and a copy of the authority's resolution approving the issuance of the Amherst County Bonds has been filed with the Council;

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

1. Designation of the Bonds as "qualified tax-exempt obligations" for the purpose of Section 265 (b) (3) of the Code does not constitute an endorsement of the Bonds or the creditworthiness of the Counties. As required by Section 15.1-1380 of the Code of Virginia of 1950, as amended, the Bonds shall provide that neither the City nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefor, and neither the faith or credit nor the taxing power of the Commonwealth, the City nor the Authority shall be pledged thereto.

2. The City designates the Bonds as "qualified tax-exempt obligations" for the purpose of Section 265 (b) (3) of the Code. The City hereby represents and covenants as follows:

(a) The City will in no event designate more than \$10,000,000 of obligations as qualified tax-exempt obligations in calendar year 1996, including the Bonds, for the purpose of Section 265 (b) (3) of the Code.

(c) Barring circumstances unforeseen as of the date of delivery of the Bonds, the City will not issue tax-exempt obligations itself or approve the issuance of tax-exempt obligations of any of such other entities if the issuance of such tax-exempt obligations would, when aggregated with all other tax-exempt obligations theretofore issued by the City and such other entities in calendar year 1996, result in the City and such other entities having issued a total of more than \$10,000,000 of tax-exempt obligations in any such year (not including private activity bonds other than qualified 501 (c) (3) bonds), including the Bonds.

(d) The City has no reason to believe that the City and such other entities will issue tax-exempt obligations in calendar year 1996 in an aggregate amount that will exceed such \$10,000,000 limit; provided, however, if the City receives an opinion of nationally recognized bond counsel that compliance with any covenant set forth in (a) or (c) above is not required for the Bonds to be qualified tax-exempt obligations, the City need not comply with such restriction.

3. This resolution shall take effect immediately upon its adoption.

Councilwoman Kochendarfer moved that the resolution be adopted. The motion was seconded by Councilwoman Grahame.

A brief discussion ensued.

The motion was then 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

City Manager Gross stated that Council had received information regarding a proposed fishing and boating area at the Snowden hydroelectric facility. The Virginia Department of Game and Inland Fisheries has available funds for the design and construction of such a project, which would be handicapped accessible, under a matching funds grant program. The total cost of the project is estimated at not more than \$30,000, and the City would be required to pay 25%, or a maximum of \$7,500. The City Manager stated that if the project is approved by Council, these funds would need to be included in the budget for fiscal year 1996-97. The City would be required to enter into a twenty-year lease with the Department of Game and Inland Fisheries to maintain the site during the term of the lease.

Discussion ensued.

On motion by Councilwoman Grahame, seconded by Councilman Tharp, voted upon and carried, six members voting aye, one member voting nay (Rice), Council directed the City Manager to inform the Game Commission of no interest on the part of the City of Bedford in participation in the grant program; however, Council suggests that the Game Commission contact and discuss this with officials in Amherst County for their possible participation and leave the door open for consideration of potential lease of property, given hold harmless from any liability and any financial liability for this development.

The Mayor stated the next item on the agenda was the added item regarding consideration of authorizing an emergency procurement for the improvements at the north end of Baltimore Avenue as previously developed.

Councilman Rice moved that Council authorize the emergency procurement. The motion was seconded by Councilwoman Kochendarfer, voted and carried unanimously.

City Manager Gross stated that a draft of the preliminary budget for Fiscal Year 1996-97 was being submitted for Council's review. This annual financial plan proposes the balanced revenues and expenditures for the next fiscal year. Mr. Gross indicated that the proposed budget could be generally categorized as a "maintenance" budget which provides for the numerous municipal improvement projects which are now under way. It sustains a fiscal strategy for the major projects proposed for the near future.

The City Manager reviewed various highlights of the proposed budget.

Mr. Barry Thompson, Assistant City Manager, reviewed the proposed budget. Figures in the proposed budget included:

Cash carry over \$ 1,950,000

Revenues 24,141,595

\$26,091,595

Expenditures \$24,991,901

Contingency 1,099,694

\$26,091,595

Discussion ensued.

Council scheduled a work session on the budget for May 1, 1996, at 6:00 p.m.

Mayor Shelton adjourned the meeting at 9:08 p.m. until May 1, 1996, at 6:00 p.m. for a budget work session in the Council Hall.