

A regular meeting of the Council of the City of Bedford, Virginia, was held in the Council Hall of the Municipal Building at 7:30 p.m., September 9, 1997.

Members present: Mayor G. Michael Shelton; Councilman H. Davis Ballard; Vice Mayor Larry D. Brookshier; Councilwoman Mary L. Flood; Councilwoman Linda Kochendarfer; Councilman W. D. Tharp; and Councilman Robert T. Wandrei.

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 presented a certificate of retirement and gifts to Mr. Elton Waldron in recognition of his years of service to the citizens of the community.

Mayor Shelton declared that the minutes of a regular Council meeting held on August 26, 1997, were approved as distributed.

City Manager Gross introduced to Council Ms. Debra Anderson, Administrative Assistant in the City Manager's office.

Mayor Shelton read a letter from the Town Council of Vierville-sur-Mer, France, sending best wishes for Labor Day.

The Mayor reported that there will be a ribbon cutting ceremony for the new Peebles department store in Westgate Shopping Center on Thursday, November 15, at 9:50 a.m.

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

PUBLIC HEARING NOTICE

Notice is hereby given of a public hearing to be held by the City Planning Commission at 5:30 p.m. on Thursday, September 4, 1997 and the City Council at 7:30 p.m. on Tuesday, September 9, 1997 at the City Municipal Building, 215 East Main Street, Council Hall, for the purpose of considering a request for the following:

To consider a conditional use request to allow a dental clinic for adults at the southwest corner of the Bedford

Primary School site at 807 College Street. The hours of operation will be 6:00 - 8:30 p.m., Tuesday evenings, and will not exceed more than eight patients per evening. The current plan is to use the temporary facility and later to relocate to a school building addition.

Information regarding this request is on file in the office of Planning and Community Development.

The request is being made by Mr. G. Carl Boggess, attorney, representing the Bedford County School Board, the Central Virginia Health Department and the Bedford Christian Free Clinic.

Anyone who is in favor of or opposed to the request will have an opportunity to express their view at this hearing.

By the Authority of the City of Bedford

Planning Commission

Mayor Shelton opened the public hearing at 7:40 p.m.

Mr. G. Carl Boggess, counsel for the petitioners, reported there is an amendment to the request in line with the recommendations of the Planning Commission. Mr. Boggess stated the request is only for the temporary facility as it currently exists next to the Primary School, and not for the final destination of the dental unit for the children or for the adults. Mr. Boggess stated the petitioners will not come back to Council with a request for additional nights; will not have more than six appointments; and will try to keep the hours ending at 8:30 p.m. Mr. Boggess reviewed the history and funding of the dental unit, and explained the partnering of the Bedford County School Board, Bedford Health Department, and the Bedford Christian Free Clinic to provide this service.

Ms. Violet Stevens, Volunteer Director of the Bedford Christian Free Clinic, spoke regarding the need for dental care in the Bedford area.

Mr. Eugene Suggs, Chairman of the Board of Directors of the Bedford Christian Free Clinic, asked Council to approve the conditional use request.

Dr. Allen Joslyn, medical director of the Bedford Christian Free Clinic, spoke of the consequences of poor dental health and spoke in favor of the clinic.

Dr. Buck Lovelace spoke in favor of the clinic and reviewed the staffing of the clinic.

Ms. Rebecca Noftsinger, Executive Director of the Free Clinic of Central Virginia, explained the free clinic concept and spoke in favor of the dental clinic.

Ms. Louise Robertson, 806 College Street, stated she had no objections to having a free clinic at the stated location.

Ms. Nancy Strachen, 630 Mountain Avenue, endorsed the location of the clinic and asked Council to support the recommendations of the Planning Commission and agree to the conditional use permit for adult dental care.

Mr. Jim Vest, 980 Ashland Avenue, requested that Council support the program.

Mr. Jim Zug, Principal of Bedford Primary School, spoke in favor of the dental clinic.

Ms. Annie Clendenon, Business Manager for the Central Virginia Health District, indicated there is currently no space in the Bedford Health Department for a dental clinic and asked Council to support the decision of the Planning Commission.

Mr. Roger Henderson, Executive Director of the Bedford Community Health Foundation, spoke regarding the dental clinic and explained a three-year grant in the amount of \$200,000 from the Virginia Health Care Foundation. Mr. Henderson reemphasized the partnering effort previously mentioned by Mr. Boggess. Mr. Henderson reported that a ribbon cutting ceremony is tentatively scheduled for October 22 and he invited Council to attend.

Dr. Glenn Kimbell, Virginia Department of Health, spoke of the need for dental care for adult patients and asked for Council's support.

Ms. Elizabeth Bailey, 846 College Street, spoke in favor of the dental clinic.

As there were no further comments, Mayor Shelton adjourned the public hearing at 8:20 p.m.

The Consent Agenda consisted of the following item: appointment of Eileen Miller to a three-year term on the Advisory Council of the Central Virginia Area Agency on Aging, said term to expire September 30, 2000.

On motion by Councilwoman Kochendarfer, seconded by Vice Mayor Brookshier, voted upon and carried unanimously, Council adopted the Consent Agenda.

Mayor Shelton reviewed the following recommendation from the Planning Commission on the conditional use request for the dental clinic for adults at the southwest corner of the Bedford Primary School site at 807 College Street:

recommend to City Council approving the request with the following conditions: Approval of the temporary conditional use of a dental clinic

located on school property to be used for adults on Tuesday evenings during the hours of 6:00 - 8:30 p.m., with exceptions, in the existing trailer serving as a dental clinic located on the site.

Mayor Shelton asked Council to consider the approval of the temporary conditional use of the dental clinic located at Bedford Primary School subject to the conditions set forth by the Planning Commission but with the following additional conditions:

Building permit for the temporary trailer - conditional use is for one year from the date of City Council's approval

The City Council shall review and act upon any request for extending the temporary use after the one year time frame. Plans for the permanent construction of a dental clinic will be presented to the City Council at the time as such request is made.

Any permanent dental clinic operation will be located within the actual expansions of the Bedford County Health Department complex or in a compatible zone existing within the City's Land Use Regulations.

Councilman Tharp moved that Council accept the recommendation of the Planning Commission and approve the conditional use request to allow the dental clinic for adults at the southwest corner of the Bedford Primary School Site on College Street. The motion was seconded by Councilwoman Flood.

A lengthy discussion ensued.

Councilman Wandrei made a substitute motion to approve the conditional use request for the dental clinic, including the recommendation of the Planning Commission and the Mayor's suggested conditions set forth previously in the meeting. The motion was seconded by Councilman Ballard.

The substitute motion was then voted upon and did not pass. Roll call vote follows:

Councilman Ballard aye

Vice Mayor Brookshier nay

Councilwoman Flood nay

Councilwoman Kochendarfer nay

Councilman Tharp nay

Councilman Wandrei aye

Mayor Shelton aye

Councilman Tharp's original motion concerning the dental clinic was voted upon and carried, five members voting aye, two members voting nay (Ballard, Wandrei).

Mayor Shelton declared a recess from 8:50 p.m. until 9:02 p.m.

City Manager Gross stated that the City Treasurer is requesting authorization from Council to destroy paid tax tickets from 1988 to 1992 as allowed by the Virginia Public Records Act.

Councilman Wandrei moved that Council authorize the City Treasurer to destroy paid tax tickets from 1988 to 1992. The motion was seconded by Councilwoman Kochendarfer, and after a brief discussion was voted upon and carried unanimously.

The City Manager stated that Council has received a letter from J. G. Overstreet, attorney for Garland Johnson, Tommy and Jeanne Cayton, and Ted and Jenny Green regarding a portion of Otterview Street which has not been vacated. Mr. Overstreet is requesting that Council approve the vacation of this portion of the road and authorize the Mayor to sign the Instrument of Vacation. The Property Committee recommends the vacation.

Vice Mayor Brookshier moved that Council approve the vacation of a portion of Otterview Street and authorize the Mayor to sign an Instrument of Vacation. The motion was seconded by Councilman Ballard, voted upon and carried unanimously.

City Manager Gross stated the property at the northwest corner of Baltimore Avenue and Park Street is the subject of a real estate contract between two private parties. The intersection as originally platted included a large circle; however, in 1952 the Town of Bedford converted the intersection into a standard intersection of two 60 feet wide streets, and the Town conveyed the quarter circles to the adjoining owners except the northwest corner.

Mr. Gross explained that in the deed of conveyance of the property at the northwest corner, a reverter clause was inserted, providing that title will revert to the municipal government if any shrub, tree or hedge exceeding three feet in height is planted or permitted to grow within 20 feet of either street line. This clause has caused a problem in the proposed purchaser's closing of a real estate loan, and Lynchburg attorney Kevin Cash, on behalf of the purchasers, David Michael Smith and Susan Robertson Smith, has requested the City modify or release the reverter clause. Mr. Gross stated the City would not want the property ownership and legal responsibility to revert to the City if vegetation became an obstruction.

Mr. Gross stated City Attorney Berry recommends that the clause be modified. The recommendation of the City Attorney follows:

Whenever any vegetation growing on the lot in the opinion of the City causes an obstruction of view for motorists on Baltimore Avenue or Park Street or causes a nuisance or unsightly appearance, the owner within ten days of notice by the City shall remove such vegetation or make changes directed by the City. If such corrective action is not taken, the City may take such action at the cost of the owner, and the cost shall constitute a lien upon the land; provided that such lien shall be subordinate to any existing deed of trust upon the property. This provision shall constitute a covenant running with the land binding upon the owners, their successors and assigns.

The City Manager reported that the Property Committee recommends that Council authorize him to execute the agreement with the owners modifying the City's rights under the deed.

On motion by Councilman Tharp, seconded by Councilwoman Kochendarfer, voted upon and carried unanimously, Council accepted the modification of the reverter clause in the deed to property at the corner of Baltimore Avenue and Park Street.

City Manager Gross reported the City is obtaining title to a portion of the proposed access road to the planned industrial park off Independence Boulevard by purchasing land from William B. Huff and Joyce M. Huff. When the parties met for the closing on September 3, the Huffs became aware from the new plat that they did not own a narrow strip at the top of the bank along Independence Boulevard which they had thought was part of this land. Mr. Gross stated the strip was conveyed to the City at no cost when other land for the access road was obtained from Echols Creek. The City Manager indicated that the strip has no value to the City and constitutes a potential maintenance liability. The closing was delayed in order to address this matter.

Mr. Gross reported that the Property Committee recommends that Council by ordinance authorize the Mayor to execute a deed conveying the narrow strip to the Huffs. Since the closing was postponed, it is recommended that Council by two-thirds vote waive publication or posting of the ordinance as permitted under City Code Section 2-30 and take emergency action on the ordinance.

On motion by Councilman Tharp, seconded by Councilwoman Kochendarfer, voted upon and carried unanimously, Council accepted the requested action as follows: authorize the Mayor to execute a deed conveying the narrow strip of land along Independence Boulevard to William C. and Joyce M. Huff, waive publication or posting of the ordinance, and take emergency action on the ordinance.

Councilman Tharp moved that Council waive the reading of the proposed emergency ordinance. The motion was seconded by Councilman Ballard, voted upon and carried unanimously.

On motion by Councilman Tharp, seconded by Councilman Ballard, voted upon and carried unanimously by a roll call vote, Council adopted the ordinance conveying the strip of land to William B. and Joyce M. Huff. Roll call vote follows:

Vice Mayor Brookshier aye

Councilwoman Flood aye

Councilwoman Kochendarfer aye

Councilman Tharp aye

Councilman Wandrei aye

Councilman Ballard aye

Mayor Shelton aye

The ordinance follows as adopted:

**AN EMERGENCY ORDINANCE AUTHORIZING
THE CONVEYANCE TO WILLIAM B. HUFF AND
JOYCE M. HUFF OF 2 SMALL JIB LOTS
ACQUIRED IN CONNECTION WITH THE
RIGHT-OF-WAY ACQUISITIONS FOR THE
CITY INDUSTRIAL PARK OFF
INDEPENDENCE BOULEVARD**

WHEREAS, the City of Bedford entered into agreements with William B. Huff and Joyce M. Huff and with Echols Creek, Inc., for the acquisition of land to provide a new right of way from Independence Boulevard into the proposed City Industrial Park in order to replace the present access over the private road known as Norfolk Avenue; and

WHEREAS, as part of the agreements the City agreed to design the Industrial Access Road in such a way as to provide the Huffs, property

owners to the south of the road, with continuous road frontage along the south boundary of the new road should the acquisitions from Echols Creek result in the City's owning a small strip of land between the new access road and the Huff property to the south of the new road; and

WHEREAS, the City in fact has acquired ownership to two small jib lots from Echols Creek, Inc., which lie south of the new access road and which adjoin the property of the Huffs; and

WHEREAS, the City desires to convey to the Huffs the one lot containing 0.135 acres which was severed from the Echols Creek property according to the agreed prior agreements of the parties and to convey another jib lot which also was conveyed by Echols Creek, Inc., to the City and which has no value to the City.

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

Section 1. The City Council deems it to be in the best interest of the City of Bedford in connection with the acquisition of land for the proposed access road to the City Industrial Park from Independence Boulevard to convey to William B. Huff and Joyce M. Huff two small lots which were cut off from the remaining property of Echols Creek, Inc., when the City acquired land from Echols Creek, Inc., for the new access road and which were conveyed to the City as part of the transaction and which adjoin the property of William B. Huff and Joyce M. Huff, the properties being described as follows:

Parcel No. 1. All that certain parcel of land, situate and being in the City of Bedford, containing 0.135 acres and more particularly described on a plat of survey entitled "**BEDFORD, VIRGINIA -- PLAT OF SURVEY SHOWING: PROPOSED RIGHT OF WAY FOR: CITY INDUSTRIAL PARK TO BE ACQUIRED FROM: WILLIAM B. HUFF, JOYCE M. HUFF AND ECHOLS CREEK, INC.,**" dated July 22, 1997. Prepared by Dewberry & Davis, a copy of which is attached to a deed from Echols Creek, Inc., to the City of Bedford, Virginia, dated August 27, 1997, and recorded in the Clerk's Office of the Circuit Court of Bedford County as Instrument No. 970009418. (The Plat is recorded in Plat Book 35, at page 176.)

Parcel No. 2. All that narrow lot approximately 50 feet in width adjoining Independence Boulevard and lying south of the proposed access right of way as shown on the plat referred to hereinabove more particularly described as follows: BEGINNING at a new iron pin located in the eastern boundary of Independence Boulevard right of way at the southwest corner of the 1.349 acre tract shown on the right-of-way plat recorded in Plat Book 35, page 176 and from said point of beginning running north 65° 11' 22" east 53.53 feet to a new iron pin; thence running south 45° 43' 40" east 114.90 to an existing pin; then continuing along the boundary of the strip of land according to courses set forth on the Plat of Survey entitled "**Plat Showing a Survey of Property being conveyed by Margaret Dean Wisenbaler, Source: D.B. 684 Pg. 39 to Echols Creek, Inc., a Virginia Corp.**" prepared by Donnie W. Slusher, dated October 22, 1991, and recorded in Plat Book 28, at page 108, south 33° 07' 16" east 82.75 feet; south 28° 24' 16" east 101.44 feet; south 32° 22' 35" east 202.82 feet to the southeast corner of said lot; thence running south 57° 37' 25" west 50 feet to a point in Independence Boulevard; thence running north 32° 22' 35" 204.55 feet; north 28° 24' 16" west 101.12 feet; north 33° 07' 16" west 75.17 feet to a pin shown on both plats; and thence running north 45° 43' 40" west 128.49 feet to the point of BEGINNING.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver a deed in a form approved by the City Attorney conveying fee simple title to the two parcels described herein, free and clear of any lien, but subject to such utility easements as may be existing, which shall be a part of the deed of conveyance from William B. Huff and Joyce M. Huff conveying the City portions of the proposed access road right of way.

Section 3. The Council declares that there is an emergency in expediting the closing of the purchase of the access right of way from the Huffs, that publication or posting of this Ordinance is not required and should be waived as allowed in the City Code, and this Ordinance shall take effect immediately.

City Manager Gross stated the first regular Council meeting in November is scheduled for November 11, which is Veterans Day. Since this is a holiday, it is requested that

Council adopt a resolution changing the date of the first meeting in November to Monday, November 10.

On motion by Councilman Tharp, seconded by Councilwoman Kochendarfer, voted upon and carried unanimously by a roll call vote, Council adopted the resolution changing the date of the first regular Council meeting in November. Roll call vote follows:

Councilwoman Flood aye

Councilwoman Kochendarfer aye

Councilman Tharp aye

Councilman Wandrei aye

Councilman Ballard aye

Vice Mayor Brookshier aye

Mayor Shelton aye

The resolution follows as adopted:

RESOLUTION

WHEREAS, Section 11 of the Charter of the City of Bedford requires that Council shall "fix the time and place of its meeting," and

WHEREAS, the City Code requires in Section 2-3 that meetings shall be on "the second and fourth Tuesday of each month," and

WHEREAS, the first regular Council meeting in November is scheduled for November 11, that date being Veterans Day, a holiday;

NOW, THEREFORE, BE IT RESOLVED that the date of the first regular City Council meeting in November is hereby set at November 10, 1997.

On motion by Councilwoman Kochendarfer, seconded by Councilwoman Flood, voted upon and carried unanimously, Council appointed Debra B. Anderson as Deputy Clerk of the Council.

Clerk of Council Hatcher administered the oath of office to Ms. Anderson.

Councilman Tharp reported that he will be visiting Vierville-sur-Mer, France, and he will take any communications with him necessary to further the twinning process.

Mayor Shelton adjourned the meeting at 9:18 p.m.