

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., October 28, 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.

Staff absent: None

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 October 14, 1997, were approved as distributed.

Councilman Ballard reported on a Transportation Safety Commission meeting at which a representative of the Division of Motor Vehicles (DMV) gave a presentation dealing with slow-moving traffic versus impatient drivers. The DMV is asking that the City and the County educate the public and industries to: 1. encourage slow-moving traffic to pull aside if the traffic line appears to be getting long 2. do not pass on double lines.

Mayor Shelton stated this message could be distributed effectively by working with the Police Department and the use of cable channel 12.

Councilwoman Kochendarfer, on behalf of the National D-Day Memorial Foundation, invited members of Council and the public to the groundbreaking ceremony scheduled for November 11, Veterans Day, at 10:00 a.m. on the site. The Governor of Virginia and other noted dignitaries will be present for the ceremony.

Mayor Shelton stated that the upcoming Council retreat scheduled for November 22 will be held at Avenel with the time to be announced. Members of Council are to contact the Mayor with suggested items for the agenda.

Mayor Shelton displayed the Virginia Municipal League Achievement Award which was presented to the City at the annual VML Conference on October 21. The City's entry described the installation of state-of-the-art cable access to the Internet and won as the best project or program in the category for localities with populations between 5,000 and 10,000.

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

Report on National D-Day Memorial Foundation Activities

Execution Session - Pursuant to Section 2.1-344(a)(7) of the Code of Virginia of 1950, as amended - Consultation with Legal Counsel Regarding Transmission Site on No Business Mountain

The Consent Agenda consisted of the following items:

Appointment of Allen F. Persinger to a four-year term on the Redevelopment and Housing Authority, said term to expire October 13, 2001.

Appointment of the City Manager to serve on the Steering Committee of the Telecommunications Services Committee

Councilwoman Kochendarfer moved that the Consent Agenda be adopted. The motion was seconded by Councilman Ballard, voted upon and carried unanimously.

City Manager Gross reported that the current cable franchise is with Cable Equities of Virginia, Ltd. Rifkin & Associates, Inc., the parent corporation of Cable Equities, is combining the operations of Cable Equities and Rifkin Communications Partners, L. C. Pursuant to the requirements of the franchise, Council's consent to this transfer is required.

On motion by Councilman Ballard, seconded by Councilwoman Flood, voted upon and carried by a roll call vote, Council resolved that consent was approved for this transfer. Roll call vote follows:

Councilman Ballard aye

Vice Mayor Brookshier aye

Councilwoman Flood aye

Councilwoman Kochendarfer aye

Councilman Tharp aye

Councilman Wandrei aye

Mayor Shelton aye

The consent follows as approved:

CONSENT TO ASSIGNMENT OF TRANSFER OF

CATV FRANCHISE

WHEREAS, the City Council of the City of Bedford, Virginia (the "Franchising Authority") granted a cable television franchise to Cable Equities of the Virginias, Ltd., a Colorado limited liability partnership ("CEV"), pursuant to a Franchise Agreement Executed July 18, 1995 (as amended to the date hereof, the "Franchise");

WHEREAS, CEV desires to sell, assign and otherwise transfer the cable television systems owned by it (the effective date of such transaction being the "Closing Date"), to InterLink Communications Partners, LLLP, a Colorado limited liability Partnership ("ICP") by either (I) selling and transferring all of its assets, including the Franchise, to ICP on the Closing Date, or (ii) selling and assigning all of its partnership interests to ICP on the Closing Date; and

WHEREAS, an entity controlled by Monroe M. Rifkin ("Rifkin") is a co-general partner of CEV and another entity also controlled by Rifkin is the co-general partner of ICP. ICP is also be controlled by

Rifkin; and

WHEREAS, as a result of the transactions described above, ICP will either directly or indirectly hold the assets of CEV, including the Franchise; and

WHEREAS, the cable television systems owned by CEV are managed by Rifkin & Associates, Inc., a Colorado corporation, that is wholly owned by Rifkin; and

WHEREAS, after the sale of the cable television systems owned by CEV to ICP, Rifkin & Associates, Inc. will continue to manage the cable television systems on behalf of ICP;

WHEREAS, the Franchising Authority is willing to consent to either of the transactions described in the second paragraph above.

NOW, THEREFORE, in consideration of the premises:

1. The Franchising Authority hereby confirms that CEV is in substantial compliance with all obligations under the Franchise and that the Franchise was validly issued and is in full force and effort.
2. The Franchising Authority hereby consents to either (I) the assignment and transfer of the Franchise by CEV to ICP on the Closing Date and to ICP's assumption of the rights and obligations of CEV under the Franchise, or (ii) the transfer of control of CEV to ICP on the Closing Date resulting in the indirect ownership by ICP of all of the assets owned by CEV, including the Franchise, in the event that CEV's partnership interests are sold to ICP. Before the assignment and/or transfer hereby consented to shall be effective, ICP shall submit to the Office of the City Manager an instrument, duly executed: (I) reciting the fact of the assignment or transfer; (ii) accepting and agreeing to be bound by all provisions of the City's Cable Television Franchise Ordinance and of the Franchise Agreement between CEV and the City, dated July 18, 1995; and (iii) agreeing to compensate the City for all costs incurred by the City in evaluating the request for such assignment and/or transfer, up to a maximum of \$500 within 2 weeks following presentation by the City of a duly documented claim therefor.
3. The Franchising Authority does hereby consent to ICP's pledge and grant of a security interest to ICP's lenders, their successors and assigns, of, in and to the assets of ICP and/or its subsidiaries, including the Franchise and all rights of ICP related thereunder, to secure any indebtedness of ICP, and to the exercise by each of the secured parties of its rights as a secured party in the event of a default by ICP in the payment or the performance of any of its indebtedness or obligations secured thereby; provided, however, that nothing herein shall constitute a waiver of any right of the Franchising Authority to approve any other transfer or assignment of the Franchise.
4. CEV and ICP, Rifkin & Associates, Inc. confirm that the operator of the Cable Television System under the Cable Television Franchise is required to obtain a business license and pay a gross receipts tax under the applicable City licensing ordinances in addition to the established Franchise License Tax. It is further confirmed that all other obligations of the Franchise Agreement are acknowledged, accepted and will be fully executed.

On motion by Vice Mayor Brookshier, seconded by Councilman Tharp, voted upon and carried by a roll call vote, Council resolved that the consent to assignment of the Pole Attachment Agreement between the City and Cable Equities was approved. 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 consent to assignment of agreement follows:

CONSENT TO ASSIGNMENT OF AGREEMENT

THIS CONSENT ("Consent"), effective as of the closing date referred to in the closing paragraph hereof, among Cable Equities of the Virginias, Ltd., a Colorado limited partnership ("CEV"), InterLink Communications Partners, LLLP, a Colorado limited liability partnership ("ICP"), and City of Bedford, Virginia ("CITY").

WITNESSETH:

WHEREAS, CEV and CITY are parties to a Pole Attachment Agreement dated December 11, 1985 ("Agreement");

WHEREAS, CEV desires to sell, assign and otherwise transfer the cable systems owned by it (the effective date of such transaction being the "Closing Date") to ICP by either (i) selling and transferring all of its assets, including the Agreement, to ICP on the Closing Date, or (ii) selling and assigning all of its partnership interests to ICP on the Closing Date; and

WHEREAS, Monroe M. Rifkin ("Rifkin") controls the corporate general partner of both CEV and ICP; and

WHEREAS, as a result of the transactions described above, ICP will either directly or indirectly hold the assets of CEV, including the Agreement; and

WHEREAS, the cable television systems owned by CEV are managed by Rifkin & Associates, Inc., a Colorado corporation, that is wholly owned by Rifkin; and

WHEREAS, upon the City's approval, if granted, of a separate request for such approval of the sale of the cable television systems owned by CEV to ICP, Rifkin & Associates, Inc. will continue to manage the cable television systems on behalf of ICP.

NOW, THEREFORE, in consideration of the premises:

1. CITY hereby confirms that CEV is in substantial compliance with all obligations under the Agreement that the Agreement is in full force and effect.

2. Subject to the City's adoption of a Resolution granting its consent to either of the two transactions described in the second paragraph above, and subject to ICP's compliance with all provisions and conditions of said Resolution, (which compliance may be evidenced by a statement thereof executed by the City Manager or his designee); CITY hereby consents to the assignment and transfer of the Agreement by CEV to ICP on the Closing Date and to ICP's assumption of the rights and obligations of CEV under the Agreement, which assumption by ICP is evidenced by its execution of this instrument.

3. CITY does hereby consent to ICP's pledge and grant of a security interest to ICP's lenders, their successors and assigns, of, in and to the assets of ICP and/or its subsidiaries, including the Agreement and all rights of ICP related thereunder, to secure any indebtedness of ICP, and to the exercise by each of the secured parties of its rights as a secured party in the event of a default by ICP in the payment or the performance of any of its indebtedness or obligations secured thereby; provided, however, that nothing herein shall constitute a waiver of any right of CITY to approve any other transfer or assignment of the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Consent to be duly executed, effective as of the Closing Date (such date being that date first set forth under CEV's signature below).

Students from Bedford Elementary School and Bedford Primary School presented various items, which included letters and a quilt, for Councilman Tharp to take to the community of Vierville-sur-Mer, France.

Mayor Shelton stated that other schools, including Thaxton Elementary and the area high school French classes will also furnish items for Councilman Tharp to deliver.

Mr. Richard Burrows gave an update on the National D-Day Memorial. Mr. Burrows reported that Mr. Charles M. Schulz, creator of the *Peanuts* cartoon strip, has been named National Campaign Chairman for the Memorial. Mr. Schulz and his wife have donated one million dollars for the Memorial. The Memorial is scheduled to be opened on June 6, 1999, the fifty-fifth anniversary of D-Day.

Mr. Burrows reported that the groundbreaking ceremony for the Memorial is scheduled for November 11, Veterans Day, at 10:00 a.m. on the site.

On motion by Councilman Wandrei, seconded by Councilwoman Kochendarfer, voted upon and carried unanimously by a roll call vote, the joint resolution with Bedford County in support of welcoming Charles M. Schulz as an honorary citizen of the Bedford Community was adopted. 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

IN SUPPORT OF WELCOMING CHARLES M. SCHULZ

AS AN HONORARY CITIZEN

OF THE BEDFORD COMMUNITY

WHEREAS, on June 6, 1944, the largest sea-land invasion in history took place on the beaches of occupied Normandy when 175,000 Allied soldiers and marines landed in the face of fierce German opposition; and

WHEREAS, the City of Bedford and Bedford County lost 21 service men on the first day of the invasion of Normandy, which is the highest per-capita loss of any community in the nation; and

WHEREAS, the City of Bedford has recently been designated the site for a National D-Day Memorial dedicated to the honor of those who participated and to the study of the largest marine invasion in history; and

WHEREAS, the Congress of the United States has designated Bedford as the site most suitable for such a memorial; and

WHEREAS, Charles M. Schulz entered the US army at age 20 and served with the 20th Armored Division in France and Germany during the Second World War; and

WHEREAS, Mr. Schulz has long voiced his appreciation of the efforts of all who participated in the invasion and strong support for the memorial effort, and dedicated a substantial portion of his personal fortune to its funding; and

WHEREAS, Mr. Schulz has also promised to lend his good name, universal recognition and personal energy to the memorial as the chairman of its national fund raising campaign;

NOW, THEREFORE BE IT RESOLVED THAT, by the City Council of the City of Bedford and the Bedford County Board of Supervisors, jointly and unanimously, that Charles M. Schulz is hereby granted the greatest thanks and recognition it is possible to be bestowed by these bodies and by the people of Bedford city and county; and

BE IT FINALLY RESOLVED THAT, Charles M. Schulz is hereby named an honorary citizen of our community.

Mrs. Betty McKinney, Bedford County Chamber of Commerce, explained the "Bedford - Christmas Capital of Virginia" promotion that will be held December 12 - December 19. Mrs. McKinney commented on the high level of community involvement and support that has made this promotion possible. Mrs. McKinney explained the tours and events that will be offered.

City Manager Gross stated in the fiscal year 1997-98 budget, \$67,000 was approved for the purchase of two

comminutors for Pump Stations No. 2 and No. 3. This was done at the direction of the Department of Environmental Quality (DEQ). After review of the wastewater regulations, Parsons Engineering Science has determined that the comminutors are not required and has discussed this with the DEQ.

The City Manager indicated that since the appropriated funding for the comminutors will not be required during this fiscal year and there is a need for additional money to complete the purchase of a refuse truck and rear view video monitoring system for the refuse and recycling trucks, it is requested that \$11,389.00 be transferred from account 181873.4074 in the Water and Sewer Fund to account 174240.4335 in the General Fund. This will enable the Public Works Department to purchase the items which will address operational and safety issues.

On motion by Councilwoman Kochendarfer, seconded by Councilman Wandrei, voted upon and carried unanimously by a roll call vote after a brief discussion, Council approved the transfer of \$11,389.00 from account 181873.4074 in the Water and Sewer Fund to account 174240.4335 in the General Fund. Roll call vote follows:

Councilwoman Kochendarfer aye

Councilman Tharp aye

Councilman Wandrei aye

Councilman Ballard aye

Vice Mayor Brookshier aye

Councilwoman Flood aye

Mayor Shelton aye

City Manager Gross stated the Bedford County Board of Supervisors, at its October 27th meeting, voted to submit an application to the Department of Youth and Family Services to secure grant funds for both the County and the City from the Juvenile Community Crime Control Act. The grant would be administered by the County. The grant does not required additional local monies but does require that the County continue its 1995 level of funding for juvenile services.

The City Manager reported that the total amount of the grant will be \$194,654.00. The City's portion of the grant will be \$16,689.00 to be used for the continuation of services for high risk delinquents. In addition, \$68,661.00 will be carried forward from the fiscal year 1997 allocation. The grant requires that the governing body from each participating locality endorse the local plan.

Mr. Bob Wade, Director of Juvenile Court Services, gave a brief overview of the Juvenile Community Crime Control Plan.

On motion by Councilman Tharp, seconded by Councilwoman Flood, voted upon and carried unanimously, Council endorsed the local Juvenile Community Crime Control Plan and approved the submission by the County Administrator of all the necessary documents to receive the grant.

On motion by Vice Mayor Brookshier, seconded by Councilman Tharp, voted upon and carried unanimously by a roll call vote, Council adjourned into executive session pursuant to the Code of Virginia of 1950, as amended, Section 2-1.344(a)(7) for consultation with legal counsel regarding No Business Mountain transmission sites. Roll call vote follows:

Councilman Tharp aye

Councilman Wandrei aye

Councilman Ballard aye

Vice Mayor Brookshier aye

Councilwoman Flood aye

Councilwoman Kochendarfer aye

Mayor Shelton aye

Council adjourned into executive session at 8:46 p.m. Non-council members attending were: City Manager Gross, City Attorney Berry, Chief of Police Graham, and Clerk of the Council Hatcher.

Council reconvened into open session at 9:10 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 (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. The motion was seconded by Councilwoman Kochendarfer, voted upon and carried unanimously by the following roll call vote:

Councilman Wandrei aye

Councilman Ballard aye

Vice Mayor Brookshier aye

Councilwoman Flood aye

Councilwoman Kochendarfer aye

Councilman Tharp aye

Mayor Shelton aye

On motion by Councilwoman Kochendarfer, seconded by Councilman Ballard, voted upon and carried unanimously, the following item was added to the agenda: Legal Proceedings - No Business Mountain.

Vice Mayor Brookshier made the following motion: that the City Council hereby authorizes the City Attorney to institute and prosecute such proceedings against Charles E. Hirtz, Lynchburg Communication Systems, and Specialty Electronic Systems Company and other parties as he deems appropriate to insure access to the No Business Mountain communications sites owned and leased by the City and to recover damages sustained by the City which have resulted from actions by such parties in blocking access by the

City and its agents, employees and contractors. The motion was seconded by Councilman Tharp, voted upon and carried unanimously.

Mayor Shelton adjourned the meeting at 9:12 p.m.