

6-22-99 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., June 22, 1999.

Members present: Mayor G. Michael Shelton; Councilman Larry D. Brookshier; Councilwoman Mary L. Flood; Vice Mayor E. Thomas Messier; and Councilman Robert T. Wandrei.

Members absent: Councilman H. Davis Ballard and Councilman Ronnie C. Rice.

Staff present: City Manager Craig Meadows; 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 the June 1, 1999, adjourned Council meeting were approved as distributed.

On motion by Councilman Brookshier, seconded by Councilwoman Flood, voted upon and carried, the agenda was amended by adding the following items under New Business:

Request to Close a Portion of Depot Street -Blair Construction, Inc.

Resolution - Bond Fairness and Protection Act

The City Manager reported that Bedford will be the feature city in the September/October issue of Virginia Review Magazine.

Council decided to adjourn this meeting until Tuesday, July 6, 1999, at 5:30 p.m. in the Council Hall for interviews with candidates for the City School Board and the Library Board.

City Manager Meadows indicated Council had been furnished copies of an article that was in the *Washington Post* on May 31, 1999, regarding the D-Day Memorial.

Mayor Shelton spoke about his recent visit to the Omaha Beach area in France for the 55th commemoration events surrounding D-Day.

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

NOTICE OF PUBLIC HEARING

Notice is hereby given that, pursuant to Section 22.1-29.1 of the Code of Virginia of 1950, as amended, the City Council of the City of Bedford will hold a public hearing at 7:30 p.m. on June 22, 1999, in the Council Hall of the Municipal Building, for the purpose of receiving the views of citizens on the appointment of members to the City School Board.

Any citizens who wish to be considered for appointment to the City School Board should notify the office of the City Manager, P. O. Box 807, Bedford, VA 24523, phone 586-7102, no later than June 17, 1999.

Mayor Shelton opened the public hearing at 7:22 p.m.

Mayor Shelton stated the following individuals have expressed interest in serving on the City School Board: Ms. Debora Spinner, Mrs. Mickey VanDerwerker, Mr. William H. "Bill" Ross, Mrs. Sarah B. Davis, and Mrs. Carol Delledera.

As there were no comments, Mayor Shelton closed the public hearing at 7:23 p.m.

Mr. Fred Blair, Blair Construction, Inc., requested that a portion of Depot Street be closed to install a tower crane for the construction of the new addition to the Bedford County Courthouse.

Discussion ensued, with members of Council asking questions. Representatives of businesses in the area that would be affected by the street closing also spoke.

Mayor Shelton referred the matter to the Street Committee for review, with a report possibly to be made at the adjourned Council meeting on July 6.

The Mayor asked Blair Construction to develop further options.

City Manager Meadows and the City Attorney reviewed highlights of the proposed ordinance concerning tax exemption for qualifying elderly or disabled homeowners.

On motion by Vice Mayor Messier, seconded by Councilman Wandrei, voted upon and carried, Council waived the reading of the proposed ordinance concerning tax exemption for qualifying elderly or disabled homeowners, as it had been properly posted.

On motion by Councilman Brookshier, seconded by Vice Mayor Messier, voted upon and carried by a roll call vote, Council adopted the ordinance concerning tax exemption. Roll call vote follows:

Councilman Ballard absent

Councilman Brookshier aye

Councilwoman Flood	aye
Vice Mayor Messier	aye
Councilman Rice	absent
Councilman Wandrei	aye
Mayor Shelton	aye

The ordinance follows as adopted:

**AN ORDINANCE AMENDING AND REENACTING
THE PROVISIONS OF THE CITY CODE
CONCERNING TAX EXEMPTION FOR QUALIFYING
ELDERLY OR DISABLED HOMEOWNERS AND
RENUMBERING AND RECODIFYING PROVISIONS
FOR EXEMPTION OF REHABILITATED COMMERCIAL
AND INDUSTRIAL REAL ESTATE**

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

Section 1. Article I of Chapter 22 of the Bedford City Code is amended and re-enacted as follows:

**ARTICLE I. SPECIAL EXEMPTIONS FROM
REAL ESTATE TAXATION**

Division 1. Exemptions for certain elderly and disabled persons.

Sec. 22-1. Purpose. The purpose of this division is to provide relief to certain elderly or disabled persons who are subject to a real estate tax burden that is extraordinary in relation to their income and financial worth.

Sec. 22-2. Administration. This division shall be administered by the Commissioner of the Revenue, who is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this division, including the right to require answers under oath, as may be reasonably necessary to determine a person's eligibility for the exemption. The Commissioner of the Revenue is authorized to require the production of certified tax returns and appraisal reports to establish a person's total combined income and net combined financial worth.

State law reference-- Va. Code §§ 58.1-3210, 58.1-3213.

Sec. 22-3. Definitions. The following definitions shall apply in the interpretation and enforcement of this division:

- (a) *Dwelling.* The term "dwelling" means a building occupied as a residence.
- (b) *Income.* The term "income" means the total gross income from all sources comprising the amount of money received on a regular basis which is available to meet expenses, regardless of whether a tax return is actually filed, the money is taxable or deductible from the taxpayer's income tax return.
 - (1) Income shall include: a) retirement payments, including the portion that represents the contribution of the retiree; b) nontaxable social security retirement benefits; and c) disability payments.
 - (2) Income shall not include: a) life insurance benefits; b) receipts from borrowing or other debt; and c) social security taxes taken out of the pay of a retiree.
 - (3) The income of a self-employed person received from the business shall be the gross income of the business, less the expenses of the business.
- (c) *Manufactured home.* The term "manufactured home" means a structure subject to federal regulation which is transportable in one or more sections; is eight (8) body feet or more in width and forty body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.
- (d) *Net combined financial worth.* The term "net combined financial worth" means the present value of all assets of the owners, and of the spouse of any owner, who reside

therein, and the owner's relatives living in the dwelling, including equitable interests. The term "net combined financial worth" shall not include: a) the value of the dwelling and the land, not exceeding one acre, upon which it is situated; and b) the value of furniture, household appliances and other items typically used in a home.

(e) *Owning title or partial title.* The term "owning title or partial title" means owning the usufruct, control or occupation of the real estate, whether the interest therein is in absolute fee or is in an estate less than a fee, such as the holding of a life estate.

(f) *Permanently and totally disabled person.* The term "permanently and totally disabled person" means a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death, or can be expected to last for the duration of such person's life.

(g) *Real estate.* The term "real estate" includes manufactured homes.

(h) *Taxable year.* The term "taxable year" means the fiscal year for which the exemption is claimed.

(i) *Total combined income.* The term "total combined income" means the income received from all sources during the 12 months preceding the taxable year by the owners of the dwelling who use it as their principal residence and of the owner's relatives who live in the dwelling. The following amounts shall be excluded from the calculation of total combined income:

(1) The first four thousand dollars (\$4000.00) of income from each relative, other than the owner's spouse, residing in the dwelling.

(2) If a person otherwise qualifies for the exemption and if the person can prove by clear and convincing evidence that the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if a relative does move in for that purpose, then none of the income of the relative or of the relative's spouse shall be counted towards the income limit, provided that the owner of the dwelling has not transferred assets in excess of five thousand dollars (\$5,000.00) without adequate considerations within a three (3) year period prior to or after the relative moves into the dwelling.

State law reference--Va. Code §§ 36-85.3, 58.1-3210, 58.1-3211, 58.1-3217.

Sec. 22-4. Exemption. Each person occupying a dwelling and owning title or partial title who is at least sixty-five years of age or who is permanently and totally disabled shall be exempt from the real estate tax as provided in section 22-6, provided that the person is eligible for the exemption as provided in section 22-5 and satisfies all other requirements of this section and state law.

State law reference--Va. Code § 58.1-3210.

Sec. 22-5. Persons eligible for exemption. Persons who satisfy all of the following requirements are eligible for the exemption established in section 22-4:

(a) The person claiming the exemption shall have either:

(1) Reached the age of sixty-five (65) years prior to the taxable year for which the exemption is claimed; or

(2) Become permanently and totally disabled prior to the taxable year for which the exemption is claimed.

(b) The person claiming the exemption shall be a person owning title or partial title in the dwelling.

(1) The person claiming the exemption shall own title or partial title to the real estate for which the exemption is claimed on July 1 of the taxable year.

(2) A dwelling jointly owned by a husband and wife may qualify if either spouse is sixty-five (65) years of age or older or is permanently and totally disabled.

(3) Except as provided in paragraph (b,2), the exemption shall not apply to a dwelling jointly owned by a person who is sixty-five (65) years of age or older or who is permanently and totally disabled (an "exempt person"), and a person who not an exempt person.

(c) The person claiming the exemption shall occupy the dwelling as that person's sole dwelling.

(1) The dwelling shall be occupied only by the person claiming the exemption, the person's spouse and the person's relatives. The dwelling shall not be occupied by persons who are not relatives of the person claiming the exemption, regardless of whether such persons pay rent.

(2) The dwelling shall not be used for commercial purposes.

(3) The fact that a person who otherwise qualifies for exemption established by this division resides in a hospital, nursing home, convalescent home or other facility for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which the exemption is sought does not continue to be the sole dwelling of the person during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

(d) A manufactured home is real estate eligible for the exemption established by this division if the person claiming the exemption demonstrates to the satisfaction of the Commissioner of the Revenue that the manufactured home is permanently affixed. Either of the following shall be evidence that the manufactured home is permanently affixed:

(1) The person claiming the exemption owns title or partial title to the manufactured home and the land on which the manufactured home is located, and the manufactured home is connected to permanent water and sewage lines or facilities; or

(2) Whether or not the manufactured home is located on land on which the person claiming the exemption owns title or partial title, the manufactured home rests on a permanent foundation and consists of two (2) or more units which are connected in such a manner that they cannot be towed together on a highway, or consists of a unit and other connected rooms or additions which must be removed before the manufactured home can be towed on a highway.

(e) The total combined income shall not exceed fifteen thousand dollars (\$15,000.00) for the 12 months immediately preceding the taxable year.

(f) The net combined financial worth shall not exceed forty thousand dollars (\$40,000.00) as of June 30 immediately preceding the taxable year.

State law reference--Va. Code §§ 58.1-3210, 58.1-3211, 58.1-3212, 58.1-3214, 58.1-3215.

Sec. 22-6. Amount of exemption. The amount of the exemption established by this division from the real estate tax for any taxable year shall be based on the following table (but in no event more than \$300.00):

Total Income from	Tax Exemption
All Sources	
\$0 - \$4,000	100%
\$ 4,001 - \$ 5,000	90%

\$ 5,001 - \$ 6,000	80%
\$ 6,001 - \$ 7,000	70%
\$ 7,001 - \$ 8,000	60%
\$ 8,001 - \$ 9,000	50%
\$ 9,001 - \$10,000	40%
\$10,001 - \$11,000	30%
\$11,001 - \$12,000	20%
\$12,001 - \$15,000	10%

State law reference--Va. Code § 58.1-3212.

Sec. 22-7. Procedure for claiming for exemption.A person claiming the exemption from the real estate tax established by this division shall apply for the exemption as provided herein:

(a) *Annual filing of affidavit; time to file.* Except as provided in paragraphs (b)(1) and (b)(2), the person claiming the exemption shall file the affidavit required by this section with the Commissioner of the Revenue, between July 1 and August 1 of each taxable year for which the exemption is claimed.

(b) *Form and content of affidavit.* The affidavit shall be on a form prescribed and provided by the Commissioner of the Revenue. The affidavit shall set forth the names of the person claiming the exemption and all other relatives of the person occupying the real estate for which the exemption is claimed, their total combined income and their net combined financial worth. If the person claiming the exemption is under sixty-five (65) years of age, the form shall have attached either:

(1) A certification by the Social Security Administration, the Department of Veteran Affairs or the Railroad Retirement Board to the effect that the person is permanently and totally disabled; or, if the person is not eligible for certification by any of these agencies; or

(2) A sworn affidavit by two (2) medical doctors who are either licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled. A certification pursuant to 42 U.S.C. 423(d) by the Social Security Administration, so long as the person remains eligible for such social security benefits, shall be deemed to establish that the person is

permanently and totally disabled. The affidavit of one of the doctors may be based upon a physical examination of the person by the doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining whether the person is permanently and totally disabled.

(c) *Determination of eligibility.* If, after audit and investigation, the Commissioner of Revenue determines the person claiming the exemption to be eligible therefor, the Commissioner shall grant the exemption and shall exonerate the amount of the exemption from the real estate tax liability of those persons entitled to the exemption.

(d) *Duration of exemption.* An exemption granted shall be effective only for the current taxable year and shall not be retroactive in effect.

State law reference--Va. Code § 58.1-3213.

Sec. 22-8. Change in status nullifying exemption; exception. Any change in total combined income, net combined financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed, and having the effect of exceeding or violating the limitations and conditions provided herein, shall nullify any exemption for the remainder of the current taxable year and the taxable year immediately following; except, that a change in status due to the death of a qualified spouse will result in a prorated exemption for the eligible year.

State law reference--Va. Code § 58.1-3215.

Sec. 22-9. Violation and penalty. Any person falsely claiming an exemption hereunder shall be guilty of a Class 3 misdemeanor punishable as provided in Virginia Code § 18.2-11(c).

State law reference--Va. Code § 58.1-3916.1.

Division 2. Exemption for Certain Rehabilitated Real Estate.

Sec. 22-10. Exemption for certain rehabilitated commercial or industrial real estate.

(a) Real estate which has been substantially rehabilitated for commercial or industrial use shall be exempt from real estate taxation, which exemption shall be confined to real estate which lies within the confines of the corporate limits of the City of Bedford, and requiring as follows:

- (1) That the real estate to be rehabilitated is no less than twenty-five (25) years of age; and
- (2) That the assessed value of the structure has been improved by said rehabilitation by no less than sixty (60) percent of the assessed value.
- (b) The exemption provided in subsection (a) shall not exceed an amount equal to the increase in assessed value resulting from the rehabilitation of a commercial or industrial structure as determined by the Commissioner of Revenue, and this amount only shall be applicable to any subsequent assessment or reassessment. The exemption shall commence on the first day of the tax quarter following the completion of the rehabilitation and shall run with the real estate for a period of no longer than three (3) years.
- (c) Nothing in this section shall be construed as to permit the Commissioner of the Revenue to list upon the land books any reduced value due to the exemption provided in subsection (b).
- (d) The applicant for this exemption shall pay a fee of twenty-five dollars (\$25.00) to the treasurer of the City of Bedford for processing the application requesting the exemption provided by this section. No property shall be eligible for such exemption unless the appropriate permits have been acquired and the Commissioner of the Revenue has verified that the rehabilitation indicated on the application has been completed. (Ord. of 3-27-84)

Section 2. This Ordinance shall take effect on July 1, 1999.

On motion by Councilwoman Flood, seconded by Councilman Wandrei, voted upon and carried, Council waived the reading of the proposed ordinance readopting and reenacting code provisions dealing with traffic laws, as it had been property posted.

On motion by Vice Mayor Messier, seconded by Councilman Wandrei, voted upon and carried by a roll call vote, Council adopted the ordinance dealing with traffic laws. Roll call vote follows:

Councilman Brookshier	aye
Councilwoman Flood	aye
Vice Mayor Messier	aye
Councilman Rice	absent

Councilman Wandrei aye
Councilman Ballard absent
Mayor Shelton aye

The ordinance follows as adopted:

AN ORDINANCE TO READOPT AND REENACT

SECTION 13.2 OF THE CITY CODE

INCORPORATING BY REFERENCE CURRENT

PROVISIONS OF THE CODE OF VIRGINIA

DEALING WITH TRAFFIC LAWS AND MOTOR

VEHICLE OPERATION

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

Section 1. Sec. 13-2 of the City Code is hereby readopted and reenacted as follows:

Pursuant to the authority of Section 46.2-1313 of the Code of Virginia, the provisions and requirements of the laws of the Commonwealth of Virginia contained in Title 46.2 in Article 9 (Sec. 16.1-278 et seq) of Chapter 11 of Title 16.1, and in Article 2 (Sec. 18.2-266 et seq) of Chapter 7 of Title 18.2, of the Code of Virginia, except those provisions and requirements the violation of which constitute a felony, and except those provisions and requirements which by their very nature can have no application to or within the City, are hereby adopted and incorporated herein by reference and made applicable within the City. Reference to "Highways of the State" contained in such provisions and requirements hereby adopted, shall be deemed to refer to streets, highways and other public ways within the City. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this Chapter as fully

as those set forth at length herein, and it shall be unlawful for any person, within the City, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 or of Article 9 of Chapter 11 of Title 16.1 or of Article 2 of Chapter 7 of Title 18.2 of the Code of Virginia, which are adopted by this Section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under such titles of the Code of Virginia.

Section 2. This Ordinance shall become effective upon publication one time, immediately following its passage, in some newspaper published in the City or upon posting at three or more public places in the City for one week, as required by Section 19 of the City Charter.

City Manager Meadows explained that the Bond Fairness and Protection Act, has been introduced in the Senate (S. 386) and in the House of Representatives (H.R. 721). The bill would insure that the current bonds the City has outstanding on its Electric Utility System would remain as tax exempt obligations and not subject to income tax.

On motion by Vice Mayor Messier, seconded by Councilwoman Flood, voted upon and carried by a roll call vote, Council adopted the resolution regarding the Bond Fairness and Protection Act. Roll call vote follows:

Councilwoman Flood	aye
Vice Mayor Messier	aye
Councilman Rice	absent
Councilman Wandrei	aye
Councilman Ballard	absent
Councilman Brookshier	aye
Mayor Shelton	aye

The resolution follows as adopted:

RESOLUTION

WHEREAS, every state, county, city or town in America should have the right to decide whether it wants to provide electric service to its businesses and residents; and

WHEREAS, the consumer-owners of these utilities should have a direct say in and maintain local control over their own electric utility operations and policies; and

WHEREAS, the City of Bedford established its community-owned electric utility in 1899 and its citizens have benefited greatly from this action for over a century with its Electric Department now serving over 6,600 customers; and

WHEREAS, these community-owned utilities, as units of state or local government, have the right to issue tax-free municipal bonds for local infrastructure needs, including electric service; and

WHEREAS, the City of Bedford has issued tax-exempt debt in the past to fund necessary major improvements to its electric transmission and distribution system and wishes to preserve that important right in the future; and

WHEREAS, there currently exists federal restrictions on municipal bonds used to develop community-owned electric utilities that prevent these utilities from selling power under many circumstances, and these restrictions will make it difficult, if not impossible, for many of these utilities to operate in the more competitive environment being fostered or mandated by new federal and state laws; and

WHEREAS, bipartisan legislation, the Bond Fairness and Protection Act, has been introduced in the Senate (S. 386) by Senators Slade Gorton (R-WA) and Bob Kerry (D-NE), and in the House of Representatives (H.R. 721) by Representatives Hayworth (R-AZ) and Matsui (D-CA) to reconcile these restrictions with the changing character of the electric utility industry in a way that protects our right of local control over our own affairs; and

WHEREAS, the City of Bedford is, by supporting this legislation, willing to give up its right to use tax-exempt debt to construct generation facilities in the future that would produce energy to compete with investor-owned utilities in the retail marketplace outside of the City of Bedford; and

WHEREAS, many other restructuring-related pieces of federal legislation under consideration fail to fully protect the local governments tax-exempt debt, existing and needed for the future; and

WHEREAS, some private power companies oppose this legislation precisely because it is in their self interest to limit the ability of community-owned utilities to operate in this new environment; and

WHEREAS, opponents of S. 386 and H.R. 721 are urging Congress to impose a federal income tax on certain revenues from sales of community-owned electric utilities; and

WHEREAS, community-owned utilities such as the City of Bedford Electric Department, as units of state and local government operating on a not-for profit basis, are not and should not be taxed by the federal government.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Bedford, Virginia, calls on Senators Charles S. Robb and John W. Warner to support the bipartisan Bond Fairness and Protection Act of 1999 and to vigorously oppose any federal tax on community-owned electric utilities; and

BE IT FURTHER RESOLVED that Council requests that certified copies of this Resolution be forwarded to Senators Warner and Robb.

Mayor Shelton adjourned the meeting at 8:14 p.m. until July 6, 1999, at 5:30 p.m. in the Council Hall.