

8-17-1999 Minutes

A called meeting of the Council of the City of Bedford, Virginia, was held in the Council Hall of the Municipal Building at 6:00 p.m., August 17, 1999

Members present: Mayor G. Michael Shelton; Councilman H. Davis Ballard; Councilwoman Mary L. Flood; Vice Mayor E. Thomas Messier; Councilman Ronnie C. Rice; and Councilman Robert T. Wandrei.

Members absent: Councilman Larry D. Brookshier

Staff present: City Manager Craig Meadows and Clerk of the Council Teresa W. Hatcher.

Staff absent: City Attorney W. W. Berry, IV

Mayor Shelton opened the meeting.

The Clerk of Council read aloud the Notice of Called meeting which stated the purpose of the meeting as: Emergency Water Use Regulation Ordinance.

Clerk of Council Hatcher and City Manager Meadows read aloud the proposed ordinance: (The ordinance follows as amended and adopted).

AN ORDINANCE PURSUANT TO SECTION 15.2-924 OF THE CODE OF VIRGINIA, 1950, AS AMENDED, DECLARING THAT A WATER SUPPLY EMERGENCY EXISTS IN CONNECTION WITH THE CITY OF BEDFORD WATER SUPPLY SYSTEM; ESTABLISHING CRITICAL LEVELS OF WATER VOLUME STORED IN THE STONEY CREEK RESERVOIR STORAGE; IMPOSING CONDITIONS OF WATER ALLOCATION, CONSERVATION, RESTRICTION AND PENALTIES; AND AUTHORIZING THE CITY MANAGER TO TAKE SUCH FURTHER ACTIONS AND ISSUE SUCH RULES AND REGULATIONS AS NECESSARY TO ENSURE THAT THE WATER SUPPLY IS CONSERVED AND MANAGED PRUDENTLY.

WHEREAS, the City Council has been advised by the City Manager and his staff that the water level at the Stoney Creek Reservoir has dropped drastically from six inches below the spillway on July 18, 1999 to 53 inches below the spillway on August 12, 1999 and that due to drought conditions and existing usage, the reservoir level is projected to drop to 60 inches below the spillway on or about August 20, 1999; and

WHEREAS, due to the continuing drought conditions over the last six months, the waters in the Big Otter River have dwindled to a point at which that source has no longer been available since the middle of July 1999, the City's wells in the Kelso area are limited

in their production and quality, and a limited amount of water is flowing into the Stoney Creek Reservoir from Stoney Creek; and

WHEREAS, significant and prolonged rainfall is needed to raise the level of water in the creeks and rivers supplying the City's water system and to fill the reservoir; and

WHEREAS, voluntary conservation was requested by the City Manager on July 30, 1999, and has resulted in no significant reduction in consumption; and

WHEREAS, the continued drop in the level of the Stoney Creek Reservoir and the limited availability of other sources of water for the City's water system results in a need to control and restrict the use of water until the level is re-supplied in order to prevent a water shortage within the City; and

WHEREAS, the Stoney Creek Reservoir is the primary source of raw water for the City of Bedford water system and the City Council desires to establish critical levels of water volume stored in the Stoney Creek Reservoir for the purposes of imposing necessary conditions for water allocation, conservation, and restriction.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, VIRGINIA, AS FOLLOWS:

Section 1. For the reasons set forth herein above, the City Council hereby declares that a water supply emergency does exist within the City of Bedford water system and that there is a need to control and restrict the use of water during this emergency and that the water emergency will be lifted when the Stoney Creek Reservoir reaches the spillway or upon further action of Council.

Section 2. The City Manager is hereby authorized and directed to implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage in the manner hereinafter set out. In exercising this discretionary authority, and making the determinations set forth in Section 4 hereof, the City Manager shall give due consideration to water levels, available/usable storage on hand, draw down rates and the projected supply capability in the source reservoir in Bedford County; supply capacity, rate of usage and projected supplies of open stream sources available to the water system; system purification and pumping capacity; daily water consumption and consumption projections of the system's customers; prevailing and forecast weather conditions; fire service requirements; pipeline conditions including breakages, stoppages and leaks; supplementary source data; estimates of minimum essential supplies to preserve public health and safety and such other data pertinent to the past, current and projected water demands.

All data collected and considered by the City Manager shall be reduced to writing and maintained by the City Manager or his designated representative.

Section 3. The provisions of this ordinance, or regulations promulgated hereunder by the City Manager, which are hereby authorized, shall not apply to any governmental activity, institution, business or industry which shall be declared by the City Manager, upon a proper showing, to be necessary for the public health, safety and welfare or the prevention of severe economic hardship or the substantial loss of employment. Any activity, institution, business or industry aggrieved by the finding of the City Manager may appeal his decision to the City Council.

Section 4. The following critical levels of water volume at the Stoney Creek Reservoir are established and the following restrictions are imposed for each such condition:

(a) **Condition 1:** When the water level at Stoney Creek Reservoir falls below the spillway, and the water supply remains sufficient to meet daily demand, but limited supplies of water are available, then the City shall call upon all water users to employ prudent restraint of water usage and to conserve water voluntarily by whatever methods are available.

(b) **Condition 2:** When the water level at the Stoney Creek Reservoir reaches five feet below the spillway, very limited supplies of water are available, and the City shall require curtailment of non-essential uses of water including, but not limited to, the following:

1. The watering of shrubbery, trees, lawns, grass, plants, or any other vegetation, except indoor plantings, greenhouse or nursery stocks and except watering by commercial nurseries of freshly planted plants upon planting and once a week for five weeks following planting.
2. The washing of automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment, except commercial facilities approved by the City Manager operating with high-pressure, low-consumption equipment or operating with a recycling system. Any facility operating with such a system shall display in prominent public view a notice approved by the City Manager or his designated representative stating that such system is operating under the provisions hereof. The City Manager may curtail the hours of operation of commercial enterprises offering such services or washing their own equipment.
3. The washing of streets, driveways, parking lots, service station aprons, office buildings, exteriors of homes or apartments, or other outdoor surfaces.
4. The operation of any ornamental fountain or other structure making a similar use of water.
5. The filling of swimming pools, wading pools, and hot tubs or the refilling of swimming pools, wading pools, and hot tubs which were drained after the effective date of the determination by the City Manager that Condition 2 applies.

6. The use of water from fire hydrants for any purpose other than fire suppression or other public emergency.

7. The serving of drinking water in restaurants cafeterias or any other food establishment unless requested by the individual.

(c) **Condition 3:** When the water level at Stoney Creek Reservoir reaches seven feet below the spillway, critically limited supplies of water are available, and all water customers shall be required to reduce water consumption by 20%.

(d) **Condition 4:** When the water level at Stoney Creek reservoir reaches 15 feet below the spillway, only crucial supplies of water are available (an estimated 34 day supply), and a local emergency shall be declared and the City Manager shall restrict the use of water to purposes which are absolutely essential to life, health and safety. Restrictions imposed under previous conditions shall continue to apply.

Section 5. The determination of conditions by the City Manager will be accompanied by a written report to the City Council which will set out the criteria utilized and the data relied upon in making such determination, including a narrative summary supporting the determination. Each report shall be promptly filed by the City Clerk, who shall make the same available for public inspection and who shall transmit a copy of each report to each member of the City Council. The City Manager shall also publish notice of such determinations on the City Internet Web Page and on the City Cable TV Channel. The City Manager shall also ask local television and news media to publish such notices.

Section 6. When the City Manager has made a determination that one of the three conditions exists and there is significant rainfall resulting in an increase in the water levels of the streams supplying the city water system and resulting in a raising of the water level in the Stoney Creek Reservoir above the level set for that condition in this ordinance, the City Manager shall declare that a lesser condition exists or that the water supply emergency has ended when the water level in the reservoir has remained at the higher level continuously for a period of no less than a full week and the City Manager finds that restrictions are no longer necessary based upon the amount of rainfall received, weather forecasts, and the conditions of water flow into the streams serving the City water supply system.

Section 7. The provisions herein for conservation, restrictions upon use, allocations and penalties may be imposed on any water users or customers who are defined as the person or entity in whose name the water is listed and may also include in appropriate circumstances the

person or entity in control of the property in question.

Section 8.

(a) The City Manager shall implement a procedure for the issuance of Warning Notices for violations during Condition 1 and for minor violations during Condition 2 and Condition 3.

(b) The City Manager pursuant to Section 15.2-924 of the Code of Virginia (1950), as amended, is authorized to impose suitable civil penalties for violation of this ordinance when Condition 2, Condition 3, or Condition 4 is in effect. Such penalties shall be in the amount of \$100 per day for residential users and \$500 per day for institutional, commercial or industrial users. Each day shall or a second or subsequent violation on the same day following an earlier notification of the same violation shall constitute a separate violation.

(c) Civil penalties shall be assessed by delivering or mailing to the utility customer a Notice of Violation, which notice shall provide an opportunity for the water customer to appear before the City Manager or his designee to contest any such civil penalty.

(d) All civil penalties imposed hereunder shall be due and payable immediately upon assessment and shall be billed and collected as additional water charges.

(e) The City Manager is authorized further to provide that failure to pay any civil penalty after 30 days or multiple (more than one) violations of this ordinance may subject the user to immediate cut-off of water service and that service will not be resumed until all bills, civil penalties plus a \$50 turn-on fee are paid.

(f) The City Manager is further authorized and directed to enforce the terms of this ordinance by utilizing in addition to civil penalties and termination of service such other penalties and remedies as may be available under law and deemed necessary by him to conserve the City's water supply, including but not limited to criminal prosecution of violations as a Class 1 misdemeanor and the institution of proceedings for injunctive relief or other appropriate legal proceedings.

Section 9. The provisions of this ordinance shall be enforced by members of the Police Department. The City Manager may also designate such specified employees of the Department of Community and Economic Development and of the City Public Works Department as Water Conservation Officers as may be necessary for patrolling and the issuing of warnings and notices to water users who are in violation of restrictions and conditions set forth in this ordinance.

Section 10. The City Manager shall implement a provision for a notice and opportunity to appear before the City Manager to show why any civil penalty should not be assessed.

Section 11. The City Manager is authorized to provide for such rules and regulations as may be necessary to implement or to administer the provisions of this ordinance.

Section 12. The Council declares that an emergency exists, that this ordinance shall take effect without prior publication or posting pursuant to Section 2-30 of the City Code, and

that this ordinance shall be in full force and effect after its adoption, except the provisions authorizing enforcement by criminal and civil penalties shall not be effective until after the ordinance has been published or posted pursuant to the provisions of Section 19 of the City Charter.

The City Manager reviewed a packet of charts regarding the Stoney Creek Reservoir water storage levels. Mr. Meadows stated that the City implemented Condition 1 of the ordinance on July 30. At that time, the reservoir was approximately 2 feet below the spillway. The voluntary restrictions have not resulted in any significant change in consumption. Mr. Meadows reported the water level in the reservoir continues to drop and as of today the water level is 4 ½ feet below the spillway, which is approximately 78 days of supply. If this ordinance is adopted, Mr. Meadows stated the staff recommends that Condition 2 be implemented, which calls for mandatory restrictions.

The Director of Public Works and the Water Treatment Superintendent reviewed options for operating the wells.

The City Manager indicated that he and the Director of Public Works met with the Bedford Industrial Management Council concerning the water situation.

Discussion ensued.

Mayor Shelton suggested that the proposed ordinance be amended by changing Section 8b as follows: "(b) The City Manager pursuant to Section 15.2-924 of the Code of Virginia (1950), as amended, is authorized to impose suitable civil penalties for violation of this ordinance when Condition 2, Condition 3, *or Condition 4* is in effect."

On motion by Councilman Wandrei, seconded by Vice Mayor Messier, voted upon and carried by a roll call vote, Council adopted the ordinance regarding the water supply emergency as read and as amended. Roll call vote follows:

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

Mayor Shelton adjourned the meeting at 6:52 p.m.