

10-10-2000 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., October 10, 2000.

Members present: Mayor G. Michael Shelton; Vice Mayor E. Thomas Messier; Councilman Thomas M. Padgett; Councilman W. D. Tharp; and Councilman Robert T. Wandrei.

Members absent: Councilman Larry D. Brookshier and Councilwoman Mary L. Flood.

Staff present: City Manager F. 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 September 15, 2000, adjourned Council meeting and the minutes of September 26, 2000, regular Council meeting were approved as distributed.

The City Manager spoke regarding the following:

- Various meetings and events
- Council was given copies of the Tourism Agreement draft – asked that Council comments be submitted to the Manager's Office by October 19

Vice Mayor Messier stated that the groundbreaking ceremony for the new super Wal-Mart was held earlier in the day – construction should be completed by May 2001.

Councilman Tharp mentioned that the 100th anniversary "Gala Celebration" for the Bedford Public Library will be on October 14.

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

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, October 5, 2000 and by the City

Council at 7:30 p.m. on Tuesday, October 10, 2000, at the City Municipal Building, Council Hall, 215 East Main Street for the purpose of:

- To consider an amendment of Section 608.02(s) of the Land Development Regulations to allow residential dwellings as an ancillary use on all floors of existing commercial structures other than the front street level in the B-1, Limited Business District.
- To consider an amendment of Section 611.02 of the Land Development Regulations to allow commercial communication towers as a permitted use and of Article IX to include conditions related to commercial communication towers as a permitted use.

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

Anyone who is in favor of or opposed to these requests will have an opportunity to express their views at this hearing.

By the Authority of the Planning

Commission and City Council of the

City of Bedford

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

As there were no comments, the Mayor closed the hearing at 7:41 p.m.

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

PUBLIC HEARING NOTICE

Notice is hereby given of a public hearing to be held by the City Council of the City of Bedford at their City Council meeting commencing at 7:30 p.m. on Tuesday, October 10, 2000, at the Council Chambers, City Municipal Building, 215 East Main Street, Bedford, Virginia, for the following purpose:

To consider comment from the citizens of the City of Bedford concerning changing the date for future elections of members to the City Council from the first Tuesday in May to the first Tuesday in November in the applicable years, beginning with the 2002 election as authorized by Section 24.2-222.1 of the Code of Virginia, 1950, as amended.

Anyone who is in favor of or opposed to this change will have an opportunity to express their views at this meeting.

By the Authority of the City Council
of the City of Bedford

Mayor Shelton opened the public hearing at 7:42 p.m.

The City Manager gave Council copies of participation statistics of the elections of the last ten years and an article from *Virginia Town & City* magazine.

The Mayor spoke regarding holding elections in odd numbered years.

Mr. David Thomas, 1615 Shady Knoll Avenue, stated he did not see any reason to change the elections from May to November, but if it is changed, it would be more appropriate to hold elections in odd numbered years.

Discussion ensued.

The Mayor will work with the City Manager and City Attorney to see the time frame and bring this item back with additional information.

As there were no further comments, Mayor Shelton closed the public hearing at 7:52 p.m.

The City Manager stated that Council had before them the recommendation of the City Planning Commission. The recommendation follows:

The Planning Commission recommended that Council approve an amendment of Section 608.02(s) of the Land Development Regulations to allow residential dwellings as an ancillary use on all floors of existing commercial structures other than the front street level in the B-1, Limited Business District.

The Planning Commission recommended that Council approve an amendment of Section 611.02 of the Land Development Regulations to

allow commercial communication towers as a permitted use and of Article IX to include conditions related to commercial communication towers as a permitted use.

On motion by Vice Mayor Messier, seconded by Councilman Padgett, voted upon and carried, Council waived the reading of the proposed ordinance amending Section 608.2(s) of the City of Bedford Land Development Regulations.

On motion by Vice Mayor Messier, seconded by Councilman Wandrei, voted upon and carried by a roll call vote, Council adopted the ordinance amending Section 608.2(s) of the City of Bedford Land Development Regulations. Roll call vote follows:

Councilman Brookshier	aye
Councilwoman Flood	absent
Vice Mayor Messier	aye
Councilman Padgett	aye
Councilman Tharp	aye
Councilman Wandrei	absent
Mayor Shelton	aye

The ordinance follows as adopted:

**AN ORDINANCE ALLOWING RESIDENTIAL USE OF
ALL FLOORS OF EXISTING COMMERCIAL
STRUCTURES (OTHER THAN THE FRONT STREET
LEVEL) AS AN ANCILLARY USE IN THE B1 DISTRICT**

Section 1. Section 608.02(s) of the City of Bedford Land Development Regulations is amended and re-enacted as follows:

Residential uses of all floors on existing commercial structures (other than the front street level) as an ancillary use of such structure, provided that: such uses do not conflict with the commercial vitality of the B-1 Zone; such residential units meet the minimum standards of the City of

Bedford; a distinct entrance and enclosed stairway to the upper level dwelling units is provided that is separate from all commercial uses occurring in the same building including, but not limited to sales, storage, and display; adequate parking is provided, either on the same lot, or in a location approved by the Zoning Administrator.

Section 2. This Ordinance shall be effective immediately upon enactment.

On motion by Councilman Wandrei, seconded by Vice Mayor Messier, voted upon and carried, Council waived the reading of the proposed ordinance amending Section 611.2 of the City of Bedford Land Development Regulations.

Councilman Wandrei moved that Council adopt the ordinance amending Section 611.2 of the City of Bedford Land Development Regulations. The motion was seconded by Vice Mayor Messier.

Discussion ensued.

Councilman Padgett made a substitute motion to table this matter for further information. The motion was seconded by Councilman Tharp. The substitute motion was voted upon and did not pass.

The motion to adopt the ordinance was then voted upon and carried by the following roll call vote:

Councilwoman Flood	absent
Vice Mayor Messier	aye
Councilman Padgett	nay
Councilman Tharp	aye
Councilman Wandrei	absent
Councilman Brookshier	aye
Mayor Shelton	aye

The ordinance follows as adopted:

**AN ORDINANCE ALLOWING COMMERCIAL
COMMUNICATION TOWERS AS PERMITTED USE IN THE M-1
DISTRICT**

Section 1. The City of Bedford Land Development Regulations are amended and reenacted to include the following provisions:

Proposed new text under 611.02 Permitted Uses

- x. Commercial communication towers, provided that the requirements of Section 907 are met.

Proposed new text under Article IX: Special Provisions

907. Commercial Communication Towers

907.01 Definition. A commercial communication tower is any pole, tower, tripod, telescoping mast, or any other structure, not to include a building or water tower, which supports a device used for the transmission, retransmission or reception of electronic signals or information for commercial use.

907.02 Location. Commercial communication towers shall have a minimum front, side, and rear yard setback equal to two feet for every one foot of tower height. Height shall mean the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

907.03 Signage. The use of any portion of a commercial communication tower for signs other than warning or equipment information signs is prohibited.

907.04 Special Requirements. Commercial communication towers, where permitted, must meet the following special requirements:

- a. To encourage future shared use of commercial communication towers, the tower owner must demonstrate that the tower will support a specified number of antennas, and must file a letter of intent with the City to lease the space to other users in good faith.
- b. No new commercial communication tower may be established if there is a technically suitable space available on an existing communications tower within the geographic area that the proposed tower is to serve.

- c. The entire facility must be aesthetically compatible with its environment. If not otherwise camouflaged, commercial communication towers shall be of a coloration that will blend with the surroundings.
- d. All obsolete or unused facilities must be removed within six months of cessation of operations at the site.
- e. No more than one commercial communication tower shall be constructed on a single tax parcel. Where a commercial communication tower is present on any single tax parcel, no other use of the parcel is permitted.
- f. Commercial communication towers shall not be artificially lighted except to ensure human safety as required by the Federal Communications Commission and the Federal Aviation Administration.
- g. There shall be no outdoor storage associated with the facility.

Section 2. This Ordinance shall be effective immediately upon enactment.

Mr. Brian Knopp, Vice President Tourism Service, Lynchburg Regional Convention & Visitors Bureau, spoke regarding the goals of the Bureau. Mr. Knopp gave members of Council copies of the 2000 Marketing plan for the Bureau.

Mr. Edward Williams, Jr., Executive Director of the Lynchburg Area Center for Independent Living, spoke regarding the Center and thanked Council for supporting people with disabilities.

The City Manager stated that the Statewide Mutual Aid program was established by the General Assembly to have a process in place that would help communities assist each other during emergencies. The Virginia Municipal League is recommending that all municipalities in the State consider adoption of the proposed ordinance. The City Manager stated it is the recommendation of the staff that the resolution be adopted.

Councilman Wandrei moved that the proposed resolution regarding statewide mutual aid for emergency management be adopted. The motion was seconded by Councilman Padgett, voted upon and carried by the following roll call vote:

Vice Mayor Messier	aye
Councilman Padgett	aye
Councilman Tharp	aye
Councilman Wandrei	absent
Councilman Brookshier	aye

Councilwoman Flood	absent
Mayor Shelton	aye

The resolution follows as adopted:

**STATEWIDE MUTUAL AID FOR EMERGENCY MANAGEMENT
RESOLUTION**

WHEREAS, the Commonwealth of Virginia Emergency Services and Disaster Law of 2000, as amended, (Title 44, Chapter 3.2 of the Virginia Code) authorizes the Commonwealth and its political subdivisions to provide emergency aid and assistance in the event of a major disaster; and

WHEREAS, the statutes also authorize the State Emergency Operations Center to coordinate the provision of any equipment, services, or facilities owned or organized by the Commonwealth or its political subdivisions for use in the affected area upon request of the duly constituted authority of the area; and

WHEREAS, this Resolution authorizes the request, provision, and receipt of interjurisdictional mutual aid in accordance with Title 44, Chapter 3.2 of the Code of Virginia among political subdivisions, other authorized entities and officers within the Commonwealth;

NOW, THEREFORE, the City Council of the City of Bedford resolves that the City of Bedford shall have the authority to participate in Statewide Mutual Aid in the event of emergency or disaster in accordance with the following terms and conditions, which shall be in the nature of a compact and agreement among participating entities which have adopted similar executive orders, ordinances or resolutions. This Statewide Mutual Aid program may include requests for and provision of personnel, equipment, materials, and other forms of assistance, or any combination of assistance, to any entity within the Commonwealth, pursuant to the following terms and conditions:

SECTION 1. DEFINITIONS

A. "EVENT AGREEMENT" -- a contract between two member political subdivisions entered into at the time of emergency in which the Assisting Party agrees to provide specified resources to the Requesting Party under the terms and conditions specified in the Agreement.

B. "REQUESTING PARTY" -- the member political subdivision requesting aid in the event of an emergency or disaster and participating in the Statewide Mutual Aid Program pursuant to the terms and conditions of this Resolution.

C. "ASSISTING PARTY" -- the member political subdivision furnishing equipment, services and/or manpower to the Requesting Party, and participating in the Statewide Mutual Aid Program ("the Program") pursuant to terms consistent with those in this Resolution.

D. "AUTHORIZED REPRESENTATIVE" -- an officer or employee of a member political subdivision authorized in writing by that entity to request, offer, or provide assistance under the terms of this Resolution.

E. "DEPARTMENT" - the Department of Emergency Management.

F. "EMERGENCY" -- any occurrence, or threat thereof, whether natural, or caused by man, in war or in peace, which results or may result in substantial injury or harm to the population, substantial damage to or loss of property, or substantial harm to the environment.

G. "DISASTER" -- any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by the Governor or the President of the United States.

H. "IMPLEMENTATION GUIDEBOOK" -- Guidance document promulgated by the Department to assist member political subdivisions with Statewide mutual aid activities, to provide procedures and minimum standards for participation, and to provide for compliance with state and federal reimbursement requirements.

I. "MAJOR DISASTER" -- a disaster which is likely to clearly exceed local capabilities and require a broad range of state and federal assistance.

J. "MEMBER POLITICAL SUBDIVISION" -- any political subdivision or authorized officer or agency within the Commonwealth of Virginia which maintains its own emergency services organization and plan and which enacts an ordinance or resolution or promulgates an executive order with terms substantially similar to those set out in this Resolution,

authorizing Statewide mutual aid pursuant to Title 44 of the Virginia Code.

K. "STATE EOC" -- the Virginia Emergency Operations Center from which assistance to localities is coordinated when local emergency response and recovery resources are overwhelmed. This facility is operated by the Virginia Department of Emergency Management.

SECTION 2. PROCEDURES FOR PROVISION OF MUTUAL AID

When a member political subdivision either becomes affected by, or is under imminent threat of an emergency or disaster and, as a result, has officially declared an emergency, it may request emergency-related mutual aid assistance by: (1) submitting a Request for Assistance to an Assisting Party or to the State EOC, or (2) orally communicating a request for mutual aid assistance to an Assisting Party or to the State EOC, followed as soon as practicable by written confirmation of the request. Mutual aid shall not be requested by a member political subdivision unless resources available within the stricken area are deemed to be inadequate. All requests for mutual aid must be transmitted by the Authorized Representative of the member political subdivision or the Director of Emergency Management. No member political subdivision shall be required to provide mutual aid unless it determines that it has sufficient resources to do so.

A. REQUESTS DIRECTLY TO ASSISTING PARTY: The Requesting Party may directly contact the Authorized Representative of the Assisting Party and provide the information in the Request Form prescribed in the SMA Implementation Guidebook. Each Assisting Party must communicate directly with the Requesting Party in order to execute an Event Agreement. The Requesting Party shall be responsible for keeping the State EOC advised of the status of mutual aid activities.

B. REQUESTS ROUTED THROUGH, OR ORIGINATING FROM THE STATE EOC: The Requesting Party may directly contact the State EOC, in which case it shall provide the information in the Request Form in the SMA Implementation Guidebook. The State EOC may then contact other member political subdivisions on behalf of the Requesting Party. Once identified, each Assisting Party must communicate directly with the Requesting Party in order to execute an Event Agreement.

C. ASSESSMENT OF AVAILABILITY OF RESOURCES AND ABILITY TO RENDER ASSISTANCE: When contacted by a Requesting Party, or by the State EOC on behalf of a Requesting Party, the

Authorized Representative of any member political subdivision agrees to assess local resources to determine available personnel, equipment and other assistance.

D. SUPERVISION AND CONTROL: When providing assistance under the terms of this Agreement, the personnel, equipment, and resources of any Assisting Party will be under the operational control of the Requesting Party, which shall advise supervisory personnel of the Assisting Party of work tasks, for assignment to personnel. Direct supervision and control of personnel, equipment and resources shall remain with the designated supervisory personnel of the Assisting Party. The designated supervisory personnel of the Assisting Party shall: maintain daily personnel time records, material records, and a log of equipment hours; be responsible for the operation and maintenance of the equipment and other resources furnished by the Assisting Party; and shall report work progress to the Requesting Party. The Assisting Party's personnel and other resources shall remain subject to recall by the Assisting Party at any time, subject to reasonable notice to the Requesting Party. At least twenty-four hour advance notification of intent to withdraw personnel or resources shall be provided to the Requesting Party unless such notice is not practicable, in which case such notice as is reasonable shall be provided.

E. FOOD, HOUSING, AND SELF-SUFFICIENCY: Unless specifically instructed otherwise, the Requesting Party shall have the responsibility of providing food and housing for the personnel of the Assisting Party from the time of their arrival at the designated location to the time of their departure. However, Assisting Party personnel and equipment should be, to the greatest extent possible, self-sufficient while working in the emergency or disaster area. The Requesting Party may specify only self-sufficient personnel and resources in its request for assistance.

F. COMMUNICATIONS: Unless specifically instructed otherwise, the Requesting Party shall have the responsibility for coordinating communications between the personnel of the Assisting Party and the Requesting Party. Assisting Party personnel should be prepared to furnish communications equipment sufficient to maintain communications among their respective operating units.

G. RIGHTS AND PRIVILEGES: Whenever the officials, employees and volunteers of the Assisting Party are rendering aid pursuant to this Agreement, such employees shall have the powers, duties, rights, privileges, and immunities, and shall receive the compensation, incidental to their employment or position.

H. TERM OF DEPLOYMENT: The initial duration of a request for assistance is normally seven days and may be extended, if necessary, in

seven day increments. However, the duration may be shorter or longer as reflected in the Event Agreement.

I. SUMMARY REPORT: Within ten days of the return of all personnel deployed under SMA, the Requesting Party will prepare a Summary Report of the event, and provide copies to each Assisting Party and to the Department. The Report shall be in a format prescribed by the Department and shall include a chronology of events and description of personnel, equipment and materials provided by one party to the other.

SECTION 3. REIMBURSABLE EXPENSES

The terms and conditions governing reimbursement for any assistance provided pursuant to this Resolution shall be in accordance with the following provisions, unless otherwise agreed upon by the Requesting and Assisting Parties and specified in the Event Agreement.

A. PERSONNEL: During the period of assistance, the Assisting Party shall continue to pay its employees according to its then prevailing ordinances, rules, and regulations. The Requesting Party shall reimburse the Assisting Party for all direct and indirect payroll costs and expenses (including travel expenses, benefits, workers' compensation claims and expenses) incurred during the period of assistance, unless agreed to otherwise by the parties in the Event Agreement.

B. EQUIPMENT: The Assisting Party shall be reimbursed by the Requesting Party for the use of its equipment during the period of assistance according to either a pre-established local or state hourly rate or according to the actual replacement, operation, and maintenance expenses incurred. For those instances in which some costs may be reimbursed by the Federal Emergency Management Agency, the eligible direct costs shall be determined in accordance with 44 CFR 206.228, or other regulations in effect at the time of the disaster. Each Party shall maintain its own equipment in safe and operational condition. At the request of the Assisting

Party, fuels, miscellaneous supplies, and minor repairs may be provided by the Requesting Party, if practical. If the equipment charges are based on a pre-established local or state hourly rate, then these charges to the Requesting Party shall be reduced by the total value of the fuels, supplies, and repairs furnished by the Requesting Party and by the amount of any insurance proceeds received by the Assisting Party.

C. MATERIALS AND SUPPLIES: The Assisting Party shall be reimbursed for all materials and supplies furnished by it and used or damaged during the period of assistance, except for the costs of equipment, fuel and maintenance materials, labor and supplies, which shall be included in the equipment rate established above, unless such damage is caused by gross negligence, or willful and wanton misconduct of the Assisting Party's personnel. The measure of reimbursement shall be determined in accordance with 44 CFR 206.228 or other regulations in effect at the time of the disaster. In the alternative, the Parties may agree that the Requesting Party will replace, with like kind and quality as determined by the Assisting Party, the materials and supplies used or damaged. If such an agreement is made, it shall be reduced to writing and transmitted to the Department.

D. RECORD KEEPING: The Assisting Party shall maintain records and submit invoices for reimbursement by the Requesting Party in accordance with existing policies and practices. Requesting Party and Department finance personnel shall provide information, directions, and assistance for record keeping to Assisting Party personnel. Later, Department personnel will provide assistance to the Requesting Party in seeking federal/state reimbursement.

E. PAYMENT: Unless otherwise mutually agreed, the Assisting Party shall bill the Requesting Party for all reimbursable expenses with an itemized statement as soon as practicable after the expenses are incurred, but not later than sixty (60) days following the period of assistance, unless the deadline for identifying damage is extended in accordance with applicable federal or State regulations. The Requesting Party shall pay the bill, or advise of any disputed items, not later than sixty (60) days following receipt of the statement, unless otherwise agreed upon.

F. WAIVER OF REIMBURSEMENT: A member political subdivision may assume or donate, in whole or in part, the costs associated with any loss, damage, expense or use of personnel, equipment and resources provided.

SECTION 4. INSURANCE

A. WORKERS' COMPENSATION COVERAGE: Each member political subdivision shall be responsible for its own actions and those of its

employees and is responsible for complying with the Virginia Workers' Compensation Act.

B. AUTOMOBILE LIABILITY COVERAGE: Each member political subdivision shall be responsible for its own actions and is responsible for complying with the Virginia motor vehicle financial responsibility laws. Member political subdivisions agree to obtain automobile liability coverage with a limit of at least \$1,000,000 combined single limit and coverage for owned, non-owned, and hired vehicles. It is understood that the local government may include in the emergency response volunteer companies that have motor vehicles titled in the name of the volunteer company. It is the responsibility of each member political subdivision to determine if the volunteer company has automobile liability coverage as outlined in this section.

C. GENERAL LIABILITY, PUBLIC OFFICIALS LIABILITY, AND LAW ENFORCEMENT LIABILITY: To the extent permitted by law and without waiving sovereign immunity, each member political subdivision shall be responsible for any and all claims, demands, suits, actions, damages, and causes for action related to or arising out of or in any way connected with its own actions, and the actions of its personnel in providing mutual aid assistance rendered or performed pursuant to the terms and conditions of this Resolution. Each member political subdivision agrees to obtain general liability, public officials liability and law enforcement liability, if applicable, with minimum single limits of no less than one million dollars.

SECTION 5. ROLE OF THE DEPARTMENT OF EMERGENCY MANAGEMENT

The Department shall, during normal operations, provide staff support to political subdivisions, officers and authorized agencies, serve as the central depository for agreements, resolutions, ordinances and executive orders, maintain a current listing of member political subdivisions, and provide a copy of this listing to each on an annual basis. The State EOC shall, during emergency operations, (1) request mutual aid on behalf of a member political subdivision, under the circumstances identified in this Agreement, (2) keep a record of all Requests for Assistance and Acknowledgments, (3) report on the status of ongoing emergency or disaster-related mutual aid as appropriate, and assist participants in meeting all procedural and other requirements, including those pertaining to federal and state cost reimbursement.

SECTION 6. SEVERABILITY AND THE EFFECT ON OTHER RESOLUTIONS

Should any portion, section, or subsection of this Resolution be held to be invalid by a court of competent jurisdiction, that fact shall not affect or invalidate any other portion, section or subsection; and the remaining portions of this Resolution shall remain in full force and effect without regard to the section, portion, or subsection or power invalidated. In the event that any parties to this Resolution have entered into other mutual aid agreements, those parties agree that said agreement will remain in effect unless they conflict in principle with this Resolution in which case they are superseded by this Resolution. In the event that two or more parties to this Resolution have not entered into another agreement, and the parties wish to engage in mutual aid, then the terms and conditions of this Resolution shall apply between those parties.

City Manager Meadows stated that Council had received a letter from the Bedford Life Saving and First Aid Crew, Inc., requesting that a surplus police car that is no longer in use be transferred to the Crew to be used as a response vehicle.

On motion by Councilman Padgett, seconded by Councilman Wandrei, voted upon and carried, Council authorized the transfer of a surplus police car from the Police Department to the Bedford Life Saving and First Aid Crew, Inc.

The City Manager reported that in 1997 the City purchased from Dr. Dennis A. Robinson, Jr., the property at 309 North Bridge Street and simultaneously conveyed it to the Wharton Memorial Foundation. As part of the planned public gardens in front of the Library, the City reserved a garden easement and restricted the uses of the building with a provision that the City could approve additional uses that were compatible with the garden. Fred Duis, President of the Wharton Memorial Foundation, has advised the City that the Foundation has negotiated a long-term lease for use of the main floor as a pharmacy or drug store and the use of the top and basement floors as residences. The Foundation requests that the City approve such uses.

Vice Mayor Messier moved that Council approve the request of the Wharton Memorial Foundation. The motion was seconded by Councilman Padgett, voted upon and carried.

Mayor Shelton adjourned the meeting at 8:28 p.m.