

4-10-01 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., April 10, 2001.

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

Members absent: None.

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 March 27, 2001, regular Council meeting were approved as corrected.

The City Manager reported on the following:

- Noted the following items of correspondence: memorandum regarding assurance of payment for post-petition utility services; memorandum from Barbara Bennett, Region 2000 Regional Commission, regarding the withdrawal of the Litter Otter Regional Industrial Park Proposal; invitation to the spring regional dinner meeting for the Regional Commission to be held in Altavista on April 18; memorandum regarding the City Manager's selection to participate in the American Public Power Association Executive Management Institute; list of new City of Bedford phone numbers which will be included in the utility bills.
- the Council retreat to review the budget has been rescheduled to Friday, May 18, 2001, in the Tharp Room at the Bedford Public Library
- thanked those who participated in the Keep Bedford Beautiful Commission Cleanup Day
- Clean-up Week is being held this week - there have been a few instances of abuse - suggested that the policy regarding Clean-up Week be reviewed
- Human Resources Director position – several interviews have been held
- Director of Tourism position - several interviews have been held
- Central Virginia Community Services Board – a copy of the Board's annual report is in the City Manager's Office for review

Vice Mayor Messier asked about the status of the work being done on the spillway at the reservoir and the town lake.

The City Manager stated that work is in progress on both projects: the spillway should be completed by the end of this week; the town lake project should be finished in about three weeks.

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, April 5, 2001 and by the City Council at 7:30 p.m. on Tuesday, April 10, 2001, at the City Municipal Building, Council Hall, 215 East Main Street for the purpose of:

- To consider a conditional use of property, located on Whitfield Drive, tax map numbers 134-2-9, 134-2-10, 134-2-11 and 134-2-12, as physician office space. The request is being made by Christopher M. Hicks, M.D., F.A.C.S., 1700-B Whitfield Drive, Bedford, VA 24523.

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

Anyone who is in favor of or opposed to the request will have an opportunity to express his/her view 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.

Mr. Bill Fedele, 1210 Maymont Drive, spoke against the conditional use request of Dr. Hicks.

Mr. Earl Goodwin, 1219 Maymont Drive, spoke in opposition to the conditional use request.

Ms. Debra Garraghty, 512 Lee Street, explained why she is opposed to the conditional use request.

As there were no further comments, Mayor Shelton closed the public hearing at 7:47 p.m.

Mayor Shelton stated that at the last meeting the issue of adoption of revisions to the Land Development Regulations was tabled so that the Planning Commission could review some proposals. The Mayor stated that it would be in order for a motion to remove from the table the original motion to accept the recommendation of the Planning Commission.

On motion by Councilman Padgett, seconded by Vice Mayor Messier, voted upon and carried unanimously, the original motion to accept the recommendation of the Planning Commission was removed from the table.

Mayor Shelton stated that now Council had before it the original motion as made by Councilman Padgett, seconded by Councilman Brookshier at the last meeting, to approve the recommendation of the Planning Commission regarding the sign ordinance.

Mayor Shelton asked Mr. Warner, Director of Planning & Community Development, to review the issue with Council.

Mr. Warner stated that the Planning Commission met and did not pass along any official comment on the issue at hand, but did wish for Council to act upon its recommendation as forwarded at the last meeting.

Mr. Warner reported that he has reviewed the amendment offered at the last meeting to Section 904.09E. Mr. Warner stated that in subsection 4 there is some ambiguous language that should read "only one such off-premise sign may be located on a lot and must be within one-thousand feet of the business or tenant being advertised." Mr. Warner offered that as an amendment to the document.

Mr. Warner spoke regarding the illumination issue. Mr. Warner reported the stated preference of Planning Commission was to discourage illumination for off-premise signs. In reviewing this issue, Mr. Warner stated the City may want to allow some flexibility in terms of particular uses that might need or warrant illumination based on the public need. Based on that information, Mr. Warner asked Council to include some standard dealing with illumination, along with Section 904.09E and submitted the following:

- The sign may not be illuminated;

Mr. Warner stated this would allow the City to assess the question of illumination on a case by case basis in accordance with the public need as demonstrated.

Mr. Warner reported that in addition to the amendment that was offered at the last regular meeting, the consultant identified a few technical changes that need to be made:

- In Section 904.03K, the word "feet" should be added after the phrase "greater than six (6)."
- In Section 904.04K, the figure "14 feet" should be changed to "20 feet."
- In Section 904.05D, the words "freestanding and" should be added before the phrase beginning "building mounted signs, the..."

Mr. Warner recommended that Council adopt the ordinance as forwarded by the Planning Commission with the amendments described.

As an amendment to the original motion, Vice Mayor Messier moved for the adoption with Mr. Warner's amendments. Councilman Tharp seconded the motion.

Councilman Wandrei spoke about the wording of the section dealing with illumination of off-premise signs. Councilman Wandrei stated he was not in favor of any restrictions on illumination.

Councilman Wandrei moved that the amendments be amended to show that "the sign may be illuminated."

Mayor Shelton asked the City Attorney if it was in order for an amendment to an amendment on the floor, procedurally.

The City Attorney stated it could be amended.

Mayor Shelton stated this would be an amendment to the proposed amendment as set forth by Councilman Wandrei to change the wording to "the sign may be illuminated."

The motion died for lack of a second.

City Attorney asked Mr. Warner to explain the interpretation of "The sign may not be illuminated."

Mr. Warner said the intent is to discourage illumination and state that as a policy objective, however, retaining the flexibility to review individual cases in which it might be warranted under the 6th condition, which would be the demonstration of a need for the sign for public safety or other public needs.

Discussion ensued regarding the interpretation of the following statement "The sign may not be illuminated."

Discussion continued regarding the standards for determining whether the off-premises sign may be illuminated or not.

Mr. Warner explained the process relative to a request to illuminate based on the language as proposed.

City Attorney Berry suggested the following wording: "Illumination of signs shall not be allowed unless the Zoning Administrator finds that there is a clearly documented public need."

Vice Mayor Messier accepted the suggested wording as clarification within his motion. Councilman Tharp also agreed to the clarification.

The motion to amend was then voted upon and carried unanimously.

The motion to adopt the Sign Ordinance, as amended, was then voted upon and carried unanimously by the following roll call vote:

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

Barbara Ring, Executive Director of the Bedford Area Chamber of Commerce, spoke regarding the activities of the Chamber. The Chamber's budget request for FY 2001-02 is \$5,000.

John Owen, President, Bedford Main Street, Inc., presented Main Street's budget request in the amount of \$28,000 for FY 2001-02.

Ellen Wandrei, Managing Director, Bedford City/County Museum, spoke regarding the programs, building status, and increase in visitors at the Museum. The budget request for the Museum is \$27,500.

There was no one present to speak regarding the budget request by the Bedford Lifesaving Crew.

Victoria S. Johnson, Executive Director, Bedford County Chapter of the American Red Cross, spoke about the Safe Haven Program and presented a budget request of \$25,000 for FY 2001-02.

Barry Lyons, Director, Region 2000 Small Business Development Center, explained the purpose of the Development Center and presented a budget request of \$2,500 for FY 2001-02.

Celia Farinholt, Acting Director, Lynchburg Area Center For Independent Living, explained the purpose of the Center and presented a budget request in the amount of \$5,000 for FY 2001-02.

Mayor Shelton reported the Planning Commission recommends that City Council deny the request by Christopher M. Hicks, M.D., for a conditional use of property, located on Whitfield Drive, tax map numbers 134-2-9, 134-2-10, 134-2-11 and 134-2-12, as physician office space.

On motion by Councilman Tharp, seconded by Vice Mayor Messier, voted upon and carried unanimously, Council accepted the request of the Planning Commission and the conditional use request was denied.

City Manager Meadows stated that the City intends to borrow funds from the Virginia Resources Authority to finance the opening of Phase III of the City Sanitary Landfill. In connection with that borrowing, Council needs to adopt a "reimbursement resolution" providing for the reimbursement to the City from the bond proceeds of certain expenses that will have been incurred in the period 60-days prior to the date of the resolution.

On motion by Councilman Tharp, seconded by Councilman Padgett, voted upon and carried unanimously, Council adopted the proposed reimbursement resolution. Roll call vote follows:

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

Mayor Shelton

aye

The resolution follows as adopted:

**RESOLUTION OF OFFICIAL INTENT
TO REIMBURSE EXPENDITURES WITH
PROCEEDS OF A BORROWING**

WHEREAS, the City of Bedford, Virginia (the "Borrower"), intends to expand its existing landfill facilities (the "Project"); and

WHEREAS, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the "Expenditures") prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both;

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEDFORD, VIRGINIA:

1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the "Bonds") or to incur other debt, in an amount not currently expected to exceed \$475,000 to pay the costs of the Project.
2. The Borrower intends that the proceeds of the Bonds be used to reimburse the Borrower for Expenditures with respect to the Project made on or after February 9, 2001, which date is no more than 60 days prior to the date hereof. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds or other debt.
3. Each Expenditure was or will be, unless otherwise approved by bond counsel, either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Borrower so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Borrower.
4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Borrower recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction of at least five years.

5. The Borrower intends that the adoption of this resolution confirms the "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.
6. This resolution shall take effect immediately upon its passage.

City Manager Meadows stated that Draper Aden & Associates prepared the Water/Sewer Rate Study that takes into account the capital needs of the City during a five-year period of time. The study also takes into account the expected revenue shortfalls due to the loss of a major industry and the potential loss of another major industry. The City Manager explained that these rates are expected to carry the City for a three to five year period of time and do address the issues with regard to debt service related to the items required due to the Consent Order issued by the State.

Discussion ensued regarding phasing in the proposed water and sewer rate increases.

Due to problems with the sound system, Mayor Shelton declared a recess from 8:47 p.m. until 8:54 p.m.

There was further discussion about the proposed water and sewer rate increases.

Councilman Tharp moved that Council accept the Water and Sewer Rate Study provided by Draper Aden & Associates and that it be placed into effect July 1, 2001. The motion was seconded by Councilwoman Flood.

Further discussion ensued.

Due to the problem with the sound system, the remainder of the meeting was not recorded on tape.

The motion was then voted upon and carried unanimously.

Mayor Shelton adjourned the meeting at 9:07 p.m.