

Minutes 09-24-2002

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., September 24, 2002.

Members present: Mayor G. Michael Shelton; Councilwoman Mary L. Flood; Vice Mayor E. Thomas Messier; Councilman Thomas M. Padgett; Councilman C. G. Stanley, Jr.; 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 September 10, 2002, regular Council meeting were approved as distributed.

The City Manager reported on the following:

- Events: Centerfest – September 28; ICMA Conference – September 30 – October 2; trip to France, Bedford International Alliance – October 7 – 17; no Council meeting on October 8; Region 2000 Regional Commission Fall dinner meeting, cohosted by Bedford City and County, at the Bedford Country Club – October 17; Virginia Municipal League Conference, Norfolk – October 20 – 23; Council retreat, Mountain Lake – October 25 – 26.
- There has been a lot of activity on the economic development front in the past three week.
- Verizon has indicated that it plans to unveil DSL service in Bedford by the end of the year. DSL service is a competitor to cable modem service.
- City's GIS project is moving along very well
- The City audit is nearly complete.
- Displayed new directional signs to the National D-Day Monument
- There have been 467 mixed responses to the survey on the deer issue – the Public Safety Committee will meet to review the surveys prior to the next Council meeting in October.

- Asked that the following items be added to the agenda: Resolution – Central Virginia Community Services; and Ordinance – Water Supply Emergency

Councilman Stanley asked that the following item be added to the agenda: Discussion – Waiving of Fees Policy – Habitat for Humanity and New Horizons Foundation

Councilman Wandrei moved that the following items be added to the agenda under "New Business:"

Resolution – Central Virginia Community Services

Ordinance – Water Supply Emergency

Discussion – Water Fee Policy for Habitat for Humanity and New Horizons Foundation

The motion was seconded by Councilman Tharp, and after a brief discussion was voted upon and carried unanimously.

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 25, 2002, 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 587-6001, no later than June 7, 2002.

Mayor Shelton opened the public hearing at 7:49 p.m. The Mayor stated that Mr. Jeff Hubbard had requested appointment to the City School Board.

As there were no comments, Mayor Shelton closed the public hearing at 7:50 p.m.

The Consent Agenda consisted of the following item:

Request by Bedford Main Street, Inc., that Council authorize blocking the following streets for Centerfest 2002 on Saturday, September 28, from 7:00 a.m. until 1:00 a.m. on Sunday, September 29:

- East Main Street between Otey Street and Bridge Street
- West Main Street between Bridge Street and Ballard Street

- South Bridge Street between Main Street and Washington Street
- North Bridge Street between Main Street and south side of entrance into parking lot at Hunan Restaurant
- West Depot Street between North Bridge Street and alley running between Dr. Unterbrink's Office and Bill Wentz's Office (connecting West Main to West Depot)
- South Street between East Main Street and Washington Street
- Farmers Market Parking Lot
- Center Street between entrance to Bedford Federal Parking Lot and West Main Street

Vice Mayor Messier moved that the Consent Agenda be adopted. The motion was seconded by Councilman Padgett, voted upon and carried unanimously.

Chief of Police Graham introduced new police officer Lawrence S. Early.

The Clerk of Council administered the oath of office to Officer Early.

The Chief of Police announced the promotion of Todd Foreman to Sergeant.

The Clerk of Council administered the oath of office to Sergeant Foreman.

Nanci Drake gave an update on tourism activities. Ms. Drake spoke regarding the permanent Visitors Center and presented a design for the center. Ms. Drake also reviewed the tentative time frame for design and construction of the center.

City Manager Meadows stated October 6 – 12 has been designated as Public Power Week, in which communities across the United States celebrate their commitment to providing public power for their citizens and customers. Mr. Meadows indicated that October is also the month in which the City of Bedford Electric Department celebrates its 103rd anniversary as the provider of public power to the community.

On motion by Councilman Tharp, seconded by Councilman Padgett, voted upon and carried unanimously, Council adopted a Proclamation recognizing October 6 – 12 as Public Power Week and recognizing October as the 103rd anniversary for the Electric Department.

The Proclamation follows as adopted:

PROCLAMATION

Public Power Week

WHEREAS, the citizens of Bedford have chosen to operate a community-owned, not-for-profit electric utility; and

WHEREAS, we are both consumers and owners of our public power system and have a direct say in utility operations and policies; and

WHEREAS, The City of Bedford Electric Department provides our homes, businesses, farms, social service, and local government agencies with reliable, efficient, and cost-effective electricity employing sound business practices designed to ensure the best possible service at the lowest possible rates; and

WHEREAS, The City of Bedford Electric Department is part of a community of 2,000 publicly owned electric utilities in the United States that through consumer-ownership ensure cost-cutting competition in the electric utility industry to the benefit of electricity consumers everywhere; and

WHEREAS, the American Public Power Association initiated Public Power Week in 1987, and it has proven a successful means to educate our community's consumers and the general public about public power's public service mission and community betterment goals; and

WHEREAS, the City began operation of its municipal electric system in 1899 and has provided our citizens and other customers with reliable, low-cost power for 103 years;

NOW, THEREFORE, BE IT RESOLVED, that the week of October 6 – 12 be designated Public Power Week in order to honor The City of Bedford Electric Department, its consumers-owners, policy makers, and employees, who work together to provide the best possible electric service, and that our community join hands with other public power communities across the nation and celebrate the benefits of public power to our local and national progress.

BE IT FURTHER RESOLVED, that The City of Bedford Electric Department be recognized for the 103 years of service provided to our community by our home-town energy provider.

The City Manager stated that the State Department of Emergency Management requires the updating of each locality's emergency operational plan every five years. City Council must pass a resolution adopting the plan prior to submitting it to the State. Once submitted to the State, the plan will be reviewed and recommendations made if necessary.

Chief of Police Graham indicated this is basically the same plan, only updated, used by the City in past-declared disasters and has been found to be very effective.

On motion by Councilman Padgett, seconded by Councilman Stanley, voted upon and carried unanimously by a roll call vote, Council adopted the resolution adopting the City of Bedford Basic Emergency Operations Plan. Roll call vote follows:

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

The resolution follows as adopted:

RESOLUTION

WHEREAS, there exist many dangers of many types, including man-made disasters, natural disasters, and possible hostile actions of an unknown enemy; and

WHEREAS, the safety and protection of the citizens and property is of foremost concern to the City Council of the City of Bedford; and

WHEREAS, the City Council desires and Commonwealth of Virginia statutes require the adoption of appropriate planned protective measures:

THEREFORE BE IT RESOLVED, that the City Council hereby adopts the City of Bedford Basic Emergency Operations Plan.

The City Manager stated that Central Virginia Community Services is in the process of establishing a line of credit and loan of up to \$350,000 from Branch Banking and Trust Company of Virginia (BB & T) pursuant to the terms and conditions as set forth in a letter dated September 5, 2002. This will allow CVCS to borrow funds to meet cash flow demands.

Due to concerns among several of the other localities about some of the legalities of this matter, City Manager Meadows suggested that Council adopt the proposed resolution as follows:

Adopt the resolution contingent on the other localities also satisfactorily adopting this resolution; and should any amendments be made to the resolution by other localities, that they be brought back to Council for further consideration.

A brief discussion ensued.

Councilman Wandrei moved that the resolution be adopted. Councilman Padgett seconded the motion.

The motion was then voted upon and carried unanimously by the following roll call vote:

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

Mayor Shelton asked Councilman Wandrei and Councilman Padgett if the intent of the motion was to follow the City Manager's suggestion. Both Council members indicated that was the intent of the motion.

The resolution follows as adopted:

RESOLUTION

WHEREAS, Central Virginia Community Services Board is a governmental entity created pursuant to the provisions of Chapter 10 of

Title 37.1 of the Code of Virginia (Section 37.1-194 et seq.), pursuant to a joint agreement between the Counties of Amherst, Appomattox, Bedford and Campbell, and the Cities of Bedford and Lynchburg, in order to provide those jurisdictions with mental health, mental retardation, and substance abuse services; and

WHEREAS, Section 37.1-197(11) allows Chapter 10 Boards such as Central Virginia Community Services Board to obtain loans as authorized by the governing bodies of the political subdivisions that established it; and

WHEREAS, Central Virginia Community Services Board desires to establish a line of credit with Branch Banking & Trust Company of Virginia pursuant to which Central Virginia Community Services Board could borrow up to Three Hundred Fifty Thousand Dollars (\$350,000); and

WHEREAS, Branch Banking & Trust Company of Virginia has agreed, subject to the satisfaction of certain pre-conditions and requirements, to extend to Central Virginia Community Services Board a line of credit pursuant to which it would agree to loan up to Three Hundred Fifty Thousand Dollars (\$350,000) to Central Virginia Community Services Board on the terms set forth in the attached September 5, 2002, letter; and

WHEREAS, Central Virginia Community Services Board has petitioned the City Council of the City of Bedford to obtain approval of a line of credit and loan of up to Three Hundred Fifty Thousand Dollars (\$350,000) from Branch Banking & Trust Company of Virginia pursuant to the terms of the attached letter, dated September 5, 2002.

NOW, THEREFORE BE IT RESOLVED, that Central Virginia Community Services Board is hereby authorized by City of Council of the City of Bedford to borrow up to Three Hundred Fifty Thousand Dollars (\$350,000) from Branch Banking and Trust Company of Virginia on the terms of the September 5, 2002, letter.

(the September 5, 2002, letter mentioned above will be included in the permanent minute book)

The City Manager spoke regarding the proposed Water Supply Emergency Ordinance. As of September 24, the water at Stoney Creek Reservoir was 40 inches below the spillway, which is not a critical level but continues to drop due to lack of rainfall. On August 30,

the Governor issued Executive Order 33, which declared a State emergency due to extreme conditions and instituted mandatory restrictions. That Executive Order did not contain any enforcement provisions. Mr. Meadows reviewed the contents of the proposed ordinance.

Councilman Wandrei, Water & Sewer Committee, stated it was the unanimous consensus of the Committee that Council adopt the proposed ordinance.

On motion by Councilman Wandrei, seconded by Councilwoman Flood, voted upon and carried, Council waived the reading of the proposed ordinance.

Councilman Wandrei moved that the proposed ordinance be adopted. Councilman Tharp seconded the motion.

Mayor Shelton stated the ordinance may be subject to further amendment based upon worsening conditions that may occur with the water supply.

The Mayor recognized the City Manager, Public Works Director, and the staff for managing the water resources during the drought in utilizing the wells, the river, and the reservoir.

Discussion ensued.

The motion was then voted upon and carried unanimously by the following roll call vote:

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

The Ordinance follows as adopted:

**AN ORDINANCE, DECLARING THAT A WATER SUPPLY
EMERGENCY EXISTS IN CONNECTION WITH THE WATER
SUPPLY SYSTEM AND IMPOSING CONDITIONS ON THE USE**

**OF WATER AND CIVIL PENALTIES PURSUANT TO TITLE 15.2
CHAPTER 21 OF THE CODE OF VIRGINIA AND PURSUANT TO
TITLE 44,**

CHAPTER 3.2.

WHEREAS, drought conditions have continued over the past summer and the City Manager has advised the City Council that the water level at the Stoney Creek Reservoir has been dropping continuously since early summer, having been 3 inches below the spillway on June 25; 4 inches below the spillway on July 9; 9 3/4 inches below the spillway on July 23; 10 inches below the spillway on August 13; 21 inches below the spillway on August 27; 30 inches below the spillway on September 9; and 40 inches below the spillway on September 24; and

WHEREAS, on August 30, 2002 the Governor of Virginia issued Executive Order No. 33, entitled, Declaration of State Emergency due to extreme drought conditions throughout the Commonwealth (the Executive Order), in which he proclaimed a State of Emergency throughout the Commonwealth due to drought conditions, he instituted mandatory restrictions on certain uses of surface and ground water in the City and in other localities in the Commonwealth, he mandated agencies of both State and Local Government to render appropriate assistance to address drought conditions, and he authorized local governments to establish, collect, and retain fines for violation of the water restrictions; and

WHEREAS, the National Weather Service long range projections indicate that drought conditions are likely to continue to worsen over the next three months; and

WHEREAS, the City for most of the summer was able to minimize the effect of the drought upon the water level at the Stoney Creek Reservoir by utilizing the City wells in the Kelso area and withdrawing waters from the Big Otter River, but the flow of water in Big Otter has diminished so that the City has not utilized any river water since August 10; and

WHEREAS, the City recognizes that 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 require the City Council to control and restrict the use of water in order to conserve area water resources and in order to protect the health, safety and welfare of the citizens of the City and City customers in Bedford County.

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

Section 1. Finding of an Emergency. The City Council hereby declares pursuant to Section 15.2-924 and Section 44-146.21 of the Code of Virginia, 1950, as amended that a

water supply emergency exists, due to extreme drought conditions in the City and the surrounding area and throughout the Commonwealth, and due to the current water levels of the City's water supply sources for its public water system and the anticipated demand in the immediate future, and that there is a need to control and restrict the use of water within the City and the City water supply system during this emergency.

Section 2. Emergency Restrictions.

A) The following mandatory water restrictions shall apply immediately upon enactment of this Ordinance and shall remain in effect until modified or changed under the provisions set forth herein or by further action of the City Council:

1. *Lawns, flowers, trees, shrubs and gardens.* Watering shrubbery, trees, lawns, grass, flower gardens, and other vegetation is prohibited, except (a) indoor plantings may be watered; (b) greenhouse or nursery stock may be watered; (c) new plants may be watered at the time of planting and once a week for five weeks afterwards; (d) plants and shrubs may be watered as needed to sustain plant life utilizing watering cans or similar containers that have a capacity of five or fewer gallons; and (e) vegetable gardens may be watered once a week, prior to 10:00 a.m. in order to avoid evaporation.

2) *Golf Courses:* Watering of greens is permitted between 8 p.m. and 8 a.m. All other watering is prohibited at all times.

3) *Fountains:* Operation of or introduction of water into any ornamental fountain, pool or pond, or other structure making a similar use of water, except as needed to maintain aquatic life is prohibited.

4) *Paved areas and buildings.* The washing of outside areas such as streets, driveways, parking lots, or service station aprons, and the washing of the exterior of office buildings, houses, apartments, similar outdoor structures is prohibited except where required for health and safety requirements. Washing exterior surfaces of a building for the purpose of preparing for painting by hand washing or by licensed commercial pressure washers is permitted.

5) *Vehicle Washing.* The washing of automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment is prohibited, except for commercial washing facilities approved by the City Manager which operate with high pressure, low consumption equipment or 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 a 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.

6) **Swimming pools.** Filling of swimming pools is prohibited at all times, with the exception of pools used by health care facilities for patient care and rehabilitation, which are permitted to operate under normal conditions. New or repaired pools may be filled as needed to maintain the instructional integrity of the pool. Indoor pools may be filled as necessary to ensure swimmer health and safety.

7) **Fire hydrants.** The use of water from fire hydrants for any purpose other than fire suppression or other public emergencies is prohibited.

8) **Restaurants.** Drinking water shall not be served in restaurants, cafeterias or any other food establishment unless requested by the customer or patron.

(B) The provisions of this Ordinance shall apply to all users and customers of water supplied and distributed by the City of Bedford within its boundaries. The restrictions also shall apply to all other users of surface and ground water in the City of Bedford, including water drawn from wells on private property. The City Manager shall promulgate necessary rules and regulations to provide similar restrictions upon water usage by customers of the City water system outside the City limits, which shall include provisions for warning tickets to be issued by designated water conservation offices and enforcement by surcharges of \$50 per day and termination of services for multiple violations.

(C) The provisions of this Ordinance 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 for 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 3. Violations, penalties and enforcement.

A) It shall be a violation of this Ordinance for any individual, corporation, partnership, association, company, business, trust, joint venture or other legal entity to use water or to allow or to cause the use of water in violation of the provisions of this Ordinance. The provisions herein for conservation, restriction upon use, allocations and penalties may be imposed on any water user or customer in whose name the water service is listed and in appropriate circumstances on the person or entity in control of the property in question.

B) 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 officer as may be necessary for patrolling, issuing warnings and notices to water users who are in violation of restrictions and conditions set forth in this Ordinance.

C) For the first offense, violators within the City of Bedford shall receive a written warning delivered in person or posted at the front door of the residence. A Civil fine of \$50 per day for residential users and \$100 per day for institutional, commercial or industrial users is hereby imposed for second and subsequent violations of this Ordinance after delivery or posting of the written warning. Each violation by a person, including a second or subsequent violation on the same day following an earlier notification of the same violation, shall constitute a separate violation.

D) Civil Penalties shall be assessed by delivering or mailing to the water customer or user a Notice of Violation, which Notice shall provide an opportunity for the water customer or user to appeal the Civil penalty. All appeals shall be delivered in writing to the Director of the Department of Public Works within five days of the date of service of the Notice of Violation. The Director shall determine whether the penalty was properly assessed and within five days of the appeal notify the complaining person in writing of his determination. The customer or user may appeal the decision of the Director by delivering a written appeal to the City Manager within five business days of the decision of the Director. The City Manager shall review any appeal and shall render a final decision within five days of receipt of the appeal to him. The decision of the City Manager shall be final, but the City Manager may waive the penalty if he determines that the violation occurred due to no fault of the person assessed with the penalty.

E) All Civil penalties imposed hereunder shall be due and payable within ten days of delivery of the Notice of Violation or within ten days of the conclusion of appeals set forth herein above; unpaid fines shall be billed and collected as additional water charges on the violator's next water bill.

F) The City Manager is authorized further to provide that failure to pay any civil penalty after thirty (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. 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 remedies as may be available under law and deemed necessary by him to conserve the City's water supply, including but not limited to the institution of proceedings for injunctive relief or appropriate legal proceedings.

Section 4. Notification of End of Water Emergency.

When the City Manager has made a determination that there has been 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 Stony Creek Reservoir to the spillway and, in his opinion, the water emergency no longer exists, he shall so notify the City Council. Upon concurrence of the City Council, the water emergency shall be declared to have ended. When this declaration is made, the information shall be conveyed to the general public through the news media over the City Website.

Section 5. Notice.

Notice of these public water use restrictions shall be published once in the ***Bedford Bulletin***, and additional notices shall be given with each water bill and on the City Website during the time while the restrictions are in force.

Section 6. Severability.

The provisions of this Ordinance are severable, and the unenforceability of any provision in this Ordinance, as determined by a Court of competent jurisdiction, shall not affect the enforceability of any other provisions in this Ordinance.

Section 7. Effective Date.

The City Council declares that an emergency exists, that this Ordinance shall take effect without publication or posting pursuant to Section 2-30 of the City Code, and this Ordinance shall be in full force an effect after its adoption, except the provisions authorizing enforcement by civil penalties shall not be affected until one week has elapsed after the Ordinance has been published pursuant to the provisions of Section 19 of the City Charter.

Discussion ensued regarding the water fees policy adopted at the September 10, 2002, Council meeting for Habitat for Humanity and New Horizons Foundation.

It was the consensus of Council that the Water and Sewer Committee review this policy and report back at the November 12 Council meeting with any recommendations regarding amending or rescinding the current policy.

Mayor Shelton adjourned the meeting at 8:50 p.m.