

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., January 25, 2005.

Members present: Mayor E. Thomas Messier; Councilwoman Mary L. Flood; Councilman Jeffrey B. Hubbard; Councilman Thomas M. Padgett; Councilman C. G. Stanley, Jr.; and Councilman Robert T. Wandrei.

Members absent: Vice Mayor W. D. Tharp

Staff present: City Manager F. Craig Meadows; City Attorney W. W. Berry, IV; and Clerk of the Council Teresa W. Hatcher.

Mayor Messier opened the meeting and led all present in saying the Pledge of Allegiance to the Flag.

Mayor Messier declared that the minutes of a regular Council meeting held on January 11, 2005, were approved as distributed.

City Manager Meadows requested that the following item be added to the agenda:

Resolution – Virginia Department of Transportation

The City Manager reported on the following:

- The meeting with the DEQ in Richmond on January 20 to discuss issues related to the City's Corrective Action Plan for the closed landfill went well. Mr. Meadows thanked the Mayor and the City Attorney for attending the meeting. The DEQ will hold a public meeting regarding the Landfill on January 26 at the Library Community Room at 6:00 p.m. The DEQ has requested that City and County officials not be in attendance.
- A group from the Main Street Board and the City Manager will be traveling to Mt. Airy, NC, on January 28 to meet with officials regarding Mt. Airy's multi-day street festival in connection with expanding Bedford's Centerfest.
- February 7 – follow up Master Plan meeting for the east side with a focus on the Independence Boulevard and East Main Street corridors – 6:00 p.m.
- A new welcome sign will be erected on the Rt. 221 corridor.

The Mayor stated he received a letter from the Executive Director of the National League of Cities congratulating Bedford for receiving the 2004 Crown Community Award by American & County Magazine for the new Visitors Center.

Mayor Messier stated he received a copy of a letter from Representative Virgil Goode to the Chief of Police concerning the \$40,000 funding for FY 2005 for the network for mobile data processes.

Councilman Hubbard reported that the Finance & Electric Committees met earlier in the evening to discuss the changes in the wholesale power rate and the effect on retail rates.

Mayor Messier added the following item to the agenda as the last item under "New Business:"

Resolution – Virginia Department of Transportation

The Mayor opened a public hearing concerning Boxwood Terrace at 7:36 p.m. The Public Hearing Notice follows:

PUBLIC HEARING NOTICE

The City Council of the City of Bedford, Virginia on January 25, 2005 at 7:30 P.M. in the City Council Chambers, Municipal Building, 215 E. Main Street, Bedford, Virginia 24523, will conduct a public hearing pursuant to Virginia Code Section 15.2-1800 concerning the conveyance to Alouf Construction & Development Co. (Alouf Construction) of those vacated portions of Boxwood Terrace bounded on the north by the property of Alouf Construction, on the east by the right-of-way Lowry Street and an extension of that right-of-way line to US Route 460 business exit ramp, on the south by the US Route 460 northeast exit ramp, and on the west by Independence Blvd. The real estate to be conveyed is shown more particularly on a plat of survey entitled "Plat of Survey of Amended Lot 3 American Way..." prepared by Berkley-Howell & Assoc., P.C., dated October 22, 2004. A copy of the plat is on file in the office of the City Manager.

Interested persons may appear at such time and place and present their views.

Mr. Bart Warner, Director of Planning & Economic Development, stated the City has a development agreement with Alouf Construction & Development Company regarding property bounded by Independence Boulevard, Freedom Lane, Lowry Street, and Boxwood Terrace. The original agreement stated that Alouf Construction intended to construct a restaurant on that site by January 27, 2005. Mr. Warner stated that the item before Council is an amended conveyance that removes the time detail, but still contains the requirement that a restaurant be situated on that site.

As there were no further comments the Mayor closed the Public Hearing at 7:37 p.m.

The City Manager stated that the developer does intend to put a restaurant on the site but has notified the City it will not be able to comply with the condition

found in the deed and in the ordinances that a restaurant be constructed by January 27, 2005. Accordingly, on that date, title to the 0.569 acres will immediately revert to the City. Alouf has requested that City Council convey Boxwood Terrace to it without a reverter clause. Mr. Meadows reported that the Property Committee has reviewed the matter and recommends that Council authorize conveyance of the vacated portions of Boxwood Terrace to Alouf, but subject to the reservation of all utility easements and subject to a restriction that the property to be conveyed shall be maintained as open space and there shall be no buildings, signs or other improvements, including parking lots, built thereon unless a full service restaurant (other than fast food) containing a minimum of 3500 square feet is constructed on the adjoining lot owned by Alouf.

City Manager Meadows recommended in order to expedite development by Alouf, that City Council finds that adequate notice of the proposed conveyance has been given and waives the requirement of publication of the proposed ordinance authorizing conveyance of the real estate.

The City Manager stated Council is requested to take the following actions:

1. That Council finds that notice of the public hearing upon the conveyance of the vacated portions of Boxwood Terrace to Alouf Construction & Development Co., which has been published in the Roanoke Times for one week and also in the Bedford Bulletin for six days, has notified the public adequately of the proposed transaction and that Council accordingly waives the requirement of publication of the proposed ordinance authorizing such conveyance as otherwise required under the City Code Section 2-30.
2. That Council adopt the ordinance authorizing the conveyance to Alouf Construction & Development (Alouf) of land formerly part of Boxwood Terrace including a restriction upon use of the real estate unless a full-service restaurant is located upon the adjoining real estate owned by Alouf and subject to all existing utility easements located upon the land or of record.

On motion by Councilman Wandrei, seconded by Councilman Padgett, voted upon and carried, Council waived the posting of the proposed ordinance authorizing conveyance of the vacated portions of Boxwood Terrace to Alouf Construction & Development Co. as the ordinance had been published.

Councilman Stanley moved that Council adopt the proposed ordinance authorizing conveyance of the vacated portions of Boxwood Terrace to Alouf Construction & Development Co. Councilwoman Flood seconded the motion.

Councilman Wandrei stated that he would abstain from voting as he had done legal work for Alouf Construction. Councilman Wandrei stated that he had trouble with the City restricting the use of property. It was his opinion that the City would be better off letting the marketplace decide what uses should be made of the property.

The motion was then voted upon and carried by a roll call vote. Roll call vote follows:

	Councilman Hubbard	aye
	Councilman Padgett	aye
	Councilman Stanley	aye
	Vice Mayor Tharp	absent
	Councilman Wandrei	abstained
	Councilwoman Flood	
aye	Mayor Messier	aye

The ordinance follows as adopted:

ORDINANCE NO. 05-2

AN ORDINANCE AUTHORIZING THE CONVEYANCE TO ALOUF CONSTRUCTION & DEVELOPMENT CO. OF LAND FORMERLY PART OF BOXWOOD TERRACE

WHEREAS, Boxwood Terrace as shown certain City land records and tax maps consisted of portions of the old Lynchburg-Salem Turnpike (also known as Old Route 297) lying south of a tract of land conveyed by Brenda C. Hopkins et ux to Turner Hopkins and Brenda C. Hopkins by deed of gift dated October 29, 1996 and recorded in the Clerk's Office of the Circuit Court of Bedford County, Virginia as Instrument No. 970003450; and

WHEREAS, the said Boxwood Terrace being bounded on the north by the Hopkins' property, on the east by the western edge of Lowry Street and an extension of that right-of-way line the US Route 460 business exit ramp, on the south by the US Route 460 northeast exit ramp, and on the west by Independence Blvd. contained an estimated 0.759 acres; and

WHEREAS, the City Council of the City of Bedford, by an Ordinance duly adopted at a meeting held on January 27, 2004, vacated a portion of Boxwood Terrace subject to the execution of a deed of exchange under which the City would Quit Claim its interest in the vacated portions of Boxwood Terrace containing 0.569 acres upon the condition that title to the vacated area would revert to the City if construction of a restaurant on the Hopkins' land did not commence within 12 months of passage of the Ordinance; and

WHEREAS, the City of Bedford and Turner Hopkins and Brenda C. Hopkins entered into a deed of exchange, dated

February 5, 2004, and recorded as Instrument No. 040001854 and a corrected deed of exchange dated April 15, 2004 and recorded as Instrument No. 040005768, pursuant to which the City conveyed the portion of Boxwood Terrace containing 0.0569 acres to Turner Hopkins and Brenda C. Hopkins subject to the express condition that the Hopkins, their successors or assigns, within 12 months of January 27, 2004, would commence construction of a development upon the adjoining acreage retained by them to include a restaurant at the south end of the development and that, if the Hopkins, their successors or assigns fail to commence construction within said 12 months, then ownership of the 0.569 acres would immediately revert to the City of Bedford; and

WHEREAS, by a second Ordinance enacted by the City Council at a meeting held on October 12, 2004, the City Council vacated the remaining portions of Boxwood Terrace (containing an estimated 0.190 acres) and approved the execution and delivery to the adjoining owners of the additional area of the abandoned street subject to the conditions set forth in the deed between Turner Hopkins and Brenda C. Hopkins and the City; and

WHEREAS, the real estate adjoining Boxwood Terrace has been conveyed by Turner Hopkins and Brenda C. Hopkins to Alouf Construction & Development Co. (Alouf) by a deed dated February 4, 2004 and recorded as Instrument No. 040001857 and by a deed of correction dated April 15, 2004 and recorded as Instrument No. 040005770; and

WHEREAS, no building permit has been issued for the construction of a restaurant on the land adjoining abandoned portions of Boxwood Terrace and Alouf has notified the City that no such construction will commence before January 27, 2005 and consequently title to the said real estate formerly designated as Boxwood Terrace will revert to the City pursuant to the said conditions; and

WHEREAS, Alouf has requested that the City convey the property formerly known as Boxwood Terrace containing a total of 0.759 acres to Alouf subject to the restriction that it shall be maintained as open space and there shall be no buildings, signs or other improvements, including parking lots, built thereon unless a full service restaurant (other than fast food) containing a minimum of 3500 square feet is constructed on the adjoining Lot No. 3, which is shown on a plat recorded in Plat Book No. 44, at page 202; and

WHEREAS, the Planning Commission, pursuant to the provisions of Section 15.2-2232, has reviewed the request; and

WHEREAS, the City Council has held a public hearing to consider such action at its regular scheduled meeting on January 25, 2005, after public notice of said hearing was advertised once in the Roanoke Times, at least 7 days prior to the hearing as required by Virginia Statutes;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEDFORD:

Section 1. The City Council approves the conveyance to Alouf Construction & Development Co., a Virginia corporation, of all portions of vacated Boxwood Terrace lying south of the Alouf property as described hereinabove subject to the condition described hereinabove and subject to all utility easements located upon the said land or of record.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver a Quit Claim deed carrying out the terms of this Ordinance.

Section 3. This Ordinance shall take effect immediately.

Mr. Steve Shurbett with GDS Associates gave a presentation on the proposed electric rates to be effective with the April 2005 utility billing. Mr. Shurbett reported that retail electric rates had not been increased since 1993 and that the new rates are required because of the increased cost of wholesale power. Mr. Shurbett stated that the current market cost is substantially above the present contract, which expires June 30, 2005.

Councilman Wandrei moved that Council adopt the electric rate increase as presented to Council, 19.5%, effective April 1, 2005. Councilman Padgett seconded the motion.

The City Manager stated that if the motion is approved, the electric tariffs would be presented to Council for adoption prior to April 1, 2005.

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

	Councilman Padgett	aye
	Councilman Stanley	aye
	Vice Mayor Sharp	absent
	Councilman Wandrei	aye
	Councilwoman Flood	aye
	Councilman	Hubbard
aye	Mayor Messier	aye

City Manager Meadows stated that the City Parks and Recreation Department and the Elks National Home have been discussing the possibility of developing a Golf Course/Driving Range on the 191 acres of property owned by the Elks. The current discussions contemplate the Elks National Home providing the land, the City developing the property and the two entities sharing revenues. The Parks and Recreation Department is proposing that a feasibility study be done to determine if it is in the best interest of the City to proceed with negotiations on this project. Mr. Meadows reported that the study would show the costs, expenditures, and revenue potential associated with this type of project.

City Manager Meadows stated this item was discussed at a recent Property Committee meeting and the staff was instructed to bring this forward to the full Council.

The City Manager stated that Council is requested to appropriate funds not to exceed \$25,000 from the General Fund Unappropriated Contingency to General Fund account 107156.4177 for the feasibility study.

Councilman Padgett moved that Council appropriate the funds. Councilwoman Flood seconded the motion.

Councilman Wandrei stated he was against using public funds to develop private property. He also stated that the cost associated with developing a golf course is prohibitive and that revenues will not pay the costs of building the course.

Councilman Wandrei made a substitute motion to table this item until more study by staff is done as to what the cost would be. The motion was seconded by Councilman Hubbard, voted upon and carried.

Mayor Messier asked the staff to report back to Council on this matter at the first Council meeting in April.

On motion by Councilman Stanley, seconded by Councilman Hubbard, voted upon and carried, Council waived the reading of a proposed resolution regarding payment from the Virginia Department of Transportation (VDOT) for assistance in maintaining certain streets.

City Manager Meadows stated that the purpose of the resolution is to include additional street mileage into the City's street system, which will allow the City to receive funding from VDOT for assistance in maintaining these streets.

On motion by Councilman Padgett, seconded by Councilman Wandrei, voted upon and carried by a roll call vote, Council adopted the resolution regarding payment from the Virginia Department of Transportation (VDOT) for assistance in maintaining certain streets. Roll call vote follows:

Councilman Stanley	aye
Vice Mayor Tharp	absent
Councilman Wandrei	aye

	Councilwoman Flood	aye
	Councilman Hubbard	aye
	Councilman	Padgett
aye		
	Mayor Messier	aye

The resolution follows as adopted:

RESOLUTION

WHEREAS, the City of Bedford has accepted into the City street system the following streets or portions thereof:

WHEREAS, BOXWOOD TERRACE, from LOWRY STREET to the east City limits, 0.15 centerline miles and 0.30 lane miles; CASSELL LANE, from SHADY KNOLL AVENUE to the end, 0.13 centerline miles and 0.26 lane miles; E. MAIN STREET, from PIEDMONT STREET to LINK ROAD, 0.38 centerline miles and 1.52 lane miles; NORFOLK AVENUE, from PARK STREET to 0.14 miles east, 0.14 centerline miles and 0.28 lane miles; NORFOLK AVENUE, from 0.14 miles east to the end, 0.12 centerline miles and 0.24 lane miles; PIEDMONT STREET, from original end to the end, 0.08 centerline miles and 0.16 lane miles; ROBINSON WAY, from BEDFORD AVENUE to the end, 0.03 centerline miles and 0.06 lane miles; VENTURE BOULEVARD, from INDEPENDENCE BOULEVARD to 0.12 miles east, 0.12 centerline miles and 0.36 lane miles; VENTURE BOULEVARD, from 0.12 miles east to the end, 0.37 centerline miles and 0.74 lane miles.

WHEREAS, the City wishes to receive payment from the Virginia Department of Transportation for assistance in maintaining these streets;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Bedford, Virginia, that the City requests that the Virginia Department of Transportation add for payment those portions of the aforementioned streets.

Mayor Messier adjourned the meeting at 8:09 p.m.