

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 25, 2005.

Members present: Mayor E. Thomas Messier; Councilwoman Mary L. Flood; Councilman Jeffrey B. Hubbard; Councilman Thomas M. Padgett; Vice Mayor W. D. Tharp; and Councilman Robert T. Wandrei.

Members absent: Councilman C. G. Stanley, Jr.

Staff present: Interim City Manager Jack A. Gross; 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 October 11, 2005, were approved as distributed.

Interim City Manager Gross stated that the Bedford Area Welcome Center will celebrate its first anniversary on October 29 with an open house for the community.

Councilman Hubbard, Chairman of the Finance Committee, reported that the Committee met earlier in the evening and Ted Cole, Davenport & Company, gave a review of the capital projects funding process and the analysis of the bids received.

Mayor Messier opened the public hearing regarding a proposed issuance of bonds at 7:33 p.m.

The public hearing notice follows:

NOTICE OF PUBLIC HEARING

On Tuesday, the 25th day of October, 2005, the Council of the City of Bedford, Virginia, will conduct a public hearing on the proposed issuance of bonds of the City in the estimated maximum principal amount of \$5,600,000. The purpose of the proposed bonds is to finance various public improvements, including but not limited to, the acquisition, construction and equipping of an Electric Department operations center, a new digger truck, a solid waste transfer station and equipment, landfill remediation projects and various rolling stock and equipment. The proposed bonds will be general obligations of the City and/or secured by a pledge of revenues of the City's landfill system or electric system, as applicable.

The public hearing will be conducted at 7:30 p.m. in City Council Chambers, Municipal Building, 215 East Main Street, Bedford, Virginia. Interested persons may appear at such time and place and present their views.

Teresa Hatcher
Clerk of the Council
City of Bedford, Virginia

Mr. Gross explained the purpose of the proposed bonds was to finance various public improvements.

As there were no further comments, the Mayor closed the public hearing at 7:34 p.m.

Mr. Gross stated that in connection with the borrowing, Council needed to adopt a reimbursement resolution providing for the reimbursement to the City from bond proceeds of certain expenses that will be incurred in the period 60-days prior to the date of the resolution.

Mayor Messier waived the reading of the proposed resolution regarding the borrowing.

On motion by Councilman Wandrei, seconded by Councilman Padgett, voted upon and carried by a roll call vote, Council adopted the Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing. Roll call vote follows:

Councilwoman Flood	aye
Councilman Hubbard	aye
Councilman Padgett	aye
Councilman Stanley	absent
Vice Mayor Tharp	aye
Councilman Wandrei	aye
Mayor Messier	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 acquire, construct and equip various improvements for its electric system, and to acquire rolling stock for general governmental use (collectively, the “Project”); and

WHEREAS, the Borrower has advanced its own funds to pay expenditures related to the acquisition of 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 \$2,308,000, 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 the date that is no more than 60 days prior to the adoption of this resolution. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with a portion of 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.

Mr. Gross stated it is determined to be necessary and expedient for the City to finance various public improvements, including but not limited to, the acquisition, construction and equipping of the Electric Department operations center, a new digger truck, etc. The bonds will be issued as general obligations of the City, revenue bonds, or a combination of both for the payment of principal and interest. The ordinance has been posted in accordance with Section 2-30 of the City Code.

Mayor Messier waived the reading of the proposed ordinance regarding public improvement bonds.

On motion by Vice Mayor Tharp, seconded by Councilman Wandrei, voted upon and carried by a roll call vote, Council adopted the proposed ordinance. Roll call vote follows:

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

The ordinance follows as adopted:

Ordinance No. 05-19

**ORDINANCE AUTHORIZING THE ISSUANCE OF
PUBLIC IMPROVEMENT BONDS OF THE CITY OF
BEDFORD, VIRGINIA, IN A PRINCIPAL AMOUNT NOT
TO EXCEED \$6,000,000**

WHEREAS, the City of Bedford, Virginia (the “City”), desires to finance various public improvements, including but not limited to, the acquisition, construction and equipping of an Electric Department operations center, a new digger truck, a solid waste transfer station and equipment, landfill remediation projects and various rolling stock and equipment (collectively, the “Project”);

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
BEDFORD, VIRGINIA:**

1. It is determined to be necessary and expedient for the City to finance the costs of the Project, to borrow money for such purpose and to issue the City’s public improvement bonds therefor.
2. Pursuant to the Public Finance Act of 1991 and the City Charter, there are authorized to be issued public improvement bonds of the

City in a principal amount not to exceed \$6,000,000 to provide funds, together with other available funds, to finance the costs of the Project.

3. The bonds shall bear such date or dates, mature at such time or times not exceeding 40 years from their date or dates, bear interest at such rate or rates, be in such denominations and form, be executed in such manner and be sold at such time or times and in such manner as the Council of the City may hereafter provide by appropriate resolution or resolutions.

4. The bonds shall be issued as (a) general obligations of the City for the payment of principal of and premium, if any, and interest on which its full faith and credit shall be irrevocably pledged, (b) revenue bonds secured by the revenues of the City's landfill system or electric system, as applicable, or (c) a combination of (a) and (b).

5. The City Clerk, in collaboration with the City Attorney, is authorized and directed to see to the immediate filing of a certified copy of this ordinance in the Circuit Court of Bedford County, Virginia.

6. This ordinance shall take effect immediately.

Mr. Gross stated that existing state law authorizes municipalities governments to impose a special E-911 tax not to exceed a monthly rate of \$3.00. The current tax is found in Section 22-35 of the City Code and the City Attorney has prepared a new ordinance that not only changes the monthly fee from \$2.00 to \$3.00, which was anticipated in this year's budget, but which also brings the ordinance into compliance with other provisions of the state law that have been added since the original legislation. Mr. Gross stated that the ordinance had been posted in accordance with the City Code.

Mayor Messier waived the reading of the proposed ordinance amended and reenacting Section 22-35 of the City Code.

Vice Mayor Tharp moved the ordinance be adopted. Councilman Wandrei seconded the motion.

City Attorney Berry stated there was one minor change in Section 22-36 specifying that the City Treasurer shall send the notification of any change to the service providers. Mr. Berry stated that Council had a copy of the ordinance with the change.

Vice Mayor Tharp amended his motion to adopt the revised ordinance. Councilman Wandrei, who seconded the motion, agreed also. The motion was then voted upon and carried by the following roll call vote:

Councilman Padgett	aye
Councilman Stanley	absent
Vice Mayor Tharp	aye
Councilman Wandrei	aye

Councilwoman Flood	aye
Councilman Hubbard	aye
Mayor Messier	aye

The ordinance follows as adopted:

Ordinance No. 05-20

**AN ORDINANCE TO AMEND AND REENACT
SECTION 22-35 ENHANCED EMERGENCY TELEPHONE TAX
AS A NEW ARTICLE V OF CHAPTER 22 OF THE CITY CODE**

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

1. That Section 22-35 is amended and reenacted as follows:

ARTICLE V. Enhanced emergency telephone tax.

Sec. 22-35. Definitions

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automatic location identification or *ALI* means a telephone network capability that enables the automatic display of information defining the geographical location of the telephone used to place a wireline 9-1-1 call.

Automatic number identification or *ANI* means a telephone network capability that enables the automatic display of the telephone number used to place a wireline 9-1-1 call.

Board means the Wireless E-911 Services Board established pursuant to Code of Virginia, §56-484.13.

Enhanced 9-1-1 service or *E-911* means a service consisting of telephone network features and PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1." Such service automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated and provides the capability for ANI and ALI features.

Local exchange carrier means any public service company or county, city or town granted a certificate to provide local exchange telephone service pursuant to Code of Virginia, §56-265.1 et seq.

Public safety answering point or *PSAP* means a communications facility equipped and staffed on a twenty-four-hour basis to receive and process 911 calls.

State law reference - Similar provisions, Code of Virginia, §58.1-3813.1A.

2. Sections 22-36 through 22-45 are added as follows:

Sec. 22-36 Special tax.

The City imposes a special tax on the consumers of the telephone service or services provided by any corporation, subject to the provisions of Code of Virginia, §58.1-2600 a monthly fee of \$3.00. However, no such tax shall be imposed on federal, state and local government agencies or on consumers of CMRS, as such term is defined in Code of Virginia, §56-484.12. Such tax shall be subject to the notification and jurisdictional provisions of Code of Virginia, §58.1-3812, requiring written notice of 120 days being received by any service provider that is required to collect the tax. The City Treasurer shall send such notification of any change by certified mail to the registered agent of the service provider.

State law reference - Similar provisions, Code of Virginia, §58.1-3813.1 B.

Sec. 22-37 Compensating a telephone utility.

For the purpose of compensating a telephone utility for accounting for and remitting the tax levied by this section, such telephone utility shall be allowed three percent of the amount of tax due and accounted for in the form of a deduction in submitting the return and paying the amount due by it.

State law reference - Similar provisions, Code of Virginia, §58.1-3813.1 E.

Sec. 22-38 Accounting for taxes in certain funds.

Any such taxes imposed by this section shall be accounted for in a separate special revenue fund or accounted for using a cost center and revenue accounting system acceptable to the Auditor of Public Accounts. The City shall report revenues, expenditures, and balances of the E-911 special revenue fund or cost center in accordance with the specifications set forth in Code of Virginia, §15.2-2510. Amounts collected from the tax shall be used solely to pay for reasonable, direct recurring and nonrecurring capital costs and operating expenses incurred by a public safety answering point in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware and software required to receive and process emergency telephone calls through an E-911 system, including salaries and fringe benefits of dispatchers and direct call-takers in receiving and dispatching emergency telephone calls, and the salary and fringe benefits of the public safety answering point director or coordinator so long as such person has no other duties other than the responsibility for the public safety answering point.

State law reference - Similar provisions, Code of Virginia, §58.1-3813.1 F.

Sec. 22-39 Audit.

The City shall ensure that the audit contract with their independent certified public accountant includes audit procedures, in accordance with the specification set forth in Code of Virginia, §15.2-2511, of the separate special revenue fund or cost center required to be established for receiving and accounting for amounts collected under the tax authorized by this section. The specifications shall require an annual audit of such fund or cost center so as to ensure that the amounts collected from such tax are expended solely to pay wireline PSAP cost as defined in this article. The independent certified public accountants shall report any findings to the auditor of public accounts by November 30 following the fiscal year end. The auditor of public accounts shall summarize findings from all localities and report those findings annually to the Governor, the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission by February 1, of the next year.

State law reference - Similar provisions, Code of Virginia, §58.1-3813.1 G.

Sec. 22-40 Duty of seller.

It shall be the duty of every seller in acting as the tax collecting medium or agency for the City to collect from the purchaser on the purchasing price charged therefore and the taxes collected during each calendar month shall be reported by each seller to the Commissioner of the Revenue of the City on or before the last day of the calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax. Simultaneously therewith, the seller shall file a copy of such report with and remit to the Treasurer of the City of the taxes so collected and reported. The required report shall be in the form prescribed or approved by the Commissioner of the Revenue. The tax levied or imposed under this section with respect to the purchase of local telephone service shall be applicable to charges first appearing on bills rendered for service provided after the August, 1992, billing period.

Sec. 22-41 Collecting of taxes by City Treasurer.

The City Treasurer shall be charged with the power and the duty of collecting the taxes levied and imposed hereunder and shall cause the same to be paid into the general fund of the City.

Sec. 22-42 Keeping complete records of purchases.

Each and every seller shall keep complete records showing all purchases in the City, which records shall show the price charged against each purchaser with respect to purchase, the date thereof, and the date of payment thereof, and the amount of tax imposed hereunder and such records shall be kept open for inspection by the duly authorized agents of the City at reasonable times and the duly authorized agents of the City shall have the right, power and authority to make transcripts thereof during such times as they may desire.

Sec. 22-43 Seller collecting price of utility services.

In all cases where the seller collects the price of utility services periodically, the tax hereby imposed and levied may be computed on the aggregate amount of purchases during such period, provided, that the amount of the tax to be collected shall be the nearest whole cent to the amount computed.

Sec. 22-44 Exempt from payment of tax.

The United States of America, the state and the political subdivisions, boards, commissions and authorities thereof, are hereby exempt from the payment of the tax imposed and levied by this section.

Sec. 22-45 Penalty for lack of tax payment.

Any purchaser failing, refusing or neglecting to pay the tax hereby imposed or levied, and any seller violating the provisions hereof, and any officer, agent, or employee of any seller violating the provisions hereof, shall be guilty of a misdemeanor, and upon conviction therefore, shall be subject to a fine of not less than \$5.00 nor more than \$100.00. Such conviction shall not relieve any such person from the payment of the tax. Each failure, refusal, neglect or violation and each day's continuance thereof will constitute a separate offense.

2. This ordinance shall take effect on January 1, 2006.

Mr. Gross stated that the City budget contemplated an increase in the cost of motor vehicle decals for the next year (the local motor vehicle licensing or registration tax) from \$20.00 to \$25.00 for motor vehicles and from \$12.00 to \$15.00 for motorcycles and certain other vehicles. Owners of vehicles must pay the tax between March 15 and May 1 of each year. The proposed ordinance will go into effect on March 15, 2006. Mr. Gross reported a provision in the current Code dealing with exemptions has been rewritten to include all exemptions that are required under state law. The Commissioner of the Revenue has reviewed the proposed ordinance. The ordinance has been posted in accordance with the requirements of the City Code.

Mayor Messier waived the reading of the proposed ordinance regarding an increase in the price of the City motor vehicle registration fee.

On motion by Councilman Wandrei, seconded by Vice Mayor Tharp, voted upon and carried by a roll call vote, the ordinance regarding an increase in the price of the City motor vehicle registration fee was adopted. Roll call vote follows:

Councilman Stanley	absent
Vice Mayor Tharp	aye
Councilman Wandrei	aye
Councilwoman Flood	aye

Councilman Hubbard	aye
Councilman Padgett	aye
Mayor Messier	aye

The ordinance follows as adopted:

Ordinance No. 05-21

**AN ORDINANCE TO AMEND AND REENACT
SECTIONS 13-58 INCREASING THE AMOUNT
OF THE CITY MOTOR VEHICLE LICENSE FEE (DECALS)
AND SECTION 13-61 LISTING EXEMPTIONS**

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

1. Section 13-58 and Section 13-61 are amended and reenacted as follows:

Sec. 13-58. Levy of annual registration and license fee.

There is hereby levied upon every motor vehicle as defined in Title 46.2 of the Code of Virginia, 1950, as amended, which is owned or maintained on the streets in the City or which is normally garaged, stored or parked in the City by a resident of the City an annual registration and license fee in the amount of twenty five dollars (\$25.00) on motor vehicles with four (4) wheels and in the amount of fifteen dollars (\$15.00) on a motorcycle or a motor vehicle with less than four (4) wheels. Transfers must be reported to the Commissioner of the Revenue and a replacement decal must be obtained from the City Treasurer for the amount of one dollar (\$1.00) on all above stated vehicles.

Sec 13-61. Exemptions.

No City license fee shall be required for any motor vehicle used by a vehicle dealer or vehicle manufacturer when such a vehicle is being used exclusively for sales purposes; nor for any motor vehicle on which similar fees have been paid to a county, city or town of which the owner of such vehicle was a resident; nor for any motor vehicle belonging to any person who is not a resident of the City when such vehicle is used exclusively for pleasure or personal transportation and not for hire; nor shall any license fee be required for any vehicle which the City is prohibited from the imposition of a license fee by the laws of the state, and especially as so limited by Section 46.1-755 of the Code of Virginia, 1950, as amended.

2. This ordinance shall become effective on March 15, 2006.

Interim City Manager Gross stated the City in April 2004 purchased a building that will allow the Electric Department to move its offices in order to consolidate its operations. The property purchased by the City included land on both side of Adams Street in the block between Monroe Street and Greenwood Street. The only lot along this section of Adams Street not owned by the City is owned by Thomas E. Reynolds, Jr., which is at the southwest intersection of Adams Street and Greenwood Street.

Mr. Gross stated the plans for use of the building call for Adams Street to be closed in this particular block in order to provide security for the City storage facilities on the east side of the street and in order to avoid potential traffic problems between members of the public that might use the street and the frequent transfer of materials by the City between the east and west sides of the street. Consequently, the Electric Department has requested that this portion of Adams Street be vacated, and Mr. Reynolds has indicated his approval. Mr. Gross stated the City Attorney has prepared a resolution authorizing the execution of an Instrument of Vacation to carry into effect the vacation of the applicable portions of Adams Street.

Mayor Messier waived the reading of the proposed resolution approving execution of an agreement vacating a portion of Adams Street.

Councilman Padgett moved that Council approve the resolution. The motion was seconded by Councilman Hubbard, voted upon and carried by the following roll call vote:

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

The resolution follows as adopted:

**RESOLUTION APPROVING EXECUTION
OF AN AGREEMENT VACATING
A PORTION OF ADAMS STREET**

WHEREAS, the City in April 2004 purchased from RBX Industries a large building in the Greenwood section which would allow the Electric Department to move its offices to that location and to consolidate most of its operations; and

WHEREAS, the property purchased by the City included land on both sides of Adams Street in the block between Monroe Street and Greenwood Street; and

WHEREAS, Thomas E. Reynolds, Jr., owns a lot at the southwest intersection of Adams Street and Greenwood Street which is the only lot along this section of Adams Street which is not owned by the City ; and

WHEREAS, the plans for use of the building by the Electric Department contemplate a coordination of use of the building which lies on the west side of Adams Street with the land on the east side of Adams Street; and

WHEREAS, the Electric Department has requested that this portion of Adams Street be vacated, and Mr. Reynolds has indicated his approval; and

WHEREAS, under state law, vacation of a street under these circumstances can be effected by a written instrument signed on behalf of the governing body of the locality and by the owners of all lots immediately adjoining or contiguous to the vacated area since the vacation will not impede access to any other lot owner show on the plat; and

WHEREAS, the City Attorney has prepared a resolution authorizing the execution of an Instrument of Vacation to carry into effect the vacation of the applicable portions of Adams Street.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEDFORD:

The Mayor, the City Clerk, and the City Attorney are hereby authorized and directed to execute for recordation the instrument of vacation closing the portions of Adams Street between Monroe Street and Greenwood Street.

Mr. Gross stated the City Department of Planning & Community Development, in conjunction with Bedford Main Street, Inc., plans to apply for a Transportation Enhancement Grant to create improvements to pedestrian and cyclist movement between Centertown and the National D-Day Memorial/Bedford Welcome Center and to facilitate the navigation of visitors and locals between attractions and facilities throughout the City of Bedford. This will be accomplished through the renovation of Centertown Plaza, formerly called the Centertown Park, at the corner of Main & Bridge Street, the possible establishment of a bicycle lane on Burks Hill Road/Crenshaw Street between Burks Hill and Centertown, streetscape improvements to the Washington/Crenshaw Street area, and the implementation of a Wayfinding Signage System.

Mr. Gross, stated it is the plan of the project management team to utilize an existing enhancement grant that was awarded to the City in 1994 worth \$41,100 in the City of Bedford match, combined with a \$50,000 City of Bedford match allocated in the FY 2005-2006 and an in-kind match combining City and Main Street resources that could

amount to about \$22,700. This local match can potentially be used to leverage \$454,800 in Federal Transportation Enhancement funds over Phases I & II.

Mayor Messier waived the reading of the proposed resolution regarding the Transportation Enhancement Grant.

On motion by Councilman Wandrei, seconded by Councilman Padgett, voted upon and carried by a roll call vote, Council adopted the regarding the Transportation Enhancement Grant. Roll call vote follows:

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

The resolution follows as adopted:

TRANSPORTATION ENHANCEMENT GRANT

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency in order that the Virginia Department of Transportation program an enhancement project in the City of Bedford, and

NOW, THEREFORE, BE IT RESOLVED that the City of Bedford City Council requests the Commonwealth Transportation Board to establish a project for Phase I and II of the Centertown/D-Day Connection Improvements, which will be a business corridor enhancement project.

BE IT FURTHER RESOLVED, that the City of Bedford City Council hereby agrees to pay twenty percent (20%) of the total cost for planning and design, right of way, and construction of this project, and that, if the City of Bedford subsequently elects to cancel this project, the City of Bedford hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Mayor Messier adjourned the meeting at 7:45 p.m.