

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 23, 2007.

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

Members absent: Councilman James A. Vest.

Staff present: City Manager Charles P. Kolakowski; City Attorney W. W. Berry, IV; and Clerk of the Council Teresa W. Hatcher.

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

Mayor Tharp stated that he attended the funeral of Bobby Pollard, Bedford County Board of Supervisor, who was killed in a tractor accident on January 18. The Mayor asked the City Manager to write a letter of condolence to Mrs. Pollard recognizing his contribution to the County and local government.

Mayor Tharp declared that the minutes of a regular Council meeting held on January 9, 2007, were approved as distributed.

Mickey VanDerwerker, City School Board, presented a report to Council regarding discipline in the schools, the "No Child Left Behind" law; the dress code; benchmark testing; and the school calendar.

City Manager Kolakowski spoke regarding the following:

- January 31 is the deadline for purchasing dog tags.
- The first winter weather event occurred over the past weekend – there were no electric outages and the road crews worked Sunday afternoon through the night.
- The City/County Relations Committee met with its County counterpart on January 19 and discussed ongoing general issues.
- The Blue Ridge Power Authority will hold its monthly meeting at the Bedford Area Welcome Center on January 25 at 9:30 a.m.
- Members of the City Staff (Administration, Police, Public Works, Code Enforcement) toured parts of the City recently – numerous notices will be sent out for people to clean up their properties, to remove unregistered vehicles, etc.

Vice Mayor Wandrei stated there was a newspaper article recently concerning the County utilizing prisoners at its transfer station. The Vice Mayor asked what the City's plans are for labor at the City's transfer station.

The City Manager stated the City will be using City employees and do not plan to use inmates at the transfer station. The City Manager stated it is his understanding that the inmates at the local facility are not used for any public purposes other than directly

cleaning up the grounds around the jail. Mr. Kolakowski stated the prisoners in the County facility are used mainly in the handling of recyclables. The possibility of utilizing prisoners in picking up litter in certain areas of the City will be studied.

The Vice Mayor asked about the status of surplus City property and the lot on College Street that the City had to remove the apartment house from.

City Manager Kolakowski stated that the bill has been sent to the owner for the cleanup of the College Street property. The City Staff is to have a Request for Proposal issued by January 26 for solicitation for the use, sale, or lease of the old Electric Department building on Depot Street. The staff will be reviewing a number of other surplus City properties with the purpose of returning them back to private use to either generate some revenue or get the properties back on the tax rolls.

Assistant City Manager Warner stated the two public hearings on the agenda relate to two specific issues: (1) Section 602.02 of the Land Development Regulations would allow lodges, fraternities, and sororities as a conditional use within the Single Family Residential (R-1) zoning district. Mr. Warner stated that currently these uses are permitted in the R-3, High Density Residential District and all Commercial zoning districts. If the amendment as presented were approved, individual requests would still be subject to review and further approval by the Planning Commission and the Council on a case-by-case basis. Mr. Warner stated that by extension these conditional uses would also be allowed in the R-1A and R-2 zoning districts; (2) Mr. Warner reported that the second public hearing would amend Section 603.02 relating to rental of private property for public assembly uses such as weddings and conferences in the R-1, Single Family Residential District.

The public hearing notice follows:

PUBLIC HEARING NOTICE

Notice is hereby given of a public hearing to be held by the Planning Commission at 5:30 p.m. on Thursday, January 4, 2007 and by the City Council at 7:30 p.m. on Tuesday, January 23, 2007 at the City Municipal Building, Council Hall, 215 East Main Street for the purpose of:

- Consideration of amending the Land Development Regulations to allow lodges, fraternities and sororities as a conditional use in the R-1, Single Family Residential District.
- Consideration of amending the Land Development Regulations to allow private assemblies as a conditional use in the R-1, Single Family Residential District and the R-1A and R-1E, Low Density Residential District.

Information regarding these requests are on file in the office of Planning & Community Development.

Anyone who is in favor of or opposed to the requests will have an opportunity to express his/her views at this hearing.

By the Authority of the Planning Commission
and the City Council of the City of Bedford

Mayor Tharp opened the public hearing regarding Section 602.02 of the Land Development Regulations at 7:47 p.m.

Mr. John Owen, 1516 Woodland Road, member of the Bedford Elks Lodge, spoke regarding the mission and activities of the Benevolent and Protective Order of the Elks of the United States of America. Mr. Owen spoke in favor of the proposed amendment of Section 602.02 of the City of Bedford Land Development Regulations which would allow lodges, fraternities, and sororities as a conditional use within the Single Family Residential (R-1) zoning district. Mr. Owen indicated that the Bedford Elks Lodge would like to use the Union Hall on Peakview Street as a meeting hall, for such activities as meetings, fundraisers, dances, memorial services, etc. He stated that the original request was to allow the Bedford Elks to use this facility as an existing use exception. Mr. Owen reviewed the history of the Union Hall property and indicated that the Bedford Elks plan to use the property for five years while it searches for a permanent home. He stated that the facility would not be used for non-Elk functions with the exception of the monthly meetings of the retirees of the Local 240 Union. Mr. Owen stated the Bedford Elks request that the City address the parking requirements for lodges to be determined by the size of the facility and not by the number of members.

Mr. Gene Mulholland, 715 Sunset Drive, a citizen who resides in a single-family district and a member of the City Planning Commission, spoke against the proposed amendment to Section 602.02 of the Land Development Regulations. Mr. Mulholland reviewed reasons for not allowing lodges, fraternities, and sororities in single-family residential districts. Mr. Mulholland stated the Planning Commission recommends that the zoning request be denied.

Mr. Charles Oliver, resident of Bedford County and Trustee of the Elks Lodge, stated that he has been a member of the Bedford community for fifty-seven years and had attended functions in the Union Hall building when there was a military organization there and also attended Junior Chamber of Commerce activities in the building and no one complained.

Mr. Gordon Eubank, resident of Bedford County, stated he resided at 817 Peakview Street for 34 years, which is near the Union Hall. Mr. Eubank stated the Elks Lodge is not asking to use the Union Hall building for any other purpose than what it was used for during the 34 years he lived three doors from the property and asked Council to approve the request. Mr. Eubank indicated that the union is no longer in Bedford and the property will decrease in value and deteriorate if not used by the Elks.

Ms. Charlene Scott, 722 Blue Ridge Avenue and a member of the Planning Commission, explained that she voted in favor of the amendment of Section 602.02 as she felt the Elks do good for the City by providing programs not otherwise offered.

Mr. Mulholland said that according to records he got from the Commissioner of Revenue's office, the official use for the Union Hall building is "general office." He stated that if the building was used for any other purpose, it was not in accordance with the use that was permitted.

Mr. Lewis Wheeler, former employee of Rubatex Corporation for forty-four years, reported that Rubatex Corporation and Local 240 have ceased and the Union Hall property is now under Local 1023 at the Yokohama Plant in Salem. Mr. Wheeler said that Local 1023 has all of the money and when the money runs out, the property will be going down. Mr. Wheeler stated that Local 1023 has indicated that it will not take money out of its treasury to keep the Union Hall upgraded. Mr. Wheeler stated the Elks Lodge has committed that it will upgrade the property and asked Council to consider the Elks proposal.

As there were no further comments, Mayor Tharp adjourned the public hearing at 8:40 p.m.

Mr. Warner stated the next public hearing relates to renting of private property for public assembly uses such as weddings and conventions in a residential district.

Mayor Tharp opened the public hearing regarding consideration of amending Section 603.02 of the City of Bedford Land Development Regulations at 8:41 p.m.

Mr. Mulholland stated he was opposed to this particular zoning request for very much the same reasons he is opposed to the previous zoning request and that it would bring obnoxious influences into the single family residential districts in the form of gatherings of people, traffic, noise, etc. Mr. Mulholland reported that the Planning Commission recommends that this change to the zoning regulations be denied.

As there were no further comments, Mayor Tharp closed the public hearing at 8:42 p.m.

City Manager Kolakowski reported that the Bedford Joint Economic Development Authority consists of seven members. The Bedford County Board of Supervisors appoints three and three are appointed by City Council. The seventh member's term alternates between the City and County and most recently has been filled by an individual appointed by the Board of Supervisors. The City Manager stated as of February 1, 2007, this seat would be appointed by Council for a term to expire on February 1, 2011. Mr. David A. Herrick has expressed a willingness to serve on the Authority, which will be a four-year term.

On motion by Councilman Stanley, seconded by Councilman Padgett, voted upon and carried by a roll call vote, Council adopted the Consent Agenda, which was the appointment of Mr. David A. Herrick to the Bedford Joint Economic Development Authority for a four-year term expiring February 1, 2011. Roll call vote follows:

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

Vice Mayor Wandrei moved that Council deny the request to amend Section 602.02 of the Land Development Regulations to allow lodges, fraternities, and sororities as a conditional use within the Single Family Residential zoning district.

The motion died for lack of a second.

Vice Mayor Wandrei then moved that Council adopt the ordinance amending Section 602.02 of the Land Development Regulations to allow lodges, fraternities, and sororities as a conditional use within the Single Family Residential zoning district. Councilman Hubbard seconded the motion.

Councilman Hubbard reported that the Planning Commission voted 4 to 3 to deny the request. Councilman Hubbard stated there was discussion by the Planning Commission about whether the ordinance itself should have been limited to existing structures in R-1 that were already non-conforming uses but the ordinance as written would allow it in any new structure or existing structure. Councilman Hubbard stated he did not see any problem with allowing the Elks Lodge to use the Union Hall as a conditional use, as the City has buildings that are in R-1, such as the Union Hall and the Masonic Lodge on Longwood Avenue that already have similar events.

Vice Mayor Wandrei questioned the need for the proposed ordinance to come up with a solution for the Elks Lodge, when the same use will be continued in the Union Hall building. The Vice Mayor stated that he did not think allowing lodges in R-1 Districts is the appropriate solution. Vice Mayor Wandrei expressed concern about adopting an ordinance, which would allow, as a conditional use, lodges, as this would be “spot zoning.”

Councilman Wandrei stated he felt this property could be grandfathered in, as the property would continue to be used as it has since the 1940’s.

Councilman Stanley indicated that he agreed with Councilman Wandrei that the property could be grandfathered.

City Attorney Berry stated that the Zoning Administrator usually makes the decision when someone applies for a permit and presents facts. If the Zoning Administrator makes a decision adverse to someone, they can always appeal: administrative appeals to the Board of Zoning Appeals and to the Circuit Court. Mr. Berry stated that is the way questions like this are usually resolved as far as whether there has been an existing use or not.

Councilman Wandrei made the following substitute motion: that it is the sense of Council that the use proposed by the Elks Bedford Lodge 2844 for the property (Union Hall on Peaksview Street) is grandfathered in based upon the past use that has been in existence for over sixty years. Councilman Hubbard seconded the motion. The motion was then voted upon and carried.

Mr. Warner stated the proposed amendment to Section 603.02 of the Land Development Regulations would allow rental of private property for assembly of individuals as a conditional use within the Low Density Residential (R-1A and R-1E) zoning district. Mr. Warner reported that the Planning Commission met on January 4 and recommends denial of the amendment as stated in its memorandum.

Vice Mayor Wandrei moved that Council table the matter in view of what of done on the previous motion. The motion was seconded by Councilman Stanley, voted upon and carried.

Councilman Stanley moved that Council adjourn into closed session pursuant to Section 2.2-3711(a)(7), of the Code of Virginia of 1950, as amended, for consultation with legal counsel regarding board appointments. Councilman Hubbard seconded the motion. The motion was voted upon and carried by the following roll call vote:

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

Council adjourned into closed session at 8:54 p.m. The following non-council members attended: City Manager Kolakowski, City Attorney Berry, and Assistant City Manager Warner.

Council reconvened into open session at 8:58 p.m.

The Clerk of Council read aloud the following resolution:

BE IT RESOLVED that the Council of the City of Bedford hereby certifies that (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

On motion by Councilman Stanley, seconded by Councilwoman Flood, voted upon and carried by a roll call vote, Council adopted the resolution. Roll call vote follows:

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

Mayor Tharp adjourned the meeting at 8:59 p.m.