

September 23, 2008

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 23, 2008.

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

Members absent: Councilman Thomas M. Padgett

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 declared that the minutes of a regular Council meeting held on September 9, 2008, were approved as distributed.

City Manager Kolakowski reported on the following:

- Fourth Street storm drain project is finishing up
- Draper Road water line has been completed – 8 new customers have been connected or are in the process of being connected
- Bank of the James – the 12 inch water line and sewer lines have been installed, tested, and accepted by the City
- Centerfest will be held on Saturday, September 27 – over 200 vendors, groups, agencies are scheduled to be there

The City Manager thanked everyone for their expressions of sympathy upon the passing of his father.

Mayor Tharp read portions of the City Manager's father's obituary: Henry "Hank" Kolakowski lived in South River, N.J., for 78 years. He was a business owner for 55 years. He was a U.S. Army Air Corps veteran of World War II where he received the Distinguished Flying Cross, Asiatic Pacific Theater Ribbon with three Bronze Stars, and the Air Medal with three Bronze Oak Leaf Clusters for his service in the Pacific Theater.

Mayor Tharp expressed Council's sympathy in the City Manager's loss.

The City Manager requested that agenda item "Resolution – Amending the Comprehensive Plan" be tabled until the next meeting for discussion with Council on changes.

Councilman Stanley moved that the agenda item "Resolution – Amending the Comprehensive Plan" be removed from the agenda. The motion was seconded by Vice Mayor Wandrei.

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Councilman Vest stated that he did not think two weeks would be enough time to review the proposed changes.

The Mayor stated an appropriate committee meeting could be scheduled and all members of Council could be invited to attend.

The City Manager asked that agenda item "Resolution – Public Power Month" be tabled until the next meeting as there have been some questions regarding the resolution.

Councilman Stanley moved that the motion be amended to include that agenda item "Resolution – Public Power Month" be tabled until the next meeting. Vice Mayor Wandrei, who seconded the motion agreed to the amendment.

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

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

City Manager Kolakowski stated that notice is hereby given of a public hearing to be held by the Planning Commission at 5:30 p.m. on Thursday, September 4, 2008 and by City Council at 7:30 p.m. on Tuesday, September 23, 2008 at the City Municipal Building, Council Hall, 215 East Main Street for the purpose of:

To consider an amendment to Section 1301.02 Street Requirements, subsection k., and Section 1302.03 Streets, Sidewalks and Drainage, by adding subsection g., of the City of Bedford Land Development Regulations. The request is being made by the City of Bedford Department of Planning and Community Development.

Mayor Tharp opened the public hearing regarding the amendment to the Land Development Regulations at 7:35 p.m.

The Notice of Public Hearing 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, September 4, 2008 and by City Council at 7:30 p.m. on Tuesday, September 23, 2008 at the City Municipal Building, Council Hall, 215 East Main Street for the purpose of:

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To consider the Comprehensive Plan amendment. The request is being made by the City of Bedford Department of Planning and Community Development.

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

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

As there were no comments, the Mayor closed the public hearing at 7:35 p.m.

City Manager Kolakowski stated the State of Virginia mandates that local governments adopt and update their comprehensive plans every five years. The City of Bedford Planning Commission has reviewed the Comprehensive Plan adopted in 2003; advertised and held a public hearing on plan revisions; and recommends that City Council adopt the resulting revised plan. A copy of the proposed resolution amending the City of Bedford Comprehensive Plan has been posted and a public hearing advertised and scheduled for September 23, 2008.

Mayor Tharp opened the public hearing regarding amending the Comprehensive Plan at 7:36 p.m.

As there were no comments, the Mayor closed the public hearing at 7:36 p.m.

The City Manager reported that in the course of reviewing a development proposal for a property abutting Independence Boulevard, staff and the Planning Commission were made aware of a practical issue related to requirements for installing sidewalks. The intent of the requirement is to promote the construction of an interconnected system of sidewalks that would function as part of the City's overall transportation network. However, the practical application of this requirement has been problematic. Specifically, under existing regulations there is no differentiation made between developed and vacant properties. In cases where a property might be developed that is adjacent to two vacant properties, the end result is the construction of a sidewalk on the developed property regardless of whether or not the sidewalk actually connected to an existing network.

Mr. Kolakowski stated a committee was appointed by the Planning Commission to examine the issue further. The committee was comprised of Planning Commissioners, staff, and the property owners who identified the issue. The recommendation of the committee was that the regulations be amended to only require the construction of

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sidewalks where a lot being subdivided or developed fronts on an existing street and adjacent property on either side has an existing sidewalk.

The City Manager reported that at its regular meeting on September 4, 2008, the Planning Commission recommended amendment of Section 1301.02.k to implement the recommendation of the committee. The Planning Commission also recommended the insertion of language proposed as new Section 1302.03.g, wherein the City reserves the right to assess owners of property abutting any right-of-way for improvements including sidewalks. The intent of the proposed amendments to Article XIII is to promote the construction of necessary transportation infrastructure in an orderly and logical manner. Mr. Kolakowski stated that Council is requested to adopt the proposed ordinance amending the Land Development Regulations.

Councilman Stanley moved that the proposed ordinance amending the Land Development Regulations be adopted. The motion was seconded by Councilman Hubbard.

Councilman Vest asked Mr. Warner, Director of Planning & Community Development, to explain the proposed new language. Mr. Warner reviewed the changes.

Vice Mayor Wandrei asked the meaning of the following sentence in Section 1302.03 (g), Streets, Sidewalks, and Drainage: "The taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such abutting property owners." Mr. Wandrei asked how would one find out what the "peculiar benefits" are when you put in a sidewalk in relation to the taxes. Mr. Wandrei asked if a monetary value could be determined.

The City Attorney stated that wording came out of the state statute and that he was not sure how to answer the question.

Vice Mayor Wandrei moved that the sentence be stricken and that the Section 1302.03 be amended by the deletion of that sentence.

Councilman Stanley seconded the motion, which was then voted upon and carried by the following roll call vote:

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

The motion to adopt the proposed ordinance regarding the Land Development Regulations, as amended, was then voted upon and carried by the following roll call vote:

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

The Ordinance follows as adopted:

Ordinance No. 08-21

AN ORDINANCE AMENDING ARTICLE XIII OF THE CITY OF BEDFORD LAND DEVELOPMENT REGULATIONS

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

Section 1. Section 1301 of the Land Development Regulations of the City of Bedford, Virginia, is amended and re-enacted as follows:

Section 1301.02.k, Street Requirements

k. New streets in any subdivision or development shall have sidewalks, curbs and gutters on both sides of the street. Where a lot being subdivided or developed fronts on an existing street, and adjacent property on either side has existing sidewalk, the City requires the dedication of land for, and construction of, a sidewalk on the property being subdivided or developed, to connect to the existing sidewalk. Sidewalks shall be a minimum of six (6) feet wide in business zones and five (5) feet wide in all others.

Section 2. Section 1302 of the Land Development Regulations of the City of Bedford, Virginia, is amended by adding the following new provision:

Section 1302.03, Streets, Sidewalks, and Drainage

g. The City of Bedford may impose taxes or assessments upon the owners of abutting property for constructing, improving, replacing or enlarging the sidewalks upon existing streets, for improving and paving existing alleys, and for the construction or the use of sanitary or storm water management facilities, retaining walls, curbs and gutters. Such taxes or assessments may include the legal, financial or other directly attributable costs incurred by the locality in creating a district, if a district is created, and financing the payment of the improvements. No tax or assessment for retaining walls shall be imposed upon any property owner who does not agree to such tax or assessment.

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City Manager Kolakowski reported the Town of Bedford constructed the water filtration plant along Turkey Mountain Road in the late 1960s. Part of the property for this project was conveyed to the City by Frank H. Miles and Ann C. Miles. The Miles retained some of their property, one lot of which as a practical matter had its access from Turkey Mountain Road over a portion of the land conveyed to the City. It appears that no reservation of a right-of-way for the use of this road was retained by the Miles.

The City Manager said that the lot of land which utilizes a part of the City owned access road from Turkey Mountain Road is now owned by Patti Siehien and Jessica L. Gillum. The new owners have asked Ann C. Miles and the City to enter into a deed correcting the omission in the earlier deeds and confirming the existence of the right-of-way over a small strip of the city owned property. Any deed to the City, including a deed of correction or confirmation, requires approval by the City Council. The City Attorney and the City Manager have reviewed this matter with the City Council Property Committee at a meeting on Tuesday, September 9, and the Committee recommends to the City Council that an appropriate resolution be adopted. Such resolution has been prepared by the City Council. Mr. Kolakowski stated that Council was requested to adopt the resolution approving and accepting a deed of confirmation of the existence of a right-of-way over a strip of land owned by the City near the City Filtration Plant.

On motion by Councilwoman Flood, seconded by Councilman Stanley, voted upon and carried by a roll call vote, Council adopted the resolution approving and accepting a deed of confirmation of the existence of a right-of-way over a strip of land owned by the City near the City Filtration Plant. Roll call vote follows:

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

The resolution follows as adopted:

**RESOLUTION APPROVING AND ACCEPTING A DEED OF
CONFIRMATION OF THE EXISTENCE OF A RIGHT-OF-WAY
OVER A STRIP OF LAND OWNED BY THE CITY NEAR THE
CITY FILTRATION PLANT**

WHEREAS, Patti Siehien and Jessica L. Gillum, own a parcel of land adjoining the City Filtration Plant site off Turkey Mountain Road, access to which is along the entrance to the filtration plant, which consists of a strip of land owned by the City, between the public road and the filtration building; and

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WHEREAS, Frank H. Miles and Anne C. Miles formerly owned the properties now owned by Patti Siehien and Jessica L. Gillum and the property owned by the City and a formal right-of-way over the strip of land now owned by the City was inadvertently omitted in the prior deeds; and

WHEREAS, Pattie Siehien and Jessica L. Gillum have requested Anne C. Miles and the City to correct the oversight by entering into a deed of Confirmation; and

WHEREAS, the City Manager and City Attorney have recommended such action.

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

1. The City Council hereby approves acceptance of the Deed of Confirmation from Anne C. Miles, Pattie Siehien and Jessica L. Gillum dated September 11, 2008.

2. The Mayor, the City Clerk, and the City Attorney are hereby authorized and directed to execute for recordation an Approval and Acceptance of conveyance indicating such acceptance pursuant to Virginia Code Section 15.2-1803.

3. This Resolution shall take effect immediately.

The City Manager stated the City Land Development Regulations and City procedures require that a subdivider provide the City with a Deed and Subdivision Easement Agreement concerning drainage and utility easements shown on a subdivision plat. New Horizon Builders, Inc., which created the East Side Village Subdivision on Link Road, is prepared to deliver a deed for that subdivision. The deed has been reviewed by the City Manager and the City. The City Council Property Committee reviewed the matter at its meeting on September 9, and recommends that the City Council approve acceptance of the Deed and Subdivision Easement Agreement.

City Manager Kolakowski stated that Council was requested to adopt the resolution approving acceptance of the Deed and Subdivision Easement Agreement from New Horizon Builders, Inc. pertaining to the East Side Village Sub-division.

On motion by Vice Mayor Wandrei, seconded by Councilman Stanley, voted upon and carried by a roll call vote, Council adopted the resolution approving acceptance of the Deed and Subdivision Easement Agreement from New Horizon Builders, Inc. pertaining to the East Side Village Sub-division. Roll call vote follows:

Councilman Vest	aye
Vice Mayor Wandrei	aye

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Councilwoman Flood	aye
Councilman Hubbard	aye
Councilman Padgett	absent
Councilman Stanley	aye
Mayor Tharp	aye

Debbie Roberts, City Treasurer, presented the annual report of uncollected real estate taxes as of June 30, 2008, and August 14, 2008. Ms. Roberts stated that more tax money was received on August 15 which brought the percentage collected up to 99% for the 2007-2008 real estate and 99.50% for the 2007 personal property. Ms. Roberts stated there are twenty-five properties that the City is getting ready to sell which should bring in approximately \$125,000.

The Mayor congratulated the City Treasurer on the excellent collection rate in very difficult times.

Ms. Roberts stated that the Treasurer's Office has worked very hard to collect the funds.

REAL ESTATE TAX STATUS AS OF AUGUST 14, 2008

TAX YEAR	ASSESSMENT	UNCOLLECTED	COLLECTED
2003-04	\$2,472,345.48	\$ 1,382.40	99.94%
2004-05	\$2,572,073.53	\$ 11,893.60	99.54%
2005-06	\$2,637,738.45	\$ 3,460.86	99.87%
2006-07	\$3,252,727.22	\$ 47,435.57	
Less Demolition/Bankruptcy - On College Street (Davis)	-\$40,917.36	\$ 6,518.21	99.80%
2007-08	\$3,230,909.84	\$36,045.33	98.88%

PERSONAL PROPERTY TAX STATUS AS OF AUGUST 14, 2008

2003	\$1,180,153.74	\$ 5,790.75	99.51%
2004	\$1,105,540.92	\$ 6,408.99	99.42%
2005	\$1,146,818.76	\$11,320.95	99.01%
2006	\$ 928,032.52 (City)	\$ 3,432.90	99.63%
2007	\$ 975,616.70 (City)	\$ 5,306.47	99.46%

State Relief Annual Reimbursement is \$280,647.01

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Mayor Tharp announced that he had received a letter from the Auditor of Public Accounts for the Commonwealth of Virginia and the Auditor has reviewed the Commonwealth collections and remittances of both the Treasurer and the Commissioner of the Revenue for Bedford for the period ending June 30, 2008. The letter stated that the constitutional officers of the City complied with all requirements.

The Mayor congratulated the constitutional officers.

Mayor Tharp adjourned the meeting at 7:52 p.m.