

November 12, 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., November 12, 2008.

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

Members absent: Councilwoman Mary L. Flood and 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 October 28, 2008, were approved as distributed.

City Manager Kolakowski reported on the following:

- The Financial Analysis and Audit Report have been distributed - asked members of Council to direct any questions to the City Manager's office to be submitted to the auditors.

Mickey VanDerwerker, City School Board representative to the Bedford County School Board, gave a report on schools which included: AYP and BPS/BED; SAT scores; AP tests; PSAT; on time graduation rates; student advisory council; and top ten. Ms. VanDerwerker reported that the School Board is in the process of hiring a new superintendent and a company from Iowa has been hired to assist in the hiring process.

Ms. Linda Exley, Bedford Main Street Director, gave a report on the activities of Bedford Main Street, which included: Retreat with Virginia Main Street on January 18, 2009; Bedford Wine Festival on November 22; and the holiday season activities.

Mayor Tharp stated that he attended the movie premier of "Bedford, The Town They Left Behind," which was held on November 11 at Liberty High School. The Mayor stated it was an excellent production.

The Mayor congratulated Mr. Steve Rush on his election to City Council and also congratulated the incumbents on their election. Mayor Tharp congratulated the Electoral Board on running a smooth election.

The City Manager reported that the Public Hearing Regarding "Conveyance of Land on East Side of Independence Boulevard" and agenda item "Ordinance – Conveyance of Parcels to Greater Independence Boulevard, LLC" have been removed from the agenda. Mr. Kolakowski stated that the staff has some recommendations on possible different ways to deal with this situation which might be advantageous to all involved.

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Mayor Tharp stated that one bid had been received to use portions of the North Bridge Street Parking Lot. The Mayor opened and read aloud the bid from Owen Holdings, LLC. The bid was as follows: To pay as rent the sum of \$500.00 as a lump sum for the rent for the five year period beginning February 1, 2012, and ending January 31, 2017, payable on or before February 1, 2012, and payable in annual installments of \$100.00 thereafter (which had been penned in).

Mayor Tharp asked if there were any other bids.

As there were no further bids, the Mayor declared the bid process closed.

Mayor Tharp opened the public hearing regarding the invitation for bids for use of public property at 8:15 p.m.

The Notice of Public Hearing follows:

PUBLIC HEARING NOTICE
and
INVITATION FOR BIDS FOR USE
OF PUBLIC PROPERTY
(N. Bridge Street Parking Lot)

The City of Bedford under an Agreement with Owen Holdings, L.L.C. ("Owen") dated January 31, 2008, agreed for Owen and its tenant, American National Bank, in consideration of certain improvements to the North Bridge Street parking lot owned by the City to use portions of the North Bridge Street parking lot in connection with the drive-thru banking operation of American National Bank for a period of five years ending January 31, 2012.

Owen and American National Bank have requested that an additional time be granted for such use through January 31, 2017. Under Virginia Code Section 15.2-1800 and 15.2-2100 bids for such proposed use must be submitted to the City Council and a public hearing upon the proposed use must be held by the City Council.

NOTICE is hereby given that the City Council will receive sealed bids for the right to use space in the North Bridge Street parking lot adjacent to the American National Bank building for a period of time expiring January 31, 2018 for the purpose of provide access to the public streets from the American National Bank drive thru.. The bids shall be in writing and shall be delivered to the Assistant City Clerk of the City Manager's office no later than 5:00 p.m. on November 12, 2008 or to the Clerk of the City Council at 7:30 pm on November 12, 2008 at the meeting of the City Council to be held at the City Hall, City Municipal Building, 215 East Main Street, Bedford, Virginia 24523.

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The City shall have the right to reject any and all bids.

NOTICE is also given that a public hearing upon the proposed agreement for use of City property will be held at the meeting of the City Council at the City Hall, City Municipal Building, 215 East Main Street, Bedford, Virginia 24523 at 7:30 pm on Wednesday, November 12, 2008.

Copies of the instructions for bids, the proposed agreement, and the proposed ordinance outlining the agreement for use are on file in the office of the Assistant Clerk of the City Council, City of Bedford Municipal Building, Room 101, 215 East Main Street, Bedford, Virginia 24523.

Teresa Hatcher
Clerk of Council

As there were no comments, the Mayor closed the public hearing at 8:16 p.m.

The Consent Agenda consisted of the following item:

- Bedford Main Street, Inc. is sponsoring the 2008 Bedford area Christmas Parade on Saturday, December 6, 2008 at 11:00 a.m. (rain date Saturday, December 13th), and is requesting that Council authorize the closing of the following streets for the holiday event:

From 8:30 a.m. to 12:30 p.m., College Street, Ashland Avenue from curve of Recreation Field to Elks Home Driveway, Bedford Avenue Extension from 4th Street to curve of Recreation Field, and Mountain Avenue.

From approximately 11:00 a.m. to 12:30 p.m., Peaks Street, from College Street to North Bridge Street, North Bridge Street to East Main Street, East Main Street from North Bridge Street to South Street, South Street from East Main Street to Washington Street, Washington Street from South Street to Center Street, Center Street, West Main Street from Center to 4th Street, 4th Street to Macon Street, Macon Street to Summit Street, Summit Street and 4th Street.

On motion by Councilman Hubbard, seconded by Councilman Vest, voted upon and carried by a roll call vote, Council approved the Consent Agenda. Roll call vote follows:

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

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Councilman Vest	aye
Vice Mayor Wandrei	aye
Mayor Tharp	aye

City Manager Kolakowski reported that when the property, formerly used by the Hunan Restaurant was being renovated by Owen Holdings, L.L.C., in preparation for lease of the property to American National Bank, the parties realized that the drive-thru banking operation required elimination of two or three parking spaces of the City owned North Bridge Street Parking Lot to provide an exit through the parking lot to the public streets. The City, in order to encourage the development and in consideration of improvements made by the owner to the parking lot entered into an agreement dated January 31, 2008, providing for use of the City properties by the owner and its tenant for a period of five years commencing on February 1, 2008, and expiring on January 31, 2012.

The City Manager said that the property owner has asked that the owner and Bank be able to use the property beginning February 1, 2012 through January 31, 2017, in effect extending the usage for a period of five years. Under Virginia law any such use extending more than five years requires that after due advertisement once a week for two successive weeks in a local newspaper, the City Council must receive bids which shall be read aloud by the presiding officer. The bids must be summarized, and the Council may accept the highest bid from a responsible bidder. The City can reject any and all bids. Bidders are required to insert in the proposed agreement the amount of rent to be paid at the beginning of the term. It is anticipated using the rent for maintenance and improvements of the parking lot. Mr. Kolakowski said if the City Council decides to accept a bid, the Mayor should insert the name of the bidder and the amount of rent in the proposed ordinance which authorizes execution of the agreement.

On motion by Councilman Vest, seconded by Councilman Stanley, voted upon and carried by a roll call vote, Council accepted the bid of Owen Holdings, LLC, as presented, to use portions of the North Bridge Street parking lot. Roll call vote follows:

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

On motion by Councilman Vest, seconded by Councilman Stanley, voted upon and carried, Council adopted the Ordinance granting right to use of portions of North Street parking lot with the names and rent provisions inserted. Roll call vote follows:

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

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Councilwoman Flood	absent
Councilman Hubbard	aye
Mayor Tharp	aye

The Ordinance follows as adopted:

ORDINANCE NO 08-23

**AN ORDINANCE GRANTING RIGHT TO USE OF PORTIONS
OF NORTH BRIDGE STREET PARKING LOT**

WHEREAS, The City Council, pursuant to Virginia Code Section 15.2-2100 has published an advertisement in the Bedford Bulletin on October 9, 2008 and on November 5, 2008 inviting bids for the right to use portion of the North Bridge Street parking lot adjacent to the American National Bank building for a period of time from February 1, 2012 to January 31, 2017; and

WHEREAS, the Mayor opened all bids and the Mayor read a brief summary of all bids received and declared the bidding closed; and

WHEREAS, the Council has accepted the bid of Owen Holdings, L.L.C. in the form of an Agreement prepared by the City Attorney offering to pay as rent the sum of \$500.00 as a lump sum for the use described in the lease for the five (5) year period beginning February 1, 2012 and ending January 31, 2017, payable in annual installments of \$100.00;

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

Section 1. the bid of Owen Holdings, L.L.C. is accepted and the Mayor and City Clerk are authorized to execute the proposed lease on behalf of the City.

Section 2. This ordinance shall take effect immediately upon passage.

The City Manager reported that when the Virginia Department of Transportation (VDOT) constructs a new roadway within the limits of a city, VDOT, itself, obtains ownership of the right-of-way through purchase or condemnation; VDOT then constructs the roadway and improvements; and then VDOT conveys the land to the local jurisdiction. Under state law, the City Council is required to approve the acceptance of any deed conveying land to the City.

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City Manager Kolakowski said that previously, VDOT conveyed most of the right-of-way of Independence Boulevard to the City. The City Attorney is holding a deed from VDOT conveying the portions of the right-of-way in the vicinity of Orange Street. The City Manager said that Council needs to adopt a resolution accepting the conveyance and authorizing the Mayor and City Attorney to execute an appropriate certificate so that the deed can be recorded.

On motion by Vice Mayor Wandrei, seconded by Councilman Stanley, voted upon and carried by a roll call vote, Council adopted the resolution regarding the acceptance of deed to portions of Independence Boulevard. Roll call vote follows:

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

The resolution follows as adopted:

**RESOLUTION APPROVING AND ACCEPTING
CONVEYANCE OF REAL ESTATE CONSISTING
PART OF RIGHT-OF-WAY OF
INDEPENDENCE BOULEVARD BEING CONVEYED
BY COMMONWEALTH OF VIRGINIA**

WHEREAS, the Virginia Department of Transportation tendered to the City a Quit Claim Deed conveying a portion of the right-of-way on which Independence Boulevard is constructed; and

WHEREAS, the City Attorney has reviewed the tendered quit claim deed and has recommended that the Council, pursuant to Virginia Code Section 15.2-1803, accept the quit claim deed and record a certificate to that effect in accordance with the statutory provisions for acceptance of deeds and conveyance to municipal corporations.

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

0. The City Council hereby approves acceptance of the Quit Claim Deed from the Commonwealth of Virginia, acting by and through its Commonwealth Transportation Commissioner, dated April 19, 2007, conveying portions of the right-of-way of Independence Boulevard.

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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.

City Manager Kolakowski stated the limited liability company which is developing Independence Pointe sub-division on the east side of Independence Boulevard has previously had one sub-division plat approved. That sub-division plat entitled "Independence Pointe - Phase I" showed a dedication of 0.0409 acres as the entrance of Ole Dominion Boulevard off Independence Boulevard and the sub-division of Lot 1 containing 1.083 acres which was sold to Bank of the James. The managers of the limited liability company, namely Oscar E. Padgett and Ralph J. Simons, Jr., are now asking for approval of a second plat entitled "Independence Point - Phase II". This second sub-division shows an extension of Ole Dominion Boulevard from that street as shown on the first plat to a cul-de-sac and includes two short sections beyond the cul-de-sac area. There are also thirteen additional lots (Lots 2-14).

The City Manager reported that City zoning ordinances allow only one direct entrance to this sub-division from Independence Boulevard. Accordingly, a note will be inserted in the final plat indicating that Lot 2, Lot 14 and Lot 12 do not have any direct access to Independence Boulevard. In addition Lot 13 can be accessed only by way of Orange Street. Mr. Kolakowski said that Lot 14 in fact is a large ponding drainage facility required under state law. The City will be requiring the owner, as a condition of acceptance of the plat, to enter into a storm drainage agreement providing for this lot and any storm drainage facilities to be maintained by the developer and the formation of an incorporated owners' association to hold title to Lot 14 and to provide mandatory dues for the maintenance of the facilities. The City Manager stated that other conditions required by the ordinances, such as posting of surety bonds to assure completion of roadways and public utilities will be required by the Planning Department prior to the sub-division agent's signing and releasing a final plat to the owner for recordation.

On motion by Councilman Vest, seconded by Councilman Hubbard, voted upon and carried by a roll call vote, Council adopted the resolution approving the Independence Pointe Phase II preliminary subdivision plat. Roll call vote follows:

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

The resolution follows as adopted:

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**RESOLUTION APPROVING THE PRELIMINARY PLAT OF
INDEPENDENCE POINTE (PHASE II)**

WHEREAS, the Planning Commission has recommended approval of the sub-division plat entitled "Independence Pointe - Phase II" subject to certain conditions.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS

1. That the Council approve the preliminary subdivision plat subject to conditions imposed by the Planning Commission including matters set forth in the recommendations of Jimmy A. English, Building Official, dated October 30, 2008.

2. This Resolution shall take effect immediately.

City Manager Kolakowski stated that after the annexation of Carriage Hill development into the City, Carriage Hill of Virginia, LTD., the Virginia corporation which owned the retirement home improvements, conveyed the remaining properties in the large tract to a limited liability company in 2002 named PPRR, L.L.C. The conveyance of 95.85 acres consisted of 10.24 acres in the City and 85.61 acres that remained in the County. The City Manager said the original Carriage Hill facilities were constructed while the property was part of Bedford County. Under the County regulations, the extension of Round Tree Drive from the Town and Country sub-division was over a private roadway crossing one lot of land (now owned by Janet N. Rainey) and then running through the property of the owner (Carriage Hill of Virginia, LTD.). The limited liability company which owns the residue of the land in the City and in the County has contracted to sell the remaining in the City to the developers of a new complex to be known as "Joseph's Dream". The limited liability company will retain the property in the County.

City Manager Kolakowski stated that in order to allow sub-division of lands in the City, there must be access to a public road provided for the sub-divided property. The limited liability company has agreed to obtain a deed from Janet N. Rainey conveying to the Virginia Department of Transportation the part of the private roadway between Town and Country Sub-division and its property, and the limited liability company has agreed to provide the City with a deed of dedication conveying the portions of the now private Round Tree Drive located on its property to the City and dedicating such property as a City street. A new plat of survey has been prepared showing the land to be dedicated, and the limited liability company has agreed to bring the Round Tree Drive extension up to public standards and has agreed to convey to the City necessary public utility easements for sewer, water, and other public utilities.

The City Manager stated that the regulations in the County are somewhat different than the City, and the Planning Department has coordinated its efforts with the County in reviewing the proposed sub-division plat. The new plat and survey of 12.360 acre parcel

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of land located entirely within the City and 83.49 acres in the County. The County Planning Department, after consultation with its attorney, did not believe that a public street was required to lead to the residue property in the County. However, both departments agreed upon language to be inserted on the sub-division plat to the effect that a private street is granted from the Round Tree Drive extension to the County property and this street will be brought up to public standards as a public street before any further sub-division can be made of the County property. This will avoid the possibility of having a large development in the future on the County property resulting in a request that the City bring the street up to standards.

City Manager Kolakowski reported that the City staff is recommending that the City accept the extension of Round Tree Drive as a public street upon the condition that the street from the Town and Country sub-division to the cul-de-sac be improved to standards, the construction of sidewalks and curbing on the south side of the street, and the posting of a surety bond to assure such construction. Since no new street will be required for the actual sub-division of the property, a sub-division plat does not have to be approved by the Council, but will be addressed as part of the administrative approval of the Joseph's Dream development.

On motion by Councilman Stanley, seconded by Councilman Hubbard, voted upon and carried by a roll call vote, Council adopted the resolution for acceptance of the Round Tree Drive extension as a City Street. Roll call vote follows:

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

The resolution follows as adopted:

**RESOLUTION APPROVING AND ACCEPTING CONVEYANCE OF
EXTENSION OF ROUND TREE DRIVE**

WHEREAS, the limited liability company (PPRR, LLC) agrees to posting a surety bond to assure improvement of Round Tree Drive to standard and the construction of sidewalks and curbing on the south side of the street.

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

1. The City Council hereby accepts the conveyance by PPRR LLC of the Round Tree Drive right-of-way shown on the plat entitled "Plat

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Showing Round Tree Drive Right-of-Way for Street acceptance” dated October 24, 2008.

2. Upon recordation by PPRR of a deed from Rainey to VDOT of the right-of-way for Town and Country sub-division to the Carriage Hill property and the execution of a sub-division agreement and posting of the necessary surety, the Mayor, the 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.

Mayor Tharp adjourned the meeting at 8:29 p.m.