

February 10, 2009

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., February 10, 2009.

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

Members absent: Mayor W. D. Tharp and Councilwoman Mary L. Flood

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

Vice Mayor Wandrei 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 January 27, 2009, were approved as distributed.

Councilman Vest, Chairman of the Electric Committee, stated the Committee met earlier in the evening to discuss interruptible power.

City Manager Kolakowski stated the Consent Agenda consisted of the following items:

- appointment of Ms. Debra Parker to the Central Virginia Community Services Board for a three-year term, said term to expire December 31, 2011
- Bedford Outdoor Sportsman Association, Inc. request to block streets for the Tenth Annual Outdoor Show for potential overflow parking situations related to the event at the Bedford City Armory on Saturday, February 28, 2009. The Association is requesting that Council authorize the closing of Gold Road from East Main to Orange Street from approximately 9:00 a.m. until 5:00 p.m. (after clean up). They will notify the Fire Department, Rescue Squad and Police Department of the street closings. This authorization is subject to the following conditions for implementing closure:
 - The road will only be closed as determined by the City of Bedford Police Department upon monitoring of the traffic safety, traffic flow and volume of vehicles located on the Armory site.
 - Vehicles requiring parking at the event will first be parked in all available spots on the Armory property by event personnel on site. As spaces empty, new coming vehicles will be directed to these on-site spaces.
 - Vehicles may park legally on the east and west shoulders of Gold Road so as not to impede normal traffic flow on Gold Road.
 - If the City Police Officer on site determines that it is necessary to close Gold Road for overflow parking for the event at the Armory, he shall seek authorization of his superior officer for closure and place the appropriate barricades in both ends of the street

February 10, 2009

to stop normal traffic flow. The Bedford Outdoor Sportsman Association shall designate appropriate individuals from their organization to properly park vehicles on this street to allow for quick re-opening of the street as parking dissipates.

- As parking on Gold Road dissipates, the Police Department shall re-open the street for normal traffic flow.
- In the event the Police Department determines that no closure of the street is necessary to meet overflow conditions at the Armory, no other individual is authorized to affect any closure of this street to the contrary.

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

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

The City Manager reviewed the following information regarding the Granville Sanitarium Property on College Street:

The owner of the old Granville Sanitarium property which was an apartment complex on College Street abandoned the property, and the City, pursuant to statutory provisions found that the improvements could not be brought up to code and the structures were demolished by the City at public expense. The demolition charges under state law are treated the same as real estate taxes, and consequently the delinquent real estate taxes and demolition charges constituted a first lien on the real estate.

The real estate was subject to a first deed of trust held by American General Finance. When that company failed to institute foreclosure proceedings, the City purchased the American General Finance note for \$2,000. As a result the City became the first and second lien holder and under the deed of trust could proceed with a non-judicial foreclosure. Foreclosing for delinquent taxes and demolition charges would have required a creditor's suit to be filed in the Circuit Court.

The City Attorney, William W. Berry, IV, was substituted as trustee, and as directed by the City Council he proceeded with the foreclosure sale held on December 29, 2008. An agent for the City bid the property in for a price of \$40,000, which was the tax assessed value. The bidder on behalf of the City had been directed to buy the property on behalf of the City if there was no other bid of at least \$42,000.

February 10, 2009

Since the City as purchaser would have to bear marketing expenses in order to sell the property, the City Manager, at the direction of Counsel, notified all the other parties who appeared at the auction and bid on the property that the City was willing to assign its sales agreement. Michael T. Maxwell and Helen A. Maxwell, owners of adjoining property, notified the City that they had contacted the other bidders, that none were interested in proceeding at this point, and the Maxwells entered into a written assignment of real estate sales contract with the City.

An ordinance authorizing the assignment by the City to the Maxwells of the City contract to buy the property on College Street was posted in accordance with the City Code. City Council was requested to adopt the ordinance authorizing the assignment by the City to Michael T. Maxwell and Helen A. Maxwell of the City's contract to buy the Granville Sanitarium property on College Street which the City purchased at foreclosure sale at a price of \$40,000.

On motion by Councilman Vest, seconded by Councilman Stanley, voted upon and carried by the following roll call vote, Council adopted the proposed ordinance regarding the Granville Sanitarium property:

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

The Ordinance follows as adopted:

Ordinance No. 09-02

**AN ORDINANCE AUTHORIZING THE ASSIGNMENT
OF THE CITY'S CONTRACT TO BUY
THE GRANVILLE SANITARIUM PROPERTY
ON COLLEGE STREET WHICH THE CITY
PURCHASED AT A FORCLOSURE SALE**

WHEREAS, the City of Bedford was the holder of a first lien upon the property located at 715 College Street (the old Granville Sanitarium and apartment building site) based upon delinquent taxes and demolition charges, and the City also was the second lien holder based upon the assignment of a deed of trust indebtedness owned by American General Finance; and

WHEREAS, William W. Berry, IV, Substitute Trustee under the deed of trust, at the direction of the City as Noteholder held a foreclosure auction at

February 10, 2009

the courthouse on December 29, 2008; and

WHEREAS, the City of Bedford's bid of \$40,000, being the tax assessed value of the property, was the highest bid; the property was knocked out to the City of Bedford as purchaser; and the City and the Substitute Trustee signed a Memorandum of Sale (herein referred to as "sales agreement"); and

WHEREAS, the City notified those individuals who were in attendance at the sale and who bid upon the property that the City was willing to assign its sales agreement with the Substitute Trustee; and

WHEREAS, Michael T. Maxwell and Helen A. Maxwell, owners of the adjoining property, notified the City that they would agree to assume the City's sales agreement; none of the other interested parties contacted the City; and the Maxwells have entered into a written Assignment of Real Estate Sales Contract ("Assignment"); and

WHEREAS, the City Council held a public hearing on February 10, 2009, after due publication for one week in the Bedford Bulletin pursuant to Virginia Code Section 15.2-800;

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

Section 1. The City Council approves the assignment of real estate sales contract dated January 30, 2009 pursuant to which Michael T. Maxwell and Helen A. Maxwell have agreed to assume all of the City's duties and obligations under the sales agreement between the City and the Substitute Trustee, including the payment of \$40,000 for purchase of the property, and the City has agreed to assign and convey all of its rights as purchaser to the Maxwells.

Section 2. The City Council authorizes the Mayor and City Clerk to enter into a deed between the Substitute Trustee and the Maxwells assigning the City's Interest sales agreement.

Section 3. This ordinance shall take effect immediately upon passage.

City Manager Kolakowski reviewed the following information regarding a proposed resolution granting the extension of six months for submission of Oakwood Villa plans and plat:

Under the City Land Development Regulations, when the City Council has approved a PRD plan and preliminary plat, the developer must submit to the Zoning Administrator a final plat with detailed plans and specifications for required facilities within one year of the approval of the preliminary plat, subject to extension of the time by the Council. (Section 1204)

February 10, 2009

The City Council, on July 4, 2007, adopted a detailed ordinance providing for the change of zoning of property to PRD for the Oakwood Villa project, approving the proposed planned residential development subject to certain terms and conditions, and approving a preliminary plat. The ordinance, by its terms, would become effective only upon enactment of a similar zoning change by the Bedford County Board of Supervisors. On February 11, 2008 the Board of Supervisors enacted such ordinance. Consequently the developer was required to submit a final plat and detailed plans and specifications to the City by February 11, 2009.

As the Council is aware, citizen initiated litigation against Bedford County ensued concerning the legality of the County's rezoning ordinance. That matter was heard on January 29, 2009, in Bedford County Circuit Court, and the Court upheld the County's rezoning action.

Steven R. Grant, counsel for the developer, on January 30, 2009, wrote to the City Manager explaining that the developer, due to the uncertainty of the outcome of the litigation had not proceeded with the necessary plans, and on behalf of the developer he requested a six month extension for submitting detailed plans and specifications.

City Council was requested to adopt a resolution extending the date for submission of detailed plans and specifications and a final plat from February 11, 2009, to August 11, 2009.

On motion by Councilman Vest, seconded by Councilman Rush, voted upon and carried unanimously, Council adopted the resolution granting the extension of six months for submission of Oakwood Villa plans and plat. Roll call vote follows:

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

The resolution follows as adopted:

**RESOLUTION GRANTING AN EXTENSION
OF SIX MONTHS FOR SUBMISSION OF DETAILED PLANS
AND SPECIFICATIONS AND A FINAL PLAT
FOR THE OAKWOOD VILLA TOWNHOUSE PROJECT**

February 10, 2009

WHEREAS, the City Council, on July 24, 2007, adopted an ordinance providing for the change of zoning of property to PRD for the Oakwood Villa Townhouse Project, approving the proposed planned residential development subject to certain terms and conditions, approving the preliminary plat for the townhouse project, and requiring that a final plat of survey and more detailed be submitted; and

WHEREAS, the ordinance by its terms stated that it would take effect upon passage of a substantially similar ordinance of Bedford County changing its zoning maps; and

WHEREAS, the Bedford County Board of Supervisors, on February 11, 2008, adopted an ordinance amending its zoning maps, and accordingly that became the effective date of the City ordinance; and

WHEREAS, under the City Land Development Regulations, including specifically Section 1204, a subdivider must submit a final subdivision plat with detailed plans and specifications to the Zoning Administrator within one year of conditional approval or full approval of the preliminary plan, subject to extension by the City Council; and

WHEREAS, Steven R. Grant, attorney for the developer, by letter dated January 30, 2009 has requested a six month extension to submit detailed plans and specifications and a final plat in view of the fact that the developer had not been able to make any plans due to the uncertainty of the outcome of litigation involving the County zoning which was decided in the developers favor by the Circuit Court of Bedford County on January 28, 2009;

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

1. The City Council extends the date for submission of detailed plans and specifications and a final plat from February 11, 2009 until 5:00 P.M. on August 11, 2009.

2. All provisions set forth in Ordinance No. 07-11 enacted on July 24, 2007 shall remain in full force and effect and the proposed development shall be subject to such terms and conditions except as modified herein.

3. This Resolution shall take effect upon enactment.

Vice Mayor Wandrei adjourned the meeting at 7:37 p.m.