

August 24, 2010

A regular meeting of the Council of the City of Bedford, Virginia, was held in the Council Hall of the Municipal Building at 7:00 p.m., August 24, 2010.

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

Members absent: 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

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 August 10, 2010, were approved as distributed.

City Manager Kolakowski reported on the following:

- Due to the recent rain, the Stoney Creek Reservoir is full.
- Sam Moore had an open house celebrating its 70<sup>th</sup> anniversary in business – there was a steady crowd of people attending

The Mayor thanked Councilman Vest for attending the open house and representing the City.

Mayor Tharp announced that Jeff Hubbard had submitted his resignation from City Council effective August 17, 2010, as a result of his family's change of residence to a location outside of the City. The Mayor stated that Mr. Hubbard wrote him a letter and expressed his profound regret for the necessity of this action but stated "I believe it is in the best interest of my family, the City, and the goal of efficient and transparent government that I take this step." The Mayor indicated that Council will miss Mr. Hubbard. The Mayor asked the staff to prepare a proclamation thanking Mr. Hubbard for his service to Council.

Mayor Tharp stated he has talked with the City Attorney regarding the appropriate process for an appointment to fill the vacancy. The Mayor said that Council will meet and appoint someone to fill the vacancy until the next general election. The Mayor and City Attorney will notify Judge Updike of the vacancy, which is required by law, and discuss with him the desire that the vacancy be filled at this election point.

The Mayor reviewed a timeline for this process:

- August 15 – public notice appears in the "Bedford Bulletin"- the notice will state the opening and those interested would contact the City Manager's office providing a resume – the applicants will be given information regarding the forms necessary to be completed should they be chosen
- September 10 – deadline for submission by interested persons

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- September 14 – Interviews with candidates in an open Council meeting
- September 28 – Appointment decision made by the Council and swearing-in of appointee; appointee takes seat

On motion by Vice Mayor Wandrei, seconded by Councilman Stanley, voted upon and carried by a roll call vote, Council approved the “Policy for Filling City Council Vacancy.” Roll call vote follows:

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

### **POLICY FOR FILLING CITY COUNCIL VACANCY BEDFORD CITY COUNCIL**

1. A “Public Notice” will be placed in the September 1, 2010, edition of the “Bedford Bulletin” as follows:

#### **NOTICE OF VACANT SEAT ON BEDFORD CITY COUNCIL**

**NOTICE IS HEREBY GIVEN THAT A VACANCY EXISTS ON THE CITY COUNCIL OF THE CITY OF BEDFORD AS A RESULT OF THE RESIGNATION OF COUNCILMAN JEFFREY B. HUBBARD. AN APPOINTMENT WILL BE MADE FOR AN INDIVIDUAL TO HOLD THE OFFICE ON AN INTERIM BASIS UNTIL A SUCCESSOR IS CHOSEN UNDER THE ELECTION STATUTES. CITIZENS OF THE CITY OF BEDFORD INTERESTED IN SEEKING APPOINTMENT TO THIS VACANT SEAT SHOULD CONTACT CHARLES KOLAKOWSKI, CITY MANAGER, 215 EAST MAIN STREET, BEDFORD, VIRGINIA 24523, OR CALL 587-6001. THOSE EXPRESSING INTEREST WILL BE SENT AN INFORMATION PACKET DETAILING THE APPLICATION PROCESS. THE DEADLINE FOR SUBMITTING THE REQUIRED APPLICATION DOCUMENTS IS 5:00 P.M., FRIDAY, SEPTEMBER 10, 2010.**

A press release containing the above information and other pertinent data as delineated below will be developed and submitted to the news media covering the Bedford area, to include radio and television stations, daily newspapers, posting of the Notice in public places, placement of the notice on Cable Channel 12 and any other means deemed appropriate.

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2. Applicants shall submit a written request to be considered for appointment to City Council, including a resume of the applicant's background and reasons for wishing to serve on the City Council.

3. All names being considered will be made public after the deadline date of September 10, 2010.

4. A Council search committee may be appointed by and at the discretion of the Mayor.

5. The City Council will hold interviews with the applicants at the Council meeting on September 14, 2010.

6. Upon completion of the interviews and upon selection of a candidate to fill the vacancy, the Mayor will send letters to the unsuccessful candidates. All written correspondence with the candidates will come from the Mayor.

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All calls or letters of interest come into the Mayor's Office as a result of the Public Notice or media coverage, the City Manager's Office will immediately have the following response sent to the interested parties. Information to be provided to those expressing interest in writing or by telephone as noted in #1 above will include the following:

1. A letter from the Mayor expressing appreciation for the individual's interest. The letter will indicate how individuals will submit their papers. (See attached letter) [*letter follows*]

2. A copy of the policy for filling the vacancy.

3. A listing of the committees, boards and commissions on which the appointed member will be required to serve. These will be the committees, boards and commissions as approved by the City Council.

- a. Public Safety Committee (Chair)
- b. City Planning Commission
- c. Property Committee

4. A statement that the successful candidate must fulfill the requirements of State "Conflicts of Interest Act" by the submission of "Statement of Economic Interests" upon appointment.

5. A statement that additional information can be received from the Office of the City Manager.

6. All letters received for consideration will be marked "CONFIDENTIAL - CITY COUNCIL VACANCY" on the envelope containing the papers and provided only to the Mayor for dissemination to

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the members of the City Council. Once all papers have been received by the deadline date, the names of the candidates will be provided to the public via press release and any other means deemed appropriate.

DATES:

- August 15 Press release on appointment process
- September 1 Public Notice appears in "Bedford Bulletin"
- September 10 Deadline for submissions by interested persons
- September 14 Interviews with candidates
- September 28 Appointment decision made by the Council and swearing-in of appointee; appointee takes seat

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LETTER TO BE SENT TO CANDIDATES AFTER INITIAL EXPRESSION OF INTEREST - INFO. PACKET WILL GO WITH THIS LETTER.

Dear \_\_\_\_\_

Thank you for your expression of interest in being considered for the vacancy on the Bedford City Council which has occurred due to the resignation of Mr. Jeffrey B. Hubbard. City Council has set forth a process for the orderly appointment of an individual to fill the office of Councilman on an interim basis until a successor is elected under the Virginia election statutes.

Enclosed for your review is information about the process for seeking this vacant seat. Please make sure that you submit the documents as requested in order for your candidacy to be given full consideration. When you are ready to submit your papers to me, please do so no later than 5:00 p.m., Friday, September 10, 2010. On the front of the envelope containing your resume and reasons for wishing to serve on the City Council, please write CONFIDENTIAL - CITY COUNCIL VACANCY. This insures that your papers will come directly to me in a confidential manner. After the deadline date, I will issue a press release about those persons who have expressed interest in the appointment. You may be subject to being contacted by citizens and the news media as a result. If you wish to release your interest to the news media on your own prior to the press release I will issue, that is up to you. However, I will hold all names as confidential until the deadline has passed.

Please review the attached information thoroughly. If you have any questions, please feel free to give me a call at 586-2385 (home) in the evenings or during the day at 586-3443 (work). You may also contact the City Manager if you have questions or require additional information. City Council will conduct interviews with each candidate at its regular meeting on September 14, 2010. Please allow your evening schedule during that week to be flexible so we may have an opportunity to discuss this appointment with you.

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Again, thank you for your expression of interest in this vacancy on the City Council. I wish you the very best in this process.

Sincerely,

W. D. "Skip" Tharp  
Mayor

Mayor Tharp opened the public hearing concerning an amendment of Section 612 (Flood Hazard District) of the Land Development Regulations at 7:10 p.m.

The Notice of Public Hearing follows:

### **PUBLIC HEARING NOTICE**

Notice is hereby given of a public hearing to be held by the City Planning Commission at 5:30 p.m. on Thursday, August 5, 2010, and by the City Council at 7:00 p.m. on Tuesday, August 24, 2010, at the City Municipal Building, Council Hall, 215 East Main Street for the purpose of:

- To consider an amendment of Section 612 (Flood Hazard District) of the Land Development Regulations. This amendment has been recommended by the Virginia Department of Conservation and Recreation to ensure compliance with the Requirements of Section 60.3(d)\* of the National Flood Insurance Program regulations. The request is being made by the City of Bedford, 215 East Main Street, Bedford, VA 24523.

Information regarding this request is on file in the office of Planning & Community Development.

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

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

As there were no comments, the Mayor closed the public hearing at 7:11 p.m.

The Consent Agenda consisted of the following item: Request to Block Streets - Bedford Main Street, Inc. for "Centerfest" 2010 on Saturday, September 25<sup>th</sup> from 6:00 a.m. until 11:00 p.m.:

- East Main Street from Otey Street to Bridge Street
- West Main Street from Bridge Street to Ballard Street
- South Street from Main Street to Washington Street
- Court Street from Main to Depot Street

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- South Bridge Street from Main to Washington
- North Bridge from Main to City lot south of Railroad Bridge
- West Depot from North Bridge Street to Ballard Street, Market Square (all)
- East Depot to Court Street

On motion by Vice Mayor Wandrei, seconded by Councilman Stanley, voted upon and carried by a roll call vote, Council approved the Consent Agenda. Roll call vote follows:

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

Mr. Bart Warner, Assistant City Manager, stated the proposed Ordinance amending Section 612 of the Land Development Regulation is a regulatory mandate from the Federal Emergency Management Agency (FEMA). After lengthy correspondence between City staff, the Virginia Department of Conservation and Recreation (DCR), and FEMA, it has come to the City's attention that the City needs to update its floodplain ordinance. Mr. Warner indicated the impetus for this action is the updating of the Bedford County Flood Insurance Rate Maps. The effective date of the new maps will be September 29, 2010, which means a compliant ordinance should be adopted by the end of August to allow for review by DCR and FEMA. The language recommended by staff is based on DCR's most current model floodplain ordinance.

The Planning Commission met on Thursday, August 5, 2010, and unanimously recommended approval of the proposed language.

Councilman Stanley moved that the ordinance amending Section 612 of the Land Development Regulations be adopted. The motion was seconded by Councilman Rush.

Upon a request by Councilman Vest, Mr. Warner clarified that there will be no net effect to property owners nor changes in designation to the property owners in the City.

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

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

The ordinance follows as adopted:

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**Ordinance No. 10-8**

**AN ORDINANCE AMENDING SECTION 612 OF THE CITY OF  
BEDFORD LAND DEVELOPMENT REGULATIONS**

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

Section 612 of the Land Development Regulations of the City of Bedford, Virginia, is amended and re-enacted as follows:

**612. Flood Hazard District FH**

Section 612.01 – Statutory Authorization and Purpose

This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2 - 2280. The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by

- A. regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- C. requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- D. protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Section 612.02 - Applicability

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the City of Bedford and identified as being floodprone.

Section 612.03 - Compliance and Liability

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

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- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
- C. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Planning Department
- D. This ordinance shall not create liability on the part of the City of Bedford or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 612.04 - Abrogation and Greater Restrictions

This ordinance supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

Section 612.05 - Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Section 612.06 - Penalty for violations

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of the City of Bedford shall be guilty of a misdemeanor and subject to the penalties therefore.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the City of Bedford to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

Section 612.07 – Definitions

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- A. Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
- B. Base flood elevation - The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.
- C. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- D. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- E. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- F. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).
- G. Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- H. Flood or flooding -
  - 1. A general or temporary condition of partial or complete inundation of normally dry land areas from
    - a. the overflow of inland or tidal waters; or,
    - b. the unusual and rapid accumulation or runoff of surface waters from any source.
    - c. mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
  - 2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in

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paragraph 1 (a) of this definition.

- I. Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- J. Flood Insurance Study (FIS) – an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- K. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- L. Flood proofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- M. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- N. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be cheaper.
- O. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- P. Historic structure - Any structure that is
  1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
    - a. by an approved state program as determined by the Secretary of the Interior; or,
    - b. directly by the Secretary of the Interior in states without approved programs.
- Q. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- R. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.
- S. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- T. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after June 28, 1974 or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- U. Recreational vehicle - A vehicle which is
  1. built on a single chassis;
  2. 400 square feet or less when measured at the largest horizontal

projection;

3. designed to be self-propelled or permanently towable by a light duty truck; and,
  4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- V. Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- W. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.2 of this ordinance.
- X. Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- Y. Structure - for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- Z. Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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- AA. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:
1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
  2. any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.
- BB. Violation - the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.
- CC. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

#### Section 612.08 - Description of Floodplain Zoning Districts

##### A. Basis of Districts

The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for the City of Bedford prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated April 2, 1992, and any subsequent revisions or amendments thereto.

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Planning Department offices.

1. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.

2. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.
3. The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain Information Reports, U.S. Geological Survey Flood-prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the governing body.
4. The Shallow Flooding District shall be those areas identified as Zone AO or AH on the maps accompanying the Flood Insurance Study.

B. Overlay Concept

1. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
2. If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
3. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

### **Section 612.09 - District Boundary Changes**

The delineation of any of the Floodplain Districts may be revised by the City of Bedford where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

### **Section 612.10 - Interpretation of District Boundaries**

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

### **Section 612.11 – Submitting Technical Data**

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

### **Section 612.12 – Permit and Application Requirements**

#### **A. Permit Requirement**

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and Article XIII of the Land Development Regulations. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B. Site Plans and Permit Applications

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood at the site.
2. The elevation of the lowest floor (including basement).
3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
4. Topographic information showing existing and proposed ground elevations.

Section 612.13 - General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administrator.
- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

#### Section 612.14 - Specific Standards

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according Article 4, section 4.6, the following provisions shall apply:

- A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated to or above the base flood level.

- B. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level. Buildings located in all A1-30, AE, and AH zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by (title of community administrator).

C. Elevated Buildings

Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
  - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
  - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
  - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
  - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a

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manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article 4, section 4.2 (A) and (B), and section 4.3 (A).

2. All recreational vehicles placed on sites must either
  - a. be on the site for fewer than 180 consecutive days;
  - b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
  - c. meet all the requirements for manufactured homes in Article 4, sections 4.2 and 4.3 (D).

Section 612.15 - Standards for the Floodway District

The following provisions shall apply within the Floodway District:

- A. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the developer or applicant first applies – with the City’s endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

- B. If Article 4, Section 4.6 (A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
- C. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

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Section 612.16 - Standards for the Special Floodplain District

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City of Bedford.

Development activities in Zones A1-30, AE, and AH, on the City of Bedford's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies – with the City's endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

Section 612.17 - Standards for Approximated Floodplain

The following provisions shall apply with the Approximate Floodplain District:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted technical concepts, such as point on boundary, high water marks, or hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

The Zoning Administrator reserves the right to require hydrologic and hydraulic analyses for any development.

When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level. During the permitting process, the Zoning Administrator shall obtain:

- 1) the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,

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- 2) if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Section 612.18 - Standards for the Shallow Flooding District

The following provisions shall apply within the Shallow Flooding District:

- A. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than one foot freeboard above the flood depth level above the highest adjacent grade. When a freeboard is included in the height of a structure, the flood insurance premiums may be cheaper.
- B. All new construction and substantial improvements of non-residential structures shall
  1. have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than one foot freeboard above the flood depth level above the highest adjacent grade; or,
  2. together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- C. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

Section 612.19 - Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce

exposure to flood hazards, and

- D. Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

Section 612.20 – Variances: Factors to be Considered

Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage

and the effect of such damage on the individual owners.

- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing and signed by {title of appropriate public official, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a)

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increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Section 612.21 – Existing Structures in Floodplain Areas

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

This ordinance is effective upon enactment.

Mayor Tharp adjourned the meeting at 7:12 p.m. until September 14, 2010, at 6:00 p.m.