

February 8, 2011

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., February 8, 2011.

Members present: Mayor W. D. Tharp; Councilwoman Mary L. Flood; Councilman Guy E. Murray, Jr.; Councilman Steve C. Rush; Councilman C. G. Stanley, Jr.; Councilman James A. Vest; and Vice Mayor Robert T. Wandrei

Members absent: None

Staff present: Assistant City Manager Bart Warner; City Attorney W. W. Berry, IV; and Clerk of the Council Teresa W. Hatcher.

Staff absent: City Manager Charles P. Kolakowski

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 January 25, 2011, were approved as distributed.

Mr. Warner noted that the City Manager was ill this evening.

Councilman Vest announced there will be a Finance Committee meeting on February 10 at 4:00 p.m.

Mr. Warner said that City staff and the principal of Greater Independence Development LLC have had numerous discussions related to the City's monitoring of groundwater adjacent to its former landfill facility on Orange Street. As part of these discussions, staff has communicated the City's desire to acquire direct interest in certain tracts on Orange Street adjacent to the former landfill facility that are currently owned by Greater Independence Development LLC. Mr. Warner stated that in response, the principal of Greater Independence Development LLC has communicated his desire to acquire ownership of City-owned property within the City of Bedford identified as Tax Parcel Number 197-A-9. As a result of these discussions, the two parties have agreed to an exchange of the properties in question.

Mr. Warner reported that the City Attorney and representatives of the Greater Independence Development LLC are currently working on the documents; and as a Public Hearing has already been advertised regarding this matter, Council should proceed with the hearing.

The Mayor opened the public hearing at 7:02 p.m.

The Notice of Public Hearing follows:

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PUBLIC HEARING NOTICE

(Proposed Exchange of Real Estate and Conveyance of Tax Parcel 197-A-9)

The City Council of the City of Bedford, Virginia, on Tuesday, February 8, 2011, at 7:00 p.m. at the City Council Chambers, Municipal Building, 215 East Main Street, Bedford, VA 24523, will hold a public hearing pursuant to Virginia Code Section 15.2-1800 concerning the conveyance of a tract of land at the northwest intersection of Independence Boulevard and Orange Street (Tax Parcel No. 197-A-9) to Greater Independence Development LLC in exchange for the conveyance to the City of certain tracts on Orange Street adjacent to the City Landfill. Information concerning the proposed exchange and conveyance of real estate is on file in the Office of the City Manager.

Interested parties may appear at such time and place and present their views.

By the Authority of the City Council
of the City of Bedford
Teresa Hatcher, Clerk

As there were no comments, Mayor Tharp closed the public hearing at 7:02 p.m.

Mr. Warner stated that a proposed ordinance has been drafted regarding the exchange of property between the City and Greater Independence Development; however, staff is still waiting on the principals of the other party to execute and sign documents on their behalf.

City Attorney Berry recommended that City Council not take any action on this tonight to be sure all the details are ironed out.

Mr. Warner said the City intends to borrow funds to finance the upgrade of the Stoney Creek Reservoir in order to meet current Virginia Department of Conservation and Recreation criteria for a Class I structure. This project was approved by City Council as part of the fiscal year 2011 capital budget. In connection with that borrowing, Council needs to adopt a "reimbursement resolution" providing for the reimbursement to the City from the bond proceeds of certain expenses that will have been incurred in the period 60-days prior to the date of the resolution. (This is required under certain technical Internal Revenue Code provisions.)

Mr. Warner reported that Christopher Kulp with the law firm of Hunton & Williams has acted as bond counsel for the City and has drafted the necessary reimbursement resolution. City Council was requested to adopt the proposed reimbursement resolution.

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

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

The Resolution follows as adopted:

**RESOLUTION OF OFFICIAL INTENT TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF A BORROWING**

WHEREAS, the City of Bedford, Virginia (the “Borrower”), intends to upgrade the Stoney Creek Reservoir in order to meet current Virginia Department of Conservation and Recreation criteria for a Class I structure (collectively, the “Project”); and

WHEREAS, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the “Expenditures”) prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both;

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

1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the “Bonds”) or to incur other debt, in an amount not currently expected to exceed \$3,700,000 to pay the costs of the Project.

2. The Borrower intends that the proceeds of the Bonds be used to reimburse the Borrower for Expenditures with respect to the Project made on or after the date that is 60 days prior to the date hereof. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds or other debt.

3. Each Expenditure was or will be, unless otherwise approved by bond counsel, either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Borrower so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Borrower.

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4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Borrower recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction of at least five years.

5. The Borrower intends that the adoption of this resolution confirms the "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.

This resolution shall take effect immediately upon its passage.

Assistant City Manager Warner said that in order for the Virginia Department of Transportation (VDOT) to program an urban highway project in the City, it is necessary that City Council make a formal request by resolution.

Mr. Warner reported that for several years, VDOT has included a number of project proposals within the City as part of its long term capital plan. Two projects in particular are identified for future funding. One is focused on the area of U.S. Highway 460 in the western portion of the City. The other is geared toward significant realignment of Burks Hill Road in the vicinity of the Visitors Center and the entrance to the National D-Day Memorial. The reality of the current fiscal condition of VDOT is that there is not sufficient funding to accomplish both objectives within the foreseeable future. However, the allocated funds could be combined to accomplish one.

Mr. Warner said the nature of the 460 West project relates primarily to abating a safety hazard that was brought to VDOT's attention in a formal manner over ten years ago. Among other activities, it would involve realignment and regrading of the median crossing at Old Turnpike Road and Woodhaven Drive to correct the odd geometry of the current configuration. In addition, the accomplishment of this project has the potential to promote specific economic development activities in a manner that is likely to be timelier than the same potential of the Burks Hill Road proposal. Based on this information, staff is recommending that the City direct VDOT to focus its efforts first and foremost on the accomplishment of the 460 West project.

Mr. Warner said that Council was requested to adopt the proposed resolution directing VDOT to give the 460 West project the highest priority over all other projects that may be funded by VDOT within City limits.

On motion by Vice Mayor Wandrei, seconded by Councilman Vest, voted upon and carried unanimously by a roll call vote, Council adopted the resolution regarding the 460 West project. Roll call vote follows:

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

The resolution follows as adopted:

**RESOLUTION OF THE
CITY COUNCIL OF THE CITY OF BEDFORD
REGARDING VIRGINIA DEPARTMENT OF
TRANSPORTATION PROJECT FUNDING PRIORITIES**

WHEREAS, in accordance with Virginia Department of Transportation (“VDOT”) construction allocation procedures, it is necessary that a request by council resolution be made in order that the Department program an urban highway project in the City of Bedford; now

THEREFORE BE IT RESOLVED that the Council of the City of Bedford, Virginia, requests the Virginia Department of Transportation to establish urban system highway projects giving highest priority to improvements of U.S. Highway 460 in the western portion of the City limits (with particular focus upon the highway’s intersection with Old Turnpike Road) over all other projects that may be funded by the VDOT within the City of Bedford.

Mayor Tharp adjourned the meeting at 7:07 p.m.