

April 20, 2011

An adjourned meeting of the Council of the City of Bedford, Virginia, from the April 12, 2011, regular meeting was held in the Council Hall of the Municipal Building at 5:30 p.m., April 20, 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: City Manager Charles P. Kolakowski; City Attorney W. W. Berry, IV; and Clerk of the Council Teresa W. Hatcher.

Mayor Tharp opened the meeting.

The Mayor explained that City Council would go immediately into Closed Session and then would meet with the City School Board at 6:00 p.m. also in Closed Session.

Vice Mayor Wandrei moved that Council adjourn into closed session pursuant to Section 2.2-3711 (a) (7) of the Code of Virginia of 1950, as amended, for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation. Councilman Murray seconded the motion. The motion was voted upon and carried by the following roll call vote:

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

Council adjourned into closed session at 5:31 p.m. The following non-council members attended: City Manager Kolakowski, City Attorney Berry, and Assistant City Manager Warner.

Council reconvened into open session at 6:00 p.m.

The Clerk of Council read aloud the following resolution:

BE IT RESOLVED that the Council of the City of Bedford hereby certifies that (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

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

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

Phyllis Parker, Chairwoman of the City School Board, opened the School Board's meeting. Board member Mickey VanDerwerker moved that the Board adjourn into closed session pursuant to Section 2.2-3711 (a) (7) of the Code of Virginia of 1950, as amended, for legal matters. The motion was seconded by Board member Ann Duncan, voted upon and carried unanimously by a roll call vote, as follows: Paul Sherman, Betsy Kline, Ann Duncan, Mickey VanDerwerker, and Chairwoman Parker.

Councilman Stanley moved that Council adjourn into closed session pursuant to Section 2.2-3711 (a) (7) of the Code of Virginia of 1950, as amended, for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation. Councilman Rush seconded the motion. The motion was voted upon and carried by the following roll call vote:

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

Council adjourned into closed session at 6:01 p.m. The following non-council members attended: City Manager Kolakowski, City Attorney Berry, Assistant City Manager Warner, and the City School Board.

Council reconvened into open session at 6:12 p.m.

The Clerk of Council read aloud the following resolution:

BE IT RESOLVED that the Council of the City of Bedford hereby certifies that (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

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

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

Assistant City Manager Warner read aloud the follow resolution

BE IT RESOLVED that the School Board of the City of Bedford hereby certifies that (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the School Board.

The City School Board reconvened into open session at 6:13 p.m.

On motion by Mrs. VanDerwerker, seconded by Ms. Duncan, voted upon and carried by a roll call vote, the School Board adopted the resolution. Roll call vote follows with all members voting aye: Mrs. Parker, Mrs. Kline, Mr. Sherman, Ms. Duncan, Mrs. VanDerwerker, two members absent.

Mayor Tharp stated that the sole purpose of the meeting was to consider the Agreement for Public Schools and Education Programs as provided by Bedford County through the Bedford County School Board.

The Clerk of Council read aloud the following proposed resolution regarding the school agreement:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BEDFORD, VIRGINIA REGARDING THE 1988 AGREEMENT FOR PUBLIC SCHOOLS AND EDUCATIONAL PROGRAMS.

WHEREAS, the Bedford County Board of Supervisors (the "County"), the City Council of the City of Bedford (the "City"), the Bedford County School Board (the "County School Board"), and the School Board of the City of Bedford (the "City School Board") entered into an Agreement for Public Schools and Educational Programs," dated June 28, 1988 (the "School Contract"), pursuant to the Code of Virginia and the Charter for the City of Bedford;

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WHEREAS, in such School Contract, the County School Board agreed to provide public school services and educational programs and certain school facilities for students residing within the City of Bedford;

WHEREAS, the City agreed to construct or renovate certain school facilities and to make them available to the County School Board for operation as schools for students residing within the City and for such students residing in the County as might be assigned to such schools by the County School Board;

WHEREAS, the County School Board agreed that, at such time as the City provided a middle school facility for the use of the County school system, the County School Board “will operate schools at the facility on College Street, the new facility on Burks Hill Road, the middle school, and Liberty High School;”

WHEREAS, since the execution of the School Contract, the “facility on College Street” has been operated as the Bedford Primary School for schoolchildren attending kindergarten through second grade;

WHEREAS, the School Contract remains in effect today and has not been amended to permit the closing of any of the facilities that the County School Board agreed to operate as schools; and

WHEREAS, the County School Board recently voted to close the Bedford Primary School at the conclusion of the current school year and to transfer to the Bedford Elementary School those children attending kindergarten through second grade, which action is strongly opposed by the City Council and the City School Board.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bedford, at a meeting held on April 20, 2011:

1. That the City Council finds that the action by the County School Board to close the Bedford Primary School and to discontinue its use as a school facility constitutes a breach of the School Contract by the County School Board;

2. That the City Council hereby expresses its fundamental opposition to the closure of the Bedford Primary School, which will be detrimental to those City and County schoolchildren attending that facility, and hereby requests that the County School Board immediately rescind its action to close the Bedford Primary School;

3. That the City Council authorizes and directs its Attorney to initiate a suit to seek a declaration that the action taken by the County School Board to close the Bedford Primary School constitutes a breach of the County School Board’s obligations under the School Contract;

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4. That the City Council hereby authorizes its Attorney to employ such additional legal counsel as he may determine will be necessary or advisable to assist with the conduct of such litigation; and

5. That the City Council directs its City Manager to forward to the Chair of the County School Board a copy of this Resolution.

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

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

Mr. Warner read aloud the proposed resolution for the School Board regarding the school agreement.

**A RESOLUTION OF THE SCHOOL BOARD OF THE
CITY OF BEDFORD, VIRGINIA REGARDING
THE 1988 AGREEMENT FOR PUBLIC SCHOOLS
AND EDUCATIONAL PROGRAMS.**

WHEREAS, the Bedford County Board of Supervisors (the “County”), the City Council of the City of Bedford (the “City”), the Bedford County School Board (the “County School Board”), and the School Board of the City of Bedford (the “City School Board”) entered into an Agreement for Public Schools and Educational Programs,” dated June 28, 1988 (the “School Contract”), pursuant to the Code of Virginia and the Charter for the City of Bedford;

WHEREAS, in such School Contract, the County School Board agreed to provide public school services and educational programs and certain school facilities for students residing within the City of Bedford;

WHEREAS, the City agreed to construct or renovate certain school facilities and to make them available to the County School Board for operation as schools for students residing within the City and for such students residing in the County as might be assigned to such schools by the County School Board;

WHEREAS, the County School Board agreed that, at such time as the City provided a middle school facility for the use of the County school system, the County School Board “will operate schools at the facility on

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College Street, the new facility on Burks Hill Road, the middle school, and Liberty High School;”

WHEREAS, since the execution of the School Contract, the “facility on College Street” has been operated as the Bedford Primary School for schoolchildren attending kindergarten through second grade;

WHEREAS, the School Contract remains in effect today and has not been amended to permit the closing of any of the facilities that the County School Board agreed to operate as schools; and

WHEREAS, the County School Board recently voted to close the Bedford Primary School at the conclusion of the current school year and to transfer to the Bedford Elementary School those children attending kindergarten through second grade, which action is strongly opposed by the City Council and the City School Board.

NOW, THEREFORE, BE IT RESOLVED by the School Board of the City of Bedford, at a meeting held on April 20, 2011:

6. That the City School Board finds that the action by the County School Board to close the Bedford Primary School and to discontinue its use as a school facility constitutes a breach of the School Contract by the County School Board;

7. That the City School Board hereby expresses its fundamental opposition to the closure of the Bedford Primary School, which will be detrimental to those City and County schoolchildren attending that facility, and hereby requests that the County School Board immediately rescind its action to close the Bedford Primary School;

8. That the City School Board authorizes and directs its Attorney to initiate a suit to seek a declaration that the action taken by the County School Board to close the Bedford Primary School constitutes a breach of the County School Board’s obligations under the School Contract;

9. That the City School Board hereby authorizes its Attorney to employ such additional legal counsel as he may determine will be necessary or advisable to assist with the conduct of such litigation; and

10. That the City School Board directs its Attorney to forward to the Chair of the County School Board a copy of this Resolution.

On motion by Board member Sherman, seconded by Board member Klein, voted upon and carried unanimously by a roll call vote (Mrs. Parker, Mrs. Kline, Mr. Sherman, Ms.

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Duncan, Mrs. VanDerwerker, two members absent) the School board adopted the resolution regarding school agreement.

School Board Chairwoman Parker adjourned the Board meeting at 6:21 p.m.

Mayor Tharp adjourned the meeting at 6.21 p.m.