

December 13, 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., December 13, 2011.

Members present: 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: Mayor W. D. Tharp

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.

Vice Mayor Wandrei declared that the minutes of a regular Council meeting held on November 8, 2011, were approved as amended. The amendment was the addition of the approval of the minutes of October 25, 2011.

City Manager Kolakowski reported on the following:

- Passed along the appreciation of the directors of the Bowers Center and also from the numerous citizens who were in attendance at the Center's music event held recently – there were over 140 people in attendance – it was one of the events that was jointly funded by the City and the State through the Arts Challenge Grant.

Vice Mayor Wandrei expressed thanks to Councilman Vest - he has received numerous compliments and comments about the Christmas decorations being installed perpendicular to the sidewalks as suggested by Councilman Vest.

Councilman Vest, Chairman of the Finance Committee, reported the Committee met earlier in the evening and accepted the FY2011 Audit Report from Brown Edwards and Company.

Vice Mayor Wandrei added an item to the agenda: City of Bedford Code, Title 14.

The Consent Agenda consisted of the following item:

- Reappointment of Mr. Macon C. Putney to serve a four-year term on the Joint City/County Economic Development Authority, said term to expire February 1, 2016.

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

Councilwoman Flood	aye
Councilman Murray	aye

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

Mr. Jason Hartner, Brown Edwards and Company, presented the FY2001 Audit Report. Mr. Hartner stated the purpose of the audit is to give an opinion as to the fairness of the financials in a comparison to general accepted accounting principals. Mr. Hartner stated that as a result of their work, they have issued a clean opinion which is the highest level of assurance they can give.

City Manager Kolakowski said the Virginia Commission on the Bicentennial of the American War of 1812 announced the commemoration of the bicentennial in the Commonwealth and has invited our locality to participate in and support the bicentennial programs and activities. On January 11, 2012, the Commission, in collaboration with the Richmond Symphony, will launch the bicentennial for the War of 1812 with a Symphonic Tribute at CentreStage in Richmond and other signature events have been planned. The Commission is requesting local governing bodies to pass a Resolution in support of the bicentennial. Council was requested to adopt a Resolution to commemorate and support the Bicentennial of the American War of 1812 in Virginia.

On motion by Councilman Stanley, seconded by Councilman Rush, voted upon and carried by a roll call vote, Council adopted the resolution in support of the bicentennial. 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	absent

The resolution follows as adopted:

## **RESOLUTION**

### **Commemorate and Support the Bicentennial of the American War of 1812 in Virginia**

**WHEREAS**, the American War of 1812 was fought between the United States and Britain from June 18, 1812, through February 18, 1815, in Virginia and Maryland, along the Canadian border, along the western frontier, along the Gulf Coast, and through naval engagements in the Great Lakes and the Atlantic and Pacific Oceans; and

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**WHEREAS**, the strategic location of the Chesapeake Bay near the nation's capitol made it a prime target for the British, and the coast of Virginia figured prominently in the Atlantic theatre of operations; and

**WHEREAS**, there were some 73 armed encounters with the British that took place in Virginia during the war, and Virginians actively fought in Maryland, Virginia, and Ohio and in naval engagements; and

**WHEREAS**, an estimated 70,000 Virginians served during the American War of 1812; and

**WHEREAS**, the American War of 1812 helped forge a national identity among the American states and laid the groundwork for a national system of homeland defense and a professional military within the United States; and

**WHEREAS**, the bicentennial of the American War of 1812 provides an opportunity for all Americans to commemorate the independence for which our forefathers so bravely fought; and

**WHEREAS**, the 2009 Virginia General Assembly established the Virginia Bicentennial of the American War of 1812 Commission to lead the Commonwealth's commemoration of the bicentennial of America's Forgotten War, the Second War of Independence, and localities throughout the State have been requested to commemorate the bicentennial locally with appropriate activities and to participate in the several signature events and other numerous programs and activities have been planned for the Commonwealth;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Bedford commemorates the bicentennial of the American War of 1812 in Virginia, and will endeavor to support the commemoration through locally developed activities and participation in statewide bicentennial events and programs;

**BE IT RESOLVED FURTHER**, that the City Council of the City of Bedford hereby notifies the Virginia Bicentennial of the American War of 1812 Commission of its agreement to execute local activities and to participate in statewide events and programs to commemorate the bicentennial of the American War of 1812 in Virginia.

The City Manager reported the City of Bedford is providing non-potable water to customers located on Orange Street. A new water rate is proposed for providing this product. The rate will be 90.7¢ per 1000 gallons of non-potable water plus a monthly customer charge of \$13.01. Mr. Kolakowski said that the City staff is requesting Council to approve the amended water tariffs to include the new non-potable water rate and to approve the proposed water tariffs to be effective December 14, 2011.

Councilman Rush moved that the water tariffs for non-potable water be approved. The motion was seconded by Councilman Stanley.

The City Manager said this is a brand new service the City is providing – the pilot program that was initiated with the Stimulus Funds received from the Federal

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Government. Mr. Kolakowski stated that Golden West and the City's Sewage Department use this water.

The motion was then 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	absent

The Non-Potable Water Tariffs are attached at the end of this set of minutes.

The City Manager said that present City ordinances create family billiard centers which are specially licensed pool or billiard establishments where minors are allowed under certain provisions. Specifically, minors between the age of 16 and 18 are allowed without their parents, and minors under 16 years of age are allowed with their parents. The Council's Public Safety Committee, at a meeting on November 8<sup>th</sup>, recommended making certain changes in these regulations.

City Manager Kolakowski said the proposed ordinance makes the necessary changes in the language of the ordinance to carry out the recommendation of the Public Safety Committee. Under the proposed changes, minors between 16 and 18 years of age continue to be allowed in family billiard centers at any time. Minors between 14 years of age and 16 years of age are allowed from opening until 5:00 p.m., and after that time they are allowed with their parents. Minors under 14 years of age are not allowed at any time unless accompanied by a parent. The new ordinance has been posted in accordance with the provisions of the City Code.

On motion by Councilman Murray, seconded by Councilman Vest, voted upon and carried by a roll call vote, Council adopted the ordinance amending family billiard center regulations. 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	absent

The ordinance follows as adopted:

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**ORDINANCE NO. 11-10**

**AN ORDINANCE CHANGING THE HOURS OF ENTRY OF “FAMILY BILLIARD CENTERS” TO ALLOW ENTRY BY 14 TO 16 YEAR OLDS WITHOUT ACCOMPANIMENT DURING CERTAIN HOURS**

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

Section 1. Sec. 14-233 of the City Code is amended and re-enacted as follows:

Sec. 14-233. Entry by persons under 18 in “Family billiard center.”

If a pool room has been licensed as a “family billiard center” pursuant to the provisions of division 4 of this article, then any person owning, managing, or operating the pool room, in his discretion, may allow minors between the ages of 14 and 18 years to play or watch the play of billiards or pool in the pool room between 9:00 a.m. (or such later time as the center opens) and 5:00 p.m., and in his discretion may allow minors under the age 18 years to play or watch the play of billiards or pool in the pool room when such minor is accompanied by one of his parents or a person in loco parentis or a legal guardian.

(Code 1984, § 7.3-5)

Section 2. Sec. 14-234 of the City Code is amended and re-enacted as follows:

Sec. 14-234. Violations of “Family billiard center” regulations.

(a) It shall be unlawful for any person owning, managing or operating a family billiard room to permit any minor under the age of 14 years to enter a family billiard room or to permit any minor between the age of 14 years and 16 years to enter or remain in a family billiard room after 5:00 p.m., unless in either case such minor is accompanied by one of his parents, a person in loco parentis or a legal guardian.

(b) It shall be unlawful for a parent, person in loco parentis or a legal guardian to permit his child who is under the age of 14 years to enter a family billiard room or to permit his child who is between the age of 14 years and 16 years to enter or remain in a family billiard room after 5:00 p.m., unless in either case the child is accompanied by such parent, person in loco parentis or legal guardian, and it shall be unlawful in either case for such parent, person in loco parentis or legal guardian having accompanied his child into the family billiard room to leave the billiard room without the child in violation of this section.

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(c) It shall be unlawful for any minor under the age of 14 years to enter a family billiard room or to remain in the family billiard room after 5:00 p.m. without one of his parents, a person in loco parentis of the minor, or the minor's legal guardian.

(d) Any minor between the age of 14 and 18 years shall be solely responsible for establishing his age to the owner or manager of the billiard room. The person accompanying a minor under the age of 14 years shall be solely responsible for establishing the age of the minor and the relationship of the minor to such person

(e) It shall be an affirmative defense to any prosecution for violation of this section if the person owning, managing or operating a billiard room in good faith has required production of a birth certificate, school record, or division of motor vehicle identification showing the child's age and has not relied solely on oral allocations or apparent age of the child.

(Code 1984, § 7/3-6)

Section 3. This ordinance shall take effect upon publication or posting as required by Section 19 of the City Charter.

City Manager Kolakowski said the General Assembly has added new legislation limiting the regulation of pneumatic guns. The Council committee, at a meeting on November 8, 2011, recommended that the existing City ordinances be amended. An amended ordinance has been drafted based upon an ordinance adopted by the City of Roanoke. The City Manager said all references to bows and arrows in the previous Bedford ordinance have been eliminated pending further study by the committee of allowing urban archery in the city limits. The new ordinance has been posted in accordance with the provisions of the City Code.

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

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

The ordinance follows as adopted:

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**ORDINANCE NO. 11-11**

**AN ORDINANCE AMENDING AND RE-ENACTING SECTION 30-82  
OF THE CODE OF THE CITY OF BEDFORD PERTAINING  
TO DISCHARGING SLINGSHOTS AND PNEUMATIC GUNS**

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

Section 1. Sec. 30-82 of the City Code is amended and re-enacted as follows:

Sec. 30-82 Discharging slingshots, pneumatic guns, etc.

(a) Any person who shall, anywhere within the city, discharge shot, stones, gravel, bullets or any similar thing from a gravel shooter, air gun, pneumatic gun or other similar implement shall be guilty of a Class 3 misdemeanor, unless otherwise permitted by this section.

(b) This section shall not apply to the following:

(1) The operation of a shooting event that is sponsored by an organized group, provided, the written approval of the chief of police as to the safety and location and date of the event is obtained prior to the event;

(2) The use of such weapons under the supervision of the police department for the purposes of training on the city's firearms range;

(3) The use of such weapons for control of animals by approved city personnel under the supervision or at the recommendation of the state department of game and inland fisheries, the state department of agriculture, or the state department of health.

(4) The use of a pneumatic gun at a facility approved for shooting ranges, or on or within private property with permission of the owner or legal possessor thereof when conducted with reasonable care to prevent a projectile from crossing the bounds of the property.

(5) The establishment of commercial or private areas designated for use of paintball guns for recreational use in accordance with all applicable requirements. Equipment designed to protect the face and ears shall be provided to participants at such recreational areas, and signs shall be posted to warn against entry into the paintball area by persons who are unprotected or unaware that paintball guns are in use.

(c) As used in this section, the term, "pneumatic gun" means any implement, designed as a gun that will expel a BB or a pellet by action of pneumatic pressure. The term "pneumatic gun" includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

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(d) All uses of a pneumatic gun otherwise allowed under this section by a minor below the age of sixteen (16) years shall be under the supervision of a parent, guardian, or other adult supervision approved by the minor's parent or guardian.

(e) All minors, when permitted by a parent or guardian to use a pneumatic gun, shall be responsible for obeying all laws, regulations, and restrictions governing such use.

(f) The training of minors in the use of pneumatic guns shall be done only under direct supervision of a parent, guardian, or a certified instructor. Training of minors above the age of sixteen (16) may also be done without direct supervision if approved by the minor's instructor, with the permission of and under the responsibility of a parent or guardian, and in compliance with all requirements of this section. Instructors may be certified by the National Rifle Association, a state or federal agency that has developed a certification program, and service of the department of Defense, the Junior Reserve Officer Training Corps, American Legion, 4H, the Civilian Marksmanship program, Boy or Girl Scouts, USA Shooting, and similar groups approved by the chief of police, or any person authorized by these entities to certify instructors.

(g) All training and shooting shall take place either indoors at a range deemed safe for such use by the minor's certified instructor, or outdoors at a facility meeting the requirements of subsection (b) above.

Section 2. This ordinance shall take effect upon publication or posting as required by Section 19 of the City Charter.

Vice Mayor Wandrei said that Ruth Crouch, of D. Reynolds, had received from the City a form saying she had to get a permit for D. Reynolds "Going Out of Business Sale" and pay a \$65.00 fee. The Vice Mayor said the City Code does have a provision for the permit and this provision follows the State Code. He said that failure to obtain the permit and pay the fee is a Class I Misdemeanor, which can result in a punishment of up to 12 months in jail. An inventory of what is to be sold must be furnished. The Vice Mayor said he spoke to the Commissioner of the Revenue and the City Manager about what this information is used for. Vice Mayor Wandrei said the City Manager was at a loss as to what it is used for.

The Vice Mayor said there is always talk about having and promoting a "business friendly" environment and he said he could not think of anything more "unfriendly" than to require people who are going out of business because of hard times and economic necessity fill out the onerous form and pay \$65.00. The Vice Mayor said the City could not do anything about the form because that is Virginia Code, but the City can eliminate the \$65.00 fee.

It was the consensus of Council that the City Attorney prepare an ordinance eliminating the \$65.00 fee to file the permit and make it retroactive.

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The City Attorney will have the ordinance prepared for the next Council meeting.

The City Manager said this is a prime example of something Council should send to the State to say they may need to reconsider having this in the State Code.

The Vice Mayor adjourned the meeting at 7:23 p.m.