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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 14, 2012.

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 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 July 24, 2012, were approved as distributed.

City Manager Kolakowski reported on the following:

- On August 13 the Bedford County Board of Supervisors held its public hearing on the Voluntary Settlement Agreement and proceeded with a vote: five in favor, with two abstentions.

The Public Hearing Notice follows:

### **NOTICE OF PUBLIC HEARING**

Please take notice that the City Council of the City of Bedford, Virginia, will hold a public hearing in the Council Chambers on the second floor of the Municipal Building located at 215 East Main Street in the City of Bedford, Virginia, on August 14, 2012, at 7:00 p.m., on a modified Voluntary Settlement of Transition to Town Status and Other Related Issues between the City of Bedford and Bedford County (the "Agreement"). The City Council thereafter will consider for passage an ordinance to approve the Agreement. The Agreement is a voluntary settlement authorized by Section 15.2-3400 of the Code of Virginia (1950), as amended.

In March 2012, the City of Bedford (the "City") and the County of Bedford (the "County") presented a voluntary settlement (the "Original Agreement") to the Commission on Local Government (the "Commission"), which conducted a hearing as required by law and issued its findings and recommendations in a July 2012 Report. The City and the County propose to make minor revisions to the Original Agreement. The principal provisions of the Agreement include the following:

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1. Transition to Town Status. The City will make a transition from an independent city to a town, which shall be known as the Town of Bedford (the “Town”) and which shall be located within, and constitute part of, the County. The transition to town status shall be effective on July 1, 2013 or such other date as specified in the court order approving the Agreement. Except as provided in the Agreement, the Town shall have the same powers as other towns in Virginia as granted by general law or special acts.
2. Liabilities and Assets of the City. Except as provided in the Agreement, the Town will remain responsible for all liabilities of the City, and all assets of the City shall become the property of the Town. On or before the effective date of town status, the City will transfer to the County its ownership interests in the Bedford Elementary School, the Bedford Central Library, and the Bedford Welcome Center, including all real and personal property. The County will be responsible for all operating expenses of those facilities incurred after the effective date of town status. The transfers shall be made “as is” and without any warranty, and the deeds conveying title shall be substantially in the forms attached to the Agreement.
3. County Payments to Town. Following the effective date of town status, the County shall pay the Town the annual sum of \$500,000 by November 15 of each year for a period of 15 years. In any year in which the State provides an increase in school funding to the County of \$4,000,000 or more, as a result of the special incentive provided by law for a transition to town status, the County shall pay the Town an additional sum of \$250,000. If the increased funding from the State is less than \$4,000,000, then the County shall pay the Town the sum of \$500,000, but shall reduce the supplemental payment of \$250,000 by the same percentage by which the additional State funding is less than \$4,000,000. Such obligations to make payments to the Town in the future shall be subject to annual appropriations of the County Board of Supervisors. If the County Board should decline to make such appropriations, the Town would have the option of requiring the County to convey to the Town the full ownership of the Bedford Welcome Center and, in addition, to incorporate certain areas into the Town, as described in the Agreement, merely by adoption of an ordinance.
4. Public Education. On the effective date of town status, the public education agreement between the City and the County will terminate, and the County School Board shall assume responsibility for providing public education to students residing within the Town. The County shall have the right to lease the Bedford Middle School from the Town for up to six one-year terms while it constructs a new middle school facility. The lease payments will range from \$120,000 during the first year to \$750,000 during the sixth year, and such payments shall be subject to annual appropriations by the County Board of Supervisors. The terms and

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conditions of the County's use of such facility shall be as set forth in a lease agreement substantially in the form attached to the Agreement.

5. Other Public Services. Except as specified in the Agreement, the Town and the County will have a traditional town/county relationship, and the County shall provide to Town residents all services that the County is required by law to provide to other County residents and shall not discriminate against Town residents based on their residence within the Town. Among other terms relating to various public services, the Agreement contains provisions (a) requiring the County to assume sole responsibility for a tourism program but obligating the Town to contribute certain funding for that purpose until June 30, 2015 and to remain liable for existing debt issued for the construction of that facility; (b) permitting the Town to deliver to the County, without any fee or charge, all solid waste and recyclable materials that it collects from residential customers, as long as to the County follows its current policy of not imposing on individual residents a fee for such services; (c) directing the County to provide emergency dispatching services at its expense to the Town, except for the costs of such services for calls in connection with the operation of the Town's electric department that shall be paid by the Town, and terminating the 1999 joint dispatch center agreement between the City and the County; (d) requiring the County to enforce building codes and an erosion and sediment control ordinance within the Town, but giving the Town the option to take over those functions at any time; (e) stating the County's commitment to have a revised funding policy for fire safety agencies by April 15, 2013; (f) directing the dissolution of the Bedford Joint Economic Development Authority upon the repayment of all existing debt and the transfer of the Bedford Center for Business at that time to the Bedford County Economic Development Authority; (g) requiring the creation of an area athletic association for the provision of youth sports to Town residents that will be funded by the County in the same manner as other such recreational associations; (h) terminating the regional library agreement and making the County responsible for all library services; (i) providing for the County to assume the liabilities of the City in the operation of Blue Ridge Regional Jail Authority and the regional juvenile detention home; and (j) giving the Town the right to use the County's animal shelter without payment of any fee.

6. Water and Sewer Services. The City and the County have agreed that the water and sewer systems of the City and the Bedford County Public Service Authority (the "County Authority") should be consolidated by the transfer of all existing facilities to a new regional authority that will implement operational guidelines set forth in the Agreement. The guidelines address representation on the board of the new authority, the transfer of assets and assumption of liabilities, the equalization of rates within ten years, special rate classifications for large industrial and commercial users, and the construction of a water line connecting City and County Authority systems. The City and the County recognize that such a

consolidation will occur only if a definitive agreement is executed by the parties, including the County Authority. The Agreement requires that the utility consolidation agreement must be signed no later than November 30, 2012 and provides that certain boundary adjustment provisions in the Agreement shall be null and void if the utility consolidation agreement has not been signed by that date, unless such boundary adjustment provisions become effective at a later date as provided in the Agreement.

7. Phase I Boundary Adjustments. Eight areas adjacent to the City (the “Phase I Areas”) shall automatically be incorporated into the Town of Bedford on the effective date of the transition of the City to town status. The Phase I Areas include about 1,200 acres of land, and the boundaries of the Phase I areas are described by metes and bounds attached to the Agreement. A map attached to the Agreement depicts each of the Phase I Areas, which are generally referred to as the U.S. 460 East Revenue Sharing Area, the Dr. Martin Luther King, Jr. Memorial Bypass Area, the Liberty Lake Park Area, the Harmony Development Area, the U.S. 460 West Revenue Sharing Area, the Elks Home Area, the Oakwood Villas Area, and the Old Landfill Area. The City shall amend its zoning ordinance to provide that the interim zoning classification for each parcel of land in the Phase I Areas shall be the Town’s zoning district that is most comparable to the County’s zoning district prior to the effective date of the Phase I boundary adjustments. The Agreement also requires that the Town, within six months after the effective date of the boundary adjustment, either affirm the interim zoning classification or reclassify the parcels.

8. Phase II Boundary Adjustments. Following the transition to town status, the Town may incorporate additional territory (the “Phase II areas”) if such areas satisfy certain eligibility criteria. The Phase II Areas include about 2,575 acres of land, and the boundaries of the Phase II areas are described by metes and bounds attached to the Agreement. A map attached to the Agreement depicts each of the Phase II areas, which generally include the North Hills and Town and Country residential subdivisions, a portion of the Stratford Drive subdivision, several individual single-family residences on large parcels, an industrial printing operation, and tracts of vacant land.

9. Eligibility Criteria for Phase II Boundary Adjustments. In general, the Town may not incorporate any portion of the Phase II Areas unless and until the parties have executed an agreement to consolidate their water and sewer systems and to create a new regional authority. If such a utility consolidation agreement has been executed, then the Town may incorporate certain portions of the Phase II Areas at any time after the effective date of town status if they are contiguous to the Town boundaries and are urban in character. An area shall be deemed to be urban in character if it consists of parcels having an average size of three acres or less, based on recorded subdivision plats or deeds. However, those

portions of the Phase II Areas generally known as the Bison Printing property, the North Hill Subdivision, and the Town and Country Subdivision shall not be eligible for incorporation into the Town based on these criteria. At such time as public water and sewer rates in the Town and County are equalized for each category of customer, the Town may incorporate all parcels in the Phase II Areas not already incorporated into the Town. In addition, ten years after the effective date of town status, the Town may incorporate all parcels in the Phase II Areas not already incorporated into the Town without meeting any other requirement.

10. Procedure for Phase II Boundary Adjustments. The Town may incorporate one or more eligible portions of the Phase II Areas by adopting one or more boundary adjustment ordinances, which shall be implemented without review by the Commission or action by any court. The Agreement specifies certain preconditions to the adoption of such an ordinance, including the holding of an advertised public hearing under certain circumstances, written notice to the County of the Town's intention to adopt such an ordinance, and a written notice by the County to the Town stating whether the County has any objection to the proposal. The Agreement also specifies the means of resolving any such dispute as to the eligibility of any area designated by the Town for incorporation.

11. Phase III Boundary Adjustments. Following the transition to town status, the Town may incorporate additional territory (the "Phase III areas") if such areas satisfy certain eligibility criteria. The Phase III Areas include about 2,056 acres of land, and the boundaries of the Phase III areas are described by metes and bounds attached to the Agreement. A map attached to the Agreement depicts each of the seven Phase III areas, which generally include single-family residences on parcels of one acre or more in size and tracts of vacant land.

12. Eligibility Criteria for Phase III Boundary Adjustments. In general, the Town may not incorporate any portion of the Phase III Areas unless and until the parties have executed an agreement to consolidate their water and sewer systems and to create a new regional authority. If such a utility consolidation agreement has been executed, then the Town may incorporate any portions of the Phase III Areas after the effective date of town status if the areas are contiguous to the Town boundaries, have a width of at least 500 feet at the existing boundary, and if the area designated by the Town is urban or urbanizing in character based on any one of three standards: (a) the area has parcels with an average size of three acres or less; (b) the area has a density of at least two or more dwellings per acre; or (c) the area includes parcels used wholly or in part for commercial or industrial uses. In addition, the Town may incorporate the remaining portions of each of the Phase III Areas if 60 percent of the remaining parcels, as measured by number and not area, have been developed as specified in the Agreement.

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13. Procedure for Phase III Boundary Adjustments. The Town may incorporate one or more eligible portions of the Phase III Areas by adopting one or more boundary adjustment ordinances, which shall be implemented without review by the Commission or action by any court. The Agreement also specifies certain preconditions to the adoption of such an ordinance that are similar to those applicable to the Phase II Areas.

14. Zoning of Phase II and Phase III Areas. Prior to the effective date of town status, the County shall amend its zoning and subdivision ordinances to provide for an overlay district applicable to all portions of the Phase II Areas and Phase III Areas. The overlay district must provide that all major subdivisions, as defined in the Agreement, that are recorded after the effective date of town status must substantially comply with the same standards for streets, curb and gutter, sidewalks, and street lights as were applicable under County ordinances, as of December 31, 2010, to multifamily and townhouse developments or to other types of development with a density of greater than three units per acre, with the County to apply the most stringent requirements. Such standards would stay in effect until revised standards were approved by both the County Board of Supervisors and the Town Council or until the incorporation of such areas into the Town.

15. City Zoning Provisions. No later than the effective date of town status, the City shall amend its R-1 zoning district provisions to change the minimum lot size to 10,000 square feet for lots with public sewage disposal and shall retain such minimum lot size for ten years.

16. Use Value Assessment and Taxation. Following the transition to town status, the Town will adopt the same use value assessment and taxation ordinance as the County.

17. Waiver of Annexation Rights. The Agreement provides that, for a period of five years after the effective date of the Phase I boundary adjustment, the Town waives its right to initiate any annexation proceedings, except as provided in the Agreement. The waiver will extend for an additional ten years if the City or Town, the County, and the County Service Authority execute an agreement to consolidate their water and sewer systems and to create a new regional authority. In any annexation proceeding initiated by voters or property owners, the Town will not provide any legal or engineering assistance, financial aid, or other assistance to such voters or property owners.

18. Special Court Approval. The City and the County shall undertake the steps required by Virginia law to obtain approval of the Agreement by a special court appointed for that purpose. If the Agreement is not affirmed as written, the Agreement shall immediately terminate unless the parties mutually agree to any modifications.

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19. Miscellaneous Provisions. The Agreement also provides for the transfer to County constitutional officers of all necessary records maintained by the City's constitutional officers; for the repeal of the 1998 Joint Economic Development and Growth Sharing Agreement between the City and the County; for a method of enforcing the obligations in the Agreement; and for a process by which the Agreement may be amended or supplemented in the future. The Agreement also makes its provisions binding on future governing bodies, including the Town, and proposes an effective date of July 1, 2013 for the City's transition to town status.

The foregoing description is only a summary and anyone wishing to review the detailed terms and conditions of the Agreement should refer to the full text and exhibits thereto. A copy of the Agreement is on file and will be made available for inspection in (i) the Clerk's Office of the Circuit Court of Bedford County located on the third floor of the Courthouse Building at 123 East Main Street in the City of Bedford, Virginia and (ii) in the City Manager's office located on the first floor of the Municipal Building located at 215 East Main Street in the City of Bedford, Virginia.

CHARLES P. KOLAKOWSKI, CITY MANAGER

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

The following individuals spoke:

- Mike Linkous, 1202 Pinecrest Avenue, owner of Linkous Christian Tours, expressed his concern that will he have to pay personal property taxes in both the City and the County if the City reverts to town status. Mr. Linkous said if he has to pay double taxes, he would move his business elsewhere.
- Franklin Edward Harmony, III, 516 Longwood Avenue, stated he was concerned about the following: 1) water and sewer being consolidated into one water authority and how repairs will be prioritized; 2) garbage pickup – the town will have to provide that service to the County residents who become part of the town – will more people be hired, will there be an additional day of pickup added, will that put a burden on the current employees; 3) Police services – there will be increased cost for service; there will also be an increased response time if responding from further away than before; will the town or the county be responsible for animal control; 4) will taxes be increased.

As there were no more comments, the Mayor closed the public hearing at 7:07 p.m.

City Manager Kolakowski said the Virginia Commission on Local Government on May 14-15, 2012, met here in Bedford, and after a public hearing began deliberations to consider the "Voluntary Settlement of Transition to Town Status and Other Related Issues between the City of Bedford and the County of Bedford." In its report, dated July

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12, 2012, the Commission recommended that the Court approve the Agreement. The Commission found that the proposed Agreement promotes the viability of both local governments and is consistent with the best interests of the Commonwealth. The Commission commended the officials of the two jurisdictions for their public leadership, for the inter-local agreement which they have negotiated, and for putting the needs of their citizens ahead of personal and political gain.

Mr. Kolakowski explained that the Commission did recommend minor clarifications of two sections dealing with the Phase III boundary adjustment area, and the parties subsequently modified the Agreement to address these issues. The two parties have notified the public by appropriate newspaper advertisements as required by law that the governing bodies would hold appropriate public hearings upon consideration of final adoption of the Agreement as modified. After the advertisements were published, the County Attorney called the parties' attention to the fact that there were three erroneous references to the number of Phase III boundary adjustment areas, referring to them as six or seven rather than the correct number of eight. Mr. Kolakowski said the Agreement to be considered for approval has been modified to correct these typographical errors. An ordinance to adopt the Voluntary Settlement Agreement and to authorize its filing with the Court has been posted in accordance with the City Code. The City Manager recommended that Council make a motion to adopt the ordinance as modified.

Vice Mayor Wandrei moved for the adoption of the Voluntary Settlement Agreement as advertised and amended. The motion was seconded by Councilman Vest.

City Attorney Berry asked that the motion specifically approve adoption of the ordinance that authorizes those actions.

Vice Mayor Wandrei amended his motion to say that the ordinance be adopted to approve the Voluntary Settlement Agreement as advertised and amended. Councilman Vest, who seconded the motion, concurred with the amendment to the motion.

Vice Mayor Wandrei spoke about the success of the sub-committees of City Council and the County Board of Supervisors working together on the Voluntary Settlement Agreement during the past three and a half years for an agreement that would be fair to both sides. Mr. Wandrei said adoption of the ordinance indicates how much effort was done by both the governing body of the County of Bedford and also by City Council.

Councilman Vest reviewed the process of the negotiations between the City and County which began in 2009. He said that both the staffs and governing bodies worked hard to develop an agreement that was fair to both the City and the County. Councilman Vest said the town and county will prosper from this agreement: one school system, improved economic development, consolidated water systems, reduction in duplicated services.

Councilman Murray said that as a life-long member of the Bedford community he felt it was in the best interests that this process goes forward.

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Councilwoman Flood said that the decision to move from the city to a town status was something that no one on Council took lightly. Mrs. Flood said she concluded that the positives from the reversion would much outweigh any potential negative outcomes.

Councilman Rush said he thought the reversion will definitely enhance the community's economic development opportunities, and eliminating the duplication of services will be a savings to the tax payer.

Councilman Stanley said he sees the reversion as a win-win situation. He said it will promote economic growth for the city/town and county and reduce duplication of services. He said the reversion addresses funding for the school system.

Mayor Tharp spoke about the positives the reversion will have: school system, economic development, and the unified water system with the County will allow the town to grow.

Mayor Tharp asked the City Manager to address the question about taxes posed at the public hearing.

The City Manager explained that the financial analysis that has been done and the plans and proposals that have been put forth regarding personal property taxes have envisioned there will not be double taxation on the personal property tax level. Mr. Kolakowski said that while it can be said now that the plan and the proposal to have the personal property tax stay the same or be lower, any future Council can increase/decrease taxes on anything and everything.

City Manager Kolakowski addressed the question asked in the public hearing about water and sewer: it is felt that the consolidation will provide better backup for the entire system and the ability to combine and have better levels of equipment, better levels of training, better levels of staffing which will enable the service to be the same and/or better.

The City Manager addressed the question asked in the public hearing about trash pickup: trash pickup is a fee for service; as the system is expanded there will be additional fees to cover additional expenses for that service; the initial Phase I is fairly large in size but the number of residential customers is fairly small – estimating an additional 5% increase in residential customers. Mr. Kolakowski said that Phase II, in 10 years will have to be considered very carefully.

City Manager Kolakowski said that the Police Department is one area that significant discussions have been held internally and with the Commission and will be monitored very carefully as far as the number of responses. Mr. Kolakowski said that Phase I is the current revenue sharing area and Phase II is a larger expansion of the service area for police and other services and will require careful analysis by future councils on how those services will be provided.

The City Manager said that on routine matters of animal control, as County residents, the town will be able to avail itself of the County animal control services and the animal shelter will no longer charge the town per animal. Mr. Kolakowski said for immediate

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response, such as a dog at large, a vicious dog, or a serious issue with an animal, using the town's own personnel would be considered if need be.

City Manager Kolakowski said that as far as taxes go, it is certainly the intent of Council to work to provide a lower tax level – real estate, personal property for commercial entities within the town. He stated that a financial analysis done for the City and also by the Commission shows that there will be financial benefits to the town, which will enable the town to work to lower various taxes for businesses and residents. Mr. Kolakowski said that without reversion it would be extremely difficult not to see taxes going up or significant reductions in services. He said it was reported in the newspaper that the local sales tax revenue for the City declined six percent last year. He reported the financial incentives provided by the State and the financial incentives negotiated with the agreement will enable the Council to work to provide lower taxes and also to maintain those levels of services which make being part of the “World’s Best Little Town” important.

The amended motion to adopt the Voluntary Settlement Agreement as advertised and amended was then voted upon and carried unanimously by a roll call vote as follows:

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

The ordinance follows as adopted:

**ORDINANCE NO. 12-10**

**AN ORDINANCE TO ADOPT A VOLUNTARY SETTLEMENT AGREEMENT AND TO AUTHORIZE THE FILING OF A PETITION IN THE CIRCUIT COURT OF BEDFORD COUNTY FOR AN ORDER ESTABLISHING THE RIGHTS OF THE LOCALITIES AS SET FORTH UNDER THE TERMS OF SUCH AGREEMENT, PURSUANT TO SECTION 15.2-3400 OF THE CODE OF VIRGINIA (1950), AS AMENDED.**

WHEREAS, in September 2011, the City of Bedford (the “City”) and the County of Bedford (the “County”) approved a Voluntary Settlement of Transition to Town Status and Other Related Issues between the City of Bedford and the County of Bedford (the “Original Agreement”), which constituted a proposed voluntary settlement agreement as authorized by Section 15.2-3400 of the Code of Virginia (1950), as amended; and

WHEREAS, in March 2012, the City and the County submitted the Original Agreement to the Commission on Local Government (the “Commission”), which thereafter conducted a hearing as required by law

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and which issued its findings and recommendations in a Report dated July 2012; and

WHEREAS, Section 15.2-3400 of the Code of Virginia (1950), as amended, requires the City and the County, subsequent to the Commission's review, to approve the original or a modified version of the Original Agreement by an ordinance passed by a recorded vote of a majority of the members of each governing body after a duly advertised public hearing, and thereafter to petition the Circuit Court of Bedford County for an order affirming the voluntary settlement and establishing the rights of the localities under the terms of the voluntary settlement; and,

WHEREAS, the City and the County now propose to enter into a modified version of the Original Agreement (the "Modified Agreement"), which provides for the transition of the City to town status within the County, for the transfer of certain City facilities to the County, for the immediate annexation to the new Town of approximately 1,200 acres of territory; for the potential annexation of additional areas to the Town in the future if certain eligibility criteria are met; for the waiver of certain annexation rights; for the proposed merger of the water and wastewater systems of the City and the Bedford County Public Service Authority; and for other terms and conditions.

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

1. The City Council, by this Ordinance, approves and adopts the Modified Agreement, a copy of which is attached hereto, and hereby authorizes and directs its Mayor to execute the Modified Agreement on behalf of the City.

2. The City Council hereby authorizes the City Manager and the Town's legal counsel to petition the Circuit Court of Bedford County for an order, pursuant to Section 15.2-3400 of the Code of Virginia, affirming and validating the Modified Agreement and establishing the rights of each locality as set forth under the terms of the Modified Agreement.

3. The City Manager and the City's legal counsel shall take all other actions as may be needed to obtain the necessary Court approval of the Modified Agreement.

4. This Ordinance shall be in full force and effect on the date of its adoption.

***The Modified Voluntary Settlement of Transition to Town Status and Other Related Issues between the City of Bedford and the County of Bedford Agreement will be included in the permanent minute book.***

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Mayor Tharp adjourned the meeting at 7:26 p.m.