

December 11, 2012

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 11, 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 November 27, 2012, were approved as distributed.

City Manager Kolakowski reported on the following:

- on the agenda: a public hearing scheduled for later in the meeting regarding the proposed new Charter for the Town of Bedford; a public presentation from Sergei Troubetzkoy on the tourism program in the Bedford area; and several resolutions on proposed legislation concerning the reversion process
- encouraged every one to continue patronizing the local businesses – there are a number of new businesses in town

Councilman Vest asked about the status of the water level at the Stoney Creek Reservoir.

The City Manager reported that the reservoir is at full pond and the level actually went up this week. The entire surrounding area has been put on a drought watch.

Councilman Vest, Chairman of the Finance Committee, reported the Committee met earlier in the evening and the financials continue to be on track.

Mayor Tharp said the meeting will be adjourned until December 18 at 10:30 a.m.

Mayor Tharp opened the public hearing concerning the Charter for the town of Bedford at 7:05 p.m.

The Notice of Public Hearing follows:

**NOTICE OF PUBLIC HEARING  
ON THE ADOPTION OF A CHARTER FOR THE  
TOWN OF BEDFORD, VIRGINIA**

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A public hearing will be held by the City Council of the City of Bedford, Virginia on December 11, 2012 at 7:00 p.m. at the Council Chambers for the purpose of receiving public comment on a proposal to request that the General Assembly grant a Town Charter which will become effective with the transition of the City to Town status on July 1, 2013. Effective with the transition to Town status the boundaries of the new Town will be expanded to incorporate approximately 1,200 additional acres. Rather than having a special court conform the city charter to a town charter, the City Council will request that the Virginia General Assembly grant a new charter for the Town of Bedford. The proposed charter makes very few substantive changes to the existing city charter other than the deletion of sections dealing with various offices [constitutional officers, for example] and functions [department of health, schools, courts] that are not customarily provided by Virginia towns. The charter will include the following sections:

Section 1: Incorporation

Section 2: Corporate Boundaries

Section 3: Powers to include the authority to levy certain taxes and operate an electric utility.

Sections 4 through 15: These sections provide for the election and organization of the Town Council.

Section 16: Council Clerk

Sections 17 through 20: Ordinances These sections detail the manner in which ordinances are adopted by Town Council.

Sections 21 through 25: Town Manager These sections detail the appointment process and authority of the Town Manager.

Sections 26 through 30: Financial Administration These sections detail budget processes and financial administrative authority.

Section 31: Town Attorney

Additional sections provide for the continuance of current contracts, ordinances, organizations, and officials upon transition and until they are amended, repealed or terminated.

A copy of the proposed charter is available at the Office of the Clerk of the City Council, City of Bedford located at the City Managers Office at 215 East Main Street, Bedford, Virginia.

The City Council will vote after the public hearing on approval of a request to have the General Assembly grant the proposed charter for the Town of Bedford, Virginia. All citizens are invited to attend and state their view thereon.

City Council of the City of Bedford, Virginia

As there were no comments, the Mayor adjourned the public hearing at 7:05 p.m.

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The Consent Agenda consisted of the following item: Appointment of Bruce Johannessen to the Joint City/County Economic Development Authority for a four-year term on the Authority, said term to expire February 1, 2017.

On motion by Vice Mayor Wandrei, seconded by Councilman Murray, voted upon and carried unanimously by a roll call vote, Council accepted the Consent Agenda as presented. Roll call vote follows:

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

Mr. Sergei Troubetzkoy, Bedford Area Welcome Center, reviewed highlights of a report given to members of Council regarding activities, tourism, and festivals.

Councilman Rush moved that Council adjourn into closed session pursuant to Section 2.2-3711(a)(1), personnel, of the Code of Virginia of 1950, as amended,. Councilman Stanley seconded the motion. The motion was voted upon and carried by the following roll call vote:

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

Council adjourned into closed session at 7:15 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 7:25 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 Rush, 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

The City Manager reported that with the formation of the Bedford Regional Water Authority, City Council is requested to appoint three directors to the Authority and will approve the terms. The three members will be appointed to a two-year term, a three-year term and a four-year term respectively.

On motion by Councilman Vest, seconded by Councilman Murray, voted upon and carried unanimously, Council adopted the resolution appointing three members to the Bedford Regional Water Authority. 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

The resolution follows as adopted:

**IN THE CITY COUNCIL OF THE CITY OF BEDFORD, VIRGINIA,**

The 11 day of December, 2012

**A RESOLUTION APPOINTING THREE MEMBERS TO THE  
BEDFORD REGIONAL WATER AUTHORITY**

**WHEREAS**, the Board of Supervisors of the County of Bedford, Virginia (“Bedford County”), the Board of Directors of the Bedford County Public Service Authority (the “BCPSA”) and the City Council of the City of Bedford, Virginia (“City”) have determined that it is in the best interests of the citizens and water and sewer utility customers of their jurisdictions to convey their respective sewer and water utility assets and liabilities related to water and wastewater treatment to the Bedford Regional Water Authority (“Authority”) to be formed pursuant to the provisions of the Virginia Water and Waste Authorities Act, Chapter 51, Title 15.2 of the Code of Virginia, as amended; and

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**WHEREAS**, the parties have set forth their agreements in a Consolidation Agreement dated October 31, 2012, and an Amendment thereto dated November 14, 2012 (the “Consolidation Agreement as Amended”); and

**WHEREAS**, the Board of Supervisors, on behalf of Bedford County, at a duly called meeting on November 14, 2012 by resolution duly enacted approved execution of the Consolidation Agreement as Amended and appointed three members to the initial Board of Directors of the Authority; and

**WHEREAS**, the Board of Directors of the BCPSA, at a duly called meeting on November 20, 2012 by resolution duly enacted approved execution of the Consolidation Agreement as Amended; and

**WHEREAS**, the City Council at a duly called meeting on November 27, 2012 by resolution duly enacted approved execution of the Consolidation Agreement as Amended; and

**WHEREAS**, pursuant to the Consolidation Agreement as Amended, and the terms of the proposed Articles of Incorporation of the Authority, the City Council is authorized to appoint three members to the Board of Directors of the Authority:

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Bedford:

1. The following three persons are appointed to be the initial members of the Board of Directors of the Bedford Regional Water Authority Board for terms as set forth below:

<b>Name</b>	<b>Address</b>	<b>Term of Office</b>
Walter Siehien	118 Center Street	12/01/12-12/31/14
Michael C. Moldenhauer	617 Westview Avenue	12/01/12-12/31/15
Elmer C. Hodge, Jr.	1530 Nichols Road	12/01/12-12/31/16

2. This Resolution shall take effect immediately upon its adoption.

City Manager Kolakowski said the three-judge court designated by the Virginia Supreme Court will hear the Petition for approval of the Voluntary Settlement Agreement on December 18, 2012. The special court can include in its order a provision “conforming the city charter to a town charter.” However, such a provision would be only an interim arrangement until the General Assembly grants a new charter. Therefore, the City Council would like to secure a town charter to be effective on the same day as its transition to town status. The City Council has scheduled a public hearing on December 11, 2012 to consider the proposed charter.

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The City Manager said the draft charter makes very few substantive changes to the existing city charter other than the deletion of sections dealing with various offices (for example, constitutional officers) and functions (for example, department of health, schools, courts) that are not customarily provided by Virginia towns. Mr. Kolakowski said that Council was requested to adopt the Resolution requesting the General Assembly to Grant a Charter for the new Town of Bedford.

On motion by Councilman Murray, seconded by Councilman Rush, voted upon and carried unanimously by a roll call vote, Council adopted the resolution regarding the Charter for the new Town of Bedford. 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	aye

The resolution follows as adopted:

**IN THE CITY COUNCIL OF THE CITY OF BEDFORD, VIRGINIA,**  
The 11th day of December 2012

**A RESOLUTION REQUESTING THE GENERAL ASSEMBLY  
TO GRANT A CHARTER FOR THE NEW TOWN OF BEDFORD**

**WHEREAS,** the City of Bedford and Bedford County have entered into a Voluntary Settlement Agreement dated August \_\_, 2012, which was approved by Resolution adopted at the Board of Supervisors of Bedford County on August 13, 2012 and by an Ordinance adopted at a meeting of the City Council of the City of Bedford on August 14, 2012; and

**WHEREAS,** upon approval of the Voluntary Settlement Agreement by a three judge court which is scheduled to review the matter on December 18, 2012, the Voluntary Settlement Agreement will become effective and the City of Bedford, on the proposed effective date of July 1, 2013, shall become a town within Bedford County; and

**WHEREAS,** under state legislation, the three judge court will enter an order conforming the City Charter to a Town Charter subject to a town charter being granted by the General Assembly; and

**WHEREAS,** the City Council deems it advisable to have a new charter issued for the Town of Bedford; and

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**WHEREAS**, a public hearing upon the request for a new charter has been held by the City Council on December 11, 2012, after notice thereof and an informative summary of the new charter had been advertised in a newspaper of general circulation in the City of Bedford at least 10 days prior such hearing;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Bedford that the City Manager is authorized on behalf of the City to request the General Assembly to grant a new charter for the Town of Bedford to take effect upon the transition of the City to town status pursuant to the Voluntary Settlement Agreement dated August \_\_ 2012.

City Manager Kolakowski reported the City-to-town transition law requires that a special election be held at least 30 days before the effective date of town status for all members of the new Town Council, who will then take office on the day that the transition takes effect. In addition, the voluntary settlement law requires that a special election be held during the first November (or May) after an annexation of territory occurs, if the expanded territory will increase the municipality's population by more than 5%. Based on the estimate of the population of the area to be incorporated into the new Town of Bedford, the annexation may in fact increase the Town's population by more than 5%. The City Council is concerned that this number of elections within a two-year period will be unduly confusing, expensive, and disruptive to the operation of the new Town of Bedford.

The City Manager said the legislative purpose of a post-annexation special election is to afford the new residents of the Town - who are incorporated by an annexation - an opportunity to participate in the election of the members of their governing body no later than about ten months after becoming part of the Town. Otherwise, in some cases, a new resident might have to wait almost three or four years because of the timing of a particular town's elections. Here, a regular election for the Council of the Town of Bedford is scheduled in November, 2014, which will be 16 months after the effective date of the annexation. Therefore, the City Council seeks special legislation that would permit it to delay the special election after annexation by an additional 6 months to coincide with that general election. The legislation calls for a door-to-door census to be conducted during the first month after the effective date of transition.

Mr. Kolakowski said that Council was requested to adopt the Resolution requesting the General Assembly for Special Legislation concerning details of a possible Election of Town Council as a result of increased population.

Councilman Stanley moved that Council adopt the resolution. Councilman Rush seconded the motion.

Councilman Vest asked about the wording of the resolution.

City Attorney Berry said that a draft of the legislation that has been proposed has been given to Senator Newman and Delegate Putney and forwarded to the Legislative Services

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Agency. Mr. Berry said that Council will be notified as soon as the staff sees what is proposed.

Councilman Rush asked if the Board of Supervisors will also hold an election in November 2014. Mr. Kolakowski said that the Board will not have a Supervisors election in 2014.

Discussion ensued regarding the County's magisterial districts.

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

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

The resolution follows as adopted:

**IN THE CITY COUNCIL OF THE CITY OF BEDFORD, VIRGINIA,**  
The 11th day of December 2012

**A RESOLUTION REQUESTING THE GENERAL ASSEMBLY  
TO ENACT SPECIAL LEGISLATION CONCERNING DETAILS  
OF POSSIBLE ELECTION OF TOWN COUNCIL UPON  
TRANSITION TO TOWN STATUS  
AS A RESULT OF INCREASED POPULATION**

**BE IT RESOLVED**, by the City Council of the City of Bedford that the City Manger is hereby authorized, on behalf of the City of Bedford, to request the General Assembly to enact special legislation providing there shall be a special election to be held in November 2014 for members of the town council if the incorporation of additional territory into the town, effective July 1, 2013, as part of the Voluntary Settlement Agreement results in an increase of more than 5 percent of the total population of the Town, the determination of the increase in population to be made by the Town by July 31, 2013, by completing a house to house census of the inhabitants of the territory incorporating into the Town as of July 1, 2013.

City Manager Kolakowski said the city-to-town transition law in the Code of Virginia does not contain any provisions governing the initial assessment and taxation of real estate once a city becomes part of a county. The county Commissioner of the Revenue has questioned whether she has authority to use the assessments previously made by the City Commissioner of the Revenue, especially where new Town residents will not be part

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of the County on January 1, 2013, the tax day for the 2013 tax year. And, questions have been raised as to what assessments the Town will use for its 2013-14 tax year, which will begin on July 1, 2013. (The City has elected to use a so-called “fiscal year tax year”).

The City Manager said that for those reasons, the City Council and the County Board of Supervisors seek special legislation (i) that would confirm that the County Commissioner of the Revenue can use -- for the real property in the Town of Bedford -- those assessments previously made by the City Commissioner of the Revenue (for County and Town taxation purposes) until such time as the County Commission undertakes her own assessments and (ii) that would confirm that the County can impose real property taxes for a short tax year from July 1, 2013 to December 31, 2013 and that the Town can impose real property taxes for its 2013-14 tax year based on previously existing assessments. Mr. Kolakowski said that Council was requested to adopt the Resolution requesting the General Assembly for Special Legislation concerning Assessments and Taxation of Real Property.

Mr. Kolakowski said that both Senator Newman and Delegate Putney have agreed to sponsor all three pieces of legislation and have given much assistance.

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

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:

**IN THE CITY COUNCIL OF THE CITY OF BEDFORD, VIRGINIA,**  
The 11th day of December 2012

**A RESOLUTION REQUESTING THE GENERAL ASSEMBLY  
TO ENACT SPECIAL LEGISLATION CONCERNING  
ASSESSMENTS AND TAXATION OF REAL PROPERTY  
UPON TRANSITION OF THE CITY OF BEDFORD  
TO TOWN STATUS**

**BE IT RESOLVED** by the City Council of the City of Bedford that the City Manager is hereby authorized, on behalf of the City of Bedford, to request that the General Assembly enact special legislation to

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take effect upon the transition of the City of Bedford to town status that (1) would confirm that the County Commissioner of the Revenue can use, for the real property in the new Town of Bedford, those assessments previously made by the City Commissioner of the Revenue (for County and Town tax purposes) until such time as the County Commissioner undertakes her own assessments and (2) that would confirm that the county can impose real property taxes for a short tax year from July 1, 2013, to December 31, 2013, and that the Town can impose real property taxes for its 2014 tax year base on previously existing assessments.

Mayor Tharp adjourned the meeting at 7:28 p.m. until December 18, 2012, at 10:30 a.m.