

July 9, 2013

A regular meeting of the Council of the Town of Bedford, Virginia, was held in the Council Hall of the Municipal Building at 7:00 p.m., July 9, 2013.

Members present: Mayor Robert T Wandrei; Councilman Robert D. Carson; Councilman Stacey L. Hailey; Councilman Steve C. Rush; Councilman C. G. Stanley, Jr.; Councilman W. D. Tharp; and Vice Mayor James A. Vest

Members absent: None

Staff present: Town Manager Charles P. Kolakowski; Town Attorney W. W. Berry, IV; and Clerk of the Council Teresa W. Hatcher

Mayor Wandrei opened the meeting and led all present in saying the Pledge of Allegiance to the Flag.

Mayor Wandrei declared that the minutes of a regular Council meeting held on June 25, 2013, were approved as distributed.

Town Manager Kolakowski reported on the following:

- The first week as a Town has passed and things are still functioning – the staff is dealing with issues as they come up, so far of a relatively minor nature, and the day to day activities of the Town are moving forward.
- July 12th is “Second Fridays” and there is a whole list of activities going on in the downtown area

Mayor Wandrei reported that there is a sign in the parking lot behind the County Administration Building that has been hit and is slowly falling down.

The Mayor asked members of Council to dress in a coat and tie at the next meeting as a picture of the entire Council will be taken.

The Town Manager stated that Bedford Main Street, Inc. is sponsoring Cruzin Downtown Bedford on July 20, 2013, from 3:00 p.m. until 9:00 p.m. and is requesting that Council authorize the closing of the following streets for the event: Main Street between Ballard Street and South Street; Bridge Street from the American National Bank parking lot to Washington Street; South Street to Washington Street; Center Street to Washington Street; Depot Street from Market Square to the east side of the intersection with Bridge Street; and Market Square between Depot and Main..

On motion by Councilman Rush, seconded by Vice Mayor Vest, voted upon and carried unanimously, Council adopted the Consent Agenda.

Mayor Wandrei reported there were three revisions to the agenda: Ordinance – Providing for Special Land Use Assessment of Real Estate Devoted to Agricultural or Horticultural or Forest Uses; Approval of Lease of Middle School to Bedford County; and a Closed Session concerning personnel.

July 9, 2013

Town Manager Kolakowski said the Town's written position on Equal Opportunity needs to be updated on a regular basis. When approved by Council, the signed written statement is posted on the Town's Legal Posting Board in the Municipal Building.

On motion by Councilman Stanley, seconded by Councilman Hailey, voted upon and carried unanimously by a roll call vote, Council adopted the Town of Bedford Equal Opportunity Employer Statement. Roll call vote follows:

Councilman Carson	aye
Councilman Hailey	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Tharp	aye
Vice Mayor Vest	aye
Mayor Wandrei	aye

The Statement follows as adopted:

Town of Bedford Equal Opportunity Employer Statement

The Town of Bedford is an Equal Opportunity Employer, and hereby affirms that it is the policy of the Town to maintain and promote equal opportunity and diversity for all employees, applicants for employment and contractors in accordance with the relevant federal and State Laws.

The Town will not discriminate on the basis of race, religion, color, national origin, sex, age, disability, marital status, veteran status, sexual orientation, ancestry, or citizenship status.

In support of a diverse workforce, decisions as to hiring, promotion and other aspects of the employment relationship will be based solely upon job related qualifications.

The Town will not tolerate any kind of harassment of employees or retaliation against an employee who brings a complaint forward. Allegations of harassment will be taken seriously, promptly investigated, and appropriate action taken depending on the severity of the situation.

Town Manager Kolakowski said as part of a Voluntary Settlement Agreement between the City of Bedford and Bedford County, some of the parcels of property that came into the jurisdiction of the Town under the Phase I boundary adjustment areas, included tracts of land which were taxed by Bedford County under a special land use assessment provision for agricultural, horticultural or forest uses. The City of Bedford had no such provision in its tax ordinances. However the parties agreed in Section 7-2 E by the Voluntary Settlement Agreement follows:

July 9, 2013

“Promptly following its transition to Town status, the City agrees that the Town will adopt the same use value assessment and taxation ordinance as the County, which will be applicable to areas within the then existing Town and in any area that subsequently will be incorporated into its boundaries”

Town Manager Kolakowski said that although applications under the Bedford County ordinance are required to be filed with the Commissioner of the Revenue prior to November 1 for the next calendar year, the City and County obtained special legislation from the 2013 Legislature that allows property owners within the Town of Bedford to submit applications no later than August 1, 2013 for the short tax year beginning July 1, 2013 through December 31, 2013. This applies both to the Bedford County tax and to the Town of Bedford property tax that will be due on December 5, 2013. The State legislation required that the Town of Bedford adopt on or before July 15, 2013 an ordinance providing for use value assessment and taxation.

The Town Manager stated that the ordinance tracks the language of the County ordinance except for the provision for filing of applications on August 1, 2013. The ordinance includes an emergency provision waiving the requirement for posting due to the lack of time after July 1 to enact an ordinance by July 15. Mr. Kolakowski requested that the Council, by proper vote, adopt the proposed ordinance prepared by the Town Attorney.

Councilman Rush moved that the ordinance be adopted. The motion was seconded by Councilman Stanley.

After a brief discussion, the motion was voted upon and carried unanimously by the following roll call vote:

Councilman Hailey	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Tharp	aye
Vice Mayor Vest	aye
Councilman Carson	aye
Mayor Wandrei	aye

The ordinance follows as adopted:

ORDINANCE NO. 13-19

**ORDINANCE PROVIDING FOR SPECIAL
LAND USE ASSESSMENT OF REAL ESTATE DEVOTED TO
AGRICULTURAL OR HORTICULTURAL OR FOREST USES.**

July 9, 2013

Section 1: Chapter 54 (Taxation), Article II (Real Estate Taxation) of the Town Code is amended by adding a new Division 4 as follows:

DIVISION 4 - ASSESSMENT OF REAL ESTATE DEVOTED TO AGRICULTURAL OR HORTICULTURAL OR FOREST USES.

Sec. 54-71. Findings of fact.

The Town Council finds that the preservation of real estate devoted to agricultural, horticultural, and forests uses within the Town is in the public interest and, having heretofore adopted a land-use plan, hereby ordains that such real estate shall be taxed in accordance with the provisions of Code of Virginia, article 1.1 of chapter 15 of title 58.1 (§ 58.1-3229 et seq.), of and of this article.

Sec. 54.72. Application for classification and assessment generally.

(a) The owner of any real estate meeting the criteria set forth in Code of Virginia, §§ 58.1-3230 and 58.1-3233 may, on or before November 1 of any year, make an application to the Bedford County Commissioner of Revenue for the classification, assessment and taxation of such property for the next succeeding year on the basis of its use, under the procedures set forth in Code of Virginia, § 58.1-3233. Such application shall be on forms provided by the state department of taxation and supplied by the commissioner of revenue and shall include such schedules, photographs and drawings as may be required by the commissioner of revenue. Applications shall be filed annually, on or before November 1 of each year, if special assessment is desired to be continued. However, upon the payment of a late filing fee at the rate of twenty-five cents (\$0.25) per acre on the total acreage, with a minimum charge of twenty-five dollars (\$25.00) an owner may file an application within no more than sixty (60) days after the filing deadline specified herein. Applications for land use value assessments for the short tax year July 1, 2013 through December 31, 2013 shall be filed with the Bedford County Commissioner of the Revenue no later than August 1, 2013.

(b) In any year in which a general reassessment is being made, a property owner may submit the application provided for in this section by November 1 or within thirty (30) days of the mailing of his notice of increase in assessment, whichever is later.

(c) A separate application shall be filed under this section for each parcel on the land book. An application shall also be submitted whenever the use or acreage of land previously approved changes.

(d) An application fee at the rate of fifteen cents (\$0.15) per acre on the total acreage, with a minimum fee of fifteen dollars (\$15.00) per individual owner, shall be paid to the treasurer of the county for each application filed under this section. Upon the payment of such application fee, together with the payment of a late filing fee to the treasurer, at the rate of twenty-five cents (\$0.25) per acre on the total acreage, with a minimum charge of twenty-five dollars (\$25.00), an owner may file a late application within no more than sixty (60) days after the filing deadline specified in this section.

These fees may be changed from time to time by resolution of the Town Council.

Sec. 54-73. Revalidation of previously approved applications.

Any previously approved application filed under section 17-36 shall be revalidated annually. The owner shall, on or before December 5 of each year, file a request for revalidation of his application on forms provided by the commissioner of revenue. There shall be a revalidation fee at the rate of fifteen cents (\$0.15) per acre on the total acreage, with a minimum fee of fifteen dollars (\$15.00) per individual owner, which fee shall be charged for revalidation for the 1983 tax year and at six-year intervals thereafter, and which shall be paid to the treasurer of the county. However, upon the payment of a late filing fee to the treasurer, at the rate of twenty-five cents (\$0.25) per acre on the total acreage, with a minimum charge of twenty-five dollars (\$25.00), an owner may file a late revalidation request after December 5, but prior to December 31. For the years in which a revalidation fee is due, this late filing fee shall be in addition to the revalidation fee. These fees may be changed from time to time by resolution of the Town Council.

Sec. 54-74. Determinations by commissioner of revenue.

- (a) Promptly upon receipt of any application under this article, the commissioner of revenue shall determine whether the subject property meets the criteria for use value assessment and taxation under this article, subject to the provisions of the Code of Virginia §§58.1-3230 and 58.1-3233. If the commissioner of revenue determines that the subject property does not meet such criteria, the commissioner shall determine the value of such property for its qualifying use as well as its fair market value.
- (b) Minimum acreage requirements:
 - (1) Real estate devoted to agricultural or horticultural use shall consist of a minimum of five (5) acres.
 - (2) Real estate devoted to forest use shall consist of a minimum of twenty (20) acres.
 - (3) The foregoing requirements for minimum acreage shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots titled in the same ownership. For purposes of this section, properties separated only by a public right-of-way are considered contiguous.
- (c) If the Bedford County Commissioner of Revenue determines that the property does meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value. If the

July 9, 2013

commissioner of revenue determines that the property does not meet such criteria, he shall deny the application and notify the applicant of the denial in writing.

- (d) In determining whether the subject property meets the criteria for "agricultural use" or "horticultural use" the Bedford County Commissioner of Revenue may request an opinion from the commissioner of agricultural and consumer services; in determining whether the subject property meets the criteria for "forest use" he may request an opinion from the state forester. Upon the refusal of the commissioner of agriculture and consumer services, the state forester or the director of the department of conservation and recreation to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the respective director, the party aggrieved may seek relief from the Circuit Court of Bedford County. If the court finds in his favor it may issue an order, which shall serve in lieu of an opinion for the purposes of this article.

Sec. 54-75. Land book entries; tax to be extended from use value.

The use value and fair market value of any property qualifying under this article shall be placed on the land book before delivery to the county treasurer and the tax for the next succeeding tax year shall be extended from the use value.

Sec 54-76. Roll-back tax when use changes to nonqualifying use.

(a) There is hereby imposed a roll-back tax and interest thereon, in such amounts as may be determined under Code of Virginia, § 58.1-3237, upon any property as to which the use changes to a nonqualifying use under this article.

(b) The owner of any real estate liable for roll-back taxes shall report to the commissioner of revenue, on forms to be prescribed, any change in the use of such property to a nonqualifying use and shall pay the roll-back tax then due. On failure to report and pay within sixty (60) days following such change in use, such owner shall be liable for an additional penalty equal to ten (10) percent of the amount of the roll-back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half percent of the amount of the roll-back tax, interest and penalty, for each month or fraction thereof during which the failure continues.

Sec . 54-77. Misstatements in application filed under article.

Any person making a material misstatement of fact in any application filed pursuant to this article shall be liable for all taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the county, together with interest and penalties thereon, and the owner shall be further assessed with an additional penalty of one hundred (100) percent of such unpaid taxes.

July 9, 2013

Sec. 54-78. Applicability of general tax law.

The provisions of Code of Virginia, title 58.1, applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation under this article *mutatis mutandis* including, without limitation, provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

Sec. 54-79 - 54-98. Reserved

Section 2. An emergency is declared, and the requirement of publication or posting of this ordinance under Section 2-54 is waived by an affirmative vote of two-thirds of the members present and voting.

Section 3. This ordinance shall be effective and in force upon enactment.

Town Attorney Berry explained changes made to the lease of the Middle School to Bedford County. Mr. Berry and Mr. Kolakowski explained that a walk-thru joint review of the school was conducted and a video tape of each room was made.

On motion by Councilman Tharp, seconded by Councilman Hailey, voted upon and carried unanimously by a roll call vote, Council authorized the Mayor to execute the proposed lease. Roll call vote follows:

Councilman Rush	aye
Councilman Stanley	aye
Councilman Tharp	aye
Vice Mayor Vest	aye
Councilman Carson	aye
Councilman Hailey	aye
Mayor Wandrei	aye

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 Hailey seconded the motion. The motion was voted upon and carried by the following roll call vote:

Councilman Stanley	aye
Councilman Tharp	aye
Vice Mayor Vest	aye
Councilman Carson	aye
Councilman Hailey	aye
Councilman Rush	aye
Mayor Wandrei	aye

Council adjourned into closed session at 7:17 p.m. The following non-council members attended: Town Manager Kolakowski

July 9, 2013

Council reconvened into open session at 7:59 p.m...

The Clerk of Council read aloud the following resolution:

BE IT RESOLVED that the Council of the Town 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.

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

Councilman Tharp	aye
Vice Mayor Vest	aye
Councilman Carson	aye
Councilman Hailey	aye
Councilman Rush	aye
Councilman Stanley	aye
Mayor Wandrei	aye

Mayor Wandrei adjourned the meeting at 7:59 p.m.