



**Town Council
Regular Council Meeting Minutes
March 14, 2023**

The Town Council of Bedford, Virginia, held a regularly scheduled meeting on Tuesday, March 14, 2023, at 7:00 p.m. in the Council Chambers of the Town Municipal Building at 215 East Main Street, Bedford, Virginia.

Town Council members present:

Mayor Tim Black, Vice Mayor C. G. Stanley, Councilman Bob Carson, Councilman Stacey Hailey, Councilman Bruce Hartwick, Councilman Darren Shoen

Town Council member absent: Councilman Bruce Johannessen

Town Staff present:

Town Manager Bart Warner, Finance Director Anne Cantrell, Town Attorney Michael Lockaby, Police Chief Ronnie Lewis, Electric Department Director John Wagner, Public Works Director D. W. Lawhorne, Clerk of Council Debra B. Anderson, and Recording Secretary Julia Peters

Mayor Black called the meeting to order and led all those present in reciting the Pledge of Allegiance to the Flag.

APPROVAL OF MINUTES

None.

REPORT OF TOWN MANAGER

Mr. Warner reported:

Public information sessions related to the Phase 2 boundary adjustment process will be held on Thursday, March 23, 2023 at 7 p.m. and Saturday, March 25, 2023 at 1 p.m. Both will take place in the Council Chambers and anyone interested is cordially invited to attend.

APPEARANCES BEFORE COUNCIL

None.

COUNCIL COMMENTS

Councilman Hartwick welcomed County Supervisor Bob Davis and former Supervisor Kevin Willis. He thanked Mr. Willis for his service and thanked Mr. Davis as well. He stated that they should try to work together to make the Town and County better than it is right now.

Councilman Stanley reported that on Saturday morning, he attended the Mayor's Youth Council meeting at the Public Works department. He learned as much as the youth did. Mr. Lawhorne put on a great talk, covering all the bases regarding recycling and the public works responsibilities. He did not realize that Styrofoam is one of the substances that does not decay in the landfill, actually taking 150 years to break down. As a result, in about two years, it will be replaced with a sugar cane type foam. He was amazed at what he learned and he thought the youth appreciated it and the Youth Council is a wonderful thing that the Mayor formed. The kids took part, asked questions, and had some very good comments about what Council should do and the direction they should go. The next meeting will pertain to the Electric Department and he looks forward to attending.

Councilman Hailey thanked all the Town employees for the great job they do, keeping the Town running.

Mayor Black thank Mr. Lawhorne for taking the time to meet with the Youth Council. Unfortunately, it was a rather cold and blustery day, so they did not get to spend as much time at the park as they would have liked. Mr. Lawhorne's presentation was right on the money and he learned some things too. The next meeting is some time in April and they will try to visit the solar farm, the hydro dam, and talk about the electric utility. Sometime in May they will come to a Council meeting and Mayor Black will make some type of presentation and have the youth talk about what they learned.

REPORT OF COUNCIL COMMITTEES

None.

REVISIONS TO AGENDA

Mayor Black requested adding a discussion on the ARPA funding for the Bedford Regional Water Authority (BRWA). The discussion will take place at the end of **New Business**. There were no objections.

PUBLIC HEARINGS

Mr. Warner read the following public hearing notice.

PUBLIC HEARING NOTICE

PROPOSED STORM COST RECOVERY CHARGE (SCRC)

Notice is hereby given that the Town Council of the Town of Bedford, Virginia, at 7:00 p.m. on Tuesday, March 14, 2023, will hold a public hearing at the Council Hall in the Town Municipal Building at 215 E. Main Street, Bedford, VA 24523 to consider an ordinance to amend and re-enact the Town of Bedford, Virginia, Electric Tariff to implement a temporary Storm Cost Recovery Charge (SCRC).

The proposed charge is necessary to recover extraordinary costs incurred during the recent major weather event known as Winter Storm Elliott in December 2022. Electric rates are authorized by the general authority granted to the Town of Bedford, Virginia, to provide electric service, to operate an electric utility, and to set rates from time to time under Section 15.2-107 and Section 15.2-2109 of the Code of Virginia, 1950, as amended, and under the Charter of the Town of Bedford, Virginia.

The SCRC is a temporary fixed charge to be added to each electric customer's monthly bill in order to recover costs of power, labor and material incurred to meet extraordinary customer demands during the catastrophic Winter Storm Elliott. Under the proposed tariff amendment, the SCRC consisting of a fixed \$10 per month addition to each customer's bill. This temporary charge will sunset in 12 – 15 months, after storm costs have been recovered.

The proposed ordinance is intended to recover one-time storm related costs incurred to meet extraordinary energy demands incurred to keep service on line to customers as a result of Winter Storm Elliott. The proposed ordinance requires reporting to Town Council of the proposed SCRC cost recovery. Under the proposed amendment to the tariff, the proposed SCRC charge will sunset no longer than 15 months from the date of passage.

A copy of the full text of the proposed ordinance and a copy of the complete Town of Bedford Electric Tariff, including the proposed SCRC, is available for inspection by the public in the Office of the Clerk of the Town Council, Town Manager's office, 215 E. Main Street, Bedford, VA 24523.

By Order of the Clerk
of the Town Council

Published: February 22, 2023
March 1, 2023

Mayor Black opened the public hearing at 7:06 p.m.

Nancy Leighton, 750 Peaks Street, Bedford, VA asked about what would happen if next year there is another storm and citizens are still paying for this year's storm. Mayor Black said he was sure this would be discussed tonight during the ordinance approval process under the Agenda item in **New Business**.

There being no one else to come forward to speak, Mayor Black closed the public hearing at 7:08 p.m.

CONSENT AGENDA

None.

OLD BUSINESS

None.

NEW BUSINESS

Request to Close Streets – Memorial Day 5K/Walk – RunAbout Sports Roanoke

RunAbout Sports of Roanoke is requesting permission to hold a Memorial Day 5K/Walk on Saturday, May 27, 2023, and to close the following streets:

The 5K course will start at the Bedford Baptist Church. Starting at the exit, enter across Oakwood St. and turn left then continue on Oakwood, turn right on Longwood, then right onto Hampton Ridge, left turn on Locust St. then left onto Elm St., right turn back on Longwood Ave., turn right at Old Bedford Middle School onto Peaks St., right onto Whitfield Dr., right on Oakwood St., cross over Oakwood St and back into the exit of Bedford Baptist Church.

They are requesting that the right lane of traffic be closed off using cones beginning at Longwood Baptist Church, and continuing to Elm Street on Longwood. This will provide our participants with an extra margin of safety on Longwood Street. This road will need to be coned off for the inside line to be used for participants from 7:30am- 11:00am.

The race start time will remain the same in years past, 8:30 a.m. with approximately 100 – 200 runners participating.

They will notify the Fire Department, Police Department and Bedford County Fire & Rescue of the street closings. The residents of the affected streets will also be notified and will have ingress and egress to their homes.

Mr. Warner noted that this event would be taking place during a holiday weekend and there will be a significant amount of overtime incurred by staff in conjunction with the request.

Mr. Hailey moved, seconded by Mr. Hartwick to approve the holding of the 5K Walk and allow the closure of the above-mentioned streets.

Discussion followed. Councilman Shoen asked whether the breakdown of costs has been done for other events of a similar nature. Mr. Warner said a ball park figure would be a couple thousand dollars including manpower and prepwork. He believed that the Facility Use Policy procedure was followed and the \$100 administrative fee paid. However, he has had a discussion at staff level about the need for a Special Events Policy to address the expenditures and process involved. Mr. Shoen noted it is a holiday weekend. Mr. Stanley thought it was bad timing. Mr. Hartwick said it would be a busy travel day and wondered if the organization would be open to moving the date to the weekend before or after Memorial Day weekend. It would be hectic for the police officers and other staff. Chief Lewis and Mr. Lawhorne said they would have to have staff working the event, six police officers and four Public Works employees, respectively. It was noted they would have to be paid overtime.

Charlotte Powers, General Manager for RunAbout Sports Roanoke addressed the Council. She said the soldiers they honor have sacrificed their lives for everyone's freedom. She understood the comments regarding the costs and holiday, but the reason they have the event on Memorial Day weekend is to remember the fallen. They want to remind people that these soldiers must be remembered and the older she gets, she sees how out-of-touch the current generations get. She is the great-niece of Jack Powers, one of the Bedford Boys. Her great Uncle Clyde did come back from the war. The national D-Day Memorial used to have the Armed Forces D-Day Run but they no longer do it and she thinks this event is a great way to continue to honor the soldiers' sacrifice.

Council members thanked Ms. Powers and her organization for coming to Bedford and some members thought the request should be supported, although it would cost the Town some money.

Voted upon and carried by the following roll call vote.

Councilman Carson	aye
Councilman Hailey	aye
Councilman Hartwick	aye
Councilman Shoen	nay
Vice Mayor Stanley	aye
Mayor Black	aye

The motion carried with five members voting aye and one member voting nay.

Ordinance – Amending the Electric Tariff to Include a Temporary Storm Cost Recovery Charge

On December 23-25, 2022, the Town of Bedford, experienced a catastrophic weather event known as Winter Storm Elliott. The event caused an unprecedented 24-hour temperature drop, with sustained extremely low temperatures. The severe cold weather caused PJM market energy prices to increase dramatically. The event occurring during a traditionally low-load holiday period also caused a significant deviation in PJM's load forecasting. This resulted in the entire PJM footprint experiencing extremely high real-time prices, and PJM issued a Maximum Generation Emergency event. As a result, Bedford Electric experienced unbudgeted extraordinary, emergency costs necessary to maintain service. The proposed SCRC is structured to recover only those, and it will sunset in no longer than 15 months or sooner when the full amount of extraordinary costs are recovered.

The proposed SCRC is a temporary fixed charge of \$10 to be added to each electric bill issued by the Town. These charges are in addition to all other electric charges. Costs recovered under the SCRC are to be excluded from charges recovered under the PCA. The SCRC will be added to bills issued after March 31, 2023.

The proposed SCRC was presented to the Electric committee for discussion and evaluation. The Electric committee recommended approval to the full Council.

ACTION REQUESTED:

Town Council is requested to adopt the ordinance approving the new Storm Cost Recovery Charge effective with billings beginning April 1, 2023.

John Wagner, Director of the Electric Department, explained that the Winter Storm Elliott was a once-in-a-generation event. Temperatures dropped dramatically on December 23, 2022 and staff worked through Friday and Friday night. The storm took the regional power grid by surprise even though they knew the storm was coming. Much of the generating resources in the grid that were called upon to operate failed to come on-line which pushed prices up dramatically. Diesel units ran out of fuel and the river rose to such a level that the hydro-plant had to be shut down. They continued to work all through Saturday to get things restored but could not get the hydro-plant back on due to high water and debris in the river. They were able to get the hydro-plant running again on Sunday afternoon. Over the three-day period, the electric department experienced approximately \$790,000 of additional emergency costs. The alternative would have been to have rolling blackouts, but they chose not to do so. They chose to buy emergency power to keep everything going in Town. They were asking to recover some of those costs which were unbudgeted and extraordinary. He believed they could recover the additional costs by November or December, so they would not need to carry these charges into 2024. He took no pleasure in asking for the money, but they wanted to keep the lights on, and especially, heat on, because it was 4° F, with 40-50-60 mile per hour winds. The crews worked very hard to keep power flowing and they found that every house had its heat on to full capacity which drew demand in Bedford to the highest he has seen in eight years and it was the worst event he went through in

his career. No more than 300 customers were without power at any given time during the storm event, in comparison to Appalachian Power, which had almost 100,000 customers off, not only that weekend, but it extended into the next week which Bedford Electric did not experience.

Mayor Black noted that the costs would be recovered one way or another due to the Power Cost Adjustment (PCA) in the electric tariff. If they were to put these costs through the PCA, it would double the current PCA, which would be a bigger burden to customers. Mr. Wagner said it would place a bigger burden on all consumers and especially the larger/business customers, knowing the problem was caused primarily by residential heating when commercial customers were closed and off-line.

Mr. Wagner continued to answer clarifying questions from the Council members and discussion continued.

Mayor Black suggested that the Town share the burden with the customers by absorbing some of the costs. Based on the 6,800 customers paying \$10 additional for nine months, the Town would recover \$612,000 of the \$790,000, which is about 80% of the costs. That way, the Town covers 20% and the charge won't continue into next winter for customers. He emphasized that the \$790,000 is Purchased Power Cost, not staff overtime, materials, or anything else. The Town absorbs those costs and is not trying to recover that, only trying to recover the Purchased Power Cost. The roughly \$180,000 balance that the Town would incur would not significantly affect its fund balance.

Mayor Black moved, seconded by Vice Mayor Stanley, to approve \$10 per month for nine months in a Storm Cost Recovery Charge to recover the \$612,000 portion of the purchase power-related costs pertaining to the storm.

Voted upon and carried by the following roll call vote.

Councilman Hailey	aye
Councilman Hartwick	aye
Councilman Shoen	aye
Vice Mayor Stanley	aye
Councilman Carson	aye
Mayor Black	aye

The motion carried with six members voting aye.

The ordinance follows.

ORDINANCE NO. 23-1

AN ORDINANCE AMENDING THE ELECTRIC TARIFF OF THE TOWN OF BEDFORD TO INCLUDE A TEMPORARY STORM COST RECOVERY CHARGE

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BEDFORD, VIRGINIA:

Section 1. Pursuant to its powers under Chapter 21 of Title 15.2 of the Code of Virginia, 1950, as amended, the Electric Tariff of the Town of Bedford is hereby amended and re-enacted to include the following schedule for a Storm Cost Recovery Charge enacted with adoption of the ordinance, effective April 1, 2023:

TOWN OF BEDFORD, VIRGINIA
SCHEDULE SCRC.
(FIXED MONTHLY CHARGE ADDED TO EACH BILL)

APPLICABILITY:

The Storm Cost Recovery Charge (SCRC) shall be applicable to and become part of each electric rate schedule in the tariff except Schedule O.L.

BACKGROUND:

The SCRC is a fixed charge of \$10 which is added to each customer's monthly bill. It is a temporary charge that will sunset in a maximum of 15 months after passage. Extraordinary costs for power, labor and material were incurred to keep service on-line during the catastrophic winter weather event known as Winter Storm Elliott. Costs recovered under the SCRC will be excluded from Power Cost Adjustment (PCA) calculations.

APPLICATION OF SCRC CHANGES:

Each electric bill issued by the Town of Bedford shall include a \$10 SCRC. The charge will be included in the line market "kWh" on the printed bill.

REVIEW BY COUNCIL:

The Town Council retains at all times its authority to set electric rates, including changes to proposed rates. The Council at any time may make emergency adjustments for unanticipated costs or other unforeseen conditions that may have a substantial impact upon the storm cost recovery, subject to applicable requirements of law.

Section 2. All of the terms of the existing tariff and rate schedules, including the rate schedules enacted on April 12, 2016, effective July 1, 2016, except as modified herein, are re-enacted and shall remain in effect.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance shall for any reason be adjudged by any court of competent jurisdiction be invalid, such judgment shall not affect, impair, or invalidate the remainder of the tariff, but shall be confined in its operations to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered, and such invalid term clause or provision shall be construed to most closely reflect the original intent of the ordinance.

Section 4. Effective Dates.

The ordinance shall go into effect immediately upon passage for billings after March 31, 2023.

Ordinance - Update Chapter 54 (Taxation) of the Town Code

Proposed changes to the Town Code Section 54, specifically addressing Transient Occupancy Tax, are recommended to update several definitions and incorporate legal updates in the State Code. The main reasons for the change are:

- To update definitions to match state-code requirements for short-term rental arrangements.
- To remove references to the constitutional offices of treasurer and commissioner of the revenue that were abolished upon reversion, and consolidate those duties with the finance director.
- To move the procedures for issuing of a bad check from the Transient Occupancy Tax section of the code to a general section of the code so that the bad check penalties apply to all collections under Chapter 54.

No changes in the rates, fees, or currently applicable reporting and collection procedures are intended to occur.

ACTION REQUESTED:

Town Council is requested to adopt the Ordinance as presented.

Mr. Hartwick moved, seconded by Mr. Carson to adopt changes to the taxation ordinance.

Mr. Lockaby noted these were revisions to consolidate the wording about the Office of the Treasurer and Commissioner of Revenue, which the Town no longer has, to read as Finance Director. The other change was needed to match a change that the General Assembly made last year regarding accommodations providers.

Mr. Lockaby answered clarifying questions from the Council members.

Voted upon and carried by the following roll call vote.

Councilman Hartwick	aye
Councilman Shoen	aye
Vice Mayor Stanley	aye
Councilman Carson	aye
Councilman Hailey	aye
Mayor Black	aye

The motion carried with six members voting aye.

The ordinance follows.

ORDINANCE NO. 23-2

AN ORDINANCE OF THE TOWN OF BEDFORD, VIRGINIA PROVIDING FOR AN UPDATE TO CHAPTER 54 (TAXATION) OF THE TOWN CODE

WHEREAS, the Town of Bedford, Virginia (the “Town”) desires to amend the Chapter 54 of the Bedford Town Code to update definitions and code requirements.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BEDFORD, VIRGINIA, that Chapter 54 (Taxation) of the Bedford Town Code are hereby amended as follows:

Chapter 54. – Taxation.

Article VII. – Transient Occupancy Tax

Sec. 54-187. – Definitions.

The following words and phrases, when used in this article, have the following meanings, except when the context clearly indicates a different meaning.

Accommodations means any rooms or space for which tax is imposed on the retail sale pursuant to this Article and includes, but is not limited to, any public or private hotel, inn, apartment, hostelry, tourist home or house, motel, rooming house, or other lodging place within the Town offering lodging, and the owner or operator thereof who, for compensation, furnishes lodging to any transient.

Accommodations fee means the room charge less any discount; provided, however, that the accommodations fee shall not be less than \$0.

Accommodations intermediary means any person other than an accommodations provider that (i) facilitates the sale of an accommodation and (ii) either (a) charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the same, (b) collects a room charge from the customer, or (c) charges a fee, other than an accommodations fee, to the customer, which fee it retains as compensation for facilitating a sale. For purposes of this definition “facilitates a sale” includes brokering, coordinating, or in any way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors,

between a customer and an accommodations provider. An “accommodations intermediary” does not include a person:

1. If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such persons;
2. Who facilitates the sale of the accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person; or
3. Who is licensed as a real estate licensee pursuant to Article 1 of Chapter 21 of Title 54.1 of the Code of Virginia, 1950, as amended, when acting within the scope of such license.

Accommodations provider means any person that furnishes accommodations to the general public for compensation. The term “furnishes” includes the sale of use or possession or the sale of the right to use or possess.

Finance Director means the Town Manager or his or her designee undertaking the financial and/or tax administration of the Town on his or her behalf.

Retail sale means the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for consideration.

Room charge means the full retail price charged to a transient for the use of accommodations, before taxes. A room charge includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as an accommodations fee, facilitation fee, or other name. Any additional charges made in connection with the rental of accommodations are deemed to be a part of the charge for the room and are subject to the tax. For example, additional charges for movies, local telephone calls, and similar services are considered to be room charges.

Transient means any person who, for any period of fewer than 30 consecutive days, either at his own expense or at the expense of another, obtains use or possession of a room or space occupied for lodging in any accommodations, for which lodging or use of space a price is charged.

Sec. 58-188. – Levy of tax and rate.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, there is hereby imposed and levied by the town a tax equivalent to five percent of the total room charge paid by or for a transient for the use or possession of a room or space occupied for lodging by or for any such transient. Any fractional cent shall be rounded to the next highest cent.

Sec. 58-189. – Exemptions.

No tax shall be payable under this article for any of the following businesses:

1. On charges for lodging paid to any hospital, medical clinic, convalescent home or home for the aged.

2. On room rental paid by any federal, state, or town official or employee when on official business, and the government concerned either pays the rental or reimburses the employee or official.

Sec. 58-190. – Duty to collect tax.

- (a) For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the tax imposed pursuant to this Article, computed on the total price paid for the use or possession of the accommodations, and shall remit the same to the Town and be liable for the same.
- (b) For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed under this Article as a facility making a retail sale of an accommodation. The accommodations intermediary shall collect the tax imposed pursuant to this Article, computed on the room charge, and shall remit the same to the Town and shall be liable for the same.
- (c) For any transaction for the retail sale of accommodations involving two or more parties that meet the definition of accommodations intermediary, nothing in this section shall prohibit such parties from making an agreement regarding which party shall be responsible for collecting and remitting the tax, so long as the party so responsible is registered as a dealer with the Town. In such event, the party agreeing to collect and remit the tax shall be the sole party liable for the tax, and the other parties to such agreement shall not be liable for such tax.
- (d) For any retail sale of accommodations facilitated by an accommodations intermediary, nothing herein shall relieve the accommodations provider from liability for retail sales and use taxes on any amounts charged directly to the customer by the accommodations provider that are not collected by the accommodations intermediary.
- (e) All amounts collected as taxes pursuant to this Article shall be deemed to be held in trust by the person collecting the same, until remitted to the Town as provided in this article. If the amounts collected as taxes are not paid as and when due, they shall thereafter become a debt of the person collecting such tax due to the Town.

Sec. 58-191. – Reports and remittances and compensation of accommodations providers.

- (a) Any person collecting a tax pursuant to this Article shall register as such with the Finance Director for collection of the tax imposed in this Article.
- (b) Any person collecting such tax shall file a report with the Finance Director within 20 days after the last day of each calendar month on forms prescribed by the Finance Director, signed by such person, reporting the total room charges paid by each customer and the amount of taxes due thereon for the preceding month. Each such report shall be accompanied by a remittance of the amount of the taxes to the Town.
- (c) An accommodations intermediary shall submit to the Finance Director the property address and gross receipts for all accommodations facilitated by the accommodations intermediary in the Town within 20 days after the last day of each calendar month on forms prescribed by the Finance Director and the amount of taxes due thereon for the preceding month.
- (d) For the purpose of compensating any accommodations provider for accounting for and timely remitting the tax levied under this article, such accommodations provider shall be allowed a commission of two percent of the amount of tax due and accounted for in the

form of a deduction of that amount in submitting his monthly report and remittance, provided the amount paid was not delinquent at the time of payment.

Sec. 58-192. – Interest and penalties for failure to file a report or make remittances.

- (a) If any person shall fail to make any report or remit the tax required by this article, there shall be imposed, in addition to any other penalties herein provided, a specific penalty to be added to the tax in the amount of ten percent provided, however, in no case shall the penalty be less than \$10.00, and such minimum penalties shall apply whether or not any tax is due for the period for which the report was required.
- (b) Interest shall accrue on any unpaid taxes at the rate of ten percent per annum which shall be computed on the taxes and penalty commencing 30 days from the date the report or remittance is due.
- (c) If the failure to make any report is due to good cause shown to the satisfaction of the Finance Director, such report with or without remittances may be accepted exclusive of penalties.

Sec. 58-193. – Records to be kept.

Every person required to make a report or to pay and collect any tax under this Article shall keep and preserve, for a period of three years, such suitable records of revenues taxable pursuant to this Article and such other records of account as may be reasonably necessary to determine the amount of taxes due pursuant to this article. The Finance Director may inspect such records at reasonable times.

Sec. 58-194. – Obligations upon going out of business.

Whenever any person required to collect and pay to the Town a tax under this Article shall cease to operate or otherwise dispose of his business, any tax payable hereunder to the Town shall become immediately due and payable through such date, and the person shall make a report and remittance thereof within ten days of such date.

Sec. 58-195. – Assessments by Finance Director for failure to report tax properly.

- (a) If any person required to collect and remit the tax imposed by this Article shall fail or refuse to collect the tax levied by this article and to make, within the time provided in this article, any report and remittance required by this article, the Finance Director, based upon the best facts and information available to it, shall make an estimate for the taxable period of the amount of the tax due pursuant to this Article and shall assess the tax plus penalties and interest provided for in this Article. The Finance Director shall send a written notification by registered mail to the person stating the total amount of such tax, interest and penalties and stating that the total amount thereof shall be payable within ten days from the date of such notice.
- (b) Before the Finance Director shall make any determination and assessment that any person is liable for any tax, penalty, and interest under this section, the Finance Director shall give such hotel or person notice or an opportunity to be heard concerning such possible determination and assessment. The assessment so made shall be deemed prima facie correct.

Sec. 58-196. – Civil warrant for collection of delinquent tax.

The Town Attorney is authorized, upon direction of the Finance Director, when any tax becomes delinquent under this article, to cause a civil warrant to be issued for the collection of the tax, penalty, and interest as soon as the tax becomes delinquent against the person liable for payment of the same.

Sec. 58-197. – Amount of tax to be stated on bill.

In any retail sale of any accommodations in which an accommodations intermediary does not facilitate the sale of the accommodations, the accommodations provider shall separately state the amount of the tax in the bill, invoice, or similar documentation and shall add the tax to the total price paid for the use or possession of the accommodations. In any retail sale of any accommodations in which an accommodations intermediary facilitates the sale of the accommodation, the accommodations intermediary shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the room charge; thereafter, such tax shall be a debt of the customer to the accommodations intermediary, recoverable at law in the same manner as other debts.

Sec. 58-198. – Promulgation of regulations.

- (a) The Finance Director shall monitor and oversee the accuracy, timeliness and completeness of the filing of reports and payment of taxes levied under this Article. The Finance Director may adopt and promulgate such rules and regulations and such forms not inconsistent with the provisions of this Article as deemed necessary for the effective administration of this section.
- (b) In administering the provisions of this Article, the Finance Director may give any person required to collect the tax imposed by this Article ten days' notice to appear before the Finance Director, with such books, records and papers as the Finance Director may require relating to the person's business for the taxable period in question. The Finance Director may require that such person or its agents and employees give testimony or answer interrogatories under oath administered by the Finance Director respecting the accommodations provided and the revenues therefrom which are or may be subject to the tax imposed hereby, or the failure to make a report thereof as herein provided.

Sec. 58-1. – Issuing bad check in payment of taxes. [Editor's Note: Section redesignated and reserved]

- (a) If any check tendered for any amount due under this chapter is not paid by the bank on which such check was drawn, the person for whom such check was tendered shall remain liable for the payment of such amount the same as if such check had not been tendered.
- (b) Any person who shall make, draw, utter or deliver a check tendered for any amount due under this chapter, knowing, at the time of such making, drawing, uttering or delivery, that the account upon which such check, draft or order is drawn has not sufficient funds or credits with such bank, banking institution, trust company, or other depository for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of a Class 1 misdemeanor.
- (c) The word "credit" as used herein shall be construed to mean any agreement or understanding with the bank, banking institution, trust company, or other depository for the payment of such check, draft or order.

- (d) If such person shall fail to pay to the treasurer the amount due together with interest within five days after receiving written notice that such check, draft or order has not been paid to the holder thereof, then in any prosecution under this section the making or drawing or uttering or delivery, payment of which is refused by the drawee because of lack of funds or credit, shall be prima facie evidence of intent to defraud or of knowledge of insufficient funds. Notice mailed by certified or registered mail, evidenced by return receipt, to the last known address of the maker or drawer, shall be deemed sufficient and equivalent to notice having been received by the maker or drawer, and all other provisions of Code of Virginia, § 18.2-183 shall be applicable to such prosecution.
- (e) In addition to the criminal penalty set forth herein, such person shall be personally liable in any civil action brought upon such check, draft or order.
- (f) Any check or draft payment returned for payment of taxes or other amounts due to the Town for insufficient funds, incorrect account, or closed account shall be assessed a fee as adopted in the fee schedule of the Town.

Sec. 58-200. – Criminal penalties for violation.

Any person subject to the provisions of this Article failing or refusing to collect the full amount of the tax levied hereby, failing to make payment thereof to the Town, failing or refusing to furnish any report herein required to be made, failing or refusing to furnish supplemental or other data required by the Finance Director, making a false or fraudulent claim for refund, or violating any other provision of this article shall be guilty of a Class 1 misdemeanor. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense. Conviction of such violation shall not relieve such person from the liability for taxes, penalties, and interest or from the duty of collection and remittance of the tax provided for herein. An agreement by any person to pay the taxes provided for in this article by a series of installment payments shall not relieve any person of criminal liability for violation of this Article until the full amount of taxes agreed to be paid by such person is received by the Finance Director.

Section 2. This Ordinance shall be effective upon passage.

Professional Auditing Services

On January 18, 2023, a Request for Proposals (RFP) was released to procure professional auditing services. The current contract had expired and an RFP was issued to enter into a new three-year contract with an option for two additional one-year renewals. By the RFP submittal deadline of February 10, 2023, three competitive proposals were received. Staff from the Finance Department were asked to participate on the selection committee, which evaluated the proposals on the following factors:

Overall Quality of Proposal	30%
Specific Proposals and Input during Interview	20%
Experience with Similar Sized Communities	20%
References & Proximity	20%
**Cost	<u>10%</u>
Total	100%

Based on the evaluation of proposals by the selection committee, the highest ranked proposal was Brown Edwards & Company L.L.P. A notice of intent to award was released on February 3, 2023 and is available on the Town's website.

ACTION REQUESTED:

Town Council is requested to grant approval for the Town Manager to enter into a contract with Brown Edwards & Company L.L.P. for professional auditing services based on the RFP.

Mr. Hailey moved, seconded by Mr. Carson to grant approval for the Town Manager to enter into a contract with Brown Edwards & Company L.L.P. for professional auditing services based on the RFP.

It was noted that Brown Edwards & Company have been working with the Town for 23 years and have done a good job.

Voted upon and carried by the following roll call vote.

Councilman Shoen	aye
Vice Mayor Stanley	aye
Councilman Carson	aye
Councilman Hailey	aye
Councilman Hartwick	aye
Mayor Black	aye

The motion carried with six members voting aye.

Discussion regarding ARPA funding in connection with BRWA Projects

Mr. Warner reviewed with Council that the BRWA had applied for sewer collection systems grants for various improvements that were also discussed by the Town in conjunction with ARPA, as well as work on the pump station near Nichols Road. The BRWA Executive Director, Brian Key, advised that the BRWA did not receive funding for the Nichols Road substation but did receive notice of a \$1.2 million grant funding for the Town and Country sewer construction, which the Town had previously committed \$2 million of their ARPA funds toward. The BRWA was committing \$.5 million to that project. Basically, BRWA is asking the Town to accept the \$1.2 million grant for Town and Country and have the Town reallocate the ARPA funds previously designated in the subrecipient grant towards another ARPA project, the Helms Street tank improvements, which are currently slated to be \$1.5 million over its original budget. He was asked to approve that administratively, however, he is not doing so, and referring it to Council for their direction.

Mayor Black said that no one knew the BRWA was applying for a \$1.2 million grant when Council approved the Town's \$2 million contribution. He remembers that it was a \$2.4 million project and the Town agreed to fund up to \$2 million. If they fund \$1.2 million out of the

original \$2 million, the Town saves \$800,000. However, between the Town's \$1.2 million and the grant money, the Town is funding all the water authority's project and they are not putting a dime into it, and he has a little bit of heartburn with that. To get to the \$2 million, if the Town funds the \$800,000, they will be at \$2 million and the BRWA will have to put in \$400,000 or the Town can fund the \$1.2 million and discuss what to do with the \$800,000. The project is well underway, so it has to be completed, but it is another example where the Town does not have all the information from BRWA when they are making decisions. He had no idea that BRWA was applying for a \$1.2 million grant for the project, and if they had known about it at the beginning, the Town may have had a different discussion about what to fund. He is ok with the \$1.2 million, but he thought the BRWA should be putting in the \$400,000.

Councilman Hartwick would have liked Mr. Key to be at the meeting that night to answer the Council members' questions and clarify some things.

Mr. Warner said that under the terms in the email he received, BRWA must accept or deny the \$1.2 million grant before April 5. Mayor Black remarked that they should accept the \$1.2 million regardless and Mr. Key could be invited to the next meeting. Council also needs to know about the Helm Street tank project, which is \$1.5 million over budget and the Town was putting in another \$2 million for that project too. Mr. Warner said \$140,000 of the Town's contribution was already spent in design, etc. Mayor Black questioned where was the rest of the money going to come from and did BRWA have all the funds needed. Mr. Lockaby and Mrs. Cantrell noted that ARPA funds must be committed by the end of 2024 and spent by July 1, 2026. Mayor Black wondered if BRWA doesn't have the additional \$1.5 million, whether the project needs to come off the table, and what would that do to all the Town's agreements and whether the money could be used for something else. The Town can't keep committing money if BRWA cannot get all these projects done.

Consensus among Council members was no action would be taken that night and Mr. Key needed to come before Council to answer all of their questions. Mr. Warner would issue the invitation to Mr. Key for the next Town Council meeting.

Mr. Warner was happy to note that the Belltown water line project was moving forward and was part of the subrecipient agreement.

ADJOURNMENT

8:04 p.m.

Tim Black, Mayor

Debra Anderson, Clerk of the Council