



**Town Council
Regular Council Meeting Minutes
March 28, 2023**

The Town Council of Bedford, Virginia, held a regularly scheduled meeting on Tuesday, March 28, 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 Bruce Johannessen, Councilman Darren Shoen

Town Staff present:

Town Manager Bart Warner, Finance Director Anne Cantrell, Town Attorney Michael Lockaby, Police Chief Ronnie Lewis, Director of the Electric Department John Wagner, Director of Planning and Community Development Mary Zirkle, 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

Mayor Black declared that the minutes of the regular Council meetings on February 14, February 28, and March 14, 2023 were approved as submitted.

REPORT OF TOWN MANAGER

Mr. Warner thanked everyone who came out for the informational meetings on Phase 2 that were held in Council Chambers on the past Thursday and Saturday. He was grateful for the opportunity to exchange information and he learned quite a bit while meeting some new neighbors.

APPEARANCES BEFORE COUNCIL

None.

COUNCIL COMMENTS

Councilman Hartwick said he attended an award ceremony for Bedford's finest police officers. He congratulated those that won an award and said events like it may be small gestures but make a big difference to the officers. On a different note, he said that many young people at Walmart are out doing doughnuts, burn outs, and drag racing. This reckless driving can be hazardous not only for the drivers but also for the community. It should be done in a safer place, like the high school parking lot when no one is there.

Vice Mayor Stanley said that the meetings on Thursday and Saturday were great meetings with good information, a good turnout, and he also learned a lot. He hoped many people watched the video and were educated.

Councilman Hailey thanked Mr. Warner for coordinating the meetings. He thought more people attended Thursday night's meeting than Saturday's but they were very informative and let people know what was going on and he thanked all the employees for the work that they do.

Councilman Shoen agreed and thanked Mr. Warner for a job well-done.

Councilman Carson echoed what was already said and he was confident that Mr. Warner had everything under control. He mentioned the school shooting in Nashville and asked citizens to talk to school board members and school administrators requesting them to re-evaluate the security in our schools. He said the School Resource Officers (SRO's) were doing their job but school security is lacking. He is retired from the school system and he knows there are doors that don't shut, windows are left open, and he asks that those in charge look at security once more. He noted that the Susie B. Gibson school will become a tomb if a gunman were to get in it. He talked about it when he worked there and the schools need to be secured.

Mayor Black echoed the comments made by Council members about the Phase 2 meetings. There were good things that came out of the questions brought up and he appreciated the citizens coming out and learning about the boundary adjustments. He told Mr. Warner that he did a good job and he appreciated it.

REPORT OF COUNCIL COMMITTEES

None.

REVISIONS TO AGENDA

Mayor Black asked for consensus from the Council members on two revisions to the Agenda. He wanted to postpone the Edmund Street Park Agenda Item until the first meeting in April. Mr. Warner had a conversation with Dr. Bergin and hopefully they are getting close to reaching a solution, so the Mayor wanted to delay any discussion. There were no objections.

He also wanted to remove the Closed Session under Section 2.2-3711 (a) (5) and add two Closed Sessions under Sections 2.2-3711 (a) (1) regarding personnel matters, and (a) (8) to consult with legal counsel regarding the recent Virginia Supreme Court case Berry vs. Board of Supervisors of Fairfax County. There were no objections.

PUBLIC HEARINGS

None.

CONSENT AGENDA

Reappointment of Members – Local Board of Building Code Appeals (LBBCA)

Three member's terms on the LBBCA expire on April 30, 2023. All are current members who have agreed to continue to serve on the LBBCA for an additional two-year term.

ACTION REQUESTED:

Council is requested to reappoint LBBCA members as follows:

Jonathan Buttram – two-year term to expire on April 30, 2025

Jeff Witt – two-year term to expire on April 30, 2025

Matt Holmstrom – two-year term to expire on April 30, 2025

Mr. Hailey moved, seconded by Mr. Carson to reappoint LBBCA members as listed above.

Councilman Hartwick suggested that Council take a vote on each reappointment. Consensus was that individual votes were not necessary and one vote for all LBBCA reappointments would suffice. All potential members were fully qualified and there were no questions regarding their experience.

Voted upon and carried by the following roll call vote.

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

The motion carried with seven members voting aye.

OLD BUSINESS

None.

NEW BUSINESS

Discussion of ARPA Funds – Bedford Regional Water Authority (BRWA)

Mr. Brian Key, Executive Director for the BRWA addressed the Council, stating that he would talk about the ARPA monies and the water and sewer projects for which the funds would be used. He reviewed that in December 2021, the Town committed to providing \$4.5 million for three projects which included sewer line replacement for the Town and Country subdivision, water line extension along Belltown Road, and the water tank replacement on Helms Street. On March 6, 2023, the Department of Environmental Quality (DEQ) approved \$1.2 million earmarked for the Town and Country project. The BRWA had applied for a total of \$15 million for different water and sewer projects but was only approved for one-half the cost of one project. The combination of the Town's \$4.5 million plus the \$1.2 million are needed to complete the projects, the monies are not in addition to, or double funding. The projects combined will take every bit of these funds plus \$700,000 of local money from the BRWA.

The Town and Country project is currently underway and its cost is \$2.46 million. Bid prices were not received until September 2022. Therefore, there was no way to know the exact cost of the project when the Town allocated the \$2 million as part of the total \$4.5 million. The Helm Street project was originally planned by the City before the Authority was established and at that time it was thought that the tank could be renovated, so the City had a price tagged at \$200,000 to fix the site. Engineers found that the concrete walls were significantly deteriorated and the roof had lead-based coatings on it and the cost to repair would be higher than the cost to replace the tank. The cost estimate at the time (2021) was \$2 million. Costs have gone up tremendously since then and steel has doubled in price. The project has not gone to bid yet as they are finishing up with the 60% design, but the current estimated cost is now \$3.5 million. The Belltown Road project is now under bid and there will be a bid opening on Thursday. The project was estimated at \$500,000 and the hope is with engineering design, the construction costs would be around \$450,000. Without DEQ's and the Town's appropriations, it would be impossible to fund these

projects without taking on additional debt service. There are very little reserve funds available to spend on projects like these and the capital improvements projects are extremely overburdened. They identified over \$80 million in projects to complete and this year they have only \$700,000 available to put towards the capital improvement funds.

The BRWA is committed to proceeding with the projects using the existing agreement. He understood there were comments and questions about the ARPA funds, so he will address those issues. The Town Council did not know about the DEQ grant application because they applied for the money in December 2022 and the \$4.5 million was allocated by the Council in 2021. BRWA did not know that funding was available until August 2022, so it was not on their radar until then. The agreement that was signed in December 2021 specified that the \$4.5 million was an allotment but it was not broken down into separate costs for each of the projects. It was created with the flexibility to use the funds across the three projects because the actual costs were unknown at the time. This is why he notified Mr. Warner that they were accepting the funds from DEQ and proceeding with the Town and Country project and the Helm Street project per the terms of the existing agreement. No additional action by the Council is needed for these three projects to get done. There must be a construction contract by December 31, 2024 to use the ARPA funds and then the money must be spent by December 31, 2026. The Helm Street project is not over-budget yet because it has not been bid, but the engineering estimate is more than the amount that was included as a budget item in the ARPA agreement. The tank is needed and is crucial for supplying the water into Town and is helpful for the booster station where water goes to the other service areas. However, its primary purpose is to provide the fire suppression flow that is necessary to serve the Town, so the project must be built regardless of whether the BRWA has to take on debt service to do so or seek other sources of funding. It is a crucial project.

There had been multiple email messages, weekly newsletter updates, and Mary provided a letter to support the three projects, so BRWA thought they had done a good job of keeping the Town informed but apparently it was not the case.

To date, since the inception of the Authority that was formed due to reversion, BRWA has spent \$1.49 million in sewer rehabilitations which they are obligated to do because they inherited the consent order from the City of Bedford that says they must put money into the sewer system every year. They have grossly exceeded the amount that must be put in. They are only obligated to put in \$100,000 per year by the consent agreement and they have contributed significantly higher than that amount. They have also spent over \$500,000 on materials alone for the CIP work that has been completed in Town such as Gum Street, Avenel, and Dawn Drive. The BRWA is heavily invested in water and sewer in Town and will continue to do so. They are very appreciative of the \$4.5 million that the Town has allocated to them and they will definitely use it wisely to keep the three projects moving forward.

Mr. Key answered Council members' questions. Mr. Key said that the reversion agreement stated that BRWA would take on all debts and liabilities related to water and sewer in the Town. Mr. Shoen noted that with inflation, \$100,000 nine years ago is not what it is now but BRWA would have put in \$900,000 out of obligation and projects may have doubled and tripled in costs. Mayor Black said BRWA will have to put in more than \$700,000 to cover these projects, and if they have been spending costs down, why do they still need \$2.4 million now. Mr. Key said

there was confusion because if they were to do the entire scope of the Town and Country project, it would cost significantly more than the \$2.4 million. The \$2.4 million is from the bid prices when they scaled out and phased the project and it was only Phase 1 of the project that would cost \$2.4 million. The BRWA is only asking for the original \$4.5 million that the Town has already allocated. The County has not provided them with any ARPA funds. He also said there are many phases for Town and Country and the water line will take a significant amount of time as well as the finishing parts of the sewer line. The bids for Helm Street will be in late Fall and Belltown will be Thursday. Mayor Black was concerned that all three of the projects would not get done but Mr. Key assured they would get done and his Board was committed to it. Mr. Lockaby said the agreement does say the three projects will be done, and it does allow for reallocation of funds among the three projects based upon the 80% design. Connection fee costs are not helped by these ARPA funds but it keeps those fees from going up overall. BRWA is on the tenth year of a current ten-year equalization plan and will be advertising in the paper to show the adjustment to equalize the rate, so everyone will be paying the same rates. Council members were concerned that in order for the Town to grow, its sewer capacity must grow and asked Mr. Key what is the plan to address the sewer capacity since growth has stopped due to the capacity limitations. Mr. Key said there is no magic bullet but a series of issues that must be resolved to get more capacity. Overflows have been significantly improved in Town and the Town and Country project will help as well. They are working with the government about Peaks of Otter and its private sewer system and billing the government for the capacity. Hopefully, it will induce them to make improvements to that system which will add to capacity. Six pumps will be replaced at two pump stations which will increase BRWA's ability to transfer flow. More work will be needed. Mayor Black stated that he has heard the complaint many times that hook-up fees are very expensive in Bedford, double the cost in neighboring areas. Mr. Key responded saying the Authority runs a lean organization and are very cognizant of using customer's money well. The size of the service area is very large and rural, and just from a geographic standpoint, it is hard to compare to other systems. The age of the Bedford system must also be taken into account with many pipes dating older than 1972. A vast majority of its revenue is spent on repairs and they spend more time in Town fixing problems than anywhere in the system, which leads to more cost. Revenue on a regular basis comes from only three places; customers, Town Council, and the County Board of Supervisors. Therefore, the only way they can cover all expenses is to bill customers and they choose to balance between charging old customers and new customers so increases are spread out. A residential connection for water costs \$5,000 and a well cannot be drilled for \$5,000. Post-Covid, he has heard it is around \$8,500 for a fairly shallow well. The sewer connection is \$6,000 and a drainfield cannot be built for \$6,000. If you have good soils, a drainfield would cost in the \$10,000 range. Although their connection fees seem high, they are lower than if someone lives in a rural area and has to pay for a well and septic system during construction. They must generate enough revenue to cover their expenses and they want to support growth. Councilman Stanley asked why there was not a five, ten, or fifteen year plan to replace all the old pipes when things were much cheaper back when the Authority inherited these lines during the Phase 1 reversion back in 2013. Mr. Key said that when the consulting engineers performed the evaluation, pipes were not looked at. The process did not identify age of pipes, and there were no records to access and things continue to pop-up today, almost ten years later, that the BRWA had no idea existed. They do not have the financial ability to go in and fix everything at once. It will take 20+ years to make a dent in getting all the systems replaced that need to be, but they continue to work diligently on it and they are making progress, little by little.

They knew there would be challenges and they are working on them with help from the Town and County. Councilman Hartwick asked if someone has well water whether they could keep what they have. Mr. Key said there is a mandatory connection policy that is required because of their debt service with the Virginia Resource Authority. The policy states that if someone has an existing source of water, such as a spring or well, they can continue to use that source until it fails. Once it fails, they must connect to a BRWA water line if it is adjacent to the property. However, they do not have to pay for an extension to the line to get to their property, so in that case, they can drill another well. Mayor Black said they have had a good conversation and he would like to see more of it with maybe a round table scheduled, and he thanked the BRWA for their help with a recent economic development issue, noting communication is the key to fixing problems. He thought it may be a good start to meet quarterly with the BRWA and asked Mr. Key to get with Mr. Warner so they won't have gaps in communication moving forward.

Resolution - Authorizing Advertisement for Competitive Bids for the Letting of One or More Franchises for the Use of Public Streets and Public Places of the Town for a Term of More Than Five Years

Mr. Lockaby explained that ZiTEL, LLC is a company that provides fiber optic broadband and is based in the area. They have built-out substantial fiber in the County and have requested to move into Town limits and in order to begin providing service in Town, they need to have a franchise that defines the terms and conditions under which they can use the Town streets and rights-of-way. In order for the Town to grant such a franchise, it would need to be put out to bid. He suggested that this be put to bid and if there is more than the one entity that responds, the Town may want to consider awarding it to more than one. There have been preliminary negotiations with ZiTEL and their attorney is comfortable with the drafted agreement which was provided to them for review. Mr. Lockaby recommended moving forward to advertise for competitive bids and have the unsealing of any bids on April 25, 2023. This agreement covers terms and conditions of access to streets and rights-of-way, but not electrical poles. Pole attachments would be a separate agreement negotiated between the Electric Department and the company. To recover the costs involved in allowing another entity to use the Town's roads, etc., there is a process that most localities utilize. It is called the Rights-of-way Use Fee and it would be a fee for every connection made by a telecommunications provider within the locality. It has never been charged in the Town before and the fee is calculated by VDOT every year. Approval of the use of this fee will come before Council on April 25, 2023. The build-out service would pertain to the Municipal building, the Public Works building, the Engineering building, the Electric Department, the IT Department, the Fire Department, and the future new Police Department building.

ZiTEL, LLC, is a broadband information services provider that has built out substantial fiber optic cable assets in Bedford County through the Virginia Telecommunication Initiative (VATI) Program. They have requested a franchise to provide fiber optic internet within Town limits. In order to enter into a franchise for a term of more than five years, the Town Council must first advertise the scope of the requested franchise and seek bids from other interested providers. This resolution authorizes the Town Clerk and the Town Manager to advertise for and solicit bids and have them unsealed at Council's second April meeting. Note that under the terms of the request

for proposals, franchises for this service may be granted to more than one franchisee. The franchisee would still need to enter a separate pole attachment agreement with the Town Electric Department if it desired to use Town electrical poles.

Mr. Hailey moved, seconded by Mr. Hartwick, to authorize the advertisement for competitive bids for the letting of one or more franchises to use the public streets and public places of the Town for a term of more than five years.

Voted upon and carried by the following roll call vote.

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

The motion carried with seven members voting aye.

The resolution follows.

RESOLUTION

AUTHORIZING ADVERTISEMENT FOR COMPETITIVE BIDS FOR THE LETTING OF ONE OR MORE FRANCHISES TO USE THE PUBLIC STREETS AND PUBLIC PLACES OF THE TOWN FOR A TERM OF MORE THAN FIVE YEARS

WHEREAS, the Town is a municipal corporation of the Commonwealth of Virginia that has not ceded control of its streets and public places to the Commissioner of Highways, and as such, is required to solicit competitive proposals for franchises for the use of its streets and public places, as provided by Article VII, § 9 of the Virginia Constitution and Title 15.2, Chapter 21, Article 1 of the Code of Virginia, 1950, as amended; and

WHEREAS, the Town has received a request from ZiTEL, LLC, a Virginia limited liability company in the business of providing internet and information services, as provided in Title I of the Communications Act of 1934, as amended, for the use of its streets and public places for the construction, reconstruction, maintenance, and operation of its internet and information services systems, on the terms and conditions set forth in the draft franchise ordinance as **Exhibit A**; and

WHEREAS, the use of Town Electric Department poles and conduits shall be governed under one or more separate pole attachment agreements and/or permits, as negotiated between the franchisee and the Electric Department under the Town's standard procedures; and

WHEREAS, the Town is not, at this time, seeking proposals for competitive cable franchises, as provided in the Cable Communications Policy Act of 1984, as amended, but solely seeking information services franchises under Title I of the Communications Act of 1934.

NOW THEREFORE, the Town Council for the Town of Bedford, Virginia, resolves as follows:

1. The Town shall receive competitive bids up until April 25, 2023, at 2 p.m., local time, at the office of the Town of Bedford Department of Finance, 215 East Main Street, Bedford, Virginia 24523, with the details of the manner of submission of bids to be determined by the Town Manager and by the Clerk and advertised with the descriptive notice as set forth below. Submission of a proposal shall be construed to be permission for Town staff to preliminarily unseal bids in order to summarize them for reading in the Council meeting as set forth below, but not to disclose the terms thereof to the Town Council prior to formal unsealing at the 7 p.m. Council meeting.
2. At the Town Council meeting to be held at 7 p.m., local time, following the date and hour for submission of bids, the Mayor shall read aloud or cause to be read aloud a brief summary of each of the bids received, and inquire of the public whether any further bids are offered. If further bids are offered, they shall be received; if not, bidding will then be closed. The Council may then either direct further analysis of bids and recommendation from Town staff on a later date, reject all bids, accept one or more bids, or any combination of such actions. Accepted bids shall be granted on substantially the terms set forth in **Exhibit A**, with the exception of the insertion of the name of the accepted bidder(s).
3. The Town Clerk shall cause a descriptive notice of the proposed franchise in a newspaper of general circulation in the Town for two successive weeks prior to the Council's April 25, 2023, meeting, post this ordinance to the Town website and to the Town procurement and proposals website, and take such other actions to publicize the availability of this opportunity as she may determine to be appropriate.
4. This resolution is effective upon adoption.

Motorola Contract Budget Amendment

The Town of Bedford has agreed to a contract with Bedford County for shared Motorola Services, which is advantageous to both parties through cost-sharing. In order to upgrade the Town's radios, the Town will need to pay 12.5% of the up-front costs of the contract, which amounts to \$125,000. Due to revenue replacement from the American Rescue Plan Act (ARPA), the Town has available budget in the Police Department compensation line item to be moved over to the capital project fund.

ACTION REQUESTED:

Town Council is requested to approve the below budget amendment which will appropriate budget to the general ledger accounts listed.

<i>Budget Entry:</i>		
Revenue Increase		
500091-451111	Transfer In – General Fund	\$125,000
Expenditure Increase		
50033110-581303	Radios	\$125,000
10099600-592016	Trans to General Cap Proj	\$125,000
Expenditure Decrease		
10033110-511000	Compensation	\$125,000

Mr. Carson moved, seconded by Mr. Stanley, to approve the presented budget amendment which will appropriate budget to the general ledger accounts listed.

Mrs. Cantrell said it is a \$125,000 lump sum payment to get the radios and then an annual service agreement for \$40,000 as an operating cost.

Voted upon and carried by the following roll call vote.

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

The motion carried with seven members voting aye.

Budget Presentation

Mrs. Cantrell presented a brief summary of the proposed budget for Fiscal Year 2023-2024. She noted that the proposed budget would be reviewed in detail at the Council’s Work Session in April 2023. Items covered in the summary included:

- Phase 2 Boundary Adjustment including revenue projections, population and parcel increases
- Revenue and expenditure summaries
- New employee classification pay plan
- Employee position changes – new budgeted positions and prior-year vacancies not previously budgeted
- Full-time position summary

- Property, business license, meals, and sales taxes
- Fund balances
- Community organization fund requests
- Capital Improvement Plan (CIP) funds

Mrs. Cantrell reminded Council of the Work Session on April 25, 2023 where she could give a line-by-line review of the budget if Council chose. On May 9, 2023, the Public Hearing regarding the proposed budget is scheduled, and on May 23, 2023 a Council vote on budget adoption is planned.

Mayor Black read the following Closed Session paragraphs from the Code of Virginia:

Pursuant to Section 2.2-3711 (a) (1) of the Code of Virginia of 1950, as amended, to discuss personnel matters; Mr. Lockaby’s contract and the review process for the Town Manager.

Pursuant to Section 2.2-3711 (a) (8) of the Code of Virginia of 1950, as amended, for consultation with legal counsel regarding legal matters, specifically a recent court case Berry vs. Fairfax Board of Supervisors.

Mr. Hailey moved, seconded by Mr. Johannessen, to enter into closed session at 8:51 p.m.

Voted upon and carried by the following roll call vote.

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

The motion carried with seven members voting aye.

Mr. Warner, Mr. Lockaby, and Mrs. Anderson remained for the closed sessions.

Mr. Warner, Mr. Lockaby, and Mrs. Anderson exited the closed sessions at 9:00 p.m. while Council members continued discussion.

Council reconvened into open session at 9:07 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.

Mr. Hartwick moved, seconded by Mr. Shoen, to adopt the resolution.

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
Councilman Johannessen	aye
Mayor Black	aye

The motion carried with seven members voting aye.

ADJOURNMENT

9:08 p.m.

Tim Black, Mayor

Debra Anderson, Clerk of the Council