

October 26, 2010

The regular meeting of the Council of the City of Martinsville, Virginia, was held on October 26, 2010, in Council Chambers, Municipal Building, at 7:30 PM, with Mayor Kim Adkins presiding. Council Members present included: Mayor Kim Adkins, Vice Mayor Kimble Reynolds, Jr., Gene Teague, Mark Stroud, Sr., and Danny Turner. Staff present included: Clarence Monday, City Manager, Brenda Prillaman, Eric Monday, Leon Towarnicki, Wayne Knox, Chris Morris, Linda Conover, and Mike Rogers.

Following the invocation by Council Member Mark Stroud and Pledge to the American Flag, the Mayor welcomed everyone to the meeting. The Mayor recognized the new Blue Ridge Library Director, Ms. Drucilla Carter, who spoke briefly to Council.

On a motion by Kimble Reynolds, seconded by Mark Stroud, with a 5-0 vote, Council approved the minutes of the September 28, 2010 meeting.

Wayne Knox briefed Council on the purpose of the public hearing to clarify definitions and institute the special use permit process in the proposed amendments to the zoning ordinance regarding electronic game rooms. Mayor Adkins opened the public hearing. Comments from the public included: Alexis Lee, 127 Sellers St.—is in agreement with Planning Commission to amend the zoning ordinance; Mike Elder, 923 Childress Dr., disagreed with having sweepstakes here as he considers it gambling and he also stated that Baldwin block belongs to the taxpayers, not to City Council; Gloria Hylton, 402 Second St., voiced concerns about the internet game rooms which she said is a glamorized name for gambling and she is concerned with so many opening up in the West End/Fayette St. area—Council asked that Ms. Hylton submit her suggestions as to changes she would make to the ordinance to protect her neighborhood; Jean Wilson, 627 Fayette St., pointed out it is not good for children to pass by these establishments every day, there are 3 located in her neighborhood, concerns with alcohol being served; J. C. Richardson, member of Planning Commission, concerns about negative activities that follow these establishments, would ask that locality ban or reduce number of establishments—City Attorney responded that Council can ban them from this point forward and keep restrictions in place for those established; William Eggleston, Roundabout Rd., concerns with gambling and alcohol; Gardner Payne, owner of location on Lavinder St., pointed out the reason for his business locating there was that the building and parking was exactly what they needed and that less than 1/3 of their patrons are from Martinsville. Council members had lengthy discussion involving hours of operation and location issues. Mayor Adkins adjourned the public hearing to be continued at the Nov. 9, 2010 meeting. Council agreed it was important to pass the

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ordinance on first reading and conditions can be modified on the second reading of the ordinance. The City Attorney was directed to add conditions regarding hours, age limits, distance from churches, distance from other internet cafes and to prohibit other establishments coming in after ordinance is passed on second reading. On a motion by Gene Teague, seconded by Kimble Reynolds, with the following 5-0 recorded vote, Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council approved the following amendments to the zoning ordinance on first reading:

PROPOSED AMENDMENTS – ZONING ORDINANCE (~~Strikethrough~~ indicates deletion; *italicized bold* indicates addition)

SECTION II-DEFINITIONS

Amusement arcade - Establishments in which a principal use is the operation of video, mechanical, electronic, and/or coin operated games and/or devices for the amusement of the general public.

Amusement machine - Any video, mechanical, electronic and/or coin operated game and/or device for the amusement of patrons. This definition shall not be construed to include coin operated music players, coin operated mechanical children's rides or coin operated television.

Electronic Game Room (internet sweepstake/internet café) – A business enterprise, whether principal or accessory, where persons utilize electronic machines, including but not limited to computers and gaming terminals to conduct games of odds or chance, including sweepstakes, and where cash, merchandise, or other items of value are deemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic Gaming Operations do not include operations associated with the official Virginia Lottery or amusement arcades.

Internet café- See Electronic game room

Internet sweepstake- See Electronic game room

SECTION XII: COMMERCIAL DISTRICTS

A. **C-1 Neighborhood Commercial District.**

B. Uses permitted by right in the C-1 District.

53. ~~Electronic game rooms. Amusement arcades.~~

C. Uses permitted by special use permit in the C-1 District.

7. *Electronic game rooms, subject to the following conditions:*

- a) *Alcohol is prohibited;*
- b) *Bladed weapons are prohibited;*
- c) *Establishment must be located at least 1000 feet from churches, schools, and playgrounds;*
- d) *Establishment cannot open for business prior to 10 a.m. and must close by midnight;*
- e) *Establishment must abide by all building and zoning codes;*
- f) *Prohibited in any local historic district without regard to zoning classification;*
- g) *Other conditions as deemed appropriate.*

E. **C-1A Intermediate Commercial District.**

F. Uses permitted by right in the C-1A District.

53. ~~Electronic game rooms. Amusement arcades.~~

G. Uses permitted by special use permit in the C-1A District.

7. *Electronic game rooms, subject to the following conditions:*

- a) *Alcohol is prohibited;*
- b) *Bladed weapons are prohibited;*
- c) *Establishment must be located at least 1000 feet from churches, schools, and playgrounds;*
- d) *Establishment cannot open for business prior to 10 a.m. and must close by midnight;*
- e) *Establishment must abide by all building and zoning codes;*
- f) *Prohibited in any local historic district without regard to zoning classification;*
- g) *Other conditions as deemed appropriate.*

I. **C-2 Central Business District.**

J. Uses permitted by right in the C-2 District.

54. ~~Electronic game rooms. Amusement arcades.~~

M. **C-3 General Commercial District.**

N. Uses permitted by right in the C-3 District.

51. ~~Electronic game rooms. Amusement arcades.~~

O. Uses permitted by special use permit in the C-3 District.

7. *Electronic game rooms, subject to the following conditions:*

- a) *Alcohol is prohibited;*
- b) *Bladed weapons are prohibited;*
- c) *Establishment must be located at least 1000 feet from churches, schools, and playgrounds;*
- d) *Establishment cannot open for business prior to 10 a.m. and must close by midnight;*
- e) *Establishment must abide by all building and zoning codes;*
- f) *Prohibited in any local historic district without regard to zoning classification;*
- g) *Other conditions as deemed appropriate.*

SECTION XIII: BUSINESS AND MANUFACTURING DISTRICTS

E. **M-1 Light Manufacturing District.**

F. Uses permitted by right in the M-1 Light Manufacturing District.

50. ~~Electronic game rooms. Amusement arcades.~~

G. Uses permitted by special use permit in the M-1 District.

7. *Electronic game rooms, subject to the following conditions:*

- a) *Alcohol is prohibited;*
- b) *Bladed weapons are prohibited;*
- c) *Establishment must be located at least 1000 feet from churches, schools, and playgrounds;*
- d) *Establishment cannot open for business prior to 10 a.m. and must close by midnight;*

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- e) *Establishment must abide by all building and zoning codes;*
- f) *Prohibited in any local historic district without regard to zoning classification;*
- g) *Other conditions as deemed appropriate.*

I. M-2 Heavy Manufacturing District.

J. Uses permitted by right in the M-2 Heavy Manufacturing District.

All uses are allowed in the M-2 District with exception of the following: 24. *Electronic game rooms.*

K. Uses permitted by special use permit in the M-2 District.

4. Electronic game rooms, subject to the following conditions:

- a) *Alcohol is prohibited;*
- b) *Bladed weapons are prohibited;*
- c) *Establishment must be located at least 1000 feet from churches, schools, and playgrounds;*
- d) *Establishment cannot open for business prior to 10 a.m. and must close by midnight;*
- e) *Establishment must abide by all building and zoning codes;*
- f) *Prohibited in any local historic district without regard to zoning classification;*
- g) *Other conditions as deemed appropriate.*

Chris Morris briefed Council on the three properties that have been authorized for disposition with assessed values and offers made on individual properties. Mayor Adkins opened the public hearing regarding disposition of the property at 230 Moss St. which has an assessed value of \$3,000 and an offer to buy has been submitted by Martinsville Cemetery Association for \$3,000. Hearing no public comment, Mayor Adkins closed the public hearing. A motion was made by Gene Teague, seconded by Danny Turner, with the following 5-0 recorded vote, Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council approved disposition of 230 Moss Street for \$3,000. Mayor Adkins opened the public hearing regarding disposition of the property at 1320 S. Memorial Blvd. which has an assessed value of \$400 and an offer to buy has been submitted by Virginia Webb for \$400. Hearing no public comment, Mayor Adkins closed the public hearing. A motion was made by Gene Teague, seconded by Kimble Reynolds, with the following 5-0 recorded vote, Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council approved disposition of 1320 S. Memorial Blvd. for \$400. Mayor Adkins opened the public hearing regarding disposition of the property at 1322 S. Memorial Blvd. which has an assessed value of \$300 and an offer to buy has been submitted by Virginia Webb for \$300. Hearing no public comment, Mayor Adkins closed the public hearing. A motion was made by Gene Teague, seconded by Danny Turner, with the following 5-0 recorded vote, Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council approved disposition of 1322 S. Memorial Blvd. for \$300.

Leon Towarnicki briefed Council on the Solar Power & Agreement between the city and HelioSage LLC for a solar power project at the city's Wastewater Treatment Plant. In 2009, the City was approached by SolSage LLC regarding interest in a possible solar power project. Several months of discussions occurred and eventually, a request for proposals was issued by the City. Two solar power proposals were received and SolSage was selected as best meeting the interests of the City. (SolSage later changed the company name to HelioSage) Ultimately, a 200KW solar project was proposed for the

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City's Wastewater Treatment Plant and a solar power & services agreement has been developed. HelioSage representatives have indicated approval of the agreement is necessary in order to begin pursuit of funding for the project. HelioSage's execution of the project is contingent upon receipt of the funding sources they are trying to obtain. On a motion by Danny Turner, seconded by Mark Stroud, with a 5-0 vote, Council approved the agreement with HelioSage with the addition of the stipulation that the city has the right to renegotiate after 18 months from date the contract is signed contingent upon HelioSage securing funding.

Kathy Lawson of the Green Committee reviewed and gave an update on projects currently being worked on by the Green Committee. Dave Maddox of the Green Committee presented a power point presentation about his analysis of our recycling efforts titled "One Year Later" that focuses on Stewardship, Sustainability, and Leadership on how our resources have been managed and used during the past year. The presentation provided analytical detail on recycling efforts and gave Council guidance on approaching issues of resource management and cost containment going forward. After lengthy discussion, Council asked that the Green Committee work with Leon Towarnicki and Jeff Joyce to come up with a formal recommendation for Council to consider regarding a long term policy on recycling. Staff will work toward bringing a recommendation to the January 2011 Council meeting.

Clarence Monday briefed Council on the Preliminary Ordinance for Phase 2 of the landfill-methane project.

At the October 12, 2010 Council Meeting, a Resolution was adopted, authorizing the advertisement of a Public Hearing, allowing requests for proposals (RFPs) for financing and equipment needs, and to define the process for further consideration by the Council. The Resolution did not commit the City to issue bonds and/or any other instrument of debt for the stated purpose. The Preliminary Ordinance serves three primary purposes, as follows:

1. **Sets the purpose of the proposed project** - The City Council proposes to issue bonds for the purpose of assisting in the acquisition, construction, expansion, renovation and equipping of City public works facilities, including landfill improvements, including facilities for electricity generation from landfill gas, and wastewater treatment plant improvements, including an automatic bar screen device, all for municipal purposes.
2. **Sets the maximum amount of the project debt** - The maximum amount of the issuance of general obligation bonds is an original principal amount not to exceed \$1,950,000, to be issued by the City, for the acquisition, construction and equipping of the Project and for certain costs related to issuance of the Bonds.
3. **Sets the maximum length of time the bonds will be outstanding** - The maximum length of time that the Bonds will be outstanding is eleven years from the date of issuance of the Bonds.

If adopted, this Ordinance still does not commit the City to the issuance of such bonds, but rather achieves the previously identified points. There will be a second reading of the same Ordinance at the Nov. 9 Council Meeting. Also on November 9th, the Council will consider first reading of the actual bond ordinance with final approval of "the commitment" Ordinance on November 23 after Council is informed of Bond interest rates, total project costs, analyzing data from a cost-benefit analysis of the proposed project, and a Public Hearing. The process timeline is as follows:

- Oct. 12 - council adopted a Resolution authorizing issuance of RFP to banks, setting public hearing for Nov. 23, authorizing publication and broadcast of notice of public hearing
- Oct. 15 - RFPs were distributed to banks
- Oct. 26 - first reading of Preliminary Ordinance as outlined in points 1-3 above
- Nov. 1 - bank proposals are due
- Oct. 28 and Nov. 4 (give or take a day) - publication/broadcast of notice of hearing
- Nov. 9 - City Council selects bank, second reading and final adoption of Preliminary Ordinance (the October 26th Ordinance), first reading of Ordinance Authorizing issuance of bonds
- November 23 - Council conducts Public Hearing, second reading and final adoption of Ordinance Authorizing issuance of bonds
- Closing - week of Nov. 29

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On a motion by Kimble Reynolds, seconded by Gene Teague, with a 5-0 recorded vote: Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council approved, on first reading, the following Preliminary Ordinance making initial findings regarding issuance of bonds for the landfill-methane project:

AN ORDINANCE RECITING THE EXPEDIENCY OF THE ISSUANCE OF UP TO \$1,950,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF THE CITY OF MARTINSVILLE, VIRGINIA, AND SETTING FORTH THE PURPOSE, IN GENERAL TERMS, FOR WHICH THE BONDS ARE TO BE ISSUED, THE MAXIMUM AMOUNT OF THE BONDS TO BE ISSUED AND THE MAXIMUM LENGTH OF TIME SUCH BONDS WILL BE OUTSTANDING
Adopted on October 26, 2010

Be it Ordained by the Council of the City of Martinsville, Virginia:

Section 1 - Findings and Determinations

The City Council ("**City Council**") of the City of Martinsville, Virginia (**the "City"**) proposes to issue bonds for the purpose of assisting in the acquisition, construction, expansion, renovation and equipping of City of Martinsville public works facilities, including landfill improvements (including facilities for electricity generation from landfill gas) and wastewater treatment plant improvements (including an automatic bar screen), all for municipal purposes (**together, the "Project"**) and hereby finds and determines that: (i) the City is in need of funds to be used by the City for such construction and equipment needs brought to the attention of the City Council by the Martinsville City Manager, specifically for the Project, for costs of issuance of the Bonds (defined below) and for payment of interest on the Bonds; (ii) the obtaining of such funds will be for municipal purposes of the City, for the welfare of citizens of the City for purposes which will serve the City and its citizens pursuant to the authority of the City to provide funds for and otherwise support the City's public works solid waste disposal and wastewater treatment services; (iii) the most effective, efficient and expedient manner in which to provide such funds to the City is through the issuance of general obligation bonds in an original principal amount not to exceed \$1,950,000 to be issued by the City as further described herein (**the "Bonds"**) to be used for the acquisition, construction and equipping of the Project and for certain costs of issuance of the Bonds; (iv) the issuance of the Bonds is within the power of the City to contract debts, borrow money and make and issue evidence of indebtedness; and, (iv) the issuance of the Bonds is in the best interests of the City and its citizens.

Section 2 - Description of the Bonds

The City Council finds that it is expedient for the City to borrow money and issue the Bonds for the Project in a maximum amount not to exceed ONE MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS (\$1,950,000). The maximum length of time that the Bonds will be outstanding is eleven years from the date of issuance of the Bonds. The form and details of the Bonds which are proposed to be issued will be more specifically set forth in a City Ordinance to be entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,950,000 MAXIMUM PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF THE CITY OF MARTINSVILLE, VIRGINIA AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF, which will be introduced before the Council and considered for passage following a public hearing on the issuance of the Bonds, as required by law.

Section 3 - Further Actions Authorized

The City Manager, Clerk of the Council, City Treasurer, City Attorney, Sands Anderson PC as bond counsel, Davenport & Company LLC as financial advisor to the City and all other officers, employees and agents of the City are hereby authorized and directed to take any and all such further action as shall be deemed necessary or desirable to facilitate consideration of the issuance of the Bonds. All actions of the City Manager, Clerk of the Council, City Treasurer, City Attorney, bond counsel, the City's financial advisor and all other officers, employees and agents of the City in furtherance of the issuance of the Bonds and the financing of the Project are hereby approved and ratified.

Section 4 - Invalidity of Sections

If any section, paragraph, clause or provision of this Ordinance shall be held invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining portions of this Ordinance.

Section 5 - Headings of Sections

The headings of the sections of this Ordinance shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of such sections of this Ordinance.

Section 6 - Effective Date and Filing of Ordinance

Council hereby declares in the public interest that this Ordinance shall become effective immediately upon its passage. A copy of this Ordinance, certified by the Clerk of the Council, shall be filed with the Clerk of the Circuit Court of the City of Martinsville, Virginia.

Council members were advised that a cost benefit analysis will be available at the Nov. 9 or Nov. 23 meeting.

On a motion by Gene Teague, seconded by Kimble Reynolds, with a 5-0 vote, Council approved the following consent agenda:

BUDGET ADDITIONS FOR 10/26/10				
ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
<u>FY11</u>				
<u>GENERAL FUND</u>				
01100909	490104	Recovered Costs		1,432
01311085	506008	Police Dept - Vehicle Repairs & Maintenance appropriate insurance payment	1,432	
01100908	480411	Miscellaneous - Donations/Skate Park		5,816
01713211	508220	Park Maintenance - Physical Plant Expansion appropriate donated funds for Skate Park	5,816	
Total General Fund:			7,248	7,248

City Attorney, Eric Monday, briefed Council on the proposed 2011 City Legislative Agenda. Council members pointed out several additions and changes and asked that a draft Legislative Agenda be discussed again at their November 9 meeting for final approval

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after all Council members priorities have been received. Council also directed the City Attorney to prepare a resolution regarding BPOL for the November 9 meeting.

Business from the Floor: Sidney Lee, 127 Sellers St., voiced concerns about the three traffic signals all together on Commonwealth Blvd; Ural Harris, 217 Stuart St., voiced concern with the large amount paid out to the ex-school superintendent and he wants Council to get the school board under control, also concerned about the city employee that was fired and he thinks personnel matters should not be buried.

Comments from City Council: Reynolds—expressed appreciation to Danny Turner for his efforts in getting a group of Canadians here for the race. Stroud—wants limits in place to make sweepstakes establishments good citizens. Turner—reported street lights needed at Corn Tassel and Spruce, city needs to light up our landmarks at night especially the hydro plant, reported citizens want to keep chickens in the city. Council asked that the issue with the 3 traffic signals on Commonwealth be reviewed by the Transportation Safety Commission and the City Attorney will bring a draft ordinance on chickens for Council's consideration.

In accordance with Section 2.1-344 (A) of the Code of Virginia (1950, and as amended) and upon a motion by Gene Teague, seconded by Kimble Reynolds, with the following 5-0 recorded vote: Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council convened in Closed Session, for the purpose of discussing the following matter: (A) Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the City of Martinsville would be adversely affected, as authorized by Subsection 6.

At the conclusion of Closed Session, each returning member of Council certified that (1) only public business matters exempt from open meeting requirements were discussed in said Closed Session; and (2) only those business matters identified in the motion convening the Closed Session were heard, discussed, or considered during said Session. On a motion by Gene Teague, seconded by Kimble Reynolds, with the following recorded 5-0 vote: Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council returned to Open Session. No action was taken.

There being no further business, Mayor Adkins adjourned the meeting at 10:18 PM.

Clarence C. Monday
Clerk of Council

Kim E. Adkins
Mayor