

December 14, 2010

The regular meeting of the Council of the City of Martinsville, Virginia, was held on December 14, 2010, in Council Chambers, Municipal Building, at 7:30 PM, with Mayor Kim Adkins presiding. Council Members present included: Mayor Kim Adkins, Gene Teague, Mark Stroud, Sr., and Danny Turner. Vice Mayor Kimble Reynolds was absent. Staff present included: Clarence Monday, City Manager, Brenda Prillaman, Eric Monday, Leon Towarnicki, Linda Conover, Mike Rogers, Steve Draper, Ruth Easley, Wayne Knox, Ted Anderson and Andy Powers.

Following the invocation by Council Member Gene Teague and Pledge to the American Flag, the Mayor welcomed everyone to the meeting.

Council Member Danny Turner recognized the achievements of Thomas Shaw, a Henry County veteran who recently passed away and is to be buried in the Arlington Cemetery.

On a motion by Danny Turner, seconded by Mark Stroud, with a 4-0 vote, Council approved the minutes of November 8 Neighborhood meeting, November 8 School Board/Council meeting, and November 9, 2010 regular Council meeting.

Mayor Adkins welcomed Delegate Don Merricks to the meeting and advised that Senator Roscoe Reynolds and Delegate Ward Armstrong were unable to attend due to other commitments. Delegate Merricks discussed how Virginia's redistricting may affect our area. He stressed that localities must work together to pressure state lawmakers not to sacrifice this region's needs to benefit other areas. After brief discussion, Council directed the City Attorney, Eric Monday, to prepare and send a resolution and letters to chairs of committees handling redistricting issue, Mark Cole and Janet Howell, and amend the city's 2011 legislative agenda with redistricting language stressing that the redistricting plan not adversely affect us. On a motion by Gene Teague, seconded by Mark Stroud, with a 4-0 vote, Council approved the spirit of the proposed resolution and the amended legislative agenda to reflect language discussed. The City Attorney is to send the amended legislative agenda, resolution, and letters to the necessary officials.

City Manager Clarence Monday briefed Council on the ordinance to commit the city to borrow funds necessary for the landfill methane and sewer plant projects. Leon Towarnicki, Assistant City Manager, reported the bids for the energy project came in lower than was expected and the city will be paying a total of \$880,000 for the landfill methane and the sewer plant projects. Enough electricity is to be produced to meet 2.5% of Martinsville's needs and the new bar screen required at the sewer plant will keep debris out of the waste stream. The landfill methane project should be operating by

December 14, 2010

August 2011. Bond Counsel Paul Jacobson and Financial Advisor David Boyd also spoke to Council regarding bank interest rate of 2.65%. Public comments: Mike Elder questioned if this is the right time. On a motion by Gene Teague, seconded by Danny Turner, with the following 4-0 recorded vote: Adkins, aye; Teague, aye; Stroud, aye; and Turner, aye, (Reynolds-absent), Council adopted the following ordinance on second reading for the \$880,000 amount:

CITY OF MARTINSVILLE, VIRGINIA

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

Adopted on December 14, 2010 (second reading)



VIRGINIA
City of Martinsville Circuit Court
15th December 2010
11:11 AM
11/15/10
11/15/10

TABLE OF CONTENTS

	Page
Section 1	1
Section 2	3
Section 3	3
Section 4	11
Section 5	11
Section 6	19
Section 7	12
Section 8	12
Section 9	12
Section 10	12
Section 11	12
Section 12	13
Section 13	13
Section 14	14
Section 15	14
Section 16	15
Section 17	15
Section 18	16
Section 19	16

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

Section 1 Definitions

Unless the context shall clearly indicate some other meaning, the following words and terms shall for all purposes of the Ordinance and of any certificate, resolution or other instrument amendatory thereto or supplemental thereto for all purposes of any opinion or instrument or other documents therein or herein mentioned, have the following meanings:

"Act" shall mean the Public Finance Act, Chapter 26, Title 15.2 of the Code of Virginia of 1950, as amended.

"Bank" shall mean Carter Bank & Trust, Martinsville, Virginia.

"Bonds" shall mean the City's General Obligation Bonds, Series 2010, in the aggregate principal amount of up to \$1,950,000, authorized to be issued hereunder.

"Bondholder" or **"Bondholders"** shall mean the registered holder or holders of the Bonds.

"Bond Counsel" shall mean Sands Anderson PC or another attorney or firm of attorneys nationally recognized on the subject of municipal bonds selected by the City.

"Bond Fund" shall mean the Bond Fund established by Section 6.

"Bond Maturity Date" shall mean February 1, 2021.

"Bond Payment Date" shall mean the 1st day of each February and August, beginning August 1, 2011, up to and including the Bond Maturity Date.

"Bond Proceeds Fund" shall mean the Bond Proceeds Fund established by Section 4.

"Business Day" shall mean any Monday, Tuesday, Wednesday, Thursday or Friday on which commercial banks generally are open for business in the Commonwealth of Virginia.

"City" shall mean the City of Martinsville, Virginia.

"City Charter" shall mean the City Charter of the City of Martinsville, Virginia, as amended.

"Clerk" shall mean the Clerk of the Council or the Deputy Clerk of the Council.

"Closing Date" shall mean the date on which the Bonds are issued and delivered to the Bondholder.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and applicable regulations, procedures and rulings thereunder.

"Commonwealth" shall mean the Commonwealth of Virginia.

"Council" shall mean the City Council of the City of Martinsville.

"Interest Account" shall mean the Interest Account in the Bond Fund established by Section 6.

"Mayor" shall mean the Mayor or Vice Mayor of the City.

"Outstanding" when used in reference to the Bonds shall mean as of a particular date, the Bonds authenticated and delivered under this Ordinance except:

- (i) if a Bond is canceled by the City at or before such date;
- (ii) a Bond for the redemption or purchase of which cash or noncallable direct obligations of the United States of America, equal to the redemption or purchase price thereof to the redemption or purchase date, shall have been deposited with the Paying Agent, for which notice of redemption or purchase shall have been given in accordance with the Ordinance;
- (iii) a Bond in lieu of, or in substitution for which, another Bond shall have been authenticated and delivered pursuant to this Ordinance; and
- (iv) if a Bond is deemed paid under the provisions of Section 9, except that such Bond shall be considered Outstanding until the maturity or redemption date thereof only for the purposes of actually being paid.

"Paying Agent" shall mean the City Treasurer acting as Paying Agent for the Bonds hereunder or the successors or assigns serving as such hereunder.

"Principal Account" shall mean the Principal Account in the Bond Fund established by Section 6.

"Registrar" shall mean the Paying Agent, or the successors or assigns serving as such hereunder.

Section 2 Findings and Determinations

The Council hereby finds and determines that (i) the City is in need of funds to be used for the purposes of financing the acquisition, construction, expansion, renovation and equipping of City of Martinsville municipal facilities, specifically 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") including payment of costs of issuance of the Bonds and 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 activities of the City and the City's municipal purposes; (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, Series 2010, in an aggregate original principal amount not to exceed \$1,950,000 to be issued by the City as further described herein (the "Bonds") to be sold to the Bank, which has offered to purchase the same on certain terms and conditions pursuant to the Bank's proposal and the Financing Agreement; (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, (v) the issuance of the Bonds is in the best interests of the City and its citizens. The maximum length of time that the Bonds will be outstanding is eleven years from the date of issuance of the Bonds. The Council hereby finds and determines that the average probable useful life of the Project, and each portion thereof, financed by the Bonds exceeds eleven years and that the Bonds are payable and shall mature within the average probable useful life of that portion of the Project.

Section 3 Authorization, Form and Details of the Bonds

(a) There is hereby authorized to be issued general obligation bonds of the City in the aggregate principal amount of up to \$1,950,000 for municipal purposes as described in Section 2 above. The Bonds authorized herein shall each be designated "General Obligation Bond, Series 2010." The Bonds shall be issuable in the principal amount of \$880,000 as a fully registered Bond, without coupons, shall be dated the Closing Date, shall be numbered R-1, shall bear interest payable on the Bonds Maturity Dates at a rate of 2.65% per annum. The Bonds shall mature on the Bond Maturity Dates. Commencing on August 1, 2011, and continuing on each February 1 thereafter, interest on the outstanding principal amount of the Bonds shall be due and payable as set forth above, and commencing on February 1, 2012, and continuing on each February 1 thereafter, principal amounts of the Bonds shall be due in accordance with the Bank's written proposal to purchase the Bonds until the Bond Maturity Date. The Bonds are subject to redemption prior to maturity at the option of the Council at any time, in whole or in part, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed, plus interest accrued to the redemption date.

The Bonds are hereby authorized to be issued under the City Charter and the Act. The Bonds shall bear interest from the date on which they are authenticated. Interest on the Bonds shall be computed on the basis of 30-day months and a 360-day year.

Principal of, and interest on, the Bonds shall be payable in lawful money of the United States of America. Principal of and interest on the Bonds shall be payable by check or draft mailed to the registered owner thereof at its address.

The Bonds shall be printed, lithographed or typewritten and shall be substantially in the form herein below set forth, with such appropriate variations, omissions and insertions as are permitted or required by this Ordinance, including such variations, insertions and omissions as shall be necessary to issue the Bonds under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments of principal of and interest on the Bonds and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

If any principal of, or interest on, the Bonds is not paid when due (whether at maturity, by acceleration or call for redemption, or otherwise), then, to the extent permitted by law, the overdue installments of principal shall bear interest until paid at the same rate or rates as set forth in the Bonds.

The Bonds shall be signed by the facsimile or manual signature of the Mayor. The facsimile of the City's seal shall be printed thereon or manually impressed thereon and attested by the facsimile or manual signature of the Clerk. In case any officer whose signature or facsimile of whose signature shall appear on a Bond shall cease to be such officer before delivery of the Bond, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he remained in office until such delivery. The Bonds may bear the facsimile signature of or may be signed by such persons as at the actual time of the execution thereof shall be the proper officers to sign the Bonds although on the date of delivery of the Bonds such persons may not have been such officers.

The Bonds shall bear a certificate of authentication, in the form set forth below, duly executed by the Registrar. The Registrar shall authenticate the Bonds with the signature of an authorized officer of the Registrar. Only authenticated Bonds shall be entitled to any right or benefit under this Ordinance, and such certificate on the Bonds issued hereunder shall be conclusive evidence that the Bonds have been duly issued and is secured by the provisions hereof.

The Paying Agent shall act as Registrar and shall maintain Registration Books for the registration and the registration of transfer of the Bonds. The City Treasurer is hereby designated and authorized to act as Paying Agent and Registrar hereunder. The transfer of the Bonds may be registered only on the books kept for the registration and registration of transfer of

the Bonds upon surrender thereof to the Registrar together with an assignment duly executed by the registered Bondholder in person or by his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon any such transfer, the City shall execute and the Registrar shall authenticate and deliver, in exchange of the Bonds, a new registered Bond registered in the name of the transferee of the same series, maturity and interest rate as the Bond so exchanged in any denomination or denominations authorized by this Ordinance.

The Registrar shall not be required to make any such registration or registration of transfer during the thirty (30) days immediately preceding any Bond Payment Date or a redemption date.

Prior to due presentment for registration of transfer for the Bonds, the Registrar shall treat the registered Bondholders as the person or persons exclusively entitled to payment of principal of, premium, if any, and interest on, the Bonds and the exercise of all other rights and powers of the Bondholder.

If a Bond has been mutilated, lost or destroyed, the City shall execute and the Registrar shall authenticate and deliver a new Bond of like date and tenor in exchange or substitution for, and upon cancellation of, such mutilated Bond or in lieu of and in substitution for such lost or destroyed Bond, provided, however, that the City and the Registrar shall execute, authenticate and deliver such Bond only if the Bondholder has paid the reasonable expenses and charges of the City and the Registrar in connection therewith and, in the case of a lost or destroyed Bond, has furnished to the City and the Registrar (a) evidence satisfactory to them that such Bond was lost or destroyed and the Bondholder was the Owner thereof and (b) indemnity satisfactory to them. If the Bond has matured, instead of issuing a new Bond, the Registrar may pay the same without surrender thereof upon receipt of the aforesaid evidence and indemnity.

If a Bond has been paid (whether at maturity, by acceleration or otherwise) or delivered to the Paying Agent for cancellation, the Bond shall not be missed and the Registrar shall, unless otherwise directed by the City, reissue, amend, or otherwise dispose of the Bond. The Registrar shall deliver to the City a certificate of any such reissuance, spreading or other disposition of the Bond.

CUSIP identification numbers may be printed on the Bonds, but such numbers shall not be deemed to be a part of the Bonds or a part of the contract evidenced thereby and no liability shall hereafter attach to the City or any of the officers or agents thereof because of or on account of said CUSIP numbers.

The Bonds, the Certificate of Authentication and the provision for the assignment to be inserted in the Bonds shall be substantially in the following form, to-wit:

"FORM OF BOND"

No. R-1

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA, CITY OF MARTINSVILLE

**GENERAL OBLIGATION BOND,
SERIES 2010**

Dated: **2010**

Registered Holder: **Maturity Date: February 1, 2021**
CARTER BANK & TRUST

Principal Sum: **\$880,000**
Interest Rate: **2.65%**

KNOW ALL MEN BY THESE PRESENTS, that the City of Martinsville, Virginia (hereinafter sometimes referred to as the "City"), a City of the Commonwealth of Virginia, for value received hereby promises to pay to the registered holder (named above), or assigns, subject to prepayment or prior redemption as hereinafter provided, the principal amount of \$880,000 (5) in annual installments in the amounts set forth on Schedule A attached hereto payable on February 1, 2012 and annually on February 1 thereafter to and including February 1, 2021, together with interest from the date of this bond on the unpaid principal balance, payable semi-annually on February 1 and August 1 of each year, commencing on August 1, 2011, at the rate of 2.65% per annum, as set forth in Schedule A attached hereto.

Both principal of and interest on the Bonds are payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts.

It is hereby certified, recited and declared that all acts, conditions and things required to have happened, to exist and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in regular and due time, form and manner as required by law; that this Bond does not exceed any constitutional, statutory or charter limitation of indebtedness; and that provision has been made for the payment of the principal of, and interest on, this Bond as provided in the Ordinance.

No registration, transfer or exchange of this Bond shall be permitted within thirty (30) days of the Maturity Date or the date of prepayment or redemption of this Bond.

6

This Bond is in the aggregate principal amount of \$880,000, and is issued under and pursuant to and in compliance with the Constitution and laws of the Commonwealth of Virginia, including the City Charter of the City of Martinsville, Virginia and Chapter 26, Title 15.2 of the Code of Virginia of 1950, as amended, the same being the Public Finance Act, and the Ordinances duly adopted under said Chapter by the City Council on November 9, 2010 and December 14, 2010 (together, the "Ordinance") and the Financing Agreement between the City and Carter Bank & Trust dated as of December 1, 2010 (the "Financing Agreement").

This Bond shall bear interest from the date on which this Bond is authenticated. Interest on this Bond shall be computed on the basis of 30-day months and a 360-day year.

This Bond is transferable only upon the registration books kept at the office of the Registrar by the registered holder hereof, or by his duly authorized attorney, upon surrender of this Bond (together with a written instrument of transfer, satisfactory in form to the Registrar, duly executed by the registered holder or his duly authorized attorney, which may be the form endorsed hereon) and subject to the limitations and upon payment of the charges, if any, as provided in the Ordinance, and thereupon as provided in the Ordinance a new Bond, in the aggregate principal amount and of the same series, interest rate and maturity as the Bond surrendered, shall be issued in exchange therefor. The City and the Registrar shall deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon and for all other purposes whatsoever.

The Bond is subject to prepayment or redemption prior to maturity at the option of the City Council at any time, in whole or in part, at a redemption price equal to 100% of the principal amount of Bond to be redeemed, plus interest accrued to the redemption date. The records of the Holder hereof shall be prima facie evidence of the amount of principal and interest owed hereunder.

THIS BOND IS A GENERAL OBLIGATION OF THE CITY FOR THE PAYMENT OF WHICH THE CITY'S FULL FAITH AND CREDIT ARE IRREVOCABLY PLEDGED. THE CITY COUNCIL IS AUTHORIZED AND REQUIRED TO LEVY AND COLLECT ANNUALLY AT THE SAME TIME AND IN THE SAME MANNER AS OTHER TAXES OF THE CITY ARE ASSESSED, LEVIED AND COLLECTED, A TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY, OVER AND ABOVE ALL OTHER TAXES AUTHORIZED OR LIMITED BY LAW AND WITHOUT LIMITATION AS TO RATE OR AMOUNT, SUFFICIENT TO PAY WHEN DUE THE PRINCIPAL OF AND PREMIUM, IF ANY, AND INTEREST ON THE BOND, TO THE EXTENT OTHER FUNDS OF THE CITY ARE NOT LAWFULLY AVAILABLE AND APPROPRIATED FOR SUCH PURPOSE.

Reference is hereby made to the Ordinance and to all of the provisions thereof to which any holder of this Bond by his acceptance hereof hereby assents, for definitions of terms, the

7

description of and nature and extent of the security for the Bond; the conditions upon which the Ordinance may be amended or supplemented without the consent of the holder of this Bond and upon which it may be amended only with the consent of the holder of the Bond affected thereby; the rights and remedies of the holder hereof with respect hereto; the rights, duties and obligations of the City; the provisions discharging the Ordinance as to this Bond and for the other terms and provisions of the Ordinance.

This Bond shall not be valid or obligatory for any purpose unless the certificate of authentication hereon has been duly executed by the Registrar and the date of authentication inserted hereon.

IN WITNESS WHEREOF, the City of Martinsville, Virginia, by its City Council has caused this Bond to be signed by the Mayor and attested by the Clerk of said Council, by their manual or facsimile signatures, and its seal to be impressed or imprinted hereon, and this Bond to be dated as set forth above.

(SEAL)

Clerk of the City Council Mayor of the City of Martinsville

CERTIFICATE OF AUTHENTICATION

This Bond is the Bond described in the within-mentioned Ordinance.

REGISTRAR - CITY OF MARTINSVILLE

TREASURER

By: Martinsville City Treasurer

DATE OF AUTHENTICATION:

(FORM OF ASSIGNMENT)

For value received, the indorsed hereby sells, assigns, and transfers unto

Please insert social security number or other tax identification number of assignee:

Name and address of assignee, including zip code:

the within-mentioned Bond and hereby irrevocably constitutes and appoints attorney-in-fact, to transfer the same on the registration books thereof maintained in the office of the within-mentioned Registrar with the full power of substitution in the premises.

DATED:

BOND: The signature to this assignment must correspond with the name of the registered holder that is written on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed

NOTICE: Signatures must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

Section 4 Creation of Proceeds Fund

There is hereby established a trust fund to be designated the "Bond Proceeds Fund, City of Martinsville General Obligation Bond, Series 2010."

Section 5 Payments into Proceeds Fund

(a) All funds received from the proceeds of the sale of the Bonds after payment of certain costs of issuance of the Bonds shall be deposited into the Proceeds Fund to pay costs of the Project in accordance with the Financing Agreement and applicable law.

Section 6 Creation of Bond Fund

There is hereby established a trust fund to be designated the "Bond Fund, City of Martinsville General Obligation Bond, Series 2010" in which Bond Fund there is hereby established an Interest Account and a Principal Account. As and when received, monies shall be deposited into the Bond Fund, and payments from the Bond Fund shall be made as follows:

- (i) to the Interest Account in the Bond Fund, subject to credit, if any, for proceeds of the Bonds deposited therein, on the Business Day prior to each Bond Payment Date, an amount equal to the amount of interest that will become due on the Bonds on the next succeeding Bond Payment Date; and
(ii) to the Principal Account in the Bond Fund on the Business Day prior to each Bond Payment Date an amount equal to the principal that is required to be deposited into the Principal Account in order to pay the principal due on the Bond on the next succeeding Bond Payment Date.

Section 7 Accounts Within Funds

Any fund or account created by this Ordinance may contain such accounts or subaccounts as may be necessary for the orderly administration thereof.

Section 8 Investment of Funds

(a) The City shall separately invest and reinvest any monies held in the funds established by this Ordinance in investments which would mature in amounts and at times so that the principal of, premium, if any, and interest on, the Bonds can be paid when due at maturity thereof.

(b) Permissible investments include investments in securities that are legal investments under Chapter 45 of Title 2.2 of the Code of Virginia of 1950, as amended (Section 2.2-4500 et seq.) and which are otherwise in compliance with Section 15.2-2619 of the Act.

Section 9 Defeasance

The obligations of the City under this Ordinance and covenants of the City provided for herein shall be fully discharged and satisfied as to the Bonds and the Bonds shall no longer be deemed to be Outstanding hereunder when the Bonds shall have been purchased by the City and canceled or destroyed, when the payment of principal of the Bonds, plus interest on such principal to the due date thereof either (a) shall have been made or (b) shall have been provided for by irrevocably depositing with a financial institution acting as escrow agent selected by the Paying Agent for the Bonds, money sufficient to make such payment, or direct and general obligations of, or obligations the principal of, and interest on, which are guaranteed by, the United States of America, maturing in such amounts and at such times as will insure the availability of sufficient monies to make such payment.

Section 10 General Obligation

The Council, in accordance with Section 7 of Chapter 11 of the City Charter and Section 15.2-2624 of the Act, is hereby authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and premium, if any and interest on the Bonds, to the extent other funds of the City are not lawfully available and appropriated for such purpose.

Section 11 Event of Default

Each of the following shall constitute an event of default hereunder as to any particular Bond:

- (a) Failure to pay the principal of the Bond when due;
(b) Failure to pay interest on the Bond when due;

(OFFICIAL DESIGNATION)

12

the calendar year 2010 is not reasonably expected to exceed \$5,000,000 except that, pursuant to the provisions of Section 148(D)(4)(D)(vii) of the Code, this amount of \$5,000,000 may increase by the lesser of \$10,000,000 or so much of the aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the City (and notes and bonds issued by any subordinate entity of the City) during the calendar year 2010 attributable to financing and construction (within the meaning of Section 148(D)(4)(C)(iv) of the Code) of public school facilities.

The Council, on behalf of the City, hereby designates the Bonds as "qualified tax-exempt obligations" as defined in Section 265(b)(3)(D) of the Code and certifies by this Ordinance that it does not reasonably anticipate the issuance by it or its subordinate entities of more than \$30,000,000 in "qualified tax-exempt obligations" during the calendar year 2010 and will not designate, or permit the designation by any of its subordinate entities of, any of its notes or bonds (or those of its subordinate entities) during the calendar year 2010 which would cause the \$30,000,000 limitation of Section 265(b)(3)(D) of the Code to be violated.

Section 16 Further Actions Authorized: Approval of Documents

The Mayor and Clerk of the Council and the City Manager, City Treasurer, City Attorney, Bond Counsel, the City's financial advisor and all other officers, employees and agents of the City are hereby authorized and directed to take any and all such further action and to execute and deliver such other documents, certificates, undertakings, agreements or other instruments as shall be deemed necessary or desirable in order to effectuate delivery of, and payment for the Bonds, all in accordance with the Ordinance, including but not limited to the execution and delivery of form B038-G, as appropriate and as determined necessary by bond counsel, and Non-Arbitrage Certificate and Tax Covenants and the making of any elections such officers, employees and agents deem desirable regarding any provision of the Code or regulations promulgated thereunder. The City Manager is hereby authorized to make any additional designations and irrevocable elections for the issuance of the Bonds. The Financing Agreement shall be in substantially the form submitted to this meeting, which is hereby approved, with such completions, omissions, insertions, changes and revisions as may be approved by the officer executing them in his sole and absolute discretion, his execution thereof to constitute conclusive evidence of his approval of any such completions, omissions, insertions, changes and revisions.

Section 17 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.

(OFFICIAL DESIGNATION)

15

(c) Failure of the City to perform any other covenant or agreement contained in this Ordinance, which failure shall have continued for 60 days after the notice thereof from the Bondholder; provided, however, that if any such failure shall be such that it cannot be cured or corrected within a 60-day period but is, in fact, susceptible of cure or correction, it shall not constitute an Event of Default if curative or corrective action is instituted within said period and diligently pursued until the failure of performance is cured or corrected;

(d) The instituting of any proceeding with the consent of the City for the purpose of effecting composition between the City and its creditors or for the purpose of reducing the claims of creditors pursuant to any federal or state statute; or

(e) If the City for any reason shall be rendered incapable of fulfilling its obligations under this Ordinance as to the Bond.

Upon the occurrence of an Event of Default, the Bondholder may declare the principal of the Outstanding Bond and all accrued and unpaid interest thereon to be due and payable immediately. This provision is subject to the condition that if, at any time after such declaration and before any such further action has been taken, all arrears of interest on, and principal of, the Bond shall have been paid and all other Events of Default, if any, which shall have occurred have been remedied, then the Bondholder may waive such default and annual such declaration.

In case an Event of Default shall occur, subject to the provisions referred to in the preceding paragraph, the Bondholder shall have the right to protect the rights vested in such Bondholder by the Ordinance by such appropriate judicial proceeding as such Bondholder shall determine either by suit in equity or by action at law.

Section 12 Enforcement by Bondholders

The Bondholders may by mandamus or other appropriate proceeding at law or in equity in any court of competent jurisdiction, enforce and compel performance of this Ordinance and every provision and covenant thereof concerning the Bonds, including without limiting the generality of the foregoing, the enforcement of the performance of all obligations and duties and requirements to be done or performed by the City by the Ordinance or by the applicable laws of the Commonwealth as to the Bonds.

Section 13 Modification of Bond Ordinance

The City may without the consent of the Bondholder make any modification or amendment of this Ordinance required to cure any ambiguity or error herein contained or to make any amendments hereto or to grant to the Bondholder additional rights. The Bondholder

(OFFICIAL DESIGNATION)

13

Section 18 Headings of Sections, Table of Contents

The headings of the sections of this Ordinance and the Table of Contents appended hereto or to copies hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of such sections of this Ordinance.

Section 19 Effectiveness and Filing of Ordinance

The Council hereby declares that this Ordinance shall become effective upon its passage as provided for in the Act and pursuant to Section 3 of Chapter 3 of the City Charter. A certified copy of this Ordinance shall be filed by the Clerk with the Clerk of the Circuit Court of the City of Martinsville, Virginia. The filing of this Ordinance with the Clerk of the Circuit Court of the City of Martinsville, Virginia shall be deemed to be the filing of an initial resolution or ordinance with such Court for all purposes of the Act.

(OFFICIAL DESIGNATION)

16

shall have the power to authorize any modifications to this Ordinance proposed by the City other than as permitted above; provided that without the consent of the Bondholder affected thereby, no modifications shall be made which will (a) extend the time of payment of principal of, or interest on, a Bond or reduce the principal amount thereof or the rate of interest thereon, (b) give to a Bond any preference over any other bond secured equally and ratably therewith; (c) deprive the Bondholder of the security afforded by this Ordinance, or (d) reduce the percentage in principal amount of a Bond required to authorize any modification to the Ordinance.

Section 14 Application of Proceeds; Sale of Bonds

Proceeds derived from the sale of the Bonds together with other monies available therefor shall be used to pay the costs of issuance and other expenses of the City relating to the issuance of the Bonds and thereafter any remaining funds to be deposited in the Bond Proceeds Fund shall be used for the purposes specified in Section 2 of this Ordinance and otherwise used in accordance with the provisions of this Ordinance or an opinion of Bond Counsel. Interest accruing on the principal of the Proceeds Fund and any profit realized from it may be transferred to the Bond Fund to be applied to the payment of interest on the Bonds during the acquisition, construction, improvement and equipping of the Project.

Section 15 No Arbitrage Covenant and Covenants and Designations as to the Code

The City hereby covenants that it will not use or invest, or permit the use or investment of any proceeds of the Bonds in a manner that would cause the Bonds to be subjected to treatment under Section 148 of the Code and the regulations adopted thereunder as an "arbitrage bond," and to that end the City shall comply with applicable regulations adopted under said Section 148 of the Code.

The City covenants to comply with the Code provisions requiring that any issuance of "governmental bonds," as defined therein, be subject to certain requirements as to rebate and timing and type of payments to be paid from the proceeds of such bonds, as well as other additional requirements. In order to assure compliance with such Code provisions, the City will enter into a Compliance Certificate, to comply with such requirements and covenants therein that it will not breach the terms thereof.

The Council intends for the Bond to be treated as complying with the provisions of Section 148(D)(4)(D) of the Code, which provides an exception from the "rebate requirement," since the Bond is (1) issued by the City which is a governmental unit with general taxing powers, (2) no bond which is a part of this issue of the Bond is a private activity bond, (3) 95% or more of the net proceeds of the Bond are to be used for local governmental activities entirely within the jurisdiction of the City, and (4) the aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the City (and notes and bonds issued by any subordinate entity of the City) during

(OFFICIAL DESIGNATION)

14

The Members of the Council voted as follows:

Assent: Ken Adkins, Gene Tague, Mark Stroud, Danny Turner

Absent: Kimble Depaulde

Adopted this 14th day of December, 2010.

The undersigned Clerk of the City Council of the City of Martinsville, Virginia hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the City Council held on December 14, 2010, and of the whole thereof so far as applicable to the matters referred to in such extract. I hereby further certify that such meeting was a regularly called meeting and that, during the consideration of the foregoing ordinance, a quorum was present.

Dated this 14th day of December, 2010.

[Signature]
Clerk City Council of
City of Martinsville, Virginia

December 14, 2010

Mark Heath, Martinsville-Henry County Economic Development Corporation, updated Council on activities of the EDC and Lisa Wilson of the EDC's Small Business & Minority division briefed Council on their programs and activities. There was discussion as to making sure the city is doing everything we can to make sure we have the right environment to promote small business and Mr. Heath agreed that is a conversation that needs to be had.

Andy Powers gave a report from Inspections regarding ranking of potential properties for demolition on a list of 28 addresses.

1. The immediate focus should be on the 15 open/unsecured structures.

- a. At an estimated cost of \$5,000-\$7000 per structure, these 15 would equate to approximately \$75,000-\$105,000. This is only an estimate. Some of the properties may be able to be demolished by City crews where others will have to be bid out to eligible contractors.
- b. With \$21,900 left in this FY's allocation, approximately 4-6 structures would be our goal for the current FY. Based on an estimated budget allocation of \$25,000 each FY, the first 15 structures would take approximately three fiscal years to complete pending no other properties become open and unsecure.
- c. Allocated money could possibly be placed in a line item that any funds recovered from the property owner could be appropriated back into that same line item in order to increase, or at minimum, maintain that line item. Unfortunately recovery of these type funds is minimal.
- d. The court system should be used on local property owners in order to have the legal system force the properties razed or repaired. This could take considerable more time and man hours to obtain and would involve the City Attorney more.

2. The remaining 13 properties can be sent notices of violations ordering them to maintain the properties so that they are safe from public entry and acceptable plans of action submitted.

- a. If acceptable plans of action are not submitted on those respective properties, these should be the next focus for properties to be razed. These suggestions are based upon no other properties being added to the current list of 28.

There was discussion as to Habitat for Humanity taking properties and City Attorney Eric Monday was directed by Council to contact Habitat and research creating a fund for money taken in as properties are demolished. Council directed inspections to proceed notifying all these on the list and come back to Council to find additional funds if there is capacity to accomplish more during the fiscal year.

Wayne Knox briefed Council on Planning Commission action in vetting the proposed graffiti ordinance. Council directed the City Attorney to advertise for a public hearing for the second reading of the ordinance in January. On a motion by Gene Teague, seconded by Danny Turner, with the following 4-0 recorded vote: Adkins, aye; Teague, aye; Stroud, aye; and Turner, aye, (Reynolds-absent), Council approved the graffiti ordinance, on first reading, with the following recommendations from the Planning Commission:

- **Under Sec. 13.28** – Include a provision to address repeat offenders (under the discretion of the City Attorney)
- **Under Sec. 13-28.4.a** - Change the 15-day period to a 10-day period
- **Under Sec. 13-28.5.b** - Bold text indicates addition – “The city manager **with full approval of City Council** may waive and release such liens in order to facilitate the sale of the property.”

ORDINANCE NO. 2010- _____

BE IT ORDAINED by the Council of the City of Martinsville, Virginia, in regular session held on _____ and pursuant to Section 15.2-1812.2 of the Code of Virginia, that Section 13-28 of the City Code be repealed and reenacted, and that Sections 13-28.1 through 13-28.5 be enacted, as follows:

Sec. 13.28. Defacement of property prohibited; criminal penalty.

- (a) It shall be unlawful for any person to apply graffiti upon or to willfully and maliciously deface or damage in any other manner any public buildings, facilities or other property, or any private buildings, facilities or other property. In any case where the defacement is (i) more than 20 feet off the ground, (ii) on a railroad or highway overpass, or (iii) committed for the benefit of, at the direction of, or in association with any criminal street gang, as that term is defined by section 18.2-46.1 of the Virginia Code, there shall be a mandatory minimum fine of \$500.00. Any fine imposed pursuant to conviction of a minor for violations of this section shall be assessed against the minor and such minor's parents or legal guardian.

December 14, 2010

(b) Upon a finding of guilt in a case tried before the court without a jury where the violation constitutes a first offense that results in property damage or loss, the court, without entering a judgment of guilt, upon motion of defendant, may defer further proceedings and place defendant on probation pending completion of a plan of community service work. If the defendant fails or refuses to complete the community service as ordered by the court, the court may make final disposition of the case and proceed as otherwise provided. If the community service work is completed as the court prescribes, the court may discharge the defendant and dismiss the proceedings. Such discharge and dismissal procedure under this section shall be without adjudication of guilt and operates as a conviction only for the purposes of applying this article in subsequent proceedings.

(c) Community service work prescribed by the court under subsection (b) shall include, to the extent feasible, the repair, restoration, or replacement of any damage or defacement to property within the city, and may include clean-up, beautification, landscaping or other appropriate community service within the city.

(d) Community service work prescribed by the court under subsection (b) shall be performed under the supervision of the city manager or his/her designee, who shall report on such work to the court imposing the community service work requirement at such times and in such manner as the court may direct.

(e) At or before the time of sentencing under this section, the court shall receive and consider any plan for making restitution or performing community service submitted by the defendant, as well as the recommendations of the city manager or the manager's designee concerning the plan.

(f) As provided in Code of Virginia § 15.2-908, the court may order any person convicted of unlawfully defacing property to pay full or partial restitution to the city for costs incurred by the city in removing or repairing the defacement. No person convicted of a violation of this article shall be placed on probation or have his/her sentence suspended unless such person shall make at least partial restitution for such property damage or is compelled to perform community services, or both, as is more particularly set forth in Code of Virginia, § 19.2-305.1. The court's order of restitution shall be docketed as provided in Code of Virginia § 8.01-446 when so ordered by the court upon written request of the city and may be enforced by the city in the same manner as a judgment in a civil action.

Sec. 13-28.1. Parental liability for cost of repair of damage to property.

(a) In accordance with § 8.01-44 of the Code of Virginia the city may institute an action and recover from the parents or either of them of any minor living with such parents or either of them for damages suffered by reason of the willful or malicious destruction of, or damage to, public property by such minor. No more than \$2,500.00 may be recovered from such parents or either of them as a result of any incident or occurrence on which such action is based.

(b) The owner of any property in the city may institute an action and recover from the parents, or either of them, of any minor living with such parents, or either of them, for damages suffered by reason of the willful or malicious destruction of, or damage to, such property by such minor. No more than \$2,500.00 may be recovered from such parents, or either of them, as a result of any incident or occurrence on which such action is based. Any recovery from the parent or parents of such minor shall not preclude full recovery from such minor except to the amount of the recovery from such parent or parents. The provisions of this section shall be in addition to, and not in lieu of, any other law imposing upon a parent liability for the acts of his minor child.

Sec. 13-28.2 Definition of "graffiti."

"Graffiti" shall mean the unauthorized application by any means of any writing, painting, drawing, etching, scratching or marking of an inscription, word, mark, figure or design of any type on any public or private building or other real or personal property owned, operated or maintained by a governmental entity or agency or instrumentality thereof or by any private person.

Sec. 13-28.3. Graffiti declared a public nuisance.

The existence of graffiti within the city limits in violation of this article is expressly declared a public nuisance, and is subject to the removal and abatement procedures specified in this article.

Sec. 13-28.4. Removal of graffiti.

(a) The city manager or his/her designated representative is authorized to undertake or contract for the removal or repair of the defacement of any public building, wall, fence or other structure, by the application of graffiti. Further the city manager or his/her designated representative may also undertake or contract for the removal or repair of the defacement by graffiti of any private building, wall, fence or other structure where such defacement is visible from any public right-of-way, but only in accordance with the following procedures:

(1) Prior to such removal of graffiti from private property, the city manager or his/her designated representative shall send to the property owner, by regular mail sent to the last address listed for the owner in city property assessment records, a notice stating: the street address and legal description of the property; that the property has been determined by the city to constitute a graffiti public nuisance; that the owner must take corrective action to abate the public nuisance created by such graffiti within 15 days of the date of the notice; and that if the graffiti is not removed within the 15-day period, the city will begin removal procedures. In the case of unimproved property, the notice shall also state that the cost of such corrective action shall be charged to the property owner. The notice shall further advise the owner of the right to challenge the city's determination and proposed action by requesting a meeting with a city official identified in the notice within 15 days of the date of the notice. The city shall initiate no corrective actions while a request for such a meeting or the outcome of such a meeting is pending. The determination of the designated city official following the requested meeting shall be final.

(2) If no corrective action is taken by the property owner within the 15-day period provided above and there is no request to challenge the city's determination within that period, the city manager or his/her designee shall send to the property owner by regular mail an additional notice that shall conform to the requirements of the first notice as set forth in subsection (a)(1) above and shall also state the date on which the city will commence corrective action to remove the graffiti on the property, which date shall be no earlier than 15 days from the date of mailing the second notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the city. Where the property owner fails to abate the public nuisance within 15 days after issuance of the second notice, the city manager or his/her designated representative is authorized to proceed with removal efforts forthwith.

(3) Before entering upon private property for the purpose of graffiti removal, the city shall attempt to obtain the consent of the property owner, occupant or other responsible party.

(b) Where a structure defaced by graffiti is owned by a public entity other than the city, the removal of the graffiti by the city is conditioned upon securing the consent of an authorized representative of the public entity having jurisdiction over the structure.

(c) If the city manager or his/her designee determines that any graffiti is an immediate danger to public health, safety or welfare and is unable to provide notice by personal service after at least two attempts to do so, then 48 hours after the later of (1) mailing notice to the property owner or other responsible party and (2) posting notice in a conspicuous place on the property, the city may remove or cause the graffiti to be removed.

Sec. 13-28.5. Assessment of costs against property for removal of graffiti.

(a) If the city undertakes corrective action to remove graffiti from private property after complying with the notice provisions of subsection 13-28.4(a)(1), and if the property was unoccupied when such graffiti was applied, the actual cost or expenses for such removal and related repairs shall be chargeable to and paid by the property owner, and may be collected as a special assessment against the respective lot or parcel of land to which it relates in the manner in which city taxes and levies are collected.

(b) Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local taxes and enforceable in the same manner as such liens. The city manager may waive and release such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

Ruth Easley briefed Council on the ordinance clarifying language regarding effective dates for exemptions granted by classification and designation.

In November 2002 the voters of the Commonwealth of Virginia passed a referendum to remove the responsibility of granting tax-exempt status to organizations from the General Assembly to local governing bodies. This local authority for granting exemptions became effective January 1, 2003; however, the City of Martinsville had imposed a moratorium on granting exemptions until an Exemption Ordinance was enacted in January 2007.

December 14, 2010

Under the provisions of the Exemption Ordinance enacted by council in January 2007, any entity that does not clearly fall into any exemption category granted by the Code of Virginia either by classification or by General Assembly designation approved prior to January 1, 2003 must request an exemption approval from the city council in the form of an exemption ordinance. In order for the exemption request to be considered by council as part of the annual budget deliberations, the requesting entity must have submitted an exemption application to the Commissioner of the Revenue by November 1st preceding the budget deliberations. The requested language change clarifies the effective date for exemptions that are granted as a result of meeting Code of Virginia exemption requirements by classification and local determinations by designation.

On a motion by Gene Teague, seconded by Mark Stroud, with the following 4-0 recorded vote: Adkins, aye; Teague, aye; Stroud, aye; and Turner, aye, (Reynolds-absent), Council approved the following ordinance on first reading:

ORDINANCE 2010-_____

BE IT ORDAINED by the Council of the City of Martinsville, Virginia, in regular session held on December 14, 2010 that Section 21-11.7 of the City Code, is hereby repealed and reenacted as follows:

Sec. 21-11. Prior exemptions generally recognized and continued; standard of review; revocation of tax exemptions.

(a) Real and personal property that was exempt from taxation pursuant to Virginia Constitution, Article X, § 6, or Code of Virginia §§ 58.1-3600 through 58.1-3650.1001, or any other general or special act of the Virginia General Assembly prior to January 1, 2003, shall continue to be exempt from property taxation so long as that property is owned and used in conformance with the provisions of law that provided such exemption. Property that was exempt from taxation by classification or by designation on July 1, 1971, shall continue to be exempt from taxation under the rules of statutory construction applicable to exempt property prior to such date. Property that was exempt from taxation by classification or designation after July 1, 1971, shall be strictly construed in accordance with Virginia Constitution Article X, § 6(f).

(b) If any property that was exempt from property taxation is sold to another person or entity that is not exempt from property taxes, or if such property is used by its owner for some purpose that is not consistent with the terms of the previous exemption, then that property shall no longer be exempt from property taxes, unless another tax exemption applies to the new owner or the new use of the property. If any property is not being used in accordance with an applicable tax exemption following any such change in ownership or use, then the formerly tax-exempt property shall be subject to property taxation from the date of the change in ownership or use. In any dispute concerning the revocation of any property tax exemption, the person who owns that property shall have the burden of showing that any such property is exempt from property taxation.

(Ord. No. 2006-13, 1-9-2007)

Sec. 21-11.1. Property tax exemption classifications.

Pursuant to the authority granted in Virginia Constitution, Article X, § 6(a)(6), to exempt property from taxation by classification, the following classes of real and personal property shall be exempt from taxation:

- (1) Property owned directly or indirectly by the Commonwealth, or any political subdivision thereof.
- (2) Buildings with land they actually occupy, and the personal property owned by churches or religious bodies, including (a) an incorporated church or religious body and (b) a corporation mentioned in Code of Virginia § 57-16.1, and exclusively occupied or used for religious worship or for the residence of their ministers, and such additional adjacent land reasonably necessary for the convenient use of any such building.
- (3) Nonprofit private or public burying grounds or cemeteries.
- (4) Property owned by public libraries, law libraries of local bar associations when the same are used or available for use by a state court or courts or the judge or judges thereof, medical libraries of local medical associations when the same are used or available for use by state health officials, incorporated colleges or other institutions of learning not conducted for profit. This paragraph shall apply only for property primarily used for literary, scientific or educational purposes or purposes incidental thereto and shall not apply to industrial schools, which sell their products to other than their own employees or students.
- (5) Property belonging to and actually and exclusively occupied and used by the Young Men's Christian Associations and similar religious associations, including religious mission boards and associations, orphan or other asylums, reformatories, hospitals and nunneries, conducted not for profit but exclusively as charities (which shall include hospitals operated by nonstock corporations not organized or conducted for profit, but which may charge persons able to pay in whole or in part for their care and treatment.)
- (6) Parks or playgrounds held by trustees for the perpetual use of the general public.
- (7) Buildings with the land they actually occupy, and the furniture and furnishings therein belonging to any benevolent or charitable organization and used by it exclusively for lodge purposes or meeting rooms, together with such additional adjacent land as may be necessary for the convenient use of the buildings for such purposes.
- (8) Property of any nonprofit corporation organized to establish and maintain a museum.

(Ord. No. 2006-13, 1-9-2007)

Sec. 21-11.2. Further property tax exemption classifications.

Pursuant to the authority granted in Virginia Constitution, Article X, § 6(a)(6), to exempt real and personal property of an organization classified in Article 3 of Title 58.1 of the Code of Virginia, the real property owned and used by such organization for a religious, charitable, patriotic, historical, benevolent, cultural, or public park or playground purpose, as set forth in Virginia Constitution, Article X, § 6(a)(6), and classified as being exempt pursuant to Code of Virginia §§ 58.1-3609 through 58.1-3622, shall be exempt from taxation, so long as such organization is operated not for profit and the property so exempt is used in accordance with the purpose for which the organization is classified. The real and personal property of an organization classified as exempt from taxation by Code of Virginia § 58.1-3622 and used by such organization for charitable and benevolent purposes as set forth in Virginia Constitution, Article X, § 6(a)(6), shall be exempt from taxation, so long as the local governing body in which the property is located passes a resolution approving such exemption, and so long as the organization satisfies the other requirements of this subsection.

(Ord. No. 2006-13, 1-9-2007)

Sec. 21-11.3. Property tax exemption by designation of the city council; actions of the commissioner of the revenue.

Pursuant to the authority granted in Virginia Constitution, Article X, § 6(a)(6), and Code of Virginia § 58.1-3651, any organization that wants the city council to consider designating the organization as being exempt from property taxation shall meet the minimum criteria set forth in section 21-11.4 and shall submit the information required in section 21-11.5 in the form of an application to the commissioner of the revenue. The commissioner of the revenue shall prepare such application forms, and all information submitted on such forms shall be accurate and complete when submitted to the commissioner of the revenue. The commissioner of the revenue may require additional information and/or clarifications concerning such application, and pursuant to Code of Virginia §§ 58.1-3110 and 58.1-3111, the commissioner of the revenue may summons taxpayers and other persons for the purpose of determining whether the property should be exempted or whether taxes should be assessed.

If the commissioner of the revenue determines that any application or applications are complete and meet the minimum criteria set forth in section 21-11.4, then the commissioner of the revenue shall provide an estimate of the revenue impact to the locality and its taxpayers of exempting the property for which the exemption or exemptions are being sought to the city manager for presentation to the city council for its consideration at the time of the consideration of the annual budget. The commissioner of the revenue shall also submit any such tax exemption application or applications, together with the estimated revenue impact and any other pertinent information to the city council for its consideration at the public hearing as required by Code of Virginia § 58.1-3651. The tax exemption public hearing may be held concurrently with the public hearing on the annual budget, or the public hearing may be held at a separate date and time.

December 14, 2010

(Ord. No. 2006-13, 1-9-2007)

Sec. 21-11.4. Minimum criteria for property tax exemption by designation of the city council.

The city council shall not consider any application from any organization unless that organization is qualified for designation pursuant to Virginia Constitution, Article X, § 6(a)(6) and that organization also meets these minimum criteria:

- (1) The organization seeking tax exemption is operated on a nonprofit basis and has qualified for federal income tax exemption pursuant to 26 U.S.C. §§ 501(c)(3), 501 (c)(4), or 501(c)(7);
- (2) The organization seeking tax exemption owns and uses property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes within the city;
- (3) Except for reasonable salaries and reimbursements paid to its officers and employees for services actually rendered, no part of the profits or income of the organization inures to the benefit of any individual person or any other organization; and
- (4) The organization has filed the information required by section 21-11.5 on or before November 1 of the year preceding the tax year for which the property tax exemption is sought.

(Ord. No. 2006-13, 1-9-2007)

Sec. 21-11.5. Application requirements for consideration of property tax exemption by designation of the city council.

Any application submitted to the commissioner of the revenue shall include the following information:

- (1) Copies of the current articles of incorporation, charter and by-laws and other documents establishing the organization and describing its purpose, and a statement showing the current officers and the agent or agents of the organization. If the organization is operating under a fictitious name certificates;
- (2) A statement listing all of the property owned by the organization and all the property owned by the organization for which exemption is sought. Such list or lists should include (a) the addresses of the real property, (b) the real property tax map descriptions, (c) the size of the properties, (d) a list of personal property, which shows a description of the personal property, its acquisition cost and its age, and (e) the uses being made of all properties owned by the organization;
- (3) A statement of the value of the property and the taxes due on all property owned by the organization and on all property owned by the organization for which tax exemption is being sought. If any property taxes are due and unpaid, the statement should identify the unpaid amount or amounts and include an explanation of why such property taxes have not been paid;
- (4) Documentation from appropriate federal authorities showing that the organization has been designated by the federal government as exempt from federal income taxation pursuant to 26 U.S.C. §§ 501(c)(3), 501 (c)(4), or 501(c)(7);
- (5) A statement of whether the organization holds a current annual alcoholic beverage license for serving alcoholic beverages that has been issued by the Virginia Alcoholic Beverage Control Board to such organization for use on such property, and if so, then the application shall include a copy of any such alcoholic beverage license and a statement explaining when and under what conditions the organization serves alcoholic beverages;
- (6) Copies of all income tax returns filed by the organization for each of the three (3) previous calendar years with the Internal Revenue Service of the United States Department of Treasury, including, without limitation, Form 990, Form 990-EZ, Form 990-PF, and Form 990-T (herein collectively referred to as "Federal Form 990"), together with copies of all attachments, exhibits, schedules, and statements that accompanied all such income tax returns. In the event that no such income tax returns were filed in any of the three (3) previous calendar years, then the application shall include a statement explaining why any such return or returns were not required by federal law in each of the three (3) previous calendar years. Also, in the event that such an organization was not required to file a Federal Form 990 in any of the previous calendar years, then the organization shall provide the commissioner of the revenue with information that would have been included in a Federal Form 990 for each of those years;
- (7) For each officer, director, trustee, key employee, employee, or independent contractor whose compensation is listed on any Federal Form 990 filed by the organization, the application shall include a statement that (a) describes the services provided by each such officer, director, trustee, key employee, employee, or contractor and (b) explains why such compensation was reasonable. In the event that such an organization was not required to file a Federal Form 990 in any of the previous calendar years, then the organization shall provide the commissioner of the revenue with comparable information for each of those years showing any compensation provided to a director, trustee, key employee, employee, or independent contractor and a statement explaining why such compensation was reasonable;
- (8) A copy of the most recent annual report for the organization, and if no such report was prepared, then an explanation of why no annual report has been prepared;
- (9) A copy of the most recent financial audit report for the organization, and if no such report was prepared, then an explanation of why no financial report has been prepared;
- (10) A statement describing whether the organization provides services for the common good of the public, with special emphasis on what benefits and services the organization provides to the residents of the city;
- (11) A statement describing why the requested property tax exemption is necessary to the local operation of the organization;
- (12) A statement describing whether a substantial part of the activities of the organization involves carrying on propaganda or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office; and
- (13) Any other information required by Virginia Code § 58.1-3651 and any other information that may be required by the commissioner of the revenue pursuant to section 21-10.5.

(Ord. No. 2006-13, 1-9-2007)

Sec. 21-11.6. Triennial application for exemption retention; periodic review by the commissioner of the revenue.

- (a) Any entity except the commonwealth, any political subdivision of the commonwealth, or the United States, that has been granted tax-exempt status for its real or personal property, either by classification or designation, shall file triennially an application with the commissioner of the revenue as a requirement for retention of the exempt status of the property. The commissioner of the revenue shall provide sixty (60) days' written notice to the entity of their filing requirement. The application shall show the ownership and usage of such property and shall be filed by November 1 of the preceding tax year for which the retention is sought.
- (b) If an organization, except the commonwealth, any political subdivision of the commonwealth, or the United States, that has been granted tax-exempt status for its real or personal property, either by classification or designation, pursuant to Code of Virginia §§ 58.1-3110 and 58.1-3111, the commissioner of the revenue may require additional information from that organization from time-to-time to verify that the organization continues to operate and to use its property in accordance with the terms and conditions of the exempt classification or designation.

(Ord. No. 2006-13, 1-9-2007)

Sec. 21-11.7 Effective date.

~~This ordinance shall become effective on adoption, but all exemptions granted hereby shall become effective beginning on or after January 1, 2007, for personal property and July 1, 2007, for real property, or for the tax year effective date for which the tax exemption is granted.~~

(Ord. No. 2006-13, 1-9-2007)

Unless otherwise directed by city council, the grant of tax exemption under this section shall be effective from the date that the non-profit owner began using the property for the purposes referenced in Sec. 21-11.1 and Sec. 21-11.2. An exemption granted under this section may be deemed effective retroactively, but in any case, no earlier than July 1, 2010. Where retroactive application on or after July 1, 2010 is approved, the Commissioner of the Revenue shall adjust the land book or personal property book accordingly, and the City Treasurer shall refund any tax, including penalty and interest, paid for the period of retroactive application.

Exemptions granted by designation shall become effective for the next fiscal year after the exemption is approved by city council.

December 14, 2010

On a motion by Gene Teague, seconded by Mark Stroud, with a 4-0 vote, Council approved the following consent agenda:

BUDGET ADDITIONS FOR 12/14/10

ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
<u>FY11</u>				
<u>GENERAL FUND</u>				
01100909	490134	Recovered Costs - Parks & Recreation		745
01711210	503159	Recreation - Instructors	713	
01711210	506007	Recreation - Equipment & Supplies	32	
		appropriation of dance & dog obedience class fees		
01100908	480410	Donations/Fire Department		75
01321102	506112	Fire Department - Fire Supplies	75	
		appropriation of donation (M.Worthy)		
01100909	490104	Advance/Recovered Costs		1,500
01211070	503127	Circuit Court - General Professional Services	1,500	
		donation agreement with Judge Greer		
Total General Fund:			2,320	2,320
<u>SCHOOL FUND</u>				
18102926	418278	Categorical Federal - General Adult Education		4,688
87101310	561120	Adult Basic Education - Instructional S & W	168	
87101310	561150	Adult Basic Education - Clerical S & W	4,190	
87101310	562100	Adult Basic Education - Social Security	267	
87101310	562150	Adult Basic Education - Medicare	63	
18103919	489904	Grants Private (American Psychological Foundation)		14,000
71001100	563840	Tuition Paid PHCC	14,000	
18103919	489904	Harvest		70,000
81621310	561120	Instructional S&W	3,927	
81621310	562100	Social Security	244	
81621310	562150	Medicare	57	
81621310	563000	Purchased Services	14,490	
81621310	563142	Professional Development	16,150	
81621310	565503	Travel	5,311	
81621310	565800	Miscellaneous	1,623	
81621310	566013	Instructional Materials	200	
81631310	561120	Instructional S&W	2,618	
81631310	562100	Social Security	162	
81631310	562150	Medicare	38	
81631310	563000	Purchased Services	9,660	
81631310	563142	Professional Development	10,766	
81631310	565503	Travel	3,541	
81631310	565800	Miscellaneous	1,082	
81631310	566013	Instructional Materials	131	
18103909	480303	Other Rebates/Refunds		50,000
71001210	561120	Instructional S&W	40,182	
71001210	562100	Social Security	2,491	
71001210	562150	Medicare	583	
71001210	562210	Retirement Payments	3,974	
71001210	562300	Group Medical	2,381	
71001210	562400	State Life	113	
71001210	562520	Disability Insurance	35	
71001210	562750	Retiree Health Insurance Credit	241	
20102926	428718	21st Century Community Learning Center Grants		174,077
86891100	563000	Purchased Services	128,397	
86891100	565506	Travel	9,600	
86891100	565800	Miscellaneous	13,180	
86891100	566000	Materials & Supplies	22,900	
18101917	403992	National Board Certification		5,000
12001100	561650	National Board Certification	2,500	
41001100	561650	National Board Certification	2,500	
Total School Fund:			317,765	317,765
<u>FEDERAL SCHOOL PROGRAMS FUND</u>				
24600100	420451	TITLE I REGULAR		988,327
86011100	561120	SALARY	560,382	
86011100	561151	SALARY	75,720	
86011100	562100	SOCIAL SECURITY	39,438	
86011100	562500	MEDICARE	9,223	
86011100	562210	RETIREMENT	56,804	
86011100	562300	MEDICAL INSURANCE	50,450	

December 14, 2010

86011100	562400	LIFE INSURANCE	1,781	
86011100	562520	DISABILITY INSURANCE	564	
86011100	562750	RETIREE HEALTH INS CREDIT	3,817	
86011310	561120	SALARY	30,621	
86011310	562100	SOCIAL SECURITY	1,899	
86011310	562500	MEDICARE	444	
86011310	562210	RETIREMENT	2,734	
86011310	562300	MEDICAL INSURANCE	3,023	
86011310	562400	LIFE INSURANCE	86	
86011310	562520	DIABILITY INSURANCE	209	
86011310	562750	RETIREE HEALTH INS CREDIT	184	
86011260	561120	SALARY	28,752	
86012160	562100	SOCIAL SECURITY	1,783	
86012160	562500	MEDICARE	417	
86012160	562210	RETIREMENT	2,568	
86012160	562300	MEDICAL INSURANCE	3,023	
86012160	562400	LIFE INSURANCE	81	
86012160	562520	DIABILITY INSURANCE	227	
86012160	562750	RETIREE HEALTH INS CREDIT	173	
85002000	563140	CONTRACTED SERVICES	30,000	
85002000	565503	TRAVEL	8,000	
85002000	566013	INSTRUCTIONAL MATERIALS	75,927	
20102926	420200	TITLE IIA		163,258
86111100	561120	SALARY	112,590	
86111100	562100	SOCIAL SECURITY	6,981	
86111100	562500	MEDICARE	1,633	
86111100	562210	RETIREMENT	10,054	
86111100	562300	MEDICAL	3,304	
86111100	562400	LIFE INSURANCE	315	
86111100	562520	DIABILITY INSURANCE	70	
86111100	562750	RETIREE HEALTH INS CREDIT	676	
86111100	563000	PURCHASED SERVICES	27,636	
20102926	420210	TITLE IIIA		12,247
86311100	561120	SALARY	10,000	
86311100	562100	SOCIAL SECURITY	620	
86311100	562500	MEDICARE	145	
86311100	563140	CONTRACTED SERVICES	225	
86311100	565503	TRAVEL	250	
86311100	566013	INSTRUCTIONAL MATERIALS	1,007	
20102926	420451	TITLE VIB FLOW THROUGH		646,393
86511100	561120	SALARY	200,495	
86511100	561151	SALARY	219,000	
86511100	562100	SOCIAL SECURITY	26,009	
86511100	562500	MEDICARE	6,083	
86511100	562210	RETIREMENT	37,461	
86511100	562750	RETIREE HEALTH INS CREDITIT	2,517	
86511100	562300	MEDICAL	43,914	
86511100	562400	LIFE INSURANCE	1,175	
86511100	562520	DIABILITY INSURANCE	3,314	
86512160	561150	SALARY	33,252	
86512160	562100	SOCIAL SECURITY	2,062	
86512160	562500	MEDICARE	482	
86512160	562210	RETIREMENT	2,969	
86512160	562750	RETIREE HEALTH INS CREDITIT	200	
86512160	562400	MEDICAL	263	
86512160	562300	LIFE INSURANCE	3,413	
86512160	562520	DIABILITY INSURANCE	209	
86511100	563140	CONTRACTED SERVICES	15,000	
86511100	566013	INSTRUCTIONAL MATERIALS	40,000	
86511100	565503	TRAVEL	5,000	
86511100	566000	MATERIALS & SUPPLIES	3,577	
20102926	420399	TITLE VIB PRESCHOOL		6,606
86611100	561120	SALARY	5,000	
86611100	562100	SOCIAL SECURITY	310	
86611100	562500	MEDICARE	73	
86611100	566013	INSTRUCTIONAL MATERIALS	1,224	
20102926	420301	TITLE VI RURAL EDUCATION		61,543
86411310	561120	SALARY	20,000	
86411310	562100	SOCIAL SECURITY	1,240	
86411310	562500	MEDICARE	290	
86411310	563140	CONTRACTED SERVICES	21,726	
86411310	566013	INSTRUCTIONAL MATERIALS	18,287	

December 14, 2010

20102926	420201	TITLE IID		6,420
86218100	56563140	CONTRACTED SERVICES	1,000	
86218100	56566013	INSTRUCTIONAL MATERIALS	3,815	
86218100	56565503	TRAVEL	1,605	
Total Federal School Programs Fund:			1,884,794	1,884,794

BUDGET ADDITIONS FOR 12/14/10				
ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
FY11				
CAPITAL RESERVE FUND				
16101917	416611	Categorical Other State - Governor's Opportunity Fund		135,000
16582373	509186	GOF/TROF - Gov Opp Funds - Southern Finishing Co.	135,000	
16101917	443700	Categorical Other State - Tobacco Commission Grant		380,000
16582373	509187	GOF/TROF - Tobacco Comm - Southern Finishing Co.	380,000	
Total Capital Reserve Fund:			515,000	515,000

Business from the floor: Mike Elder, 923 Childress Drive, referenced the letter he received from the city and the Mayor ruled him out of order and he left the meeting on his own initiative. Matt Durand of Turn 2 Net presented signed petitions to Council from his customers asking for Council to reconsider the hours the business can open and he asked to be able to extend hours to midnight for internet cafes.

Comments from City Council: Turner and Stroud extended holiday wishes; Adkins gave an explanation for the public as to why Mr. Elder was ruled out of order; Teague expressed his support of the Mayor in her position on Mr. Elder.

Comments by City Manager: announced the Citizens' Government Academy to be held after first of the year and reminded citizens of holiday closing schedule of city hall.

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 Danny Turner, with the following 4-0 recorded vote: Adkins, aye; Teague, aye; Stroud, aye; and Turner, aye, (Reynolds-absent) Council convened in Closed Session, for the purpose of discussing the following matters: (A) Appointments to Boards and Commissions as authorized by Subsection 1. (B) 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 governmental unit would be adversely affected as authorized by Subsection 6. (C) Consultation with legal counsel and briefings by staff members, attorneys or consultants pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal advice by such counsel, as authorized by Subsection 7.

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

December 14, 2010

motion convening the Closed Session were heard, discussed, or considered during said Session. On a motion by Gene Teague, seconded by Mark Stroud, with the following recorded 4-0 vote: Adkins, aye; Teague, aye; Stroud, aye; and Turner, aye, (Reynolds-absent) Council returned to Open Session.

On a motion by Mark Stroud, seconded by Gene Teague, with a 4-0 vote, Council appointed Tina Sell, 1602 Sam Lions Trail, to a 2 year term ending 12/31/2012 on the Arts & Cultural Committee representing Piedmont Arts Assoc. On a motion by Mark Stroud, seconded by Gene Teague, with a 4-0 vote, Council appointed Joe Keifer, 1125 Cherokee Trail, to a 3 year term ending 12/31/2013 on the Arts & Cultural Committee representing Virginia Museum of Natural History. On a motion by Mark Stroud, seconded by Gene Teague, with a 4-0 vote, Council appointed Deborah Hall, 1807 E. Church St. Ext., Apt. 1101, to a 4 year term ending 12/31/2014 on the Arts & Cultural Committee as a citizen member. On a motion by Kim Adkins, seconded by Danny Turner, with a 4-0 vote, Council appointed Dean Johnston, 1018 Mulberry Rd., to an unexpired term ending 9/26/2013 on the Industrial Development Authority. No other action was taken following closed session.

There being no further business, Mayor Adkins adjourned the meeting at 10:52pm.

Clarence C. Monday
Clerk of Council

Kim E. Adkins
Mayor