

September 24, 2013

The regular meeting of the Council of the City of Martinsville, Virginia, was held on September 24, 2013, in Council Chambers, Municipal Building, at 7:30 PM, Closed Session beginning at 7:00PM, with Mayor Kim Adkins presiding. Council Members present included: Mayor Kim Adkins, Vice Mayor Gene Teague, Mark Stroud, Danny Turner and Sharon Brooks Hodge. Staff present included: Leon Towarnicki, City Manager, Brenda Prillaman, Linda Conover, Eric Monday, Eddie Cassady, Susan McCulloch, and Wayne Knox.

Mayor Adkins called the meeting to order and advised Council will go into Closed Session. In accordance with Section 2.1-344 (A) of the Code of Virginia (1950, and as amended) and upon a motion by Danny Turner, seconded by Mark Stroud, with the following 5-0 recorded vote: Adkins, aye; Teague, aye; Stroud, aye; and Hodge, aye, Turner, aye, 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) A personnel matter as authorized by Subsection 1.

Council returned to Open Session and Mayor Adkins reported Council will reconvene Closed Session at end of this meeting. Board appointment action taken: On a motion by Danny Turner, seconded by Sharon Brooks Hodge with a 5-0 vote, Council re-appointed Bernadette Moore, 621 Mulberry, to a 4 year term on the Arts & Cultural Committee ending 12/31/16. On a motion by Mark Stroud, seconded by Gene Teague, with a 5-0 vote, Council appointed Susannah Bridges Smith, 712 Druid Lane, to a 3 year term on the Architectural Review Board ending 3/31/15.

Following the invocation by Mayor Kim Adkins and Pledge to the American Flag, the Mayor welcomed everyone to the meeting.

Home Child Care Zoning Ordinance amendment: Mayor Adkins pointed out the official public hearing on this issue will be held at the October 8, 2013 meeting, however, public comments will be taken at tonight's meeting. Council Member Hodge inquired if any local child care agencies will be put out of business due to passing this ordinance and Mr. Knox responded none will be put out of business. Wayne Knox briefed Council on the ordinance as follows: At present, the City of Martinsville allows home child care as a home occupation, caring for up to six (6) children as a use permitted by right in all residential and professional districts. The Virginia Department of Social Services (DSS) will license home child care for up to twelve (12) children. In recent years, DSS would issue a license to a home child care operator without requiring contact with the local Zoning office and due to the inconsistency between the two offices, several home child care businesses have technically been in violation of our local statute. Officials with Smart Beginnings approached the City's Zoning Office inquiring about an amendment to the Zoning Ordinance to bring the City more in line with the State's license. Officials with Smart Beginnings worked with the City of Danville on this same issue in 2012 and that effort was very successful. After several work sessions, the Planning Commission has finalized their recommendation on this issue as follows: A. Amend the number of children permitted by right in a home child care from six (6) to five (5) non-related children. B. As a separate item, add home child care as a use permitted by special use permit for caring for between six (6) and twelve (12) non-related children. Mayor Adkins opened floor for public comment: Melanie McLardy with Smart Beginnings commented this meets a big need and is in favor of passing the ordinance; Patricia Foster of 500 Mulberry Rd., commented from a parent point of view and is in favor of passing the ordinance. A motion was made by Gene Teague, seconded by Sharon Brooks Hodge, with the following 5-0 recorded vote: Adkins, aye; Teague, aye; Stroud, aye; and Hodge, aye, Turner, aye, to approve the following ordinance on first reading:

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

SECTION X: RESIDENTIAL DISTRICTS

B. Uses permitted by right in the R-16 District.

(4) Home child care operated as an incidental home occupation, caring for not more than ~~six (6)~~ **five (5) non-related** children, with an outdoor play area equivalent to at least one hundred (100) square feet per child and otherwise complying with requirements of the definition of a home occupation.

D. Uses permitted by special use permit in the R-16 District.

**(7) Home child care operated as an incidental home occupation, caring for between six (6) and twelve (12) non-related children for less than a twenty-four (24) hour period, with an outdoor play area equivalent to at least one hundred (100) square feet per child, complying with the licensing requirements of the Commonwealth of Virginia, and otherwise complying with requirements of the definition of a home occupation.**

F. Uses permitted by right in the R-9 District.

(14) Home child care operated as an incidental home occupation, caring for not more than ~~six (6)~~ **five (5) non-related** children, with an outdoor play area equivalent to at least one hundred (100) square feet per child and otherwise complying with requirements of the definition of a home occupation.

H. Uses permitted by special use permit in the R-9 Residential District.

~~(7) Reserved.~~ **Home child care operated as an incidental home occupation, caring for between six (6) and twelve (12) non-related children for less than a twenty-four (24) hour period, with an outdoor play area equivalent to at least one hundred (100) square feet per child, complying with the licensing requirements of the Commonwealth of Virginia, and otherwise complying with requirements of the definition of a home occupation.**

J. Uses permitted by right in the R-6 District.

[12.]16. Home child care operated as an incidental home occupation, caring for not more than ~~six (6)~~ **five (5) non-related** children, with an outdoor play area equivalent to at least one hundred (100) square feet per child and otherwise complying with requirements of the definition of a home occupation.

L. Uses permitted by special use permit in the R-6 Residential District.

**11. Home child care operated as an incidental home occupation, caring for between six (6) and twelve (12) non-related children for less than a twenty-four (24) hour period, with an outdoor play area equivalent to at least one hundred (100) square feet per child, complying with the licensing requirements of the Commonwealth of Virginia, and otherwise complying with requirements of the definition of a home occupation.**

SECTION XI: PROFESSIONAL DISTRICTS

B. Use permitted by right in the P-1 District.

8. Home child care operated as an incidental home occupation, caring for not more than ~~six (6)~~ **five (5) non-related** children, with an outdoor play area equivalent to at least one hundred (100) square feet per child and otherwise complying with requirements of the definition of a home occupation.

D. Uses permitted by special use permit in the P-1 district.

**7. Home child care operated as an incidental home occupation, caring for between six (6) and twelve (12) non-related children for less than a twenty-four (24) hour period, with an outdoor play area equivalent to at least one hundred (100) square feet per child, complying with the licensing requirements of the Commonwealth of Virginia, and otherwise complying with requirements of the definition of a home occupation.**

F. Uses Permitted by right in the P-2 District.

8. Home child care operated as an incidental home occupation, caring for not more than ~~six (6)~~ **five (5) non-related** children, with an outdoor play area equivalent to at least one hundred (100) square feet per child and otherwise complying with requirements of the definition of a home occupation.

H. Uses permitted by special use permit in the P-2 District.

**7. Home child care operated as an incidental home occupation, caring for between six (6) and twelve (12) non-related children for less than a twenty-four (24) hour period, with an outdoor play area equivalent to at least one hundred (100) square feet per child, complying with the licensing requirements of the Commonwealth of Virginia, and otherwise complying with requirements of the definition of a home occupation.**

J. Uses permitted by right in the RP-1 District.

8. Home child care operated as an incidental home occupation, caring for not more than ~~six (6)~~ **five (5) non-related** children, with an outdoor play area equivalent to at least one hundred (100) square feet per child and otherwise complying with requirements of the definition of a home occupation.

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

**7. Home child care operated as an incidental home occupation, caring for between six (6) and twelve (12) non-related children for less than a twenty-four (24) hour period, with an outdoor play area equivalent to at least one hundred (100) square feet per child, complying with the licensing requirements of the Commonwealth of Virginia, and otherwise complying with requirements of the definition of a home occupation.**

Arts & Cultural Committee ordinance 2<sup>nd</sup> reading: Susan McCulloch presented the following information: In 2009, City Council voted to establish the City of Martinsville Arts & Cultural District and the advisory Arts & Cultural Committee. During meetings of the Arts & Cultural Committee, the group realized that more stakeholders from the many organizations were needed to get proper input from the Committee's ideas and staff recommends increasing the number of members of the advisory Arts and Cultural Committee from five to eleven. A motion was made by Gene Teague, seconded by Danny Turner, with the following 5-0 recorded vote: Adkins, aye; Teague, aye; Stroud, aye; and Hodge, aye, Turner, aye, to approve the following ordinance on second reading:

September 24, 2013

ORDINANCE 2013-8

Increasing membership of advisory Arts and Cultural Committee

BE IT ORDAINED by the Council of the City of Martinsville, Virginia, in regular session held on September 24, 2013 that Section 2-126 of the City Code is hereby amended as follows:

ARTICLE VIII: Martinsville Arts and Cultural District

Sec. 2-126. Purpose.

The City of Martinsville finds that the continued development and success of its downtown commercial district and surround area requires incentives, and determines that the most appropriate method of offering incentives for the area described is to create an Arts and Cultural District in that area, as authorized by Section 15.2-1129.1 of the Code of Virginia. The City believes that the establishment of an Arts and Cultural District will improve the economic conditions of this geographic area located in the central business district portion and corridors to the central business district, which could, in tum, benefit the welfare of the citizens of Martinsville. An advisory Arts and Cultural Committee, consisting of five eleven members appointed by City Council for staggered three year terms, shall suggest the direction and purpose of the district.

(Ord. No. 2010-01, § 1, 12-8-2009)

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Resolution opposing elimination of BPOL tax: Mr. Towarnicki presented the following information: in recent sessions of the General Assembly, there has been discussion and growing interest in eliminating primarily BPOL taxes and also M & T taxes. Based on current assessments, the combination of these 2 taxes represents approximately \$1.8 million in revenue for the City which goes toward funding education, public safety, capital projects, economic development, etc. Elimination of \$1.8 million in revenue from the City's budget would have dire consequences and would result in substantial increases in other taxes and rates if the same levels of services are to be maintained, or a possible reduction in services and elimination of several employee positions. \$1.8 million represents approximately a \$0.28 increase in the property tax, elimination of approximately 35 positions and resulting services, or combinations of both. City staff was directed to bring to Council a Resolution for consideration expressing opposition to efforts by State Legislators to eliminate the Business, Professional, and Occupancy License (BPOL) and Machinery & Tools (M & T) taxes. Lengthy Council discussion occurred with Council Member Turner and Council Member Hodge expressing their opposition to adopting the resolution. A motion was made by Gene Teague, seconded by Mark Stroud, to approve the proposed resolution. With a 3-2 majority vote (Hodge-nay, Turner-nay), Council approved the resolution to be forwarded to legislators notifying them this resolution was passed by a majority of Council:

**RESOLUTION**

**OPPOSING ANY EFFORT BY LEGISLATORS AND THE VIRGINIA GENERAL ASSEMBLY TO ELIMINATE THE BUSINESS, PROFESSIONAL, AND OCCUPATIONAL LICENSE (BPOL) AND THE MACHINERY & TOOLS TAXES**

**WHEREAS**, the City of Martinsville has the authority to: (1) collect Business, Professional, and Occupational License (BPOL) Tax pursuant to Section 58.1-3703.1 of the Code of Virginia, and (2) similar authority to collect Machinery & Tools (M & T) tax pursuant to Section 58.1-3507 of the Code of Virginia; and

**WHEREAS**, through current assessments the taxes collected from both BPOL and M & T represents approximately \$1.8 million in annual revenue for the City of Martinsville; and

**WHEREAS**, these taxes are vital for the City of Martinsville and its fiscal budget, providing much-needed funds for operational costs for public safety, education, economic development, capital projects, infrastructure maintenance, and a myriad of other local government responsibilities; and

**WHEREAS**, the elimination of these taxes and the corresponding revenue they generate would necessitate significant adjustments in other rates and taxes and/or reductions in services, the equivalent of which could be an approximate \$0.28 increase in the property tax rate, a reduction of approximately 35 employee positions, or combinations thereof; and

**WHEREAS**, in recent years these taxes, particularly the BPOL tax have become the target of negative attention at the state level of government, generating considerable discussion regarding possible elimination of these taxes in the Virginia General Assembly as well as among candidates for key State offices; now therefore

**BE IT RESOLVED**, by a majority of the Council of the City of Martinsville, Virginia, in regular session assembled September 24, 2013, that it hereby opposes any effort by the State Legislature to eliminate the BPOL and M & T taxes unless the State can provide a comparable and sustainable replacement revenue source, and furthermore, requests that State Representatives consider all aspects of the impact of elimination of BPOL and M & T taxes and contacts all cities, towns, and counties for their input before any such changes are made .

Attest:

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Clerk of Council

September 24, 2013  
Date Adopted

September 24, 2013

Piedmont Community Services update: Jim Tobin updated Council on activities and services at Piedmont Community Services .

Semi Annual outside agency reports: Council acknowledged receipt of agency reports with no comments.

Business from the Floor: Ural Harris, 217 Stuart St.-comments on BPOL resolution and several city job positions not needed.

Council comments: Turner-encouraged attendance at Oktoberfest; Stroud-encouraged blood and organ donors; Hodge-thanks extended to all those participants in Day to Serve projects and reported on neighborhood issues discussed at Sept. 12 and Sept. 17 community meetings and asked for staff followup; Adkins-reported on Sept. 12 community meeting noting a shorter span of time for action on property maintenance concerns is an ongoing issue.

City Manager comments: Towarnicki-reported 28 units of blood were collected on Day to Serve and he expressed appreciation to all participants in the events.

Council recessed regular session and reconvened Closed Session. 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 Session. On a motion by Sharon Brooks Hodge, seconded by Mark Stroud, with the following recorded 5-0 vote: Adkins, aye; Teague, aye; Stroud, aye; and Hodge, aye; Turner, aye, Council returned to Open Session.

There being no further business, the meeting adjourned at 9:05 pm.

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Brenda Prillaman  
Clerk of Council

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Kim Adkins  
Mayor