

AGENDA--CITY COUNCIL MEETING  
CITY OF MARTINSVILLE, VIRGINIA  
Council Chambers – Municipal Building  
7:30 p.m. – Tuesday, February 28, 2012

Invocation & Pledge to the American flag– Vice Mayor Kimble Reynolds

1. [Consider approval of minutes of City Council meeting of January 24, 2012, February 13 tour and February 13, 2012 Neighborhood meeting.](#) (2 minutes)
2. [Recognition of city employees who are eligible for Service Awards-Jan.1, 2012 through Mar. 31, 2012.](#) (3 minutes)
3. [Presentation of proclamation to Opal Hall.](#) (3 minutes)
4. [Hear staff report on Uptown CDBG projects.](#) (10 minutes)
5. [Consider authorizing City Manager to execute DEQ Consent Order regarding Water Plant spill.](#) (10 minutes)
6. [Consider approval of consent agenda.](#)
  - A. Accept and appropriate budget adjustments. (2 minutes)
7. Business from the Floor

**This section of the Council meeting provides citizens the opportunity to discuss matters, which are not listed on the printed agenda. In that the Council meetings are broadcast on Martinsville Government Television, the City Council is responsible for the content of the programming. Thus, any person wishing to bring a matter to Council's attention under this Section of the agenda should: (1) come to the podium and state their name and address; (2) state the matter that they wish to discuss and what action they would like for Council to take; (3) limit their remarks to five minutes; and (4) refrain from making any personal references or accusations of a factually false and/or malicious nature. Persons who violate these guidelines will be ruled out of order by the presiding officer and will be asked to leave the podium. Persons who refuse to comply with the direction of the presiding officer may be removed from the chambers.**
8. Comments by City Council members. (10 minutes)
9. Comments by City Manager. (10 minutes)
10. Items to be considered in Closed Session, in accordance with the Code of Virginia, Title 2.2, Chapter 37-Freedom of Information Act, Section 2.2-3711-Closed Meetings, the following:
  - A. Appointments to Boards and Commissions as authorized by Subsection 1.
  - B. A personnel matter as authorized by Subsection 1.



## City Council Agenda Summary

**Meeting Date:** February 28, 2012

**Item No:** 1.

**Department:** Clerk of Council

**Issue:** Consider approval of City Council meeting minutes of January 24, 2012, February 13, 2012 tour, February 13, 2012 Neighborhood meeting.

**Summary:**

**Attachments:** [January 24, 2012](#)  
[February 13, 2012 tour](#)  
[February 13, 2012 Neighborhood meeting](#)

**Recommendations:** Motion for approval

January 24, 2012

The regular meeting of the Council of the City of Martinsville, Virginia, was held on January 24, 2012, in Council Chambers, Municipal Building, at 7:30 PM, with Mayor Kim Adkins presiding. Council Members present included: Mayor Kim Adkins, Vice Mayor Kimble Reynolds, Gene Teague, Mark Stroud and Danny Turner. Staff present included: Leon Towarnicki, Interim City Manager, Brenda Prillaman, Eric Monday, Linda Conover, Chris Morris, Wayne Knox, Dennis Bowles, and Mike Rogers.

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

Minutes---On a motion by Danny Turner, seconded by Gene Teague, with a 5-0 vote, Council approved the amended minutes of November 22, 2011 as presented.

Mayor Adkins read a proclamation for presentation to retiring Judge Morgan Armstrong. A proclamation was also read and presented to Mitzi Marsh of Citizens Against Family Violence regarding Teen Violence Prevention and Awareness Month.

Lanier Road---City Engineer, Chris Morris, gave the following update on the Lanier Road waterline project:

Our current process for waterline breaks has been **reactive**. That is, once we determine a leak, we repair it as necessary. Over the past several years, the City has experienced **repeated** breaks on the lower section of the waterline on Lanier Road. According to Miss Utility records, there have been 11 waterline leaks on Lanier Road since August 2010. Each repair of this waterline has adversely affected the residents of this area, and consisted of an average disruption time of 5 hours; an average cost of repair of \$2300 per break; and a total cost of approximately \$25,000 in repairs. We recognized that this older, transite waterline was in need of **replacement** rather than repair, and looked at options to fund the cost of this project. We could fund the project by appropriating funds within the City's budget, or seek out possible grants. The City requested assistance from the VDH to prepare plans, specifications, and cost estimates for the replacement of this line, and was awarded a grant for the design. Plans were then submitted to the health department; comments were received and addressed on the construction of the line; and the City was further encouraged by the health department to apply for a construction grant to fund the project. To our benefit, this past November, the City was informed we had received a grant of \$116,000 to fully cover the costs of the construction at **no cost to the City**. The waterline will be replaced from approximately 1226 Lanier Road to the end of the street, with 34 new service connections. This section of the street will be repaved following completion of the project this spring.

By accepting this grant, the City is obligated follow certain procedural guidelines for use of these funds, and to post certain public notices concerning the project in the local newspaper. The notice was published last week in the Martinsville Bulletin. Bid documents are being prepared concurrently with the required public notice, and it is anticipated that we will advertise the project for bids next month, with bid opening in March, and construction to begin in April. We will continue to work with the health department and our consultant to expedite this timeline to the best of our ability.

#### **THE CITY'S PROCESS FOR LINE REPLACEMENT IN THE FUTURE**

We have adopted a **proactive** approach to identifying maintenance concerns in our system in the future, and to stay out-front of these issues. I am aware of only 2 other sections of transite waterline in the City that are experiencing similar breaks: We have experienced 5 breaks along Indian Trail and 3 breaks along Spruce Street Extension since November 2010. The last break on either of these lines was back in September of this year. As part of our capital projects plan, we hope to begin addressing these trouble spots in our system well in advance of the time they become a major issue. We will continue to monitor these sections and will look at options for funding for these projects in the future.

The following news release was sent to the media January 19, 2012: The City of Martinsville has started notifying residents of Lanier Road that the City is moving ahead with a project to replace a section of waterline on their street. The City recently received notification of award of a grant from the Virginia Department of Health (VDH) to cover the costs of the project, and in accordance with VDH procedural guidelines, the project must follow certain public notification procedures before work can be started. As a first step, the City is required to advertise an environmental notice in the local paper for 30 days. Following the 30 day period, the City can then advertise a request for bids for the project, and the project must be advertised for 30 days prior to bid opening. The Health Department has approved the project plans and specifications; however, the procedural guidelines established in the grant must be followed. Options are being explored with VDH to expedite this project however based on the above information, the following schedule is anticipated:

- Environmental Notice published January 20<sup>th</sup>
- Advertisement for bids published February 28<sup>th</sup>
- Bid opening April 5<sup>th</sup>
- Construction begins April 19<sup>th</sup>

Council member Turner suggested a refund on property tax be considered as compensation for the citizens' patience and suffering. Mayor Adkins suggested any refund regarding personal property and water bills be addressed during budget sessions. Mr. Towarnicki commented on the Industrial Park valve manipulation and how it affects water pressure on Lanier Road line and he noted recent steps were taken to stop that from affecting Lanier Road. It was pointed out that the Lanier Road water pipe is over fifty years old. Mayor Adkins opened for public comment. John Hale-1249 Lanier Rd.-water

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breaks have occurred above 1226 Lanier, resident Tommy Joyce produced a water sample with black particles in it and asked for answers as to when the black buildup will be cleared up. Greg Clardy-1257 Lanier-large trees going to fall, road patches have been put on top of patches and city needs to re-evaluate how repairs are done. Mayor noted there are budget funds to extend project as needed. Jay Engstrom-questioned why problem was not fixed a year ago. Andrew Hynes-1226 Lanier-has black particles in his water and there are water breaks above where the planned work is scheduled. Rebecca Vasquez-1220 Lanier-would hate to see all this repair work done and then the line breaks further up the line. Mr. Towarnicki advised we will address other areas on Lanier and use some of the \$100,000 to address the other section above where the current breaks are occurring. Nancy Joyce-1240 Lanier-commented this has been very frustrating. John Hale-wants job done completely and not just keep patching. Tom Joyce-1240 Lanier-had the water sample tested and metals were found—city will test the sample. Council Member Turner-wants to make sure washing out of water is not causing a sinkhole. Tony Millner-commented on erosion at a pipe on West End which has created a ditch close to the footer of a house and he wants city to give them some discomfort money. Greg Clardy--road is so rough he has to drive on wrong side of road. Mr. Towarnicki indicated we will re-evaluate our process in repairing breaks and advised paving will be done in May/June if all goes as scheduled.

Human Relations Committee—Mayor Adkins made the following remarks for Council’s consideration:

<p><b>Opening Remarks on the update from HR Advisory Committee</b></p> <p>Next on our agenda, we have slated to hear an update on the Human Relations Advisory Committee. Much has been reported on this update already so in order to be respectful of everyone’s time I will not repeat recent activities of the advisory committee. <u>Instead, I would like City Council to entertain another option.</u></p> <p>Back in 2004, the Chamber of Commerce was awarded a grant from the Harvest Foundation to help the area conduct a visioning process. An advisory committee was formed to shepherd this process, consisting of local government, business and education. With technical assistance from Market Street Services, this group held focus groups, interviews, online surveys and community meetings during the course of a strategy development process. The outcome of this visioning process resulted in the publishing of a <b>Community and Economic Development Strategy</b>. In my view, this is one strategy that has not collected dust and has been a valuable roadmap for the community to follow. I commend the Harvest Foundation and Chamber of Commerce for this community investment.</p> <p>Within this strategy, there were four goals – Economic Sustainability; Education &amp; Workforce Development; <b>Leadership, Vision &amp; Community Outlook</b>; and Quality of Life.</p> <p>Goal 3, Leadership, Vision &amp; Community Outlook, merits a closer look as it is pertinent to recent activity with our Human Relations Advisory Committee and is the framework for my proposed option.</p> <p>This goal specifically states to “align all public, private and community leadership behind the vision of a brighter local future.” To advance this goal, one of the objectives states to “develop increased capacity for local leadership by involving all Martinsville-Henry County constituencies in the momentum for positive change.” Excerpts of the narrative for this goal and objective are as follows:</p> <p><i>Market Street heard from a number of minority leaders in the local African American and Hispanic communities that their views, issues and concerns were often overlooked or minimized by the existing Martinsville-Henry County powers-that-be. In order to fully realize its economic and demographic potential, Martinsville-Henry County will have to open up the lines of communications and the pathways of leadership to its full spectrum of diverse, dynamic and dedicated resident communities.</i></p> <p><i>If the principles of inclusion are not embraced and fostered by the area’s most visible local leaders, then Martinsville-Henry County’s potential for truly community-wide growth is severely constrained. As such, progressive measures may be necessary to ensure that those with the capacity to change the leadership paradigm in the city and county are fully cognizant of the benefits – both social and economic – of full community inclusiveness. One means to effectively secure</i></p>	<p><i>the support of Martinsville-Henry County leaders for a broader local participatory base is through the development of a best-practice Community Inclusion Plan.</i></p> <p>Becoming a more inclusive city was the original intent of our Human Relations Advisory Committee, but we got side track when it was brought to our attention that Virginia had a Human Rights Act, which we viewed as a framework for which we could follow as other Virginia communities had done. Forming a city commission with its proposed authority caused heightened emotions both for and against. For this, the original intent has gotten lost.</p> <p>Therefore, I ask City Council not to abandon all of the good work this advisory committee has done to date, but instead sunset this current advisory committee’s three goals, which were given to them by council back in March 2011 when this advisory committee was formally formed, and instead adopt the objective from the <b>Market Street study to “develop increased capacity for local leadership involving all Martinsville constituencies in the momentum for positive change” with a first assignment to develop a Community Inclusion Plan for council’s consideration.</b></p> <p>As the current advisory committee had proposed, the new advisory committee would consist of up to 11 members appointed with five individuals representing each voting precinct in the City, furthering the intent of being inclusive of all parts of the city. Membership of the new committee should be diverse in race, gender, economic class and cultural background and have specific experience in the business community, specifically in the fields of health care and human resources or employment. <b>If Council supports, I hope the Chamber will consider nominating individuals for consideration.</b></p> <p>As with the current committee members, I thank them all for their time and service to the City of Martinsville.</p> <p>I feel that I’m in a unique situation as one of your elected officials. My background may be regarded as different than most. My first job out of college was with the National Rifle Association, so I support the second amendment. I have worked in education, specifically Carlisle School, and see the value of education and what an exceptional education regardless if it is private or public can do in giving our youth options in life. I have worked in industry, specifically Talx, and was the company’s spokesperson and helped to manage the struggles both the employees and senior management went through during a time of an unprecedented divisiveness. And I have been the chief paid executive for the Chamber of Commerce where I have advocated for pro business initiatives. No one should question my support of the Chamber of Commerce since I have left. I am now employed with an organization that helps individuals find employment and if they do not have skills and background to secure desired employment, they can utilize public and private resources for education and training programs in order to help them achieve their professional aspirations. I try very hard to stay true to my core principles as an elected official, which have primarily been shaped from my professional and personal experiences. I hope this brief narrative has given city residents and the business</p>	<p>community a better understanding on why I supported efforts of inclusiveness. I believe in the principles of inclusiveness and see the value in what it can do to help advance our efforts to further position this community to economic prosperity.</p> <p>We should be able to support inclusiveness and pro business at the same time as our city’s strategic priorities indicate. I ask City Council not to kill all of the progress date, but modify it and consider supporting a new committee as I just proposed, which in summary consists of:</p> <ul style="list-style-type: none"><li>• Redefining the charge of a new advisory committee using the Market Street study goal three, which is to <b>align all public, private and community leadership behind the vision of a brighter local future</b>; and using the identified Market Street objective of <b>develop increased capacity for local leadership by involving all Martinsville constituencies in the momentum for positive change</b> as a framework for continued work.</li><li>• With this goal and objective in place, charging a newly appointed committee with the task of developing a Community Inclusion Plan for our consideration.</li><li>• Reappointing new committee members that specifically has representation of all areas of the city and additional individuals with specific expertise from the business community.</li></ul>
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Mayor Adkins opened the floor for public comment. Perry Harrold-Main St-clarified that he understood the Mayor’s remarks to mean scrap this committee and form a new committee; Tyler Millner-Axton-feels Human Rights Commission is a good policy and Council should support; Alexis Lee-127 Sellers St.-in favor of forming Commission and has concerns about rise of hate in entire country; Frances Fleming-111 Northwood Ct.-concerned about divisiveness the Commission would bring and could endanger people serving on the Commission; Carolyn Carr-Meadowview Lane-feels Commission

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would be harmful, state and federal laws are already in place taking care of discrimination, Council has a fiscal responsibility and should do only what they can afford; Jim Ennis-Knollwood Place-concerns with intent of supporters of the Commission and feels we don't need this Commission as it will not promote unity; David Edwards-810 Forest Lake Drive-city needs Commission; Jamie Carr-Meadowview Lane-comments on Uptown arena proposed and feels bus service should be extended; Allen Saunders-Church St.-wants Commission to run; Bonnylee Witt-this Commission had no political agenda and was for inclusiveness, was not to be the long arm of government, felt advisory committee has been questioned and their competency questioned; J. C. Richardson-Human Rights Commission should be considered and asked Council to look for ways to amend the recommendation and not vote it down; Naomi Hodge Muse-NAACP-noted population in city is 44.5% minority and her displeasure on not getting the Uptown arena; William Randolph-1414 S. Askin-need to establish something to deal with issues that divide and not to eliminate what has been started; Leonard Jones-701 Starling Ave.-commented on training done by Harvest Foundation and that this is a chance to get it right this time; Tony Jones-612 Third St.-comments on city funding baseball team that continues to lose money, yet cannot get \$25,000 to start a community center; Jay Frith-Myers Place-need partnerships to have a win-win situation and need to step back and take a few months break and then approach the topic; Perry Harrold-comments on lack of minorities working for the city government; Charles Dameron-Corn Tassel Trail-thinks Council is over-reaching to get involved and feels a private group should get together to hear concerns and bring them to Council; Tony Millner-VP of NAACP—pointed out his organization will fight discrimination for anyone who wants to be a member; Chad Martin-Molly Circle-concerns that Chamber survey has not been made public and feels it would totally disrespectful of Council to kill it before committee has a chance to meet again; Ural Harris-217 Stuart St.-pointed out he served on the Human Relations Advisory Committee and is the lone dissenter advising that the city cannot afford the staff and he opposes the commission in its present form. Mayor Adkins closed the public comment period and asked for Council comments on the Human Relations issue. Teague—appreciates committee's work, explained that when the business community speaks, he has to listen on this issue the same way he listened on the baseball issue and with the evidence that this commission would increase city government costs, he cannot support the commission. Turner—feels government gets too intrusive and we don't need another layer of government so he cannot support the commission. Stroud—thinks a cooling off period of at least 3 months is a good idea and then re-visit a re-configured entity that does not include the City of Martinsville name on it. Reynolds-feels it is disheartening that the committee's work is being diminished and concerned about the tone of some remarks he feels have been very unhealthy as inclusiveness is in the city's goals and vision and he feels it will not cost the city that much money and he is not in favor of delaying the issue; Mayor Adkins indicated she wanted to ask Council to delay a vote and keep the Advisory Committee intact to come back with other strategies; Teague-would like Harvest Foundation to come forward to fund this Human Rights discussion. A motion was made by Gene Teague, to inform the Human Relations Advisory Committee the city is not interested in forming a Human Rights Committee, seconded by Danny Turner, and passed with a 3-2

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vote: Adkins and Reynolds voting nay, Teague, Turner, Stroud voting aye. Kimble Reynolds made a motion not to sunset the Advisory Committee so they can go back to the drawing board. Mr. Reynolds then withdrew his motion. Kimble Reynolds made a motion to use the Mayor's option outlined in her earlier comments, seconded by Mayor Adkins and motion failed with a 3-2 vote: Adkins, Reynolds-aye and Turner, Teague, Stroud-nay.

CEDS list: Wayne Knox briefed Council on the updated prioritized list of projects for the 2012 Regional Comprehensive Economic Development Strategy. On a motion by Gene Teague, seconded by Mark Stroud, with a 5-0 vote, Council approved the following project list and authorized the submission of this information to the U.S. Dept. of Commerce:

<b>COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY</b>							
<b>PRIORITY PROJECTS</b>							
<b>July 1, 2012 - June 30, 2013</b>							
<b>PROJECT</b>	<b>PRIORITY TYPE</b>	<b>DESCRIPTION</b>	<b>FUNDING SOURCE</b>	<b>AMOUNT</b>	<b>TOTAL</b>	<b>ENVIRONMENTAL IMPACT</b>	<b>NO. OF JOBS</b>
<i>Retail Incubator--Uptown Business District--City of Martinsville</i>	1 - 3	Community Development offices will relocate in First National Bank Building on Main St with retail incubator on main floor; partnerships with EDC/WPBDC/Studio 107	VTC EDA Local	\$100,000 \$150,000 \$100,000	\$350,000	NA	Indirect
<i>Revitalization of Uptown Business District--City of Martinsville</i>	1	Incentivize small businesses (interior makeover/elevator)	EDA	\$900,000	\$900,000	Positive	80
<i>Revitalization of Uptown Business District--City of Martinsville</i>	1	Rental Voucher Program	EDA/HUD	\$300,000	\$300,000	NA	Indirect
<i>Revitalization of Uptown Business District--City of Martinsville</i>	1	Construct/retrofit condo units in Uptown	EDA DHCD VHDA City	\$1,000,000 \$300,000 \$500,000 \$200,000	\$2,000,000	Positive	15
<i>Harvest Foundation Grant--City of Martinsville</i>	1 - 2	Uptown/Corridors/Trail/Wayfinding Assessments	Harvest	\$654,957	\$654,957	Positive	Indirect
<i>Community Development Project--Uptown Martinsville</i>	1	CDBG for Fayette/Courthouse Area, National College Institute (In-kind: Property Owners/Matching)	DHCD In-kind	\$691,325 \$202,295	\$893,620	Positive	100+
<i>Central Transit/Storage/Parking Facility--City of Martinsville</i>	1	Rehab building to become central transit/storage/parking facility; purchase lots adjacent to facility.	Appropriation EDA	\$750,000 \$250,000	\$1,000,000	Positive	50
<i>Corridor/Gateway Improvements - City of Martinsville</i>	1 - 2	LPDA recommendation to soften corridors around gateways into City	EDA	\$180,000	\$180,000	Positive	Indirect
<i>Gateway Upgrade - Starling Ave &amp; Market St--City of Martinsville</i>	1 - 2	Uptown/Corridors/Trail/Wayfinding System	NEA EDA City Local	\$150,000 \$250,000 \$30,000 \$70,000	\$500,000	Positive	Indirect
<i>Commonwealth Crossing Business Center - Henry County &amp; City of Martinsville</i>	1	Establishment of new 740-acre regional industrial park and Enterprise Zone in the Route 220 South corridor. Grading of Lots 1 and 2; entrance; road development; stormwater, environmental measures	VTC Local Other	\$5,000,000 \$10,000,000 \$1,500,000	\$16,500,000	NA	500-1000
<i>Neighborhood Revitalization Project - Northside Neighborhood--City of Martinsville</i>	2 - 4	Housing rehab; creation of community space	CDBG Local	\$1,000,000 \$250,000	\$1,250,000	Positive	Indirect
<i>Community Development Project - Martinsville Area &amp; CDBG</i>	2	Upgrade electrical capacity at Clearview Business Park	EDA	\$100,000	\$100,000	Positive	25
<i>Community Development Project - Martinsville Area &amp; CDBG</i>	2	Complete brownfield sites--Sara Lee/American Furniture, West End Center, A&E, grading, make build ready	EDA Brownfield	\$500,000 \$500,000	\$1,000,000	Positive	100
<i>Teleworks Center--City of Martinsville</i>	2	Rehabilitation of closed building once used by textile/tobacco industry to serve as multi-employer telecommunications center accommodating employees of businesses and state gov't agencies based in northern and eastern VA/Sara Lee and American Furniture buildings	EDA Local CDBG	\$1,500,000 \$250,000 \$700,000	\$2,450,000	Positive	250
<i>Community Development Projects--Martinsville Area and Central Business District--City of Martinsville</i>	3	Forgivable loan for historic property for rehab and reuse of Orange & White Building in Central Business District	EDA	\$500,000	\$500,000	NA	50
<b>ABBREVIATIONS:</b>							
ARC = Appalachian Regional Commission	VDA = Virginia Department of Aviation	USDA-RD = U.S. Dept of Agriculture, Rural Development					
CDBG = Community Development Block Grant	TBD = to be determined	USCAIP = US Community Adjustment & Investment Program					
QIT = Center for Innovative Technology	TEA-21 = VDOT Transportation Enhancement Act Program for the 21st Century	VASBI = Virginia Shell Building Initiative					
CORD = Center on Rural Development	VDBA = VA Department of Business Assistance	VA-DOA = Virginia Dept of Aviation					
EDA = Economic Development Administration	WIA = Workforce Investment Act	VDOT = VA Department of Transportation					
EPA STAG = Environmental Protection Agency State & Tribal Assistance Grant	VTC = Virginia Tobacco Indemnification and Community Revitalization Commission	VDH = VA Department of Health					
DCR = Dept of Conservation & Recreation	SERCAP = Southeast Rural Community Assistance Project, Inc.	VHDA = Virginia Housing Development Authority					
FAA = Federal Aviation Administration	USACE = US Army Corps of Engineers	VHPF = Virginia Housing Partnership Fund					
FHWA = Federal Highway Administration	ISDF = Industrial Site Development Fund (VDHCD)	VRA = Virginia Resources Authority					
GO Bonds = General Obligation Bonds	LWCF = Land & Water Conservation Fund	VTC = Virginia Tobacco Commission					
RBEAG = Rural Business Enterprise Grant	SWCB = State Water Control Board	VWP = Virginia Water Projects					
RD = Rural Development	WVWA = Western VA Water Authority	WQIF = Water Quality Improvement Funds (VA)					.....
		HUD = Housing and Urban Development					

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**Tax Refund:** Commissioner of the Revenue, Ruth Easley, reported their office annually verifies and updates BPOL license fees based on federal tax return gross receipts information that is provided to the office by individual business taxpayers. A local business overestimated their gross receipts for the 2008 license year for their first year in business. The city's business license is based on the actual gross receipts that a business had for the prior tax year, or the current year for first year businesses. Corrections to the 2008 license year assessment have been made by the Commissioner of the Revenue office and forwarded to the City Treasurer. Because the refund amount is over \$2,500, City Council must authorize the City Treasurer to issue the refunds so that the timing of the refund does not negatively impact the city's cash flow. City of Martinsville Ordinances address updates of estimated business licenses that were not based on a prior year's actual gross receipts. The city's ordinance §11-23(f) provides that there shall be no interest charged or refunded on an adjustment of estimated tax liability to actual liability at the conclusion of the base year. We would not have assessed interest if the taxpayer had underestimated their gross receipts and we updated the assessment based on verification of actual gross receipts. Consequently, the city ordinances provide that we do not refund interest on these types of estimated assessments when they are overestimated. This refund is different from other refunds that City Council has authorized in that it did not result due to an appeal or audit on a verified and adjusted actual assessment. This 2008 BPOL assessment remained an estimate until it could be verified with actual gross receipts as reported on the business federal tax returns. The necessary federal return to verify the gross receipts for the business was provided in late December 2011. The Code of Virginia authorizes the City Treasurer to issue refunds up to \$2,500 without prior authorization of City Council. Because the refund amount is over this limit, City Council must authorize the City Treasurer to issue the refund. Pursuant to City Ordinance §11-23(f) there is no need to calculate interest provided the refund is made within 30 days of the adjustment to reflect actual tax liability. On a motion by Gene Teague, seconded by Mark Stroud, with a 5-0 vote, Council authorized the City Treasurer to issue the refund of \$3001.93 to the city business for their 2008 business license effective January 25, 2012.

**Monthly Finance Report:** Due to tonight's lengthy meeting, Council agreed to postpone the monthly finance report until the Feb. 14, 2012 meeting.

**AMPGS:** Dennis Bowles briefed Council on the recently released projected AMPGS stranded cost estimates for the City of Martinsville along with repayment options for consideration by City Council. He provided the following overview of options available for repayment of AMPGS stranded cost:

<p><b>American Municipal Power Generating Station (AMPGS)</b></p> <ul style="list-style-type: none"><li>• 960 MW 2 unit, coal fired plant which was slated for construction in Meigs County, Ohio</li><li>• City's share of power generation 8.059 MW</li><li>• November 2009, participants terminated the plant due to 37% increase in contractor's construction cost estimate.</li><li>• The project was no longer feasible to pursue and AMP turned it's attention to developing a NGCC plant</li></ul>	<p><b>AMPGS Stranded Cost</b></p> <ul style="list-style-type: none"><li>• Total stranded cost upon project termination was approximately \$145 million</li><li>• Post project termination negotiations with contractors and suppliers resulted in additional cost savings</li><li>• A complete accounting of the total amount due AMP will not be available until litigation is completed.</li><li>• AMP has developed 5 options for participants to repay stranded cost.</li><li>• To date the City has not paid any money toward the stranded cost.</li></ul>	<p><b>AMPGS Stranded Cost cont.</b></p> <ul style="list-style-type: none"><li>• As of October 31, 2011 the City's stranded cost are \$1,305,506.00<ul style="list-style-type: none"><li>• Not included in this cost are:<ul style="list-style-type: none"><li>• Further net proceeds from litigation</li><li>• Further settlements w/contractors and/or equipment suppliers</li><li>• Disposition (or reuse) of the AMPGS site in Meigs County, Ohio</li></ul></li></ul></li><li>• Fremont Participation Credit = \$479,404.00</li><li>• Current Stranded Cost estimate = <del>\$826,102.00</del></li></ul>
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<p><b>Stranded Cost Payment Options</b></p> <ul style="list-style-type: none"> <li>Option "A"- Lump Sum Payment             <ul style="list-style-type: none"> <li>Monthly or annual</li> </ul> </li> <li>Option "B"- \$/MWh Adder to Monthly Invoice             <ul style="list-style-type: none"> <li>The following is an example:                 <ul style="list-style-type: none"> <li>Average monthly power cost = \$73.71/MWh</li> <li>\$73.71/MWh X 15,700 MWh = \$1,157,247.00</li> <li>Add \$1.00/MWh to total monthly power cost= \$74.71/MWh</li> <li>\$74.71/MWh X 15,700 MWh = \$1,172,947.00</li> <li>Difference to be applied to Stranded Cost = \$15,700.00</li> <li>5 years estimated pay back</li> </ul> </li> </ul> </li> </ul>	<p><b>Stranded Cost Payment Options cont.</b></p> <ul style="list-style-type: none"> <li>Option "C" Rate Levelization Adder             <ul style="list-style-type: none"> <li>Average Power Cost ending Dec. 2011 = \$73.71</li> <li>Monthly Power Cost      Levelized Rate of \$73.71/MWh</li> <li>July                    \$71.61                    + \$2.10</li> <li>August                \$72.95                    + \$0.76</li> <li>September            \$74.99                    (-)</li> <li>October                \$77.67                    (-)</li> <li>November             \$74.72                    (-)</li> <li>December             \$70.65                    + \$3.06</li> <li>No impact to customer bill provided levelized rate does not exceed recovery cost of \$76.86/MWh.</li> </ul> </li> </ul>	<p><b>Stranded Cost Payment Options cont.</b></p> <ul style="list-style-type: none"> <li>Option "D" - \$ Adder to Monthly Invoice for a Term of up to 15 years             <ul style="list-style-type: none"> <li>Example to repay \$826,102.00                 <ul style="list-style-type: none"> <li>\$5,766.65 /month or \$69,200.00 annually for 15 years</li> <li>(180 months) X \$5,766.67/month = \$1,037,997</li> <li>Assuming 3% interest, interest expense = \$211,895.00</li> <li>For a typical 1000 kWh per month user, the monthly power bill would be impacted by \$0.35.</li> </ul> </li> </ul> </li> </ul>
<p><b>Stranded Cost Payment Options cont.</b></p> <ul style="list-style-type: none"> <li>Option "E" - Continue to carry stranded costs on AMP's line of credit until litigation is completed; until equipment/supplier issues are resolved; and until disposition or reuse of the AMPGS site is resolved.</li> <li>Do we need to make a decision now?</li> <li>No - Did not budget in FY12 to begin making payment toward AMPGS stranded costs.</li> </ul>	<p><b>Staff Recommendation</b></p> <ul style="list-style-type: none"> <li>Staff recommends to continue review of options C and E, neither of which requires a decision now.</li> <li>Staff will continue to investigate these options and provide an update in the future.</li> </ul>	

This issue will be brought back up at a later date and will be negotiated in budget discussions.

**Consent agenda:** On a motion by Gene Teague, seconded by Danny Turner, with a 5-0 vote, Council approved the following consent agenda:

BUDGET ADDITIONS FOR 1/24/12				
ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
<u>FY12</u>				
<u>GENERAL FUND</u>				
01100909	490104	Advance/Recovered Costs		5,979
01413151	508220	Thorofare Constr/Physical Plant Expansion	5,979	
		Oakdale/Church St Renovations Reimbursement		
<b>Total General Fund:</b>			5,979	5,979
<u>SCHOOL FUND</u>				
18103919	443130	Harvest Foundation Grant		70,000
81621310	561120	Instructional S&W	4,695	
81621310	562100	Social Security	314	
81621310	562150	Medicare	91	
81621310	563000	Purchased Services	35,250	
81621310	565503	Travel	900	
81621310	565800	Misc	750	
81631310	561120	Instructional S&W	3,130	
81631310	562100	Social Security	209	
81631310	562150	Medicare	61	
81631310	563000	Purchased Services	23,500	
81631310	565503	Travel	600	
81631310	565800	Misc	500	
		Appropriate 4th grant payment		
<b>Total School Fund:</b>			70,000	70,000

**Business from the floor:** Ural Harris, 217 Stuart St., commented on AMP costs, Human Relations Committee, and financial audit.

**Council comments:** Stroud-noted a lot of hard work was put in by Human Relations Committee. Adkins-asked for clarification on next steps for Human Relations Advisory Committee with Teague responding there are other strategies and recommendations that could be brought back to Council for approval using no city resources. Teague-noted that the speakers in the Council Chambers be checked so audience can hear better.

January 24, 2012

Interim City Manager comments: reminders of Feb. 13 tour and Neighborhood meeting, monthly finance report will be on Feb. 14 agenda, auditor to be here Feb. 14 to meet individually with Council, staff departmental budget reviews scheduled for Feb. 7 and 8 with Council invited to participate.

Closed Session: 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 Mark Stroud, with the following 5-0 recorded vote: Adkins, aye; Teague, aye; Reynolds, aye; Stroud, aye; and 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 and Consultation with legal counsel and briefings by staff members, attorneys, or consultants pertaining to an 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 motion convening the Closed Session were heard, discussed, or considered during Session. On a motion by Gene Teague, seconded by Danny Turner, with the following recorded 5-0 vote: Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council returned to Open Session. No action was taken.

There being no further business, the meeting adjourned at 12:10 PM.

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Brenda Prillaman  
Clerk of Council

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Kim Adkins, Mayor

February 13, 2012

The City Council of the City of Martinsville, Virginia, assembled on February 13, 2012, at 5:30 P.M. to tour the Northside area neighborhoods prior to their quarterly Neighborhood Focus Meeting scheduled for February 13, 2012 at 7:30pm at Clearview Wesleyan Church, 925 Barrows Mill Road.

Council Members present for the tour included: Mayor Kim Adkins, Vice Mayor Kimble Reynolds, Council Member Gene Teague, and Council Member Mark Stroud. Council Member Danny Turner was absent. Others present included: Leon Towarnicki, Andy Powers, Coretha Gravely, Martinsville Bulletin reporter and one citizen.

No other business was conducted during the tour and immediately after the tour ended, Council members disbursed.

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Brenda Prillaman  
Clerk of Council

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Kim Adkins  
Mayor

February 13, 2012

Martinsville City Council Neighborhood Meeting for the Northside area was held on February 13, 2012, at Clearview Wesleyan Church, 925 Barrows Mill Road, Martinsville, VA at 7:30 PM, with Mayor Kim Adkins presiding and Council members present including: Kimble Reynolds, Gene Teague, Mark Stroud, Sr., and Danny Turner. Staff present: Leon Towarnicki, Brenda Prillaman, Eric Monday, Coretha Gravely, Linda Conover, Mike Rogers, Kenneth Draper, Wayne Knox and Andy Powers.

Mayor Adkins called the meeting to order and asked Andy Powers to present his property maintenance report, and then opened the floor for public comment.

Citizen comments: Woody McCain-Augusta St.-inquired about criteria for demolition candidate properties; Danny Turner-inquired about homeless living in houses to be demolished on Liberty St.; Jeff Lehrer-617 Watt St.-concerns with speeding vehicles; David Gilbert-Chatham Rd.-concerns with tractor trailer traffic running too fast-Transportation Safety Commission will be asked to review this speed limit on Chatham Road and speed limits set on other residential streets; Sonny Farmer-Pace St.-concerns about school bus speeding; Howard Hairston-Askin St.-concerns about trash, rental properties with drugs and school buses and other traffic speeding on Asking St.; Frances Fleming-111 Northwood Ct.-concerns about speeding, illegal parking, bulk trash piled up by landlords, water running out at Laundromat, trees in right of way on Oneida St. vandals taking down Neighborhood Watch signs; illegal deer shooting on Oneida St.; Police Chief Mike Rogers thanked the Neighborhood Watch volunteers for their valuable partnership with the police department; Lester Horton-questioned legality of citizen shooting back if someone breaking in; Angela Hower-Quincy St.-concerns with deer carcass and trash in street on Commerce Ct. and seeing suspicious activities between vehicles on Quincy and Perdue St.; Officer Coretha Gravely thanked all the Neighborhood Watch volunteers and cautioned citizens not to take the law into their own hands; Janet Mullins-Owens Rd.-concerns with renters living here and still driving with North Carolina tags.

There being no further business, Mayor Adkins adjourned the meeting at 8:30 pm.

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Brenda Prillaman  
Clerk of Council

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Kim E. Adkins  
Mayor

- Meeting Date:** February 28, 2012
- Item No:** 2.
- Department:** Human Resources
- Issue:** Recognize City Employees who are eligible for Service Awards – January 1 through March 31, 2012
- Summary:** The Service Award Program is designed to build individual morale and show appreciation to the long-service employee for his/her faithful service to the City of Martinsville.
- Attachment:** Listing of City Employees who are eligible for the service award for the third quarter of FY 11-12.

**TO BE READ BY MAYOR. NO ACTION NECESSARY.**

**SERVICE AWARD RECIPIENTS  
THIRD QUARTER - FISCAL YEAR 11-12  
FOR THE PERIOD OF JANUARY 1 THROUGH MARCH 31, 2012**

Employee Name	Years of Service	Department
Leon Towarnicki	30	Interim City Mgr
Mike Scaffidi	20	Public Works
Donald Lucado	20	Fire
William Akers	15	Fire
Robert Jones	10	Police
Cynthia Carson	10	Utility Billing
William Wilson	10	Public Works
Kim Boyd	10	Commissioner of Revenue
Shannon Agee	10	Public Works
Daniel Brannock	5	Sheriff's Office



## City Council Agenda Summary

**Meeting Date:** February 28, 2012

**Item No:** 3.

**Department:** City Council

**Issue:** Presentation of proclamation recognizing Opal R. Hall

**Summary:**

City Council will recognize Opal Hall for her service to the City of Martinsville

**Attachments:** [Proclamation](#)

**Recommendations:** Presentation only.



## **P R O C L A M A T I O N**

**WHEREAS**, Opal R. Hall began her career on February 1, 1962 with the General District Court, serving both Henry County and the City of Martinsville; and

**WHEREAS**, Opal R. Hall has faithfully and professionally executed the duties of the court system for a period of 50 years; and

**WHEREAS**, through innovation, dedication, hard work and leadership, she will leave an indelible mark to this office, co-workers, colleagues, and members of the judicial staff; and

**WHEREAS**, Mrs. Hall insured the General District Court offices were run in an efficient manner and her exemplary pride is evident in every phase of her job; and

**WHEREAS**, her reputation as a wonderful wife, mother and friend make Opal R. Hall a valuable example for all in our community; and

**WHEREAS**, Opal R. Hall, Clerk of the Henry County/Martinsville General District Courts will retire from this position on Wednesday, February 29, 2012; therefore,

I, Kim Adkins, Mayor of the City of Martinsville, along with members of Council, do hereby extend our gratitude and best wishes to Opal R. Hall for a healthy, enjoyable and well deserved retirement, along with continued success in all future endeavors.

Kim Adkins  
Mayor



## **City Council Agenda Summary**

**Meeting Date:** February 28, 2012

**Item No:** 4.

**Department:** Community Development

**Issue:** Hear staff update on Uptown CDBG projects

**Summary:** Community Development Director, Wayne Knox, will present an update on the Uptown CDBG projects.

**Attachments:**

**Recommendations:** no action required--for information only.

**Date:** February 28, 2012

**Item No:** 5.

**Department:** City Attorney

**Issue:** Consider authorizing City Manager to execute DEQ Consent Order regarding Water Plant Fluoride spill

**Summary:** In 2011 a fluoride spill occurred at the City Water Treatment Plant. Any spill of hazardous materials is a violation of state law. The attached Consent Order sets out the facts and penalty to be paid by the City. The City has negotiated a 30% reduction in the amount initially sought by DEQ.

**Attachments:** [Proposed Consent Order](#)

**Recommendations:** Motion to authorize City Manager to sign Consent Order and make payment.



# **COMMONWEALTH of VIRGINIA**

Douglas W. Domenech  
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY  
Blue Ridge Regional Office  
[www.deq.virginia.gov](http://www.deq.virginia.gov)

David K. Paylor  
Director

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Regional Director

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7705 Timberlake Road  
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**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
THE CITY OF MARTINSVILLE  
FOR THE  
MARTINSVILLE WATER TREATMENT PLANT  
Unpermitted Discharge**

## **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and the City of Martinsville, regarding the Martinsville Water Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulation.

## **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

**Consent Order**

**The City of Martinsville, Martinsville Water Treatment Plant, Unpermitted Discharge**

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4. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. “Discharge” means discharge of a pollutant. 9 VAC 25-31-10
7. “Discharge of a pollutant” when used with reference to the requirements of the VPDES permit program means:
  - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
  - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. “Facility” or “Plant” means the Martinsville Water Treatment Plant located at 302 Clearview Drive, Martinsville, Virginia, which supplies drinking water for the residents and businesses of the City of Martinsville.
9. “The City” means the City of Martinsville, a political subdivision of the Commonwealth of Virginia. The City is a “person” within the meaning of Va. Code § 62.1-44.3.
10. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. “O&M” means operations and maintenance.
12. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the State Water Control Law.
13. “Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
14. “Pollution” means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an

alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are “pollution.” Va. Code § 62.1-44.3.

15. “Regulation” means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
16. “State Water Control Law” means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
17. “State waters” means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
18. “Va. Code” means the Code of Virginia (1950), as amended.
19. “VAC” means the Virginia Administrative Code.
20. “VPDES” means Virginia Pollutant Discharge Elimination System.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. The City owns and operates the Plant for the purpose of treating and providing drinking water to the residents and businesses of the City.
2. Jones Creek and its tributaries are located in the Roanoke and Yadkin River Basins. Jones Creek is listed in DEQ’s 2010 305(b)/303(d) *Water Quality Assessment Integrated Report* as impaired for E. Coli.
3. On October 16, 2011, the Facility had a release of fluorosilicic acid. The release was reported to the Department on October 17, 2011.
4. On October 18, 2011, Department staff responded to a reported fish kill on Jones Creek in Martinsville, Virginia. Department staff observed a fish kill, estimated using American Fisheries Society methods, of 4,445 fish. The fish kill was observed originating from the storm drain outfall at the Facility, and continuing downstream to the confluence of Jones Creek and Beaver Creek covering approximately 3700 meters (2.3 miles).
5. The observed fish kill coincides in time and location with the October 16, 2011 release of fluorosilicic acid, which entered Jones Creek from the storm drain at the Facility.

**Consent Order**

**The City of Martinsville, Martinsville Water Treatment Plant, Unpermitted Discharge**

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6. On December 6, 2011, the City submitted a document that described the incident that resulted in the unpermitted discharge. Fluorosilicic acid (“the Acid”) is stored in a 6,000 gallon above ground storage tank. The tank is situated inside a containment area, as required. A transfer pump, situated inside the containment area, is used to move the Acid from the storage tank to the water purification process. Due to the extremely corrosive nature of the Acid, the transfer pump failed resulting in a release of the Acid into the containment area. The containment area contains a 2 inch valve which allows for the draining of the containment area when rain water has accumulated. Prior to October 16, 2011, the valve had been opened and inadvertently left open. Consequently, the Acid spilled onto the ground and flowed off-site and into state waters. The submittal also described the spill response initiated by the City, the remediation actions implemented to clean-up the spill, and the review and modification of the City’s operations and maintenance procedures at the Facility to ensure that an unpermitted discharge does not occur in the future.
7. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances, or otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.”
8. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes, or any noxious or deleterious substances; or otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
9. The Department has issued no permits or certificates to the City of Martinsville for the Martinsville Water Treatment Plant.
10. Jones Creek is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
11. Based on the City’s report of October 17, 2011 detailing an October 16, 2011 release, the results of the October 18, 2011 fish kill investigation, and the documentation submitted on December 6, 2011, the Board concludes that the City has violated Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging flurosilicic acid from the Facility into Jones Creek which resulted in a fish kill, as described in paragraph C(3) through C(6), above.
12. The City has submitted documentation that verifies that the violation as described in paragraphs C(3) through C(6), above, has been corrected.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders the City of Martinsville, and the City of Martinsville agrees to:

1. Pay a civil charge of **\$13,500** within 30 days of the effective date of the Order in settlement of the violations cited in this Order;
2. Reimburse DEQ **\$2,001.21** for DEQ fish kill investigative costs within 30 days of the effective date of the Order;
3. Reimburse DGIF **\$948.50** for DGIF fish replacement costs within 30 days of the effective date of the Order.

Payment shall be made by separate checks, certified checks, money orders or cashier's checks payable to:

1. the "Treasurer of Virginia" for the civil charge and for the DEQ fish kill investigative costs (one check);
2. the "Department of Game and Inland Fisheries" for the DGIF fish replacement costs (one check);

and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

The City of Martinsville shall include its Federal Employer Identification Number (FEIN) 54-6001415 with the payments and shall indicate that the payment of the civil charge is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF); that payment of the DEQ fish kill investigative costs is for reimbursement of DEQ expenditures; and that the payment of the DGIF fish replacement costs is for the Department of Game and Inland Fisheries.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of the City for good cause shown by the City, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

**Consent Order**

**The City of Martinsville, Martinsville Water Treatment Plant, Unpermitted Discharge**

**Page 6 of 8**

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, the City admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. The City consents to venue in the Circuit Court of the City of Martinsville for any civil action taken to enforce the terms of this Order.
5. The City declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by the City to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The City shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. The City shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The City shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the City. Nevertheless, the City agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after the City has completed all of the requirements of the Order;
  - b. The City petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the City.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the City from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by the City and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of the City certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind the City to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the City.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no

representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, the City voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Robert J. Weld, Regional Director  
Department of Environmental Quality

The City of Martinsville voluntarily agrees to the issuance of this Order.

Date: \_\_\_\_\_ By: \_\_\_\_\_, Interim City Manager  
Leon Towarnicki  
City of Martinsville

Commonwealth of Virginia  
City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by Leon Towarnicki who is the Interim City Manager of the City of Martinsville on behalf of the Council.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Registration No.

My commission expires: \_\_\_\_\_

Notary seal:



## City Council Agenda Summary

**Meeting Date:** February 28, 2012  
**Item No:** 6.  
**Department:** Finance  
**Issue:** Consider approval of Consent Agenda-Appropriation Approval

### **Summary:**

The attachments amend the FY12 Budgets with appropriations in the following funds:

### **FY12:**

General Fund: \$13,288 – donation to Fire Department; courtroom computer replacement; reimbursement of RADAR expenses

**Attachments:** [Spreadsheet](#)

**Recommendations:** Motion to approve

**BUDGET ADDITIONS FOR 2/28/12**

<b>ORG</b>	<b>OBJECT</b>	<b>DESCRIPTION</b>	<b>DEBIT</b>	<b>CREDIT</b>
<b><u>FY12</u></b>				
<b><u>GENERAL FUND</u></b>				
01100908	480410	Miscellaneous - Donations/Fire Department		100
01321102	505500	Fire Dept - Travel & Training private donation	100	
01100909	490104	Advance/Recovered Costs		375
01216076	506001	Clerk of Circuit Court - Office supplies courtroom computer replacement per Judge Greer	375	
01100909	490104	Advance/Recovered Costs		12,813
01812242	506067	Misc. Expense - RADAR Transit Program reimbursement of fuel expenses	12,813	
<b>Total General Fund:</b>			<b>13,288</b>	<b>13,288</b>