

February 9, 2010

The regular meeting of the Council of the City of Martinsville, Virginia, was held on February 9, 2010, in Council Chambers, Municipal Building, at 7:30 PM, with Mayor Kathy Lawson presiding. Council Members present included: Mayor Kathy Lawson, Vice Mayor Kimble Reynolds, Gene Teague, Mark Stroud, Sr., and Danny Turner. Staff present included: Clarence Monday, City Manager, Leon Towarnicki, Brenda Prillaman, Eric Monday, Mike Rogers, Linda Conover, Cindy Dickerson, Ruth Easley, Jim Taipalus and Gary Cody.

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

On a motion by Gene Teague, seconded by Mark Stroud, Council approved with a 5-0 vote, the amended minutes of the January 26, 2010 meeting with the phrase added stating that Mr. Turner objected to sending the joint letter with Henry County as noted on the last page of the minutes.

Mayor Lawson read and presented a Proclamation recognizing the Boy Scouts of America 100th Anniversary to District Executive Jason Lagesse.

Mayor Lawson read the list of names of city employees who are eligible for Service Awards-June 30, 2009 through March 31, 1010:

Employee	Department	Years of Service
Gordon Robertson	Water	5
Jennifer Brown	Police	5
Gregory Robertson	Electric	5
Steven Janey	Public Works	5
Ernest Barger	Waste Water	5
Dennis Napier	Public Works	5
Amber Fulcher	Police	5
Steve Marquardt	Public Works	5
Jeremy Purvis	Police	5
Tammy Thacker	Housing/Community Development	5
Michael "Shane" McPeck	Police	5
Anita Spencer	Police	10
Kristopher Shrader	Fire	10
Robbie Kerrick	Information Services	10
Tabbatha Jones	Parks & Recreation	10
Brad Beam	Fire	10
E. C. Stone	Police	10
Randy Martin	Parks & Recreation	10
Chad Dodson	Maintenance	10
Robert Fincher	Police	15
Donnie Brooks	Armory	15

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Christopher Chambers	Waste Water	15
Donn Shumate	Police	15
James Hill	Fire	15
Randy Craig	Public Works	20
Randy Gregory	Public Works	20
Rhonda Gregory	Public Works	25
Terry Agee	Public Works	25
John Dyches	Water	25
Kenneth Adkins	Public Works	30
Timothy Porter	Police	30
Linda Kanode	Police	30
Mike Rogers	Police	30
Jack McDowell	Water	30
Clinton Martin	Waste Water	30

The agenda item regarding a report from Robinson, Farmer and Cox on FY09 audit will be moved to the February 23, 2010 meeting due to hazardous road conditions in Fredericksburg, the home office of the auditor.

Mark Heath, M-HC Economic Development Corporation and Lisa Wilson reported on the Small Business Division programs and distributed marketing tools. There was discussion on incentive packages targeting small business and the need for a more seamless permitting process.

Leon Towarnicki presented the following update on the landfill gas project:

The landfill is an approximate 180 acre site, has an approximate 43 acre disposal footprint, been in operation from early 1970s through 2005 with City-only waste through 1993 and City/County waste from 1993 to 2005. Landfill contains an estimated 1.7 million tons of waste. Landfill gas project was reviewed several times prior to 2008 but never pursued due to City's low cost of purchased electric power and low estimates of gas availability. It was reviewed again in 2008 – purchased power costs were higher and emergence of carbon credit/offset market. Field tests indicated much higher availability of gas than originally estimated. There were concerns over forced regulatory compliance and updated economic model indicated gas collection project was feasible. Project was endorsed by Council and funding was authorized and project divided into 2 phases – collection/flaring, and power generation. Project schedule information: Engineering work on Phase I - collection & flare system began in spring, 2009. Project was bid June, 2009, contract awarded July, 2009, construction began Sept/Oct, 2009. Collection system approx. 75% complete (significant weather delays). Power line construction to landfill also underway, approx 80% complete. Collection/flaring system estimated to be operational by April, 2010. Advertise RFP for electric generation (Phase 2) around April/May with construction to begin summer, 2010. Operation to commence May, 2011. Project funding: Total cost estimated at \$3.4 million – Phase 1/\$900,000; Phase 2/\$2.5 M. Currently committed City funding/in-kind at \$900,000 for Phase 1. Virginia DMME Biomass Grant \$1 million applied to Phase 2. Currently investigating other options for balance needed of \$1.5 million.

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

BUDGET ADDITIONS FOR 02/09/10				
ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
<u>FY10</u>				
<u>GENERAL FUND</u>				
01100909	490104	Recovered Costs		109
01221082	506001	Commonwealth's Attorney - Office Supplies appropriate reimbursement to expenditure	109	
01100909	490104	Recovered Costs		9,674
01311085	506008	Police Dept - Vehicle Repair & Maintenance appropriate insurance payment for repairs	9,674	
01100909	490104	Recovered Costs		500
01331108	501200	Sheriff - Corrections - Overtime appropriate funds for use of deputies	500	
01101917	442810	Categorical Other State - Highway Projects		19,360
01413151	503140	Thorofare Construction - Prof. Service - Engineering appropriate reimbursement for Liberty Street project	19,360	
Total General Fund:			29,643	29,643
<u>FY10</u>				
<u>CDBG FUND</u>				
47102926	447047	Categorical Federal - Uptown Revitalization Planning Grant		35,000
47823519	503140	Uptown Planning Grant - Prof. Serv.-Eng. & Arch. appropriate federal reimbursement	35,000	
Total CDBG Fund:			64,643	64,643

Commissioner of Revenue, Ruth Easley, briefed Council on the refund resulting from verification update of estimated BPOL Tax for Tax Year 2009 as follows:

On January 22, 2010, a local business notified the Commissioner's office that they had incorrectly estimated their 2008 and 2009 business license gross receipts and failed to deduct pass-through funds that were allowed to be deducted from the business' gross receipts. The estimated licenses had not been verified as the business was new in 2008 and the tax returns were not available to do the verification until after the conclusion of the base year (tax year 2008.) The total refund for both years is \$5,399.15. The total refund amount reflects an adjustment based on verified gross receipts that resulted in an additional tax liability for license year 2008 that reduced the refund amount for license year 2009.

Prior to the opening of the business, the taxpayer's accountant sought an advisory opinion from the Commissioner regarding the treatment of pass-through funds in calculating the business gross receipts for BPOL purposes. The advisory memo provided that the taxpayer should not include the pass-through funds as business gross receipts. The taxpayer acknowledges that they failed to follow the advisory memo and overestimated their gross receipts for the 2009 BPOL estimated license. The taxpayer paid the estimated license tax when they filed their business license application and seeks a refund of the difference of the gross receipts with the allowable deduction.

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 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 both years was provided on February 2, 2010.

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 Kimble Reynolds, seconded by Danny Turner, with a 5-0 vote, Council authorized the City Treasurer to issue a refund of \$5,399.15 effective February 9, 2010.

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On a motion by Kimble Reynolds, seconded by Mark Stroud, with a 5-0 vote, Council agreed to adopt the following resolution confirming the declaration of emergency for a winter weather event affecting the City of Martinsville:

WHEREAS, the Council of the City of Martinsville, Virginia finds that a winter weather event, in the City of Martinsville, occurring on February 5-6, 2010, resulted in snow and ice, downed power lines and trees, and approximately 30% of City residents without power; and

WHEREAS, due to the nature of the emergency, the City of Martinsville activated essential personnel, and deployed resources for the purposes of public notification, preservation of public safety, and restoration of City infrastructure and services and; now, therefore

BE IT RESOLVED by the City Council of the City of Martinsville, Virginia, in regular session assembled February 9, 2010, that it concurs in the declaration of local emergency originally submitted by the City Manager under his authority as the City's Director of Emergency Management in accordance with Virginia Code Section 44-146.21; and

BE IT FURTHER RESOLVED by the City Council of the City of Martinsville, Virginia that the City Manager is authorized to execute necessary applications for Federal and/or State disaster recovery funding, if applicable, for reimbursement, repairs, and/or mitigation due to the aforementioned condition.

Business from the floor: Scott Coleman reported the citizen survey is on the city's website regarding budget input from the citizens and printed copies are available at the front desk of city hall. Vice Mayor Reynolds requested that the surveys be sent out in the mail with the utility bills if cost effective. Gary Cody introduced the new General Manager for the Mustangs, Joe Taipalus.

Comments-Council: Stroud-appreciated city employees restoring power to the city and setting up the emergency shelter. Teague-VML legislative updates shows this year's budget will be a tough year and he applauded the school board for moving forward with options to save money. Turner-commended school board for looking at options; stated we need to consider mergers of constitutional offices; reported Baseball Heaven will open next week. Reynolds-complimented city employees in getting power back after snow removal and thanked school board for taking on the task to work with Henry County. Lawson-thanked employees for good job done on snow removal and very thankful to get snow off the road before the power outages; thanked the City Manager for his leadership in getting the declaration of emergency and the fine cooperation in setting up the emergency shelters; community garden spots will be available May 1; asked that a city recycling report from public works be presented to Council by end of March.

Comments-City Manager: reported the Capital Committee has reviewed the capital budget and total amount of vital equipment will be about \$300,000 more this year. Budget reviews with departments will begin this week and budget preparation should be on schedule to be presented April 21.

In accordance with Section 2.1-344 (A) of the Code of Virginia (1950, and as amended) and upon a motion by Gene Teague, seconded by Kimble Reynolds, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr.

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Teague, aye; and Mr. 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) Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the City of Martinsville would be adversely affected, as authorized by Subsection 6. (C) Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body as authorized by Subsection 29.

At the conclusion of Closed Session, each returning member of Council certified that (1)only public business matters exempt from open meeting requirements were discussed in said Closed Session; and (2)only those business matters identified in the motion convening the Closed Session were heard, discussed, or considered during said Session. On a motion by Kimble Reynolds, seconded by Gene Teague, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, aye, Council returned to Open Session. The following action was taken on the Board appointment: on a motion by Mark Stroud, seconded by Gene Teague, with a 5-0 vote, Council agreed to appoint Tim Mills, 15 Scuffle Hill, to an unspecified term on the Green Committee. On a motion by Kimble Reynolds, seconded by Danny Turner, with a 5-0 vote, Council agreed to adopt the following resolution:

**A RESOLUTION OF THE CITY COUNCIL
CONCERNING A COST EFFECTIVE SOLUTION TO EDUCATION IN
MARTINSVILLE AND HENRY COUNTY**

Whereas The City of Martinsville recognizes the absolute need to provide the highest quality education to its children in the most cost-effective way for its citizens; and

Whereas both the City and the Commonwealth are faced with significant budgetary challenges which are likely to endure for years; and

Whereas the continuation of an independent school system in the City, funded even at current levels and with a declining student population is, over the long term, unsustainable without a significant increase in the tax burden to Martinsville's citizens; and

Whereas, Henry County is faced with similar funding challenges which have already resulted in the recommendation of consolidation within its own school system;

Now therefore be it resolved, by the City Council of Martinsville, Virginia, in regular session assembled on February 9, 2010 that the City Council endorses the vote of the Martinsville City School Board dated February 8, 2010, and

Be it further resolved, that Council urges both the Henry County School Board and the Henry County Board of Supervisors to immediately endorse the concept of substantive negotiations with the Martinsville School Board and City Council to explore all potential options for achieving the maximum cost savings to their citizens.

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

Clarence C. Monday, Clerk of Council

Kathy C. Lawson, Mayor