

June 22, 2010

A Neighborhood Meeting with City Council for the Westside area was held on June 22, 2010, at High Street Baptist Church, 401 Fayette St., Martinsville, Virginia, at 7:30 P. M., with Mayor Kathy Lawson presiding and Council members present including: Gene Teague, Kimble Reynolds, Jr., Mark Stroud, Sr., and Danny Turner. Staff present included: Clarence Monday, City Manager; Leon Towarnicki, Assistant City Manager; Brenda Prillaman, Wayne Knox, Eric Monday, Mike Rogers. Susan McCulloch and Gary Cody. Mayor Lawson welcomed those in attendance and thanked the church for hosting the meeting. Rev. William Shackelford gave the invocation.

Mayor Lawson presented a Key to the City on behalf of Council to Dr. Scott Kizner for his service to the city as school superintendent. Council members made comments expressing their appreciation to Dr. Kizner.

Mayor Lawson welcomed citizens to the Neighborhood meeting and asked for citizen comments. Andy Powers, Property Maintenance Inspector, reviewed the list of properties visited on the Council tour of the Westside neighborhoods last night noting that a majority of complaints are high grass and turn around time to look at complaints is now about 3-4 weeks. Citizen comments included: Michael Elder of Childress Dr.—serious issues with crime and violence and feels black community is being left out; Gloria Hylton of 402 Second St.—concerns that there is a lot of money in school system for them to work with and if any money becomes available, she asked that the safety of our citizens not be shortchanged--any money available should be channeled to police department and EMS; Mike Rogers, Police Chief, thanked Ms. Hylton for her comments about the how there should be a balance to how taxpayer dollars go to certain categories; Mattie Adkins-thanked Council for listening to her concerns about the dog issues and thanked the police department; Sam Marshall of Rives Rd. spoke in support of the dog ordinance; Tyler Millner—commended Council and presented a draft proclamation for Higher Education Day to be held Friday at NCI—he asked that Council designate this day as Higher Education Day and Council agreed and asked that staff prepare the proclamation document.

Eric Monday made brief comments regarding the charter amendment and ordinance to move the city election from May to November noting it would be a \$12,000 cost saving to the city. On a motion by Danny Turner, seconded by Mark Stroud, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, aye, and Mr. Turner, aye, Council approved the following charter amendment and ordinance on second reading:

June 22, 2010

CITY OF MARTINSVILLE Ordinance No. 2010-\_\_\_\_\_ (uncodified)

**BE IT ORDAINED** by the Council of the City of Martinsville, Virginia, in regular session held on June 8, 2010 and pursuant to Sections 24.2-222.1 and 24.2-101 of the Code of Virginia, that municipal elections for city council be changed from the first Tuesday in May to the Tuesday following the first Monday in November, and that the General Assembly be petitioned to amend the Charter as follows to reflect such change:

**CITY CHARTER, CHAPTER 2. THE COUNCIL**

**Sec. 2. Composition; election and terms of members; to be continuing body; filling of vacancies; removal of member for absenteeism.**

The council shall be elected as provided by general law. The council shall consist of five members, who shall be elected at large and serve for a term of four years from the first day of ~~July~~ January next following the date of their election and until their successors have been elected and qualified.

The terms of councilmen shall be staggered. Two councilmen shall be elected in the year in which their predecessors' terms in office expire and three councilmen shall be elected in the year in which their predecessors' terms in office expire. The incumbents' successors shall be elected every four years thereafter.

Provided, however, those councilmen initially elected following the amendment of this Charter in nineteen hundred seventy-five shall not take office until the expiration of the terms of their predecessors, thereby their initial term shall be for a term of three years ten months.

The council shall be a continuing body and no measure pending before such body shall abate or be discontinued by reason of the expiration of the term of office or removal of said body, or any of them. When a vacancy occurs in the council, it shall be filled by a majority vote of the remaining members within thirty days of such vacancy. If a majority of the remaining members cannot agree, or do not act within said thirty-day period, and if at least one hundred eighty days remain in the unexpired term at the expiration of said thirty-day period, the council, immediately upon expiration of said thirty-day period, shall petition the Circuit Court of the City of Martinsville to issue a writ of election to fill such vacancy. Upon receipt of such petition, the court shall issue the writ of election, directed to the secretary of the Electoral Board of the City of Martinsville, designating the office to be filled and the time and place of holding such election; and, upon receipt of such writ, the said secretary shall publish a copy thereof at not less than ten public places within the city or publish the same in a newspaper of general circulation at least ten days before such election. No such special election shall be ordered held within the sixty days prior to a general or primary election. Any member of the council who shall be voluntarily absent from three regular meetings of the council consecutively, may be removed from office by resolution of the council declaring his seat vacant.

**Sec. 5. Meetings; appointment of boards and commissions; rule of procedure; quorum; etc.**

At nine o'clock ante meridian on the first regular business week day of July January following a regular municipal election, ~~except the organizational meeting after the elections in 1976 and 1978 shall be the first day of September, or if such day be a Sunday, then on the day following,~~ the council shall meet at the council chamber of the city, at which time the newly elected councilmen, after first having taken the oaths prescribed by law, shall assume the duties of their office. Thereafter the council shall meet at such times as it may prescribe by ordinance or resolution, except that it shall regularly meet not less than once each month. The mayor and any member of the council, or any two members of the council, or the city manager and any councilman, may call special meetings of the council, at any time after at least twelve hours' written notice, with the purpose of said meeting stated therein, to each member served personally or left at his usual place of business or residence; or such meeting may be held at any time without notice, provided all members of the council attend and vote unanimously on all matters acted upon. No business other than that mentioned in the call shall be considered at such meetings.

(b) The council may appoint all such other boards and commissions as may be deemed proper, and prescribe the powers and duties thereof. The council may determine its own rules of procedure, may punish its own members for misconduct in office and may compel attendance of members. It shall keep a journal of its proceedings. A majority of all members of the council shall constitute a quorum to do business, but no resolution or ordinance shall be adopted except by affirmative vote of a majority of all members elected to the council, but a smaller number may adjourn from time to time and compel the attendance of absentees. All elections by the council shall be viva voce and the vote recorded in the journal of the council. No vote or question decided at a regular meeting shall be reconsidered at a special meeting unless all members are present and three of them occur.

**CITY CHARTER, CHAPTER 6. CITY OFFICERS GENERALLY**

**Sec. 3. Election of officers by council; enumeration and terms of officers.**

~~On the first day of July following the regular municipal election and organization of the council,~~ At the meeting prescribed in Section 5 of Chapter 2 of this Charter, or as soon thereafter as may be practicable, the council shall elect a clerk, city attorney and such other officers as may come within their jurisdiction, each of whom shall serve at the pleasure of the council. The municipal officers of the City of Martinsville, other than those above mentioned and unless provided for herein, shall, from the date this Charter becomes effective and thereafter consist of five councilmen as provided for in this Charter; a sheriff; a commissioner of the revenue; a treasurer; a commonwealth's attorney; and a clerk of the circuit court or for any other court of record that may be or hereafter be established by law for the city; and such additional officers as are provided for or may be provided for by the council.

The mayor of the city shall be elected by the council from their number as provided in this Charter. The present commissioner of the revenue, treasurer, commonwealth's attorney and clerk of the circuit court shall continue in office until the expiration of the terms for which they were respectively elected. Upon the completion of their present term of office, elections shall be held at the time, in the manner and for the term provided by law.

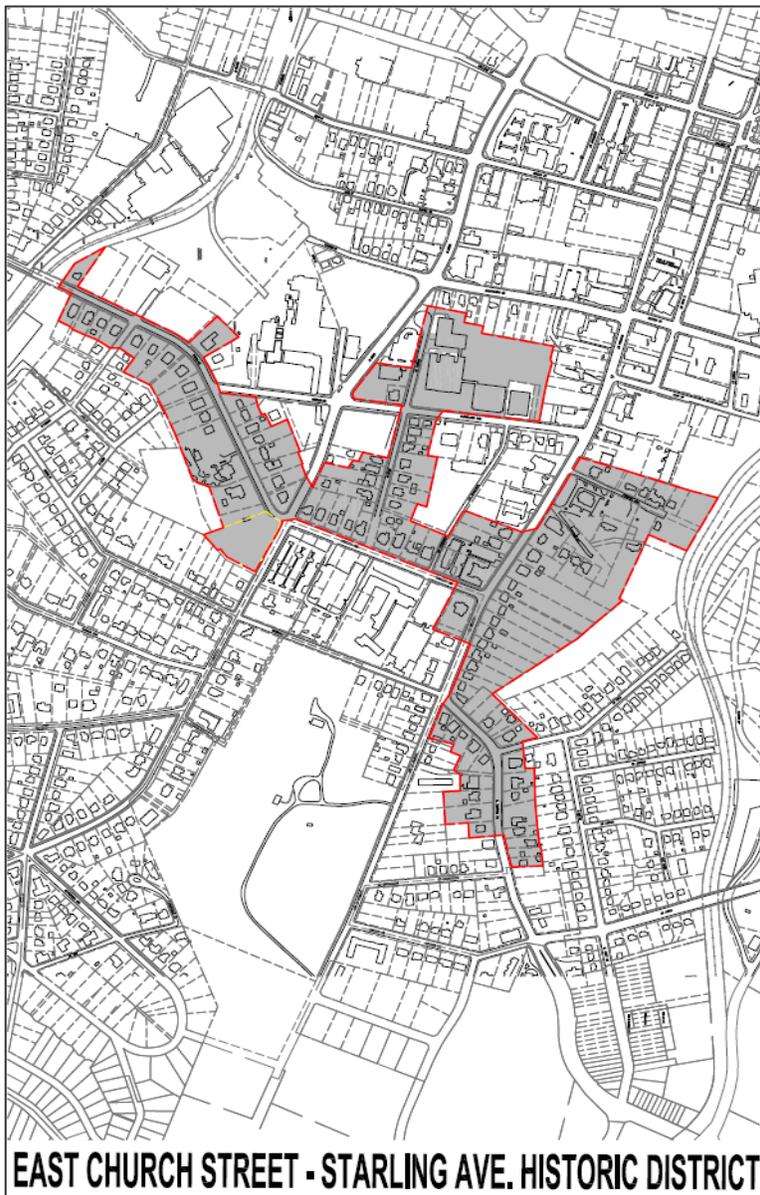
After a brief summary by the City Manager, and on a motion by Gene Teague, seconded by Kimble Reynolds, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, aye, and Mr. Turner, aye, Council approved the following revisions, on second reading, to the City's Water & Sewer Services Terms and Conditions for providing a senior citizens' water service discount of \$5.00:

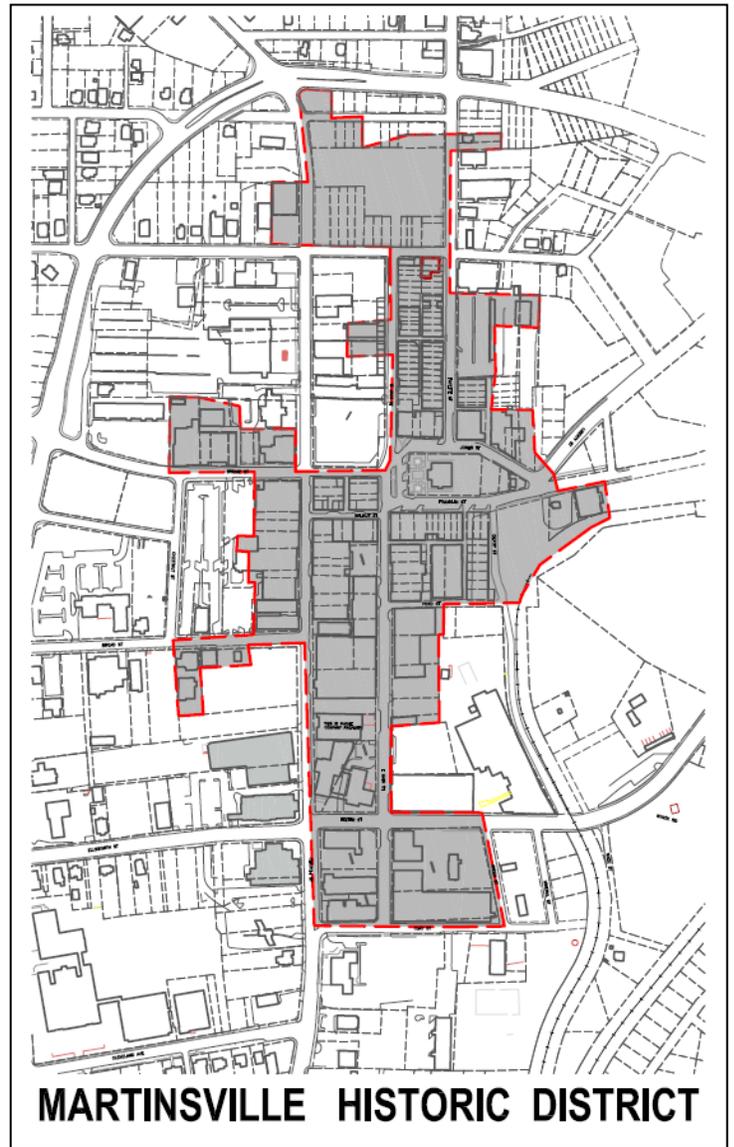
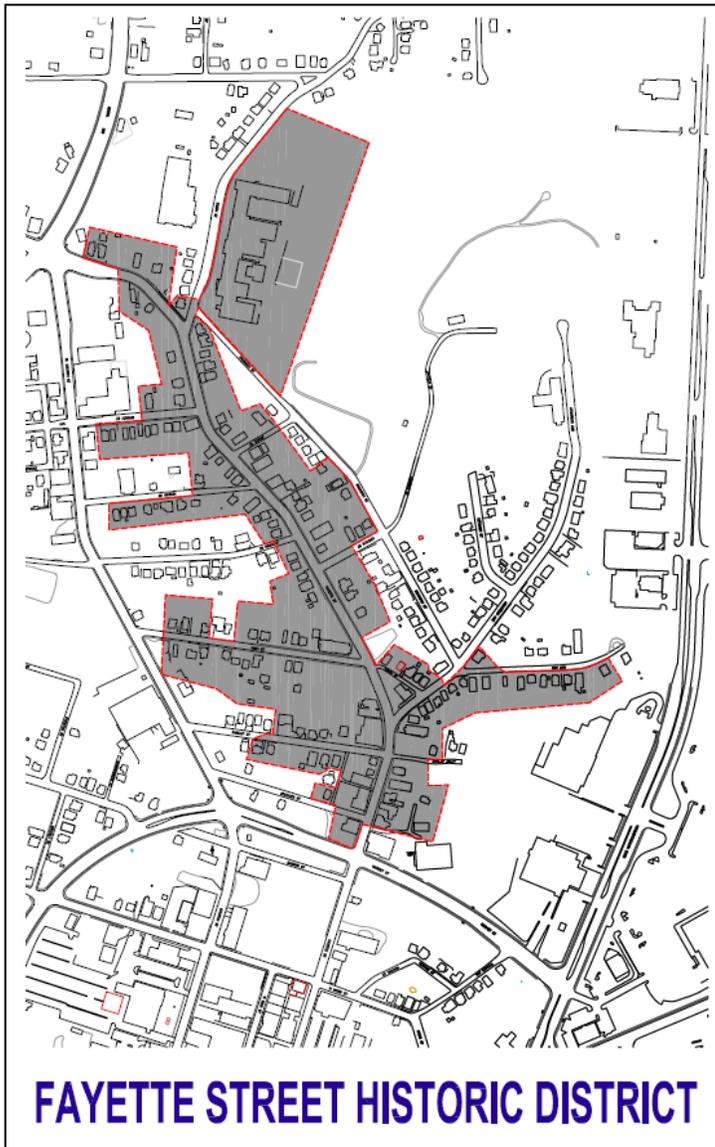
June 22, 2010

ARTICLE VIII Sec. 8.7 Senior Citizens Discount

The City offers a \$5.00 per month water service discount for senior citizens who are 65 or older if they own or lease the property in which they reside. The primary residence is the only eligible facility, and the account must be in the name of the customer receiving the discount. In order to receive the senior citizen discount, the customer must provide adequate identification verifying their date of birth and complete an application form (APPENDIX G-1) available at the Utility Billing Office.

Wayne Knox explained the historic district amendment of the Uptown District noting this will be the second reading on the historic districts. On a motion by Gene Teague, seconded by Mark Stroud, with the following 4-1 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, aye, and Mr. Turner, nay, Council approved, on second reading, Fayette Street Historic District, E.Church St./Starling Avenue Historic District, and amended boundaries for Uptown Historic District as shown on the following maps which serve as record of what the districts are as per City Attorney, Eric Monday:





City Attorney, Eric Monday, briefed Council on the ordinance regarding health insurance benefits for current employees and retired employees noting the ordinance codifies treatment of health insurance benefits for current employees and retired employees. After discussion and on a motion by Gene Teague, seconded by Kimble Reynolds, with the following 4-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, abstain, and Mr. Turner, aye, Council approved the amended version of the ordinance replacing the words City Council with City Manager in Item A of the ordinance. The amended ordinance, as follows, will be considered again on second reading at the July 13, 2010 meeting:

**BE IT ORDAINED** by the Council of the City of Martinsville, Virginia, in regular session held on June 22, 2010 that Section 2.4 of the City Code, currently reserved, is hereby enacted as follows:

**2.4 Health Insurance Benefits for City Employees.**

- A. The City Manager shall appoint a committee to advise the City upon health insurance benefits offered to active and retired city employees. At least one member of this committee shall be a current employee and one shall be a retired employee.
- B. The City may continue to employ a blended rate combining currently active and retired employees for the purposes of establishing health insurance premium payments.

June 22, 2010

- C. The City shall not treat retirees as a separate class for the purposes of health insurance premium ratings.
- D. The provisions of this subsection (D) shall affect and apply only to employees whose initial hiring date as an employee of the City precedes July 1, 2002:
  - 1. Regardless of the extent, quality or cost of health insurance benefits offered to employees by the City, which shall be subject to change and the annual budget appropriation, the City shall at all times offer to retired employees the same benefits, or their cash equivalent, as that offered to currently active employees.
  - 2. Affected employees shall enjoy a vested property interest in such benefits or cash equivalent, as established annually.
- E. The effective date of this ordinance shall be July 1, 2010.

City Attorney, Eric Monday, explained the three actions required regarding the dog ordinances. On a motion by Kimble Reynolds, seconded by Danny Turner, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, aye, and Mr. Turner, aye, Council repealed Section 5-39 on second reading. On a motion by Danny Turner, seconded by Mark Stroud, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, aye, and Mr. Turner, aye, Council approved the tethering ordinance, on first reading. On a motion by Kimble Reynolds, seconded by Gene Teague, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, aye, and Mr. Turner, aye, Council approved the amended noise ordinance on first reading.

**BE IT ORDAINED** by the Council of the City of Martinsville, Virginia, in regular session held on June 22, 2010 that Section 5-39 of the City Code, , is hereby repealed and reenacted as follows:

**Sec. 5-39. ~~Noisy dog.~~ Adequate space for animals; time restriction on tethering companion animals.**

~~No person shall have or keep within the city any dog or dogs which, by making or causing frequent or long continued and unreasonable noise, shall disturb the peace and quiet of any person or neighborhood. Upon complaint being made to any animal control officer, deputy animal control officer or police officer, after investigation, the animal control officer or officer may give notice of such complaint to the owner or person in charge of such dog or dogs and order the discontinuance of the disturbance. Any person failing to comply with such order shall be guilty of a Class 4 misdemeanor.~~

*(a) It shall be unlawful to fail to provide any animal with adequate space. "Adequate space" means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure.*

*(b) When a companion animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the companion animal. The tether must be attached to the companion animal by a properly applied collar, halter, or harness configured so as to protect the companion animal from injury and prevent the companion animal or the tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the companion animal. Furthermore, the tether must be at least three (3) times the length of the companion animal, as measured from the tip of its nose to the base of its tail, except when the companion animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the companion animal, temporarily and appropriately restricting movement of the companion animal according to professionally accepted standards is considered to be provision of adequate space.*

*(c) It shall be unlawful for any person to tether a companion animal:*

- 1. When the outside temperature is equal to or less than 32 degrees Fahrenheit or greater than 85 degrees Fahrenheit unless shelter is provided; or*
- 2. In a manner as to cause injury, strangulation or entanglement of the dog on fences, trees, or other man-made or natural obstacles; or*
- 3. To a fixed-point; or*
- 4. That is under 4 months of age; or*
- 5. That is sick or injured; or*
- 6. For more than 4 hours, in any 24 hour period.*

*(d) Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.*

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**BE IT FURTHER ORDAINED** that Section 13-11 of the City Code, is hereby amended as follows:

**Sec. 13-11. Excessive, unnecessary, etc., noise.**

*(a) It shall be unlawful and a class ~~4~~ misdemeanor for any first offense, and a class 3 misdemeanor for any subsequent offense for any person:*

*(1) To operate, install, have, maintain or permit, on the outside of any store, shop, business establishment, warehouse or other commercial building in the city, any loudspeaker or other sound-producing or reproducing device capable of emitting music, noise, sounds, tones or the human voice in such manner that the same can be heard on any public sidewalk or public street, except for outside intercoms, paging speakers, bells or buzzers signaling the ringing of a telephone, fire, smoke or*

June 22, 2010

burglar alarms, or a whistle, bell or buzzer signaling the time to begin or stop work or school, which are only used intermittently for the transmission of the human voice for announcing, summoning or paging an individual person or for the signaling of the ringing of a telephone, the danger of a fire or a burglary or the beginning or stopping of work or school.

(2) To use, operate or play, in the city, any radio, television, record or tape player, phonograph, musical instrument, loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound, which can be heard inside the confines of an individual dwelling unit, house or apartment of another person. Upon complaint being made to any police officer that the provisions of this section are being violated, such police officer may, after investigation, give notice of such complaint to the owner or person in charge of such residence and order the discontinuance of the disturbance. Any person failing to comply with such order shall be guilty of a class 1 misdemeanor.

(3) To operate or use, or permit the operation or use of, power lawn mowers, chain saws, power hedge clippers, garden tractors or tillers, leaf mulchers or blowers, snowblowers or like outdoor power equipment in any residential district in the city between the hours of 10:00 p.m. and 7:00 a.m. following.

(4) To yell, shout, holler, hoot, whistle or scream between the hours of 10:00 p.m. and 7:00 a.m. following, on any public street, alley, sidewalk or parking lot or on any privately-owned street, alley, sidewalk or parking lot open to the public, except to summon aid in an emergency.

(5) To permit or allow any dog or other animal or any fowl to bark, screech, scream or create noise in any residential district in the city between the hours of 10:00 p.m. and 7:00 a.m. following, **or continuously for more than 15 consecutive minutes at any time.**

(6) To emit, from any loudspeaker or sound amplification equipment located in or on any open or closed vehicle, trailer, airplane, balloon, or boat any advertisement, commercial message, music, speech, or noise which can be heard by the unaided human ear at a distance greater than thirty (30) feet away from such vehicle, trailer, airplane, balloon or boat.

(b) Nothing in this section shall apply to **noise generated in connection with the business being performed on industrial property; to railroads; to sounds emanating from an area permitted by the Virginia Division of Mines, Minerals and Energy or any division thereof;** to the use of horns, sirens or whistles by police, fire, ambulance or rescue squad personnel; to bells, chimes, or music sounded or played by churches or synagogues; to sounds made by fairs, carnivals, circuses, expositions, festivals, sporting events, concerts, or parades, provided such fairs, carnivals, circuses, expositions, festivals, sporting events, concerts, or parades are held outdoors between 7:00 a.m. and 11:00 p.m. in a public park or playground, on school grounds, or in a district zoned for such activity, and have all necessary permits and licenses from the city; to the use of two-way radio communication equipment or cellular or portable telephone equipment; or to the use of outside loudspeakers during the daylight hours by licensed auctioneers actually engaged in the sale of property.

**(c) In lieu of criminal prosecution, a civil penalty of \$250 for any first offense and \$500 for any subsequent offense may be assessed against any offender under this section.**

Mayor Lawson asked for any citizen comments. Comments were: Glen Powell voiced his concerns regarding noise ordinance as it relates to window air conditioner units; Leslie Hervey of SPCA reported she welcomes calls to assist citizens with their dog issues; Police Chief Mike Rogers asked that citizens take a reasonable attitude and obtain any evidence they can by tape recording or video taping dogs. Mayor Lawson reported this Saturday is Southside Neighborhood Clean Up Day and commended those in that community for organizing this event.

In accordance with Section 2.1-344 (A) of the Code of Virginia (1950, and as amended) and upon a motion by Gene Teague, seconded by Danny Turner, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, 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) The condition, acquisition, use or disposition of real property as authorized by Subsection 3. (C) A personnel matter as authorized by Subsection 1.

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

June 22, 2010

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. Teague, aye; Mr. Stroud, aye and Mr. Turner, aye, Council returned to Open Session.

On a motion by Danny Turner, seconded by Mark Stroud, with a 5-0 vote, Council voted to re-appoint Bill Manning to a 3-year term ending 6/30/2013 on the Martinsville City School Board.

There being no further business, Mayor Lawson declared the community meeting adjourned at 9:31 PM.

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Clarence Monday  
Clerk of Council

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Kathy C. Lawson  
Mayor