

July 13, 2010

The regular meeting of the Council of the City of Martinsville, Virginia, was held on July 13, 2010, 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, Jr., Gene Teague, Mark Stroud, Sr., and Danny Turner. Staff present included: Clarence Monday, City Manager, Brenda Prillaman, Eric Monday, Leon Towarnicki, Chris Morris, Donna Odell, Linda Conover, Wayne Knox, Mike Rogers and Cindy Dickerson.

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

On a motion by Danny Turner, seconded by Kimble Reynolds, with a 4-0 (Mayor Adkins abstained) Council approved the minutes of the May 13, 2010 meeting.

Chris Morris, Project Engineer, briefed Council on the surplus city-owned property report. As part of the FY 2010-2011 budget revenues, staff was asked to review properties owned by the City of Martinsville to recommend tracts for disposition. Six parcels were chosen due to their stand-alone value as buildable lots or timber tracts and range in size from 2.6 acres to just over 7000 square feet with a combined assessed value of approximately \$20,700. Sealed bids will be solicited for each individual property and reviewed by staff with a recommendation given to Council at a later date. Those recommended for sale will be disposed of through quit claim by the City and a separate public hearing will be required for each parcel to be sold. A date for these public hearings will be set after review of the bids received. Additional properties and tracts will be reviewed for disposition and will be brought before Council for approval at future meetings. The 6 stand along tracts are: 2001 Smith Lake Rd., 125 Village St., 230 Moss St., 229 Moss St., 201 Salem St., and 1125 Pine Hall Rd. The City Attorney stated private negotiations can be done, but we must do a public hearing to make sure we are not locked in to the highest bidder. There was discussion on conservation easement possibilities with 2001 Smith Lake Road. On a motion by Gene Teague, seconded by Danny Turner, with a 5-0 vote, Council agreed to go forward with the RFPs and look at all opportunities for Smith Lake Rd. tract as well as contact interested adjacent property owners including Oakwood Cemetery. The available tracts will be listed on the city's Purchasing page of the website and Mr. Morris will probably come back to Council within 60-90 days with an update.

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City Manager, Clarence Monday, briefed Council on the ordinance regarding health insurance benefits for current employees and retired employees making the following points:

City government is no different from private enterprise...employee benefits make up a significant cost of employee expenses, with health insurance being one of the most expensive and important benefits.

Up until a few years ago, the City was able to fully fund employee and retiree health insurance. Employees were commonly told that a benefit of coming to work for and continuing to work for the City was the City will pay their health insurance upon retirement.

In 2000 in order to protect the taxpayer as the City continued to face economic challenges, City administration enacted a policy to reduce the amount paid for a portion of health insurance for its retirees. In reality, a lack of clarification resulted as to specific execution of this policy.

The gap widened between what the City paid for its retirees' health insurance as compared to active employees, both before and after the City switched over to a high deductible health plan for those on city health insurance, a strategy designed to offer the most affordable health insurance, at the least cost to the city taxpayer.

As this disparity escalated, City retirees, that is retirees that worked under the jurisdiction of the City Manager, sought legal counsel, and the City faced a real potential for expensive and lengthy litigation. Simply put, the retirees only wanted what they thought was promised to them...health insurance fully paid by the city during retirement.

Instead of litigating, both parties agreed to mediation, in order to identify an optimal outcome.

As a result of such mediation, the ordinance considered by Council on second reading this evening, is to codify exactly how retiree health insurance will be handled in the future.

Until retiree health insurance is phased out, as the policy in question was intended to do, City retirees will be treated the same as active City employees so there is no confusion.

A fair question was asked at the last council meeting as to how much this will cost. Staff could not give an exact answer until open enrollment was held to determine the number of retirees on the plan, how many active City employees opted out, and the number of retirees falling off the plan due to Medicare eligibility. Now that these answers are known, the additional cost is determined to be \$54,517 and is included in the already appropriated City budget. Remember that the City's budget includes reduced employee expenses such as furloughs and a reduction in force and more than makes up for this clarification.

By adopting this ordinance, the City is now in compliance with policy, retirees are treated with the respect and appreciation they deserve for their public service, the solution is cheaper than risks faced by the City if this would have went to litigation, and the taxpayer is protected with a clear-cut phase-out policy from this point forward.

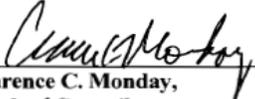
On a motion by Danny Turner, seconded by Kimble Reynolds, with the following 4-0 recorded vote, Mrs. Adkins, aye; Mr. Reynolds, aye; Mr. Stroud, abstain; Mr. Teague, aye; and Mr. Turner, aye, Council approved, on second reading, the following ordinance which codifies treatment of health insurance benefits for current employees and retired employees:

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.
- 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.

Attest:



Clarence C. Monday,
Clerk of Council

June 22, 2010

Date Adopted

July 1, 2010

Date Effective

July 13, 2010

Before considering the noise ordinances on second reading, Mayor Adkins opened the floor for public comments regarding the dog ordinances: Veraine Randolph, 1414 S. Askin St., asked Council to consider a favorable vote on this issue; Mattie Adkins, 1418 S. Askin St., pointed out problems she is currently having with a small dog; Glen Powell, 407 Forest St., offered his thoughts on restricting types of chains that are allowed to be used on dogs and the need for animals to have clean water outside; Leslie Hervey of the SPCA encouraged Council to pass this ordinance and not to wait as the ordinance can be tweaked going forward. City Attorney Eric Monday briefed Council on the ordinances. Council voted on June 22, 2010 to repeal the noisy dog Section 5-39 and to replace that by an ordinance, on first reading, regulating tethering dogs, modeled after Danville's. The suggested language was reached after consulting with a veterinarian, law enforcement and the SPCA. The Noise Ordinance, section 13-11, has suggested amendments to address citizen concerns about noisy dogs. There is also language reducing the criminal penalty. There is language permitting a civil penalty in lieu of criminal prosecution, and certain exceptions, both directed by state law taking effect July 1, 2010. These ordinances still require affected citizens to report violations to the City, which is the only way that a response and solution can realistically be handled. On a motion by Kimble Reynolds, seconded by Danny Turner, with the following 5-0 recorded vote: Mrs. Adkins, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, aye, Council approved, on second reading, Sec.13-11 noise ordinance:

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~~ 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 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 ant 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

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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.

On a motion by Danny Turner, seconded by Kimble Reynolds, with the following 5-0 recorded vote: Mrs. Adkins, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, aye, Council approved, on second reading, Sec. 5-39:

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. Adequate space for animals; time restriction on tethering companion animals.

(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:

13. When the outside temperature is equal to or less than 32 degrees Fahrenheit or greater than 85 degrees Fahrenheit unless shelter is provided; or

14. In a manner as to cause injury, strangulation or entanglement of the dog on fences, trees, or other man-made or natural obstacles; or

15. To a fixed-point; or

16. That is under 4 months of age; or

17. That is sick or injured; or

18. 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.

City Attorney, Eric Monday, briefed Council on the ordinance regarding City probate tax and fees which were allowed by the General Assembly in the 2010 session, effective July 1, 2010. Mr. Monday recommended that Section 21-130 City Probate Tax be codified as it has been in effect since 1992 and already common practice. He also recommended Section 21-131 City Probate Fee be approved and estimated the revenue would be \$900-\$1000 a year. On a motion by Kimble Reynolds, seconded by Mark Stroud, with the following 5-0 recorded vote, Mrs. Adkins, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, aye, Council approved, on first reading, the existing Section 21-30 to be codified:

BE IT ORDAINED by the Council of the City of Martinsville, Virginia, in regular session held on July 13, 2010 that Chapter 21 of the City Code, is hereby amended to add a new Article XI and sections 21-130 and 131, to read as follows:

Article XI: City Probate Tax and Fees

Section 21-130. City Probate Tax.

There is hereby imposed upon the probate of a will, or grant of administration on the probate of every such will or grant of administration, a tax payable to the City in an amount equal to one-third of the amount of the state tax thereon imposed by §§ 58.1-1712 and 58.1-1717.1 of the Code of Virginia, as amended.

On a motion by Danny Turner, seconded by Kim Adkins, with the following 3 nays-2 ayes vote: Mrs. Adkins, aye; Mr. Reynolds, nay; Mr. Stroud, nay; Mr. Teague, nay; and Mr. Turner, aye, the motion failed to approve Section 21-131 probate fee.

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City Attorney Monday briefed Council on the amended ordinances which address a loophole in our littering ordinances which appeared to allow littering on public property. Dumping yard waste in streets is clarified and the penalties are reduced. On a motion by Gene Teague, seconded by Danny Turner, with the following 5-0 recorded vote: Mrs. Adkins, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, aye, Council approved Section 18-1 and Section 19-13 ordinances on first reading:

BE IT ORDAINED by the Council of the City of Martinsville, Virginia, in regular session held on July 13, 2010 that sections 18-1 and 19-13 of the City Code be amended to read as follows:

Sec. 18-1. Littering.

(a) Any person who shall dump, throw, drop, deposit or dispose of any trash, garbage, refuse, dead animal carcass, rubbish, glass, ashes or litter on any public property, street, sidewalk, right-of-way, property adjacent to such street or right-of-way or on private property without the consent of the owner shall be guilty of a Class 4 ~~misdemeanor~~ for a first offense and a Class 3 misdemeanor for any subsequent offense.

(b) When a violation of the provisions of this section has been observed by any person, and the matter dumped, thrown, dropped, deposited or disposed of has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such matter. Such presumption may be rebutted by competent evidence.

Cross references: Penalty for Class 4 and 3 misdemeanor, § 1-11; deposit of leaves on streets, § 19-13.

Sec. 19-13. Deposit of leaves cuttings on streets.

It shall be unlawful and a Class 4 misdemeanor for a first offense and a Class 3 misdemeanor for any subsequent offense for any person to rake, deposit or place leaves, grass clippings, brush trimmings or branches or other green waste or cuttings of vegetative matter in or on any street, alley or other public property within the city, without first having obtained the consent thereto of the director of public works. This section shall not prohibit the placement of ~~bagged leaves~~ such material at the curb for pickup by the city as a part of its ~~leaf~~ refuse collection service.

Council discussed schedule and locations for FY11 City Council Neighborhood meetings with the following schedule agreed upon: Monday, September 13, 2010 tour Druid Hills/Uptown area at 5:30pm with Neighborhood Meeting at 7:30pm that same Monday evening. Monday, November 8, 2010 tour Southside area at 5:30 pm with Neighborhood Meeting at 7:30pm that same Monday evening. Monday, February 7, 2011 tour Northside/Chatham Hts. area at 5:30pm with Neighborhood Meeting at 7:30pm that same Monday evening. Monday, April 11, 2011 tour Westside area at 5:30pm with Neighborhood Meeting at 7:30pm that same Monday evening. Staff will secure locations and get dates on the schedule. These Neighborhood Meetings will be in addition to the regular monthly 2nd and 4th Tuesday evening meetings. At the Tuesday meeting immediately following the Neighborhood Meeting Monday, an overview of the tour and the meeting will be shared so the public can get the benefit of what transpired at the off site meeting location. Council also asked that a more comprehensive report be given on the property maintenance issues with comparison data included.

On a motion by Kimble Reynolds, seconded by Gene Teague, with a 5-0 Council approved the following consent agenda:

BUDGET ADDITIONS FOR 07/13/10				
ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
FY10				
GENERAL FUND				
01100908	440402	Miscellaneous - Donations/Hooker Field		2,770
01725422	505508	Mustangs - Meals	966	
01720420	506104	Hooker Field - Non-Capital Equipment	1,700	

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01720420	506010	Hooker Field - Equipment	104	
01100909	490104	Recovered Costs		9,000
01321102	501300	Fire Department - Part-Time Wages	3,000	
01122028	501300	Communications - Part-Time Wages	3,000	
01725422	501300	Mustangs - Part-Time Wages	3,000	
		appropriate funds for interns		
01100908	480411	Miscellaneous - Donations/Skate Park		30,179
01713211	508220	Park Maintenance - Physical Plant Expansion	30,179	
		appropriate donated funds for Skate Park		
01100908	480401	Miscellaneous - Donation/Police Dept		100
01311085	505505	Police Department - Travel	100	
		appropriate donated funds		
01100909	490801	Recovered Costs - Senior Citizens		688
01714212	506016	Senior Citizens - Program Supplies	688	
		appropriate recovered costs		
Total General Fund:			42,736	42,736
<u>HOUSING CHOICE FUND</u>				
49100905	450201	Rent - Henry Hotel		25,501
49100908	403210	Miscellaneous Revenues - Henry Hotel		316
49103938	462101	Contribution from Fund Balance		39,609
49809279	503150	Henry Hotel - Professional Legal Services	15,812	
49809279	503189	Henry Hotel - Relocation	1,250	
49809279	503310	Henry Hotel - Prof. Services - Repair & Maint	2,638	
49809279	503705	Henry Hotel - Prof. Services - Custodial	7,080	
49809279	505110	Henry Hotel - Electric Service	7,253	
49809279	505120	Henry Hotel - Fuel	18,664	
49809279	505130	Henry Hotel - Water	5,475	
49809279	505140	Henry Hotel - Sewer	4,911	
49809279	505150	Henry Hotel - Garbage	237	
49809279	505230	Henry Hotel - Telecommunications	752	
49809279	505336	Henry Hotel - Insurance	552	
49809279	506007	Henry Hotel - Repair & Maintenance Supplies	394	
49809279	506100	Henry Hotel - Miscellaneous Expense	409	
		appropriate funds related to Henry Hotel		
Total Housing Choice Fund:			65,426	65,426
<u>CAPITAL RESERVE FUND</u>				
16100909	490104	Recovered Costs		29,329
16577367	508013	Physical Plant Expansion - Minet Expenses	29,329	
		appropriate funds		
Total Capital Reserve Fund:			29,329	29,329
<u>ELECTRIC FUND</u>				
14100908	482901	Miscellaneous Revenue		12,257
14565340	506900	General Expense - Disaster Recovery	12,257	
		appropriate refund		
Total Electric Fund:			12,257	12,257
<u>SCHOOL FUND</u>				
18101918	418309	State Grants - Gear-Up		4,000
75001033	561121	Gear-Up HS - Teacher S & W	2,252	
75001033	562100	Gear-Up HS - Social Security	140	
75001033	562150	Gear-Up HS - Medicare	33	
7500103	566013	Gear-Up HS - Instructional Materials & Supplies	1,575	
		Appropriate Grant Funds		
Total Electric Fund:			4,000	4,000

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Business from the floor: Ural Harris, 217 Stuart St., made comments regarding AMP and how his electric costs have gone up due to using air conditioning; school budgets need to be cut and the last place the city should ever cut is police; paying EDC too much. Mike Rogers expressed his appreciation to the City's Fire and EMS for performing life support measures on a family member.

Comments from City Council: Turner-reminded citizens to support the Mustangs. Teague—asked that Council's strategic planning session take place within next 60 days. Stroud—reminded citizens that Council is working to help offset utility costs and expressed condolences to the Clyde Hooker family. Adkins—congratulated Wayne Knox and the Community Development staff for obtaining the Uptown revitalization block grant noting this is a huge shot in the arm.

Comments from City Manager: Mr. Monday pointed out that city staff is very busy with the Uptown revitalization and working on next steps on Uptown Master Plan.

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: Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council convened in Closed Session, for the purpose of discussing the following matter: (A) Appointments to Boards and Commissions as authorized by Subsection 1. (B) Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected as authorized by Subsection 6. (C) 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 of 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 Gene Teague, seconded by Mark Stroud, with the following recorded 5-0 vote: Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council returned to Open Session. The following action was taken on appointments

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to Boards and Commissions: On a motion by Danny Turner, seconded by Gene Teague, with a 5-0 vote, Council appointed Bob Canupp, 903 Hazelwood Lane, to the Architectural Review Board to an unexpired 3 year term ending 3/31/12. On a motion by Mark Stroud, seconded by Gene Teague, with a 5-0 vote, Council appointed Kathy Lawson, 909 Barrows Mills Rd., to an unspecified term on the Green Committee. No other action was taken.

There being no further business, Mayor Adkins adjourned the meeting at 10:35 PM.

Clarence C. Monday
Clerk of Council

Kim E. Adkins
Mayor