

December 9, 2008

The regular meeting of the Council of the City of Martinsville, Virginia, was held on December 9, 2008, 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, Wayne Knox, Scott Coleman, Mike Rogers, and Ruth Easley. Legislators present included: Congressman-elect Tom Perriello, Senator Roscoe Reynolds, Delegate Ward Armstrong and Delegate Don Merricks.

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

On a motion by Gene Teague, seconded by Kimble Reynolds, Council approved with a 5-0 vote, the minutes of the November 22, November 24, and November 25, 2008 meetings.

City Attorney Eric Monday called on legislators present for comments on the City 2009 legislative agenda.

Perriello: emphasized he will be a strong federal partner for the city and has a strong commitment to the area; Council asked that he push very aggressively funding for redevelopment of brownfields and blighted areas in the city; commented on alternative energy sources and energy prices; Council asked that he stay in close touch with Dr. Kizner and EDC to assist in making sure education dollars are available in educating young people and our existing and rising workforce as well as recruiting & retaining qualified teachers; comments on rail service and Council asked that he do anything that will strengthen infrastructure; Perriello indicated no decision has been made on locating one of his offices in Martinsville, but it is under consideration; Councilman Turner asked Perriello his feelings on coal fired plants and he stated he is in favor of carbon capture.

Reynolds: urged Council to give consideration to a federal issue to reinstate funds for service at all employment offices across the state; comments made on transportation funds; he said Council's legislative list looked good and he will do all he can to push the items; comments on state spending on car tax; comments on

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possibility of a study of structure of local governments; he asked that Council advise legislators of suggestions on what to cut or other possible revenue streams.

Armstrong: commented recession should bottom out at end of second quarter FY09; hopeful that governor's education cuts won't have too great an impact and will be more toward administration rather than in classroom; pointed out that 50 cents out of every tax dollar goes to education; Council asked that at-risk funding not be cut; comments on the need to better fit counties and cities to work together; Council asked that when cuts are made that maximum flexibility be given to the school system as to where the cuts are to be and that cuts are made in an equitable way proportionate to size of area. Council asked that Dr. Kizner send list of suggested education cuts to Council so Council can encourage legislators to push.

Merricks: has reviewed Council's priority list and will do all he can to push the items; commented that hard decisions on funding will have to be made and encouraged Council to let him know what their thoughts are as to what should be cut. Council encouraged legislators to move forward in looking at the issue of a study on the structure of local governments.

Mark Heath from the Martinsville-Henry County Economic Development Corporation presented his monthly update to Council. Comments: Tourism Director with experience in downtown development has been hired, updated Council on Minority & Small Business activities, reported that number of prospects is up, shell building contract awarded to Clark Construction, moving forward on development plans for Roma and Bryant properties; Greg Eanes of Sparta was introduced; relationships with neighboring communities in North Carolina are being fostered. Mark pointed out to legislators that consideration be given to some incentive or points systems to communities that invest in themselves.

Leon Towarnicki presented an update to Council regarding "PART" (Piedmont Area Regional Transit). An overview was given of the pilot public transportation project serving Martinsville and Henry County, intended to begin operation in early January, 2009. Information regarding routes, scheduled stops, and other program features were reviewed. Points made: known as PART – Piedmont Area Regional Transit; Pilot Project currently funded through end of September, 2009; Service begins Monday, January 5th, 2009; 14 passenger, handicapped accessible bus

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Service is provided on a schedule of 5 – 12 hour days, M – F, 6 am to 6 pm; deviated fixed route; routes consist of 2 repeated loops (City and County) with a connecting point at Wal-Mart, goes by major retail, government, medical facilities, 12 hour days are divided into 4 City and 4 County loops, each approx. 90 minutes; fare paid upon boarding is \$1, exact change only, Commonwealth from Liberty Street to Wal-Mart is covered every loop (90 minutes), there is method for pickup/drop-off for handicapped within $\frac{3}{4}$ mile of route on bus regular schedule, subject to proper approval/authorizations, joint project between City and County, technical assistance from West Piedmont PDC, managed by RADAR (Roanoke Area Dial A Ride), funding through Commonwealth Transportation Board/Dept. of Rail & Public Transportation, City and County, public meeting held on Monday, Dec 8th, suggestions are being considered/expect routes to be finalized within approx. the next week, driver positions are filled, applications can still be sent to RADAR office in Roanoke (P. O. Box 13825, Roanoke, VA 24037).

Commissioner of Revenue Ruth Easley gave an update on the Reassessment that will become effective July 1, 2009. State law requires cities to conduct a reassessment of real property every two years to ensure that the assessed value of each piece of property within the city is updated to keep that value of each piece of property within the city consistent with what the property is worth on the open market. The assessors in the Commissioner of the Revenue office will complete the city's biennial reassessment by the end of December 2008 and reassessment notices will be mailed to city property owners in early January 2009. Ms. Easley presented an overview to Council of the reassessment process, purpose and preliminary reassessment information. She reported that preliminary figures show that the overall assessed value of the total taxable properties in the city will increase about 6.7%. In order to keep the revenue generated from the city's real estate tax at no more than 1% more than the current year's revenue levies, City Council would have to lower the tax rate for FY10 to \$1.02 per \$100 of assessed value. She also pointed out to Council that the governing body may raise the tax rate after holding a public hearing. The public hearing would have to occur no less than 30 days after the tax rate was lowered and would have to be advertised in the Martinsville Bulletin.

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City Manager and Finance Director Clarence Monday explained to Council that \$1,105,000 is budgeted in FY09 for purchase of a wastewater project, street sweeper, and an addition to the City garage. It is now time to enter into a lease purchase agreement, not to exceed \$990,000, with Carter Bank & Trust for financing of such equipment and project with interest rate of 2.8%. Council, by approving the resolution, will authorize staff to enter in the agreement, with the selected institution, at the agreed upon interest rate, and terms of such agreement. Paul Jacobson, city bond counsel, briefed Council on the RFPs received and advised the loan should close before Christmas.

On a motion by Gene Teague, seconded by Kimble Reynolds, with the following 4-1 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, nay. Council adopted the following resolution approving lease purchase financing:

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINSVILLE, VIRGINIA
APPROVING LEASE PURCHASE FINANCING**

WHEREAS, the City Council of the City of Martinsville, Virginia (**the "Council"**) has determined (i) that a need exists for certain equipment, specifically a street sweeper and a sludge press (**the "Equipment"**) and for the construction, renovation and equipping of an addition to the City's existing municipal garage building (**the "Improvements" and together with the Equipment, the "Project"**) for use by the City of Martinsville, Virginia (**the "City"**) as described in the Lease Agreement (as hereinafter defined); (ii) that the Project is essential to the governmental functions of the City and (iii) that it reasonably expects the Project to continue to be essential to the governmental functions of the City for a period not less than the term of the Lease Agreement; and

WHEREAS, the Council has taken the necessary steps under the Procurement Act of the Code of Virginia, 1950, as amended, to acquire the Project; and

WHEREAS, the Council proposes to enter into a Lease Purchase Agreement in the principal amount of not to exceed \$990,000 (**the "Lease Agreement"**) with Carter Bank & Trust (**the "Lessor"**) to finance the purchase of the Project over approximately four years, such Lease Agreement being substantially in the form presented to the Council at this meeting; and

WHEREAS, (i) all amounts payable by the City under the Lease Agreement (**the "Lease Obligations"**) are subject to appropriation by the Council; (ii) the Council is under no obligation to make any appropriation with respect to the Lease Agreement; (iii) the Lease Agreement is not a general obligation of the City or the Council or a charge against the general credit or taxing power of the City; and (iv) amounts payable by the City under the Lease Agreement do not constitute a debt of the City or the Council within the meaning of any constitutional, charter or statutory limitation; and

WHEREAS, the Council reasonably anticipates that it and its subordinate entities will not issue tax-exempt obligations in the face amount of more than \$10,000,000 during the current calendar year and desires to designate the Lease Agreement as a "qualified tax-exempt obligation" under the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (**the "Code"**).

NOW, THEREFORE, BE IT RESOLVED, THAT:

1. It is hereby found and determined that the terms of the Lease Agreement in the form presented to this meeting and incorporated in this resolution are in the best interests of the City for the acquisition of the Project. The Lease Agreement shall provide for the portion of rental payments allocated to interest to be at an annual interest rate of 2.80% and a term of approximately four years, as more particularly specified in the commitment of the Lessor.

2. The Lease Agreement and related financing documents are hereby approved in substantially the form presented to this meeting. The Mayor, Vice-Mayor, City Manager and any officer of the City who shall have power generally to execute contracts on behalf of the City (**collectively, the "City Officers"**) be, and each of them hereby is, authorized to execute, acknowledge and deliver the Lease Agreement and related financing documents with any changes, insertions and omissions therein as may be approved by the individuals executing the Lease Agreement and such documents, such approval to be conclusively evidenced by the execution and delivery thereof.

3. The same City Officers be, and each of them hereby is, authorized and directed to execute and deliver any and all other agreements, financing statements, papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out the purposes and intents of this resolution and the Lease Agreement.

4. The Council hereby designates the Lease Agreement as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code and represents and covenants that not more than \$10,000,000 in bonds, notes, leases and other obligations of the City (including subordinate issuing entities) will be issued in calendar year 2008 and that neither the Council nor the City will designate more than \$10,000,000 of "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Code in calendar year 2008. The Council covenants that it shall not take or omit to take any action the taking or omission of which will cause the Lease Obligations to be "arbitrage bonds" within the meaning of Section 148 of the Code, or otherwise cause interest on the Lease Obligations derived from the interest component of rental payments made by the Council under the Lease Agreement to be includable in the gross income for Federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the Council shall comply with any provision of law that may require it at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Lease Obligations.

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5. The Council further covenants that it shall not permit the proceeds of the Lease Obligations to be used in any manner that would result in (a) 10% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the City's use of the Equipment, (b) 5% or more of such proceeds being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the Council receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Lease Obligations from being includable in the gross income for Federal income tax purposes of the registered owner thereof under existing law, the Council need not comply with such covenants.

6. The Council intends for the Lease Obligations to be treated as complying with, and hereby designates the Lease Obligations as eligible for, the provisions of Section 148(f)(4)(D) of the Code and Section 1.148-8 of the U.S. Treasury Regulations thereunder, which provides an exception from the "rebate requirement," since this Lease Obligations issue (1) is issued by the City which is a governmental unit with general taxing powers, (2) no Lease Obligation which is a part of this issue is a private activity bond, (3) 95% or more of the net proceeds of this issue are to be used for local governmental activities of the City, and (4) the aggregate face amount of all tax-exempt obligations (other than private activity bonds) issued by the City during the calendar year 2008 (and obligations issued by any subordinate entity of the City) is not reasonably expected to exceed \$5,000,000.

7. The recitals to this resolution are hereby incorporated by reference and are declared to be findings of the Council in connection with its decision to acquire and finance the Project.

8. This resolution shall be effective immediately upon its adoption.

Date of Adoption: December 9, 2008.

CERTIFICATE

The undersigned hereby certifies that the foregoing resolution was introduced and adopted at a duly called and open meeting of the City Council of the City of Martinsville, Virginia, at which a quorum was present, held in accordance with all legal requirements on the 9th day of December, 2008. The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect as of this ___ day of December, 2008.

Set forth below is a record of the roll call vote (including names of members of the

Council) by which the foregoing resolution was adopted:

Ayes: Lawson, Reynolds, Teague, Stroud Nays: Turner
Abstain: Absent:

Clerk, City Council of the City of Martinsville, Virginia

Council agreed to set a public hearing for January 13, 2009 to abandon an alley located between 702 Lesters Lane and 705 Liberty Street, as shown on Tax Map 12 on a recommendation from the Planning Commission. The petitioner wishes to abandon this alley in preparation for any future development on this corner site. The alley is not maintained by the City nor does it serve any public purpose.

Council agreed to set a public hearing for January 13, 2009 to rezone property located at 1 Dudley Street and known as 12(12)00/XR on the Tax Map of the City of Martinsville, from P-2 Professional to C-1 Commercial. This rezoning would enable the property to be used for a professional office with related retail sales.

Business from the floor:

Donna Rivera, 807 Perdue Street, voiced her concerns to Council regarding the need for a traffic signal or caution light at the intersection of Moss & Market, curbing needs on Perdue St., and run off from ditches which sends water into her backyard. Scott Coleman, Public Information Officer, briefed Council on the National League of Cities (NLC) free prescription discount card program for member cities to help residents cope with the high cost of prescription drugs offering savings on

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prescription drugs to residents who are without health insurance, a traditional pharmacy benefit plan, or have prescriptions not covered by insurance. There is no cost to the city to sponsor the program in collaboration with NLC. CVS Caremark will produce and provide the city with personalized (with the city name and logo) prescription discount ID cards as well as other template marketing materials. For further consideration, Council asked that Scott check with other cities and their community's history with participation with this program.

Shea Hopkins, 1114 Fishel St., outlined his concerns with his utility bills including electric and water.

Leon Towarnicki, Assistant City Manager, announced the new Leisure Services Director, Gary Cody, has been hired and will begin on January 1, 2009.

Comments by Council members: Council member Turner voiced his opposition to borrowing money; Mayor Lawson commended Kim Barto of the Martinsville Bulletin for the article on local companies' efforts with the green initiative.

In accordance with Section 2.1-344 (A) of the Code of Virginia (1950, and as amended) and upon a motion by Kimble Reynolds, Jr., 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 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) Consultation with legal counsel and briefings by staff members, attorneys or consultants pertaining to 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 said Session. On a motion by Kimble Reynolds, seconded by Gene Teague, with the following 5-0 recorded vote: Mrs. Lawson, aye;

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

On a motion by Gene Teague, seconded by Mark Stroud, Council appointed Dave Maddox of 1002 Valient Lane, Martinsville, to the Green Committee as a citizen representative. No other action was taken.

There being no further business, Mayor Lawson adjourned the meeting at 10:51 PM.

Clarence C. Monday
Clerk of Council

Kathy C. Lawson
Mayor