

**CITY OF MARTINSBURG
REGULAR COUNCIL MEETING
AUGUST 14, 2008
THE J. OAKLEY SEIBERT COUNCIL CHAMBERS**

With a quorum present, the special session of the Martinsburg City Council was called to order by Councilman Roger Lewis at 6:30 p.m. The following Council Members were present: Rodney Woods, Gregg Wachtel, Dennis Etherington, Richard Yauger, Max Parkinson, Roger Lewis and Betty Gunnoe. Also present were: Mark S. Baldwin, City Manager, Kin Sayre, City Attorney, Sharon A. Flick, City Recorder, George Swartwood, Police Lieutenant, Paul Bragg, Fire Chief, and Mark Spickler, Finance Director.

Motion made by Councilman Lewis, seconded by Councilman Yauger to appoint Councilman Wachtel to chair the meeting in the absence of the Mayor. Motion carried unanimously.

3. SALUTE TO FLAG

Councilman Woods led the Pledge of Allegiance to the Flag.

4. PRAYER – PASTOR WALTER BOWERS, RETIRED UNITED METHODIST MINISTER

The invocation was given by Pastor Walter Bowers.

5. APPROVE JUNE 30, 2008 SPECIAL COUNCIL MEETING MINUTES (5:00 MEETING)

Motion made by Councilman Lewis, seconded by Councilman Parkinson to approve the 5:00 p.m., June 30, 2008 special Council meeting minutes. Motion carried unanimously.

6. APPROVE JUNE 30, 2008 SPECIAL COUNCIL MEETING MINUTES (5:30 MEETING)

Motion made by Councilman Parkinson, seconded by Councilwoman Gunnoe to approve the 5:30 p.m., June 30, 2008 special Council meeting minutes. Motion carried unanimously.

Acting Mayor Wachtel requested that item 18 P, approve/deny the request of Kingdom Purpose Deliverance Ministries to block off a portion of North High Street on September 13, 2008, be moved to presentations item 10 D.

Motion made by Councilman Lewis, seconded by Councilman Woods to move item 18 P, approve/deny the request of Kingdom Purpose Deliverance Ministries to block off a portion of North High Street on September 13, 2008, to presentations item 10 D. Motion carried unanimously.

7. APPROVE JULY 10, 2008 REGULAR COUNCIL MEETING MINUTES

Motion made by Councilman Parkinson, seconded by Councilman Yauger to approve the July 10, 2008 regular Council meeting minutes. Motion carried unanimously.

9. APPROVE JUNE 2008 ADMINISTRATIVE AND FINANCIAL REPORT

Motion made by Councilman Parkinson, seconded by Councilman Yauger to approve the June 2008 Administrative and Financial Report. Motion carried unanimously.

8. APPROVE JULY 29, 2008 SPECIAL COUNCIL MEETING MINUTES

Motion made by Councilman Lewis, seconded by Councilman Yauger to approve the July 29, 2008 special Council meeting minutes. Motion carried unanimously.

10. PRESENTATIONS

A. PROCLAMATION – CONSTITUTION WEEK – SEPTEMBER 17-23, 2008

The City Recorder read the Proclamation for Constitution Week for September 17-23, 2008.

B. MAKE COMMENTS ON ABC APPLICATION FOR LEMEN ENTERPRISES, INC. (7-11 NORTH QUEEN STREET – CARRY OUT ONLY)

Lieutenant Swartwood advised that Mr. Lemen runs a very good business and the Police Department has very few calls. Lieutenant Swartwood further advised he was in agreement with the ABC application.

Motion made by Councilman Lewis, seconded by Councilman Yauger to forward the ABC application, for Lemen Enterprises, Inc., to the ABC Commission without comment. Motion carried unanimously.

C. FRED BLACKMER – EASTERN PANHANDLE HOME BUILDERS ASSOCIATION – DISCUSS CONTENT AND IMPLEMENTATION OF DEVELOPMENT FEES

Mr. Fred Blackmer, Eastern Panhandle Home Builders Association, Director of Government Affairs, addressed Council to discuss the Community Development Fees. Mr. Blackmer stated that almost one year ago he attended a Council meeting to discuss the implementation of a Community Development Fee. Mr. Blackmer further stated the fee was proposed, based on a study that was completed in May, 2007. Mr. Blackmer advised the study was designed to show the cost of services that the City provides. Mr. Blackmer further advised there was an attempt in making a connection between the study and fees that were to be charged to residential and commercial development. Mr. Blackmer stated that the fee has been modified slightly with two significant changes as follows:

1. The fee will become due at issuance of an occupancy permit versus a building permit.
2. The fee was changed from a per unit fee or per house fee to a square footage fee.

Mr. Blackmer stated the main issue is the ability of a municipality to collect a capital development impact fee. Mr. Blackmer further stated, that while the Ordinance calls this a service fee, the definition and how it is calculated all indicate that it is a capital projects development impact fee. Mr. Blackmer advised the City of Martinsburg has other options for creating fees. Mr. Blackmer stated the City of Martinsburg could meet with developers and ask them to participate in improvements in conjunction with their capital plan for expansion of services. Mr. Blackmer further stated the code section referenced in the Ordinance does allow for service fees; however, service fees are broad based fees that are evenly distributed among all people who receive a certain service. Mr. Blackmer noted this fee is targeted to a very small portion of City residents. Mr. Blackmer stated this Ordinance will cause everyone to seek opinions that will eventually either terminate or drastically change the Ordinance. Mr. Blackmer felt it would be in everyone's best interest to rescind the Ordinance or suspend the effective date indefinitely.

The City Attorney advised he and the City Manager have met with individuals from the Home Builders Association. The City Attorney further advised he has reviewed the Ordinance and the courts have historically upheld the user fee. The City Attorney reported that based upon his research he believes the Ordinance is lawful.

D. APPROVE/DENY REQUEST OF KINGDOM PURPOSE DELIVERANCE MINISTRIES TO BLOCK OFF A PORTION OF NORTH HIGH STREET ON SEPTEMBER 13, 2008

Lieutenant Swartwood advised the Police Chief wanted the event limited to one block with the time to be from 11:00 a.m. to 4:00 p.m. Lieutenant Swartwood further advised the Police Department had no problems with the event.

Motion made by Councilman Lewis, seconded by Councilman Yauger to approve the request of Kingdom Purpose Deliverance Ministries to block off a portion of North High Street on September 13, 2008 from 11:00 a.m. to 4:00 p.m. Motion carried unanimously.

11. PETITIONS FROM CITIZENS

Mr. Jordan Austin, 11250 Waples Mill Road, Fairfax, Virginia, addressed Council as a registered lobbyist speaking on behalf of the National Rifle Association of America. Mr. Austin reported he was in attendance to discuss Ordinance 2005-02 and Ordinance 2008-26. Mr. Austin requested that Council repeal the Ordinance as he believed it was in direct violation of current West Virginia statutes. Mr. Austin advised in 1999 a bill was passed establishing preemption in the state. Mr. Austin further advised the bill preempted all local government from restricting the purchase, possession, transfer, ownership, carrying, transporting, sale or storage of all firearms and ammunition. Mr. Austin stated the bill does not allow municipalities to regulate firearms in any way. Mr. Austin pointed out there is a loophole in West Virginia Code § 61-7-14 that allows the City to act as an entity. Mr. Austin noted they plan on addressing this loophole by introducing legislation at the upcoming session. Mr. Austin stated it would be in the best interest of the City to repeal the Ordinance.

The City Attorney reported that Ordinance 2005-02 did not allow firearms on any public property, which could be interpreted to include streets and sidewalks. The City Attorney agreed that in 1999 the State of West Virginia passed a statute § 8-12-5A which restricted the ability of municipalities, after 1999, to restrict the right to possess and carry firearms on streets and sidewalks. The City Attorney stated that proposed Ordinance 2008-26 is based upon § 61-7-14 which is rights of property owners. The City Attorney pointed out the City of Martinsburg is a property owner and this Ordinance would simply restrict the ability of non law enforcement officers to carry firearms, either concealed or unconcealed, in buildings owned by the City of Martinsburg. The City Attorney stated he believed the intent of the legislation was to prevent municipalities from limiting the purchase of firearms differently from city to city but not to say the City of Martinsburg could not restrict someone from coming into City Hall with a firearm.

Ms. Barbara Frankenberry, 79 Ye Olde McDonald Orchard Lane, Inwood, WV, President Mountain State Apple Harvest Festival, thanked Council for the support and funding for the festival.

Mr. James Mullins, P.O. Box 154, Morgantown, WV, stated he is the President of the West Virginia Citizens Defense League. Mr. Mullins urged the Council to completely repeal Ordinance 2005-02. Mr. Mullins presented Council with a booklet containing municipal gun laws in West Virginia. Mr. Mullins stated, in West Virginia, the powers of municipalities are very strictly construed by the courts. Mr. Mullins further stated he hopes this issue does not move beyond the Council. Mr. Mullins advised the legislature has decided that honest, law abiding citizens should not be subjected to an unworkable web of Ordinances from one end of the state to the other. Mr. Mullins feels that legislators from across the state are aware that they have work to do and he was certain that a bill, that has been introduced for two years in the legislature, to strengthen preemption, will be enacted during the next session. Mr. Mullins stated the individuals that are lawfully carrying concealed weapons will be the only people to comply with the Ordinance, if it is enacted.

West Virginia Delegate John Overington, 491 Hoffman Road, stated the legislature was concerned about every City having their own rules and regulations. Delegate Overington further stated it was the legislatures intent to not allow municipalities to impose restrictions such as the proposed Ordinance. Delegate Overington asked Council to reject any restrictions regarding firearms. Delegate Overington stated individuals would not be allowed to eat at the Market House, carrying a concealed weapon, if the Ordinance was adopted.

Mr. Tom Millay, 998 Arden Nollville Road, Inwood, WV, representing Valley Guns, agreed with all the previous speakers in so much as the City of Martinsburg should repeal the Ordinance. Mr. Millay advised his store teaches concealed carriers. In order to obtain a concealed weapons permit, individuals must qualify with a gun, pass the NRA test and make the teachers feel confident that the student can handle a firearm. Mr. Millay stated that the people that you would like to carry a gun are the people that the City would be denying that right.

Mr. James Moore, 436 Ferrels Ridge Road, Hedgesville, WV, reported from Darrell McGraw's office there is "On the Mark" a guide to concealed weapons laws of West Virginia. Mr. Moore

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further reported that there is a list of locations where firearms are restricted or forbidden in West Virginia. The locations are as follows:

- Federal government properties or other places where firearms are prohibited by federal law.
- Any private property where firearms are prohibited by the owner or operator.
- Law enforcement offices or stations.
- Regional jails, detention facilities or state division of correction facilities
- County courthouses or any facility housing a court of this state.
- Any school building, property or grounds, or any school bus or conveyance.

Mr. Moore pointed out the above restricted locations are from West Virginia code § 61-7-11A. Mr. Moore stated the City had good intentions with the passage of the current Ordinance; however, good intentions end up coming back and becoming an embarrassment.

Mr. Moore advised he was an NRA member and he assists an individual that is a process server. Mr. Moore further advised they both carry concealed weapons and there was an instance where they were innocent victims of violence by four individuals who were armed. Mr. Moore felt they could have been in a life threatening situation had they not been armed. Mr. Moore stated, if the Ordinance is adopted, he would become the criminal by carrying a firearm in the City of Martinsburg.

Mr. James Jenkins, 53 Lola Way, stated he was a veteran for many years and carried a gun protecting the citizens and now the City was taking away his right to protect himself.

The City Attorney stated the Ordinance does not prohibit individuals from carrying firearms within the City of Martinsburg. The City Attorney further stated the Ordinance only restricts individuals from carrying a firearm in a City owned building.

Mr. Randy Turner, 542 Campbell Lane, Great Cacapon, WV, advised the Ordinance was in violation of West Virginia Code § 8-12-5A. Mr. Turner further advised the preemption of state law should not be tolerated by Council or any other officials of any other municipality within the state. Mr. Turner stated he and his wife moved from Maryland to West Virginia in hopes of a better horizon in gun law. Mr. Turner asked Council to review what comments have been made.

Mr. John Compton, 402 Woodbury Avenue, stated he carries a concealed weapon all the time. Mr. Compton could not believe the City of Martinsburg was trying to take his rights away. Mr. Compton asked that his rights be respected and Council not pass the Ordinance.

Mr. Brad Sheppard, 1108 Winchester Avenue, Sheps Sporting Goods owner, advised he sells a lot of guns to individuals. Mr. Sheppard expressed his concern with the Ordinance.

Mr. Larry Emmons, 318 Corvette Drive, stated he is in the army and just returned from Iraq. Mr. Emmons further stated that everyone with a concealed weapons permit has gone through background checks and are trustworthy. Mr. Emmons advised bad people do not care about laws. Mr. Emmons asked Council to take into consideration how gun owners are viewed.

Mr. Tim Wright, 1540 Ropp Drive, advised he served in the U.S. Army from 1982 to 1986. Mr. Wright further advised he is getting ready to get back in the military knowing that next year he will probably go to Iraq. Mr. Wright reported he has been married for eighteen years and he has five children. Mr. Wright advised his wife will take the necessary courses to carry a weapon so he will not come home to a dead wife. Mr. Wright stated if the Constitution is not maintained someone else will be voted in.

12. RECEIVE AND FILE REPORTS-MINUTES-CORRESPONDENCE OF THE FOLLOWING:

A. LETTER FROM U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT NOTIFYING CITY OF MARTINSBURG OF GRANT AWARD

- FOR FY 2008-2009 IN THE AMOUNT OF \$908,528 – JULY 28, 2008
- B. LICENSING REPORT FROM WEST VIRGINIA OFFICE OF EMERGENCY MEDICAL SERVICES TO PROVIDE ADVANCED LIFE SUPPORT AND BASIC LIFE SUPPORT
 - C. AIR QUALITY TASK FORCE MEETING – MINUTES JULY 16, 2008
 - D. LETTER FROM STATE OF WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES NOTIFYING THE CITY THAT THE WATER SYSTEM WILL BE RECLASSIFIED AS A CLASS III PUBLIC WATER SYSTEM EFFECTIVE AUGUST 1, 2008 – JULY 30, 2008
 - E. EASTERN PANHANDLE TRANSIT AUTHORITY – MINUTES JULY 14, 2008 AND FINANCIAL REPORT JULY 2007 THROUGH JUNE 2008
 - F. LETTER FROM U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DISCUSSING HOUSING AND ECONOMIC RECOVERY ACT OF 2008 FUNDS – AUGUST 1, 2008
 - G. BOARD OF ZONING APPEALS – MINUTES JULY 1, 2008

Motion made by Councilman Yauger, seconded by Councilman Woods to receive and file items 12 a-g. Motion carried unanimously.

13. REPORTS OF CHAIRPERSONS OF COUNCIL STANDING COMMITTEES

A. BUDGET AND FINANCE COMMITTEE – MINUTES AUGUST 4, 2008

Motion made by Councilman Yauger, seconded by Councilman Parkinson to approve the Budget and Finance Committee meeting minutes of August 4, 2008. Motion carried unanimously.

The minutes were as follows:

BUDGET AND FINANCE COMMITTEE MEETING MINUTES
AUGUST 4, 2008 – 4:30 P.M.

Present: Chairman of Budget & Finance Committee, Richard Yauger, Roger Lewis, Max Parkinson, Gregg Wachtel and Rodney Woods

Others Present: Mayor George Karos, Mark S. Baldwin, City Manager, Councilmember Dennis J. Etherington, Mark B. Spickler, Finance Director, The Journal and Morning Herald

Unable to Attend:

Chairman Yauger opened the meeting and the following items were discussed:

1. **General Fund Unencumbered Balance / City Manager Recommendations**

Consensus of the Committee was to forward the reported Unencumbered Balance and recommendations to City Council for approval (see attached list).

2. **Projects Update** – City Manager provided an overview of the following:

- a. City Hall & Police Headquarters Expansion
- b. West Side Police & Fire/EMS Headquarters
- c. Gateway & Wayfinding Signage
- d. Website
- e. Parking Garage
- f. CDBG / City Stormwater Project
- g. City Stormwater Project – Midtown Area
- h. City Owned Property (House) – Consensus of the Committee was to continue to evaluate the following options regarding this property:

1. City could make repairs and rent out
 2. Contact Parks & Rec. to discuss their interest in helping with repairs and overseeing the property
 3. Demolition
3. **Personnel Update (new positions)** – City Manager explained adequate funds are available to add additional staffing. Mayor and Committee members requested an evaluation of adding an in-house City Attorney as well as an administrative position within the City Manager’s office. City Manager stated he would evaluate the needs of the various departments as well as space availability in City Hall and other City owned properties for staffing.
4. **Executive Session** – Motion made by Roger Lewis, seconded by Gregg Wachtel to go into Executive Session.
- a. Matter(s) pertaining to real estate
 - b. Action, if necessary, pertaining to real estate matters
 - c. Discuss Tax Incentive Ordinance(s)
 - d. Action, if necessary, on Tax Incentive Ordinance(s)

Motion made by Max Parkinson, seconded by Gregg Wachtel to go out of Executive Session.

Consensus of the Committee was to recommend to Council to add the Roundhouse Authority properties to the Downtown Business District Tax Incentives boundaries. Consensus of the Committee was also to not add any other boundary adjustments.

14. REPORT OF MAYOR

A. APPOINT THE FOLLOWING INDIVIDUALS TO THE MARTINSBURG SHADE TREE COMMISSION:

DENNIS ETHERINGTON – TERM EXPIRES 5-09-11
MARK MADISON – TERM EXPIRES 5-09-10

Acting Mayor Wachtel advised Mayor Karos was recommending that Mr. Dennis Etherington and Mr. Mark Madison be appointed to the Martinsburg Shade Tree Commission with Mr. Etherington’s term to expire on May 9, 2011 and Mr. Madison’s term to expire on May 9, 2010.

Motion made by Councilman Lewis, seconded by Councilman Woods to accept the recommendation of the Mayor. Motion carried unanimously.

15. REPORT OF CITY ATTORNEY

The City Attorney had no report.

16. REPORT OF CITY MANAGER

The City Manager had no report

17. UNFINISHED BUSINESS

A. THIRD AND FINAL READING OF ORDINANCE 2008-26 AMENDING AND REENACTING THE CITY OF MARTINSBURG CODE, PART 5, ARTICLE 545, BY AMENDING SECTION 545.14 TO PROVIDE THAT FIREARMS AND WEAPONS ARE PROHIBITED IN PUBLIC BUILDINGS

Motion made by Councilman Lewis, seconded by Councilman Yauger to read through the third and final reading of Ordinance 2008-26 amending and reenacting the City of Martinsburg Code, Part 5, Article 545, by amending Section 545.14 to provide that firearms and weapons are prohibited in public buildings, by title only. Motion carried unanimously.

Motion made by Councilman Lewis, seconded by Councilman Yauger to adopt Ordinance 2008-26 amending and reenacting the City of Martinsburg Code, Part 5, Article 545, by amending Section 545.14 to provide that firearms and weapons are prohibited in public buildings. Motion carried. Woods, No.

18. NEW BUSINESS

A. FIRST AND SECOND READING OF ORDINANCE 2008-27 AMENDING THE CITY OF MARTINSBURG CODE PART SEVEN, BY AMENDING ARTICLE 755, SECTION 755.03A TO PROVIDE FOR THE EXPANSION OF THE MARTINSBURG DOWNTOWN DEVELOPMENT DISTRICT

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger to read through the first and second reading of Ordinance 2008-27 amending the City of Martinsburg Code Part Seven, by amending Article 755, Section 755.03a to provide for the expansion of the Martinsburg Downtown Development District, by title only. Motion carried unanimously.

B. ADOPT RESOLUTION 2008-19 APPROVING GENERAL FUND BUDGET REVISION #2 FOR FY 2008-2009

Motion made by Councilman Yauger, seconded by Councilwoman Gunnoe to adopt Resolution 2008-19 approving General Fund Budget Revision #2 for FY 2008-2009. Motion carried unanimously.

C. ADOPT RESOLUTION 2008-20 AMENDING THE FY 2007 HOME PROGRAM BUDGET

Motion made by Councilman Parkinson, seconded by Councilman Yauger to adopt Resolution 2008-20 amending the FY 2007 HOME Program budget. Motion carried unanimously.

D. AUTHORIZE MAYOR TO SIGN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUBRECIPIENT FUNDING AGREEMENT BETWEEN THE CITY OF MARTINSBURG, WEST VIRGINIA AND COURT APPOINTED SPECIAL ADVOCATES OF THE EASTERN PANHANDLE (CASA) – \$5,000 FOR CASE MANAGEMENT SERVICES

Motion made by Councilman Yauger, seconded by Councilman Parkinson to authorize the Mayor to sign the Community Development Block Grant (CDBG) Subrecipient Funding Agreement between the City of Martinsburg, West Virginia and Court Appointed Special Advocates of the Eastern Panhandle (CASA) in the amount of \$5,000 for case management services. Motion carried unanimously.

E. AUTHORIZE MAYOR TO SIGN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUBRECIPIENT FUNDING AGREEMENT BETWEEN THE CITY OF MARTINSBURG, WEST VIRGINIA AND CHILDREN'S HOME SOCIETY OF WEST VIRGINIA – SAFE HAVEN CHILD ADVOCACY CENTER – \$5,000 TO PROVIDE FUNDS FOR COORDINATION OF SUPPORT SERVICES TO ABUSED CHILDREN DURING THE CRIMINAL INVESTIGATION PROCESS

Motion made by Councilwoman Gunnoe, seconded by Councilman Woods to authorize the Mayor to sign the Community Development Block Grant (CDBG) Subrecipient Funding Agreement between the City of Martinsburg, West Virginia and Children's Home Society of West Virginia – Safe Haven Child Advocacy Center in the amount of \$5,000 to provide funds for coordination of

support services to abused children during the criminal investigation process. Motion carried unanimously.

F. AUTHORIZE MAYOR TO SIGN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUBRECIPIENT FUNDING AGREEMENT BETWEEN THE CITY OF MARTINSBURG, WEST VIRGINIA AND BERKELEY COUNTY MEALS ON WHEELS, INC. – \$3,000 FOR DINE WITH DIGNITY PROGRAM

Motion made by Councilman Parkinson, seconded by Councilman Woods to authorize the Mayor to sign the Community Development Block Grant (CDBG) Subrecipient Funding Agreement between the City of Martinsburg, West Virginia and Berkeley County Meals on Wheels, Inc. in the amount of \$3,000 for the Dine With Dignity Program. Motion carried unanimously.

G. AUTHORIZE MAYOR TO SIGN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUBRECIPIENT FUNDING AGREEMENT BETWEEN THE CITY OF MARTINSBURG, WEST VIRGINIA AND CONGREGATIONAL COOPERATIVE ACTION PROJECT (C-CAP) – \$5,000 FOR EVICTION PREVENTION PROGRAM

Councilman Yauger requested that he be allowed to abstain from voting as he is a board member of the Congregational Cooperative Action Project (C-CAP).

Motion made by Councilwoman Gunnoe, seconded by Councilman Woods to allow Councilman Yauger to abstain from voting. Motion carried unanimously.

Motion made by Councilman Lewis, seconded by Councilman Parkinson to authorize the Mayor to sign the Community Development Block Grant (CDBG) Subrecipient Funding Agreement between the City of Martinsburg, West Virginia and the Congregational Cooperative Action Project (C-CAP) in the amount of \$5,000 for the Eviction Prevention Program. Motion carried. Yauger – Abstained.

H. AUTHORIZE MAYOR TO SIGN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUBRECIPIENT FUNDING AGREEMENT BETWEEN THE CITY OF MARTINSBURG, WEST VIRGINIA AND SHENANDOAH WOMEN'S CENTER, INC. – \$5,000 FOR CASE MANAGER SERVICES

Motion made by Councilman Lewis, seconded by Councilman Yauger to authorize the Mayor to sign the Community Development Block Grant (CDBG) Subrecipient Funding Agreement between the City of Martinsburg, West Virginia and the Shenandoah Women's Center, Inc. in the amount of \$ 5,000 for case manager services. Motion carried unanimously.

I. AUTHORIZE MAYOR TO SIGN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUBRECIPIENT FUNDING AGREEMENT BETWEEN THE CITY OF MARTINSBURG, WEST VIRGINIA AND BOYS AND GIRLS CLUB OF THE EASTERN PANHANDLE, INC. – \$5,000 FOR MEMBERSHIP SCHOLARSHIP PROGRAM

Motion made by Councilwoman Gunnoe, seconded by Councilman Parkinson to authorize the Mayor to sign the Community Development Block Grant (CDBG) Subrecipient Funding Agreement between the City of Martinsburg, West Virginia and the Boys and Girls Club of the Eastern Panhandle, Inc. in the amount of \$5,000 for Membership Scholarship Program. Motion carried unanimously.

J. APPROVE/DENY BID FOR SALE OF CITY OF MARTINSBURG 1988 GRUMMAN AERIAL CAT 95' PLATFORM FIRE TRUCK (BID OPENING 8-11-08)

Motion made by Councilman Woods, seconded by Councilman Etherington to approve the \$30,000 bid from the City of Beckley, West Virginia for the sale of the City of Martinsburg 1988 Grumman aerial CAT 95' platform fire truck. Motion carried unanimously.

K. APPROVE/DENY "TRICK OR TREAT" DATE FOR THURSDAY, OCTOBER 30, 2008 BETWEEN THE HOURS OF 6:00 P.M. TO 8:00 P.M. FOR CHILDREN 12 AND UNDER

Motion made by Councilman Yauger, seconded by Councilman Parkinson to approve the "Trick or Treat" date for Thursday, October 30, 2008 between the hours of 6:00 p.m. to 8:00 p.m. for children 12 and under. Motion carried unanimously.

The City Manager pointed out that there was a football game at Martinsburg High School on October 31, 2008 and the Police Chief had some safety concerns. Therefore, he had requested the date be changed to October 30, 2008.

L. APPROVE/DENY SUBMISSION OF PRESERVE AMERICA 2008 COMMUNITY APPLICATION BY ADOPTING RESOLUTION 2008-21 AUTHORIZING GEORGE KAROS, MAYOR OF MARTINSBURG TO APPLY FOR THE DESIGNATION OF THE CITY OF MARTINSBURG AS A PRESERVE AMERICA COMMUNITY

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger to adopt Resolution 2008-21 authorizing George Karos, Mayor of Martinsburg to apply for the designation of the City of Martinsburg as a Preserve America Community. Motion carried unanimously.

M. APPROVE/DENY MARKET HOUSE LEASE BETWEEN CITY OF MARTINSBURG AND HABANERO MEXICAN GRILL, INC.

Motion made by Councilman Lewis, seconded by Councilman Woods to approve the Market House lease between the City of Martinsburg and Habanero Mexican Grill, Inc. Motion carried unanimously.

N. DISCUSS LETTER FROM SHERRY GREENFIELD, WOODROW DUKE AND NORMA DUKE GROVE REGARDING ABANDONMENT OF DEAD-END RIGHT OF WAY -- (REFER TO CITY PROPERTY COMMITTEE)

Motion made by Councilman Lewis, seconded by Councilman Parkinson to refer the request, from Sherry Greenfield, Woodrow Duke and Norma Duke Grove regarding the abandonment of a dead-end right of way, to the City Property Committee. Motion carried unanimously.

O. APPROVE/DENY PARAMEDIC AGREEMENT BETWEEN CITY OF MARTINSBURG AND BLUE RIDGE COMMUNITY AND TECHNICAL COLLEGE

Motion made by Councilman Yauger, seconded by Councilman Woods to approve the Paramedic agreement between the City of Martinsburg and Blue Ridge Community and Technical College. Motion carried unanimously.

19. EXECUTIVE SESSION

- A. DISCUSS PENDING LEGAL MATTERS WITH COUNSEL (IF NECESSARY)**
- B. DISCUSS PERSONNEL MATTERS (IF NECESSARY)**
- C. DISCUSS REAL ESTATE MATTERS INVOLVING COMPETITIVE BIDS (IF NECESSARY)**

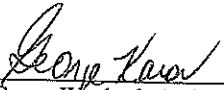
Motion made by Councilwoman Gunnoe, seconded by Councilman Parkinson to go into executive session at 7:50 p.m. Motion carried unanimously.

Motion made by Councilman Woods, seconded by Councilman Yauger to go out of executive session at 8:20 p.m. Motion carried unanimously.

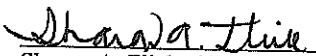
20. ADJOURNMENT

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Motion made by Councilman Lewis, seconded by Councilman Parkinson to adjourn the meeting at 8:20 p.m. Motion carried unanimously.



Gregg Wachtel, Acting Mayor



Sharon A. Flick, City Recorder