

**City Of Martinsburg
Regular Council Meeting
February 09, 2012
The J. Oakley Seibert Council Chambers**

With a quorum present, the regular session of the Martinsburg City Council was called to order Mayor George Karos at 6:30 p.m. The following Council Members were present: Rodney Woods, Roger Lewis, Dennis Etherington, Max Parkinson, Richard Yauger, Gregg Wachtel and Betty Gunnoe. Also present were: Mark S. Baldwin, City Manager, Kin Sayre, City Attorney, Gena Long, City Recorder, Jeffrey Wilkerson, Public Works Director, Michael Covell, City Engineer/Planning Director, Kevin Miller, Police Chief, Steve Knipe, Utilities Director, Patricia McMillan, Community Development Director, Mark Spickler, Finance Director and Chief Paul Bragg, Fire Department.

3. Salute to Flag

Councilman Wachtel led the Salute to the Flag.

4. Prayer—Pastor Carl Baker—Rosemont Grace Brethren Church

Pastor Baker delivered the invocation.

5. Approve January 12, 2012 regular Council meeting minutes

Motion made by Councilman Parkinson, seconded by Councilwoman Gunnoe, to approve the January 12, 2012 regular Council meeting minutes. Motion carried unanimously.

6. Approve December 2011 Administrative and Financial Report.

Motion made by Councilman Yauger, seconded by Councilman Wachtel, to approve the December 2011 Administrative and Financial Report. Motion carried unanimously.

In the interest of time, Mayor Karos asked that Item 15d be considered with item 7b and that item 15r be considered with item 7d. Also, a new agenda item, 15s was added.

8. Presentations

(a) Administer oath of office to Fire Lieutenant David J. Weller II

The City Recorder administered the oath of office to Fire Lieutenant David J. Weller II.

(b) Letter of understanding from Clendenin Consulting and Remediation Group regarding the purchase of alleyway north of W. Race Street and west of Boyd Avenue and Deed of Dedication to the City of Martinsburg—see item 15(d)—Bruce Clendenin.

Mr. Clendenin, Griffith Energy Services, explained that Griffith uses the alleyway off of W. Race Street for ingress and egress, as it is safer than Tuskegee for large vehicles. The alleyway is to be purchased from Berkeley Glass, and Griffith would like to immediately turn it over to the City for purposes of maintenance.

Kin Sayre explained that this, in essence, is a donation of the alley to the City, not a purchase by the City, and asked that a Deed of Dedication be prepared for him to review. He told Mr. Clendenin he could contact him at his office for the appropriate language, if necessary.

Mr. Baldwin confirmed that the City has maintained this alleyway already and that department heads have not expressed concern. Also, there are a great deal of City utilities in the area that will be better protected.

Motion made by Councilwoman Gunnoe, seconded by Councilman Woods, to approve the letter of understanding from Clendenin Consulting and Remediation Group regarding the purchase of the alleyway north of W. Race Street and west of Boyd Avenue and Deed of Dedication to the City of Martinsburg. Motion approved unanimously.

(c) Proposed Resolution for adoption by Council—Joe Gray

Mr. Joe Gray again submitted a proposed resolution to Council in favor of a Constitutional amendment to remove corporate dollars from the electoral process. He asked if Council had been given the opportunity to vote on the resolution since the January meeting. Mayor Karos told him that Council had not voted on the issue, and could not until the March meeting as an actionable item. Mr. Gray stated that he is of the understanding that there is no process in the State of West Virginia or the City of Martinsburg to place this item on a ballot.

Mr. Sayre explained that the Council must be sensitive to all of the opinions of City residents and that the matter is of a federal nature, that concerned citizens should contact their Congressional delegation. He confirmed that, as the City does not have initiative, referendum and recall power, there is no process by which to place such an item on the ballot.

Mayor Karos informed Mr. Gray that the item could be placed on the March agenda as an actionable item and Council would be able to vote on it at that time.

(d) Proclamation—Congenital Heart Defect Awareness Week—Mended Little Hearts of Winchester

As no one was present to accept the Proclamation, it will be forwarded to Mended Little Hearts of Winchester by the City Recorder.

(e) Citizens in Action—Ms. Paula Mann

Ms. Paula Mann, 206 N. Church Street, described the goals of Citizens in Action, a community group. The group, she stated, would like to work hand in hand with code enforcement, helping to keep downtown clean.

Mayor Karos stated that Council would appreciate the work of the citizens group, asking her to get in touch with Jeff Wilkerson, Public Works Director, about clean-up efforts and reminded her of the City's annual Spring Clean-up event.

(f) Eastern West Virginia Airport Authority—William E. Walkup

Mr. Walkup asked that funds in the amount of \$3,701.75 be reallocated from the Airport Improvement Projects fund to the General Account for operating expenses.

Motion made by Councilman Wachtel, seconded by Councilwoman Gunnoe, to approve Eastern West Virginia Airport Authority's request to reallocated funds in the amount of \$3,701.75 from the Airport Improvement Projects fund to the General Account for operating expenses. Motion carried unanimously.

9. Petitions From Citizens

- Mr. Rick Snowden, 877 Conservation Drive, Hedgeville, spoke on behalf of his brother, Mr. Stephen Snowden. Mr. Stephen Snowden was also present. Mr. Rick Snowden explained that his brother is an investor, landlord and tax payer in the City of Martinsburg and that his family has lived in and invested in the area since the American Revolution. Mr. Snowden went on to say that his brother has issue with the homeless population and prostitutes roaming at large, spending "hundreds of thousands of his own dollars" to help curb the issue and increase security. Mr. Rick Snowden faulted the ministries that "bus in the homeless and dump them on us." Mr. Snowden stated that when Mr. Steve Snowden has come to City Council for help, his pleas have fallen on deaf ears and he has been treated as a nuisance. Mr. Rick Snowden made the claim that Mr. Steve Snowden has followed all regulations in the City, including replacing his sidewalks while other homeowners have not. He then asked Council what they intend to do about the vacated businesses located downtown, stating that they are vacant because of over-regulation and B&O tax. He called upon Council to have more vision and indicated that "all" of the people behind them were in support of the Snowdens' grievances due to a letter published in the newspaper. He recommends installing security camera for purposes of taking pictures of "johns" and putting them on Facebook and making plans for the vacant businesses to put citizens to work.

Mayor Karos thanked the Snowdens for their observation of the community, stating that the City employs approximately 180 employees to meet the needs of more than 17,000 citizens and apologized that sometimes it is difficult to "see the trees for the forest", but cautioned that perception is not always reality.

- Ms. Nicole Taggert, 313 S. Raleigh Street, stated that she lives, works and attends church in Martinsburg. She stated that she is thankful for her right to free speech, and stated that she and others like here would like to exercise that right responsibly, not to "scream 'Fire' in a crowded theatre and by not using that right to pulverize the vulnerable people in our society". She also stated that she would like to speak in protest of the *Citizens United* decision. She stated that she was one of approximately 50 to protest in front of the Federal Building in January, and that many driving by had shown their support. Ms. Taggert stated that in local elections, votes count and would like City officials to show they understand that people, and not huge corporations, matter by supporting a resolution against *Citizens United*, as other cities across America have done.
- Ms. Janet Brosio, 111 Finwick Drive, spoke in regards to Mr. Rick Snowden's grievances, stating that she is offended by the way he spoke about the poor and homeless population, expressing they had rights to the library, train station and other public structures. Ms. Brosio went on to quote Bible verses regarding social justice for the poor. She asked Council to be "righteous" in their consideration of the poor. that neediness should arouse compassion and action, and not to treat them as if they were "less than the rest of us".
- Mr. John Gracie, 169 Crooked Oak Way, spoke in regards to Mr. Rick Snowden's address, stating that to vilify the "least among us" was not appropriate. Mr. Gracie explained the he is an area realtor and has seen many people go from middle class to homeless as the foreclosure rates

rise. He stated that some of the expressions that Mr. Snowden had used are repugnant, that he believes that when people are down, it is better to rise them up than the vilify them.

- Mr. Calvin Puffinberger, 534 N. High Street, thanked the police force for help in his neighborhood and stated that his only complaint is that there are not more police, and he would be willing to pay more taxes if necessary to expand the force.

There were no further petitions from citizens.

10. Receive and File Reports—Minutes—Correspondence of the Following:

- (a) Berkeley County Animal Control Incident Report for the City of Martinsburg 1/01/11-12/31/11
- (b) Historic Preservation Review Commission December 05, 2011 meeting minutes.
- (c) Martinsburg/Berkeley County Parks and Recreation Board December 20, 2011 meeting minutes.
- (d) Letter of Good Standing for Community Rating System—FEMA
- (e) Letter from Comcast regarding rate changes
- (f) Letter advising of FY 2012 CDBG and HOME allocations—U.S. Department of Housing and Urban Development
- (g) City of Martinsburg Fire Department Annual Report—2011
- (h) Berkeley County Development Authority meeting minutes—December 14, 2011 and January 4, 2012 and financial information

Motion made by Councilman Wachtel, seconded by Councilwoman Gunnoe to receive and file items 10 a-10h. Motion carried unanimously.

11. Reports of Chairpersons of Council Standing Committees

There were no reports of chairpersons of council standing committees.

12. Report of Mayor

(a) Appointment(s) update

Mayor Karos stated that he has appointments the following week to meet with some of the applicants for appointment.

(b) City flag

Mayor Karos stated that the flag is finished, and indicated that it was temporarily displayed on the wall.

13. Report of City Attorney

There was no report of the City Attorney.

14. Report of City Manager

(a) Projects update.

In the interest of time, Mr. Baldwin directed Council to the projects update included in their packets.

(b) TIF Project—Meridian Pointe Phase 1C

Mr. Baldwin indicated that the project was underway and provided a report. When asked by Councilman Woods about the construction at Race and Raleigh Streets, he explained that the traffic disruption at the corner of Race and Raleigh is in order to install utilities in that intersection.

Mr. Steve Knipe, Utilities Director, stated that there have been some setbacks while doing the work on the intersection, but it should be finished soon.

14. Unfinished Business

There was no unfinished business.

15. New Business

(a) Resolution 2012-01: A Resolution of the City Council of the City of Martinsburg authorizing George Karos, Mayor of Martinsburg, to file an application and enter into a contractual agreement with the West Virginia Development Office for the purpose of acquiring funds through the Community Participation Grant Program for the Hospice of the Panhandle's "Building the Dream" program

Motion made by Councilman Parkinson, seconded by Councilwoman Gunnoe, to approve Resolution 2012-01: A Resolution of the City Council of the City of Martinsburg authorizing George Karos, Mayor of Martinsburg, to file an application and enter into a contractual agreement with the West Virginia Development Office for the purpose of acquiring funds through the Community Participation Grant Program for the Hospice of the Pamhandle's "Building the Dream" program. Motion carried unanimously.

(b) Resolution 2012-02: A Resolution of the City Council of the City of Martinsburg, authorizing the addition of new members to participate in the Eastern Panhandle Home Consortium of West Virginia for the period of July 1, 2012 to June 30, 2013.

Motion made by Councilman Wachtel, seconded by Councilman Yauger, to approve Resolution 2012-02: A Resolution of the City Council of the City of Martinsburg, authorizing the addition of new members to participate in the Eastern Panhandle Home Consortium of West Virginia for the period of July 1, 2012 to June 30, 2013. Motion carried unanimously.

(c) Resolution 2012-03: A Resolution of the City Council of the City of Martinsburg endorsing "Eastern Panhandle - Right Here, Right Now!" public awareness campaign for home ownership

Motion made by Councilwoman Gunnoe, seconded by Councilman Woods, to approve Resolution 2012-03: A Resolution of the City Council of the City of Martinsburg endorsing "Eastern Panhandle—Right Here, Right Now!" public awareness campaign for home ownership. Motion carried unanimously.

(d) Approve/deny letter of understanding from Clendenin Consulting and Remediation Group regarding the purchase of Alleyway north of W. Race Street and west of Boyd Avenue and Deed of Dedication to the City of Martinsburg

See item 7b

(e) Diocese of Wheeling-Charleston appealing the January 9, 2012 decision of the Martinsburg Historic Preservation Review Commission—110 W. John

Mr. John Reardon, Diocese of Wheeling-Charleston, presented this request to overturn the decision of the Martinsburg Historic Preservation Review Commission to deny a Certificate of Appropriateness to demolish the residential structure at 110 W. John Street. Mr. Reardon went on to explain that the interest in the property is in the land, not the structure and would like permission to raze the structure.

He stated that other buildings owned by the church will be maintained, but this property is very deteriorated and stands alone.

Councilman Lewis asked why this request was not presented when the request to demolish the John Street School was presented, as Mr. Reardon had indicated that the property was purchased approximately twenty five years ago, not recently. Mr. Reardon replied that the school was a larger concern and the demolition of the structure at 110 W. John was an afterthought.

Councilman Lewis then asked what is intended for the property if the structure is demolished. Mr. Reardon stated that the Diocese has no immediate plans for the land, that the demolition is to prevent the cost of maintaining the building to the standards of Code Enforcement. He stated that the Diocese intends to grass or gravel the area and maintain it to the standards of the City. Mr. Lewis expressed that a gravel lot would not be appropriate. Mr. Reardon stated that, currently, no plans to expand the church are imminent as finances are not available and the maintenance needed on the existing buildings is significant.

Councilwoman Gunnoe suggested that the City Building Inspectors inspect the interior of the building and report back to Council.

Councilman Parkinson agreed, stating that he had inspected the rear of the structure and it is larger than it appears at first glance. Councilman Parkinson strongly suggested that the inspectors be allowed to go inside and asked if there was significant water damage. Mr. Reardon stated that there is significant water damage on the ceiling of the upper floor.

Councilman Wachtel expressed that he has issues constantly overturning the decisions of the Historic Preservation Review Commission.

Councilman Yauger stated that he had noticed there is no electric meter on the property and asked how long since it had been occupied. Mr. Reardon stated that he is not sure, that it has been used, most recently, as storage.

Councilman Woods asked if the structure has an historical significance or if it is just old. Mr. Reardon stated that he is not sure, but does not believe so.

Gary Gimbel, Historic Preservation Review Commission Chairman, stated that Article X of the Martinsburg Zoning Ordinance charges the Commission with preserving the City's character. He stated

that most cases brought before the Commission are approved as submitted, some are compromises between the property owner and the Commission and on rare occasions, requests are denied, as was the case with 110 W. John Street. He cautioned that demolition is permanent and must be carefully considered.

Mr. Gimbel stated that the structure in question is pre-Civil War and is a very prominent structure on W. John Street, which is a very important representation of early Martinsburg. He stated that the applicant has owned the structure for approximately 25 years and should have some responsibility for its upkeep. He stated that this may be considered a case of "demolition by neglect" and the decision to deny the demolition was unanimous by the HPRC.

Councilman Woods stated that he appreciates the service of the HPRC and that he feels there are cases where the owner simply does not have the financial means to renovate and save the structure, as has been expressed by Mr. Reardon on behalf of the Diocese. Councilman Woods stated that he is not sure it enhances the community to have structures in such a state of disrepair.

Councilman Parkinson stated that the property had to be considered "as-is" and it is a large structure, and would be very expensive to renovate. He, again, recommended checking into it further.

Motion made by Councilwoman Gunnoe, seconded by Councilman Wachtel, to table in order to allow the building inspectors to inspect the structure and get back to Council before the next meeting in March, so they can make an informed decision. Motion carried unanimously.

Ms. Sally Jackson, Water Street, stated that she is very concerned about Council overturning the decisions of the HPRC and that the Diocese has allowed this property and the John Street School to deteriorate and should be responsible for the upkeep of their properties.

Mr. Reardon replied that the Diocese has invested more money in the community than anyone and has not purposely allowed buildings to fall into disrepair, that the interest has always been in the land, not the structures.

(f) Confirm emergency water line project near Kilmer Springs Water Plant relating to the Raleigh Street extension

Mr. Steve Knipe, Utilities Director, explained that, due to a water main break, a new segment of water line had to be installed. The line that was broken was scheduled to be taken out of service with the Raleigh Street extension utility projects, but it was necessary to conduct an emergency replacement when the water main broke.

Mr. Baldwin stated that fire flow pressure was a concern with the old line, and that has been corrected with the new line, and the new line ties into the Raleigh Street utilities.

Mayor Karos stated that the presented cost of \$125,000 is an estimate Mr. Knipe indicated that he is not sure of the exact figures at this time.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to confirm the emergency water line project near Kilmer Springs Water Plant relating to the Raleigh Street Extension. Motion carried unanimously.

(g) Approve/deny Auburn Street water line project.

Mr. Knipe explained that this project is necessary to extend 295 feet of 8" water main from Raleigh Street to Auburn Street. Mr. Baldwin stated that the low bid is from Panhandle Excavating in the amount of \$5,900. Mr. Knipe explained that this figure is for drilling/blasting services only. City crews will dig and place the line.

Motion made by Councilman Etherington, seconded by Councilman Yauger, to approve the Auburn Street water line project. Motion carried unanimously.

(h) Approve/deny purchase of one (1) Caterpillar 416 backhoe --\$ 54,765.00—Alban Tractor Company—Public Works Department

Motion made by Councilman Lewis, seconded by Councilman Woods, to approve the purchase of one Caterpillar 416 backhoe in the amount of \$54,765.00 payable to Alban Tractor Company for the Public Works Department. Motion carried unanimously.

(i) Approve/deny purchase of one (1) new 2012 ¾ ton utility truck—Water Department--\$30,436—Apple Valley Chev-Toyota

Motion made by Councilman Yauger, seconded by Councilwoman Gunnoe, to approve the purchase of one new 2012 ¾ ton utility truck in the amount of \$30,436.00 payable to Apple Valley Chev-Toyota for the Water Department. Motion carried unanimously.

(j) Approve/deny purchase of one (1) new 2012 ¾ ton 4x4 pick-up truck—Water Department--\$24,579—Apple Valley Chev-Toyota

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger, to approve the purchase of one new 2012 ¾ ton 4x4 pick-up truck in the amount of \$24,579.00 payable to Apple Valley Chev-Toyota for the Water Department. Motion carried unanimously.

(k) Approve/deny Main Street Martinsburg 2012 events—see attached letter of request

Motion made by Councilman Lewis, seconded by Councilmen Wachtel and Woods, to approve Main Street Martinsburg's 2012 events as presented. Motion carried unanimously.

Police Chief Miller and Fire Chief Bragg stated they had reviewed the request and had no issue.

(l) Approve/deny Norwalk Soap Box Derby—June 9, 2012, rain date, June 16, 2012

Motion made by Councilman Yauger, seconded by Councilman Etherington, to approve the Norwalk Soap Box Derby scheduled for June 9, 2012 with a rain date of June 16, 2012. Motion carried unanimously.

(m) Approve/deny poll worker salaries for June 12, 2012 General Election

Motion made by Councilman Lewis, seconded by Councilman Woods, to approve poll worker salaries for the June 12, 2012 General Election. Motion carried unanimously.

(n) Approve/deny polling places for June 12, 2012 General Election

Motion made by Councilman Etherington, seconded by Councilman Yauger, to approve polling places for the June 12, 2012 General Election. Motion carried unanimously.

(o) Approve/deny appointment of ballot commissioners to certify ballot positions for the June 12, 2012 general election

Motion made by Councilman Etherington, seconded by Councilman Yauger to approve the appointment of Brenda Spaulding and Deb DeHaven as ballot commissioners to certify ballot positions for the June 12, 2012 General Election. Motion carried unanimously.

(p) Approve/deny emergency purchase of three (3) replacement servers and replacement back-up system for City's financial management and utility billing software packages.

Mark Spickler, City Financial Director, addressed items 15 p,q and s, explaining the servers are outdated and need immediate replacement to protect the sanctity and security of the financial and utility billing software. He stated that the prices supplied by Innovative, Inc. include a three year service contract, as well as hardware installation and back-up. The service contract is desirable. Mr. Spickler explained, as the City does not have IT personnel. The cost will be \$21,835.64 and will include the two servers, a tape back-up, the operating system and anti-virus software and a three year local hardware support agreement.

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger to approve the emergency purchase of two (2) replacement servers and replacement back-up system for the City's financial management and utility billing software packages. Motion carried unanimously.

(q) Approve/deny Innovative Inc.'s professional IT services relating to server replacement and network security.

Mr. Spickler indicated that the cost will be \$2,187.87 for the network security hardware and \$100-150 per hour for server and network security professional IT services with an estimated total of \$7,500.00.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve Innovative Inc.'s professional IT services relating to server replacement and network security. Motion carried unanimously.

(r) Approve/deny Eastern West Virginia Airport Authority's request to reallocate funds in the amount of \$12,000 from Airport Improvement Projects to General Account for operating expenses

See item 7f .

(s) Approve/deny Harris (City's software provider) to provide professional services to convert the City's financial and utility billing software to new servers--\$8,750

Motion made by Councilman Wachtel, seconded by Councilwoman Gunnoe, to approve Harris (City's software provider) to provide professional services to convert the City's financial and utility billing software to new servers--\$8,750. Motion carried unanimously.

17. Executive Session

No executive session was needed.

Adjournment

Motion made by Councilman Gunnoe, seconded by Councilwoman Yauger to adjourn at 7:20 PM.
Motion carried unanimously.



George Karos, Mayor



Gena Long, City Recorder