

**CITY OF MARTINSBURG
REGULAR COUNCIL MEETING
JULY 14, 2011
THE J. OAKLEY SEIBERT COUNCIL CHAMBERS**

With a quorum present, the regular session of the Martinsburg City Council was called to order by Acting Mayor Gregg Wachtel at 6:30 p.m. The following Council Members were present: Rodney Woods, Gregg Wachtel (6:32), Dennis Etherington, Max Parkinson, Betty Gunnoe and Roger Lewis. Not present was Richard Yauger .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, Steve Knipe, Utilities Director, Kevin Miller, Police Chief, Paul Bragg, Fire Chief and Mark Spickler, Finance Director.

As Mayor Karos was not present, Councilman Etherington moved to allow Councilman Wachtel to preside over the meeting. Motion was seconded by Councilman Woods and approved by unanimous consent.

3. SALUTE TO FLAG

Councilman Parkinson led the Pledge of Allegiance to the Flag.

4. PRAYER – Pastor Danny Custer—Martinsburg Union Rescue Mission.

The invocation was given by Pastor Custer.

5. Approve July 29, 2011 special Council meeting minutes.

Motion made by Councilman Parkinson, seconded by Councilman Woods, to approve the May 5, 2011 special council meeting minutes as presented. Motion carried unanimously.

6. Approve May 2011 Administrative and Financial Report

Motion made by Councilman Lewis, seconded by Councilman Parkinson, to approve the April 2011 Administrative and Financial Report. Motion carried unanimously.

7. PRESENTATIONS

(a) Make comment on ABC Application—Texas Steakhouse and Saloon, 927 Foxcroft Avenue.

Motion made by Councilman Lewis, seconded by Councilman Etherington, to forward the application to the WVABCA Licensing Department with no further comment. Motion carried unanimously.

8. PETITIONS FROM CITIZENS

There were no petitions from citizens.

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

There were no items to file and receive.

10. REPORTS OF CHAIRPERSONS OF COUNCIL STANDING COMMITTEES

There were no reports of chairpersons of council standing committees.

11. REPORT OF MAYOR

(a) Schedule Special Council Meeting Thursday, July 28, 2011 at 5:00 PM.

Acting Mayor Wachtel scheduled a Special Council Meeting for Thursday, July 28, 2011 at 5:00 for purposes of reporting the unencumbered balance.

12. REPORT OF CITY ATTORNEY

City Attorney Kin Sayre announced that the Redistricting Committee had met for organizational purposes on July 6, 2011 and a Public Meeting, for purposes of hearing public comment, is scheduled for July 21, 2011 at 5:00 PM.

13. REPORT OF CITY MANAGER

A. City Projects Update

City Manager Mark Baldwin discussed the Raleigh Street Project, the Energy Efficiency Project and the Town Square Pedestrian Plaza Project, all of which are currently underway.

14. UNFINISHED BUSINESS

There was no unfinished business.

15. NEW BUSINESS

(a) Robert L. Lowe II, on behalf of Etta Mae Lowe, appealing the June 06, 2011 of the Historic Preservation Review Commission regarding 235 S. Queen Street.

Mr. Robert L. Lowe II presented his appeal on behalf of his mother, Ms. Etta Mae Lowe. Mr. Lowe explained that the Lowe Building, situated at 235 S. Queen Street has been in the family for about 40 years, that it is vacant, not abandoned and is not of any historical significance. Mr. Lowe added that the building is not on any historical registries and is only included in the Historic overlay district in the recent expansion.

Mr. Lowe explained that, due to vandalism, the fence is in need of replacement for maintenance, security and aesthetic reasons. He stated that he filed for a building permit and was told he needed to appear before the HPRC, where his request was denied on June 06, 2011.

Mr. Lowe stated that there is nineteen feet of fencing facing John Street and an additional twenty-nine feet between the Lowe property and the adjacent Catholic Church, which actually belongs to the church. There are gates on each stretch of fence. Mr. Lowe stated that the fence he has proposed is a white dog-eared picket fence.

Mr. Lowe then gave examples of historic buildings in the historic overlay district with similar fences, including the Historic Archives Building and the William O'Brien Law Firm.

City Engineer/Planning Director Mike Covell added that both vinyl and wood can be treated for easier maintenance and that there are no major differences the current fence and proposed fence

other than the material used, the picket style and a slight height difference. Mr. Covell also pointed out that there is very little street frontage.

Councilman Woods pointed out that the vinyl fence surrounding the herb garden at the Historical Archives sets a precedent.

Councilman Lewis reminded the applicant that fences are to be constructed with the finished side facing out.

Motion made by Commissioner Lewis, seconded by Councilman Woods, to approve Mr. Lowe's appeal, overturning the decision of the Historic Preservation Review Commission and instructing that a new Certificate of Appropriateness be issued allowing Mr. Lowe to construct the fence as applied. Motion carried unanimously.

(b) Resolution 2011-11 Coal Severance Tax Budget Revision #1 for FY 2011-2012

Motion made by Councilman Lewis, seconded by Councilwoman Gunnoe to approve Resolution 2011-11, Coal Severance Tax Budget Revision #1 for FY 2011-2012. Motion carried unanimously.

(c) Resolution 2011-12 calling upon policy makers to support jobs and economic security by improving the coal mine permitting system.

Motion made by Councilman Woods, seconded by Councilman Parkinson, to approve Resolution 2011-12, calling upon policy makers to support jobs and economic security by improving the coal mine permitting system. Motion carried unanimously.

(d) Approve/Deny Berkeley County Council request for an additional thirty days to submit evidence on appeal of the Shadetree Commission's decision to deny removal of trees in front of 100 W. King Street—See attached letter.

Motion made by Councilman Lewis, seconded by Councilman Etherington, to approve Berkeley County Council's request for an additional thirty days to submit evidence on appeal of the Shadetree Commission's decision to deny removal of trees in front of 100 W. King Street. Motion carried unanimously.

(e) Approve/deny use of 2011 JAG Grant in the amount of \$24,657 for five (5) radar units, "Total Station" crime scene/accident reconstruction equipment and galvanized crowd control barricades, Martinsburg Police Department.

Motion made by Councilwoman Gunnoe, seconded by Councilman Woods, to approve the use of the 2011 JAG Grant in the amount of \$24,657 for five (5) radar units, "Total Station" crime scene/accident reconstruction equipment and galvanized crowd control barricades for the Martinsburg Police Department. Motion carried unanimously.

(f) Approve/deny City of Martinsburg Liability Insurance – Travelers

Mr. Baldwin explained that the rates provided reflect an 8.2% increase. The agent is working to lower the rates, but the policy does need to be renewed and invoices paid. He recommended approval at these rates, considering that the increase, while substantial, is less than budgeted.

Motion made by Councilman Woods, seconded by Councilmen Etherington and Lewis, to approve the City of Martinsburg Liability Insurance, payable in the amount of \$448,264.24 to Travelers. Motion carried unanimously.

(g) Approve/Deny City of Martinsburg Workers Compensation Insurance – Travelers

Motion made by Councilwoman Gunnoe, seconded by Councilman Parkinson, to approve the City of Martinsburg Workers' Compensation Insurance in the amount of \$223,926 payable to Travelers. Motion carried unanimously.

(h) Approve/deny Agreement between the Blue Ridge Community and Technical College and the City of Martinsburg Fire Department for paramedic internship.

Motion made by Councilman Lewis, seconded by Councilman Woods to approve the agreement between the Blue Ridge Community and Technical College and the City of Martinsburg Fire Department for paramedic internship. Motion carried unanimously.

(i) Discuss Town Square Pedestrian Plaza project—General Adam Stephen statue and Plaques.

Mr. Baldwin stated that the Dedication plaques will be a city cost, and the wording will be submitted to Council when it has been finalized.

He also discussed the statue of General Adam Stephen, which will also be a city cost and has been budgeted at \$50,000. The statue is in the procurement process and there are a number of options to raise the funds, including a combination of city and private contributions. The statue, he added, will most likely not be ready by the dedication of the Square. Councilman Lewis suggested considering local artists and Councilman Woods suggested including more people in the stakeholder group.

(j) Resolution of Appreciation for Soap Box Derby Winners.

Motion made by Councilman Lewis, seconded by Councilman Etherington, to add this item to the agenda.

The Resolution of Appreciation was read by Acting Mayor Wachtel.

Motion made by Councilman Lewis, seconded by Councilman Woods, to forward the Resolution of Appreciation to the organization to be read at the celebration event. Motion carried unanimously.

16. 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 Councilman Etherington, seconded by Councilman Lewis to adjourn at 7:11 PM.
Meeting adjourned unanimously.


George Karos, Mayor


Gena Long, City Recorder