

**City Of Martinsburg
Regular Council Meeting
November 10, 2011
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 (6:34) 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, Steve Knipe, Utilities Director, Lt. George Swartwood, Police Department, Patricia McMillan, Community Development Director and Chief Paul Bragg, Fire Department.

3. Salute to Flag

Councilman Lewis led the Salute to the Flag.

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

Pastor Baker delivered the invocation.

5. Approve October 13, 2011 regular Council meeting minutes

Motion made by Councilwoman Gunnoe, seconded by Councilman Lewis, to approve the October 13, 2011 regular Council meeting minutes. Motion carried unanimously.

6. Approve October 20, 2011 special Council meeting minutes

Motion made by Councilwoman Gunnoe, seconded by Councilman Parkinson, to approve the October 20, 2011 special Council meeting minutes. Motion carried unanimously.

7. Approve September 2011 Administrative and Financial Report.

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

Mayor Karos requested, and Council agreed, to renumber items 17(a) and 17(h) to 8(a) and 8(b), respectively.

8. Public Hearing—A public hearing is scheduled to solicit public comment regarding the refunding of all or part of the City of Martinsburg's Waterworks and Sewerage System Revenue Bonds, Series 2001.

Mayor Karos opened the public hearing at 6:33 pm.

Mr. Cam Siegrist, Bowles, Rice, McDavid, Graff and Love, explained that interest rates are at a significantly lower rate than in 2001, and by refunding the revenue bonds, the city should save approximately \$40,000 annually.

Mr. Siegrist added that bond insurance is also being sought, and will further reduce the rate, as it reduces the risk.

Mr. Greg Isaacs, Crews and Associates, explained the process of credit ratings and bond insurance. He explained that the interest rate, at the present time, is approximately 3.75%, and the City is funded, currently, at an interest rate near 5% with the 2001 bonds. He expressed that time is of the essence, as rates change constantly, and that if, at the time of closing, there is not significant savings, the bonds will not be refunded.

When asked by Councilman Woods about the window of opportunity, Mr. Issacs explained that the bond refunding must close by the end of the year, as the best rates are for bank qualified funds, and the City has a cap of \$10 million allowable per year. There are projects expected in 2012 which would make the City ineligible for bank qualified refunding.

Mayor Karos closed the public hearing at 6:41 pm.

8a. Supplemental Resolution 2011-20, putting Ordinance 2011-07 into effect—Combined Waterworks and Sewerage System Revenue Bonds, Series 2011.

Motion made by Councilwoman Gunnoe, seconded by Councilman Lewis, to approve Supplemental Resolution 2011-20, putting Ordinance 2011-07 into effect regarding the Combined Waterworks and Sewerage System Revenue Bonds, Series 2011. Motion approved unanimously.

8b. Approve/deny Standard and Poor's engagement letter to provide public rating for Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2011 A (Tax-exempt) and Series 2011 B (Taxable.)

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger, to approve Standard and Poor's engagement letter to provide public rating for Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2011 A (Tax-exempt) and Series 2011 B (Taxable.) Motion approved unanimously.

City Manager Mark Baldwin requested that the motion be contingent upon the necessity of securing public credit rating if bond insurance cannot be obtained. Councilwoman Gunnoe accepted the contingency.

Mr. Isaacs explained that the City will likely need a credit rating to secure bond insurance, but the services of Standard and Poor's will not be needed if interest rates rise and the City is no longer in a position to receive significant savings.

9. Presentations

a. Make comment on ABC Zoning form for Las Americas Restaurant at 533 Winchester Avenue.

Ms. Verena Hernandez and Mr. Oscar Hernandez, 533 Winchester Avenue, explained that the restaurant will be open from 10 am until 9pm, and until 2:30 am on Saturdays.

City Recorder Gena Long confirmed that the restaurant is open now with a license to serve non-alcoholic beverages and the applicants are now seeking to serve alcoholic beverages.

Lt. George Swartwood commented that the site is surrounded by residential areas and that there is not currently a significant record of calls to police.

Motion made by Councilman Wachtel, seconded by Councilmen Etherington and Yauger, to forward the Zoning Form to the ABC with comment. Motion carried unanimously.

b. Make comment on ABC Zoning Form for Fatt Tuesday's at 1211 N. Queen Street.

Mr. James Ray, business owner, explained that his request is the same as has been approved in the past, and that he is ready to open the establishment. He stated that the hours will be from 10 am until 2 am, with the rare exception of remaining open until 3 am for events.

Motion made by Councilman Lewis, seconded by Councilman Etherington, to forward the Zoning Form to the ABC without comment. Motion carried unanimously.

c. Proclamation—Veterans' Day

Mayor Karos asked the City Recorder to forward the Proclamation to the requestor.

d. Proclamation—National Hunger and Homelessness Awareness Week—November 13-19, 2011.

Mayor Karos read the Proclamation and presented it to the requestor.

e. Proclamation—Great American Smoke-Out—November 17, 2011.

Mayor Karos read the Proclamation and presented it to the requestor.

10. Petitions From Citizens

- Mr. Ronald Eaton, 323 Boyd Avenue, expressed concerns about Pit-bull Terriers allowed to run at large along Boyd Avenue, stating that they have been attacking and killing other animals. Mr. Eaton presented letters from residents concerning the dogs along with photographs of the animals at large as well as documentation from Animal Control. Mr. Eaton stated that he would like for the owner to be required to construct a higher and more secure fence for the dogs.

Councilman Lewis pointed out that he believes there to be an Ordinance addressing the confinement of animals found to be dangerous or vicious. [Note: Section 505.13 (b) (3)].

Lt. Swartwood asked that Mr. Eaton get into contact with the Police Department and he would make a call to Animal Control to attempt to resolve the matter. Council agreed, asking Mr. Eaton to contact the Martinsburg Police Department.

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

- (a) Historic Preservation Review Commission meeting minutes—September 12, 2011
- (b) Board of Zoning Appeals meeting minutes—September 6, 2011

- (c) Letter of resignation from Jim Castleman—Board of Zoning Appeals.
- (d) Letter from the United States Postal Service informing of the consolidation of the Martinsburg mail processing center with the Baltimore, MD mail processing center.
- (e) Martinsburg-Berkeley Parks and Recreation Board meeting minutes—September 27, 2011.
- (f) Section 8 Management Assessment Program (SEMAP) Final Score Letter for Martinsburg Housing Authority—U.S. Department of Housing and Urban Development.

Motion made by Councilman Wachtel, seconded by Councilman Woods, to receive and file items 11A-F. Motion carried unanimously.

12. Reports of Chairpersons of Council Standing Committees

There were no reports of chairpersons of council standing committees.

13. Report of Mayor

a. Reappoint the following to the Board of Zoning Appeals

- **Bill Blackburn—term 1/1/2012-1/1/2015**
- **Brenda Casabona—term 1/1/2012-1/1/2015**

Motion made by Councilman Woods, seconded by Councilwoman Gunnoe, to accept Mayor Karos's recommendation and reappoint Mr. Blackburn and Ms. Casabona to the Board of Zoning Appeals. Motion carried unanimously.

b. Reappoint Steve Knipe II to the Historic Preservation Review Commission—term 1/1/2012-1/1/2015.

Motion made by Councilman Yauger, seconded by Councilman Etherington, to accept Mayor Karos's recommendation and reappoint Mr. Knipe II to the Historic Preservation Review Commission. Motion carried unanimously.

c. Reappoint Yvonne Jenkins to the Planning Commission—term 1/1/2012-1/1/2015.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to accept Mayor Karos's recommendation and reappoint Ms. Jenkins to the Planning Commission. Motion carried unanimously.

d. Reappoint William Lucht to the Convention and Visitors' Bureau, term 1/1/2012-1/1/2014.

Motion made by Councilman Woods, seconded by Councilman Parkinson, to accept Mayor Karos's recommendation and reappoint Mr. Lucht to the CVB. Motion carried unanimously.

e. Appoint the following the following to the General Adam Stephen Statue Committee

- **Mark Baldwin, City of Martinsburg**
- **Mike Covell, City of Martinsburg**
- **Roger Lewis, City of Martinsburg**
- **Randy Lewis, Main Street Martinsburg**

- **Marty Kesecker, Adam Stephen Association**
- **Matthew Grove, Grove and Dall'Olio Architects**
- **Lee Badger, Anvil Works**

Motion made by Councilwoman Gunnoe, seconded by Councilman Parkinson to accept Mayor Karos's recommendation and appoint Mr. Baldwin, Mr. Covell, Councilman Lewis, Mr. Lewis, Mr. Kesecker, Mr. Grove and Mr. Badger to the General Adam Stephen Statue Committee. Motion carried unanimously.

f. Mayor Karos mentioned vacancies in the following:

- **Historic Preservation Review Commission—two vacancies.**
- **Board of Zoning Appeals—1 vacancy**
- **Shade Tree Committee-1 vacancy**
- **Eastern Panhandle Transit Authority-1 vacancy**
- **Martinsburg/Berkeley County Convention and Visitors' Bureau-1 vacancy**
- **Parking Authority-1 vacancy**

12. Report of City Attorney

Redistricting update

Legal Counsel Kin Sayre explained that a public meeting has been scheduled on Wednesday, November 16, 2011 at 5:30 pm for purposes of receiving public input in regards to the presented draft map. After the public meeting, the map will be finalized, including some instance where County parcels are included, and put before Council via Ordinance at the December 8, 2011 regular meeting.

13. Report of City Manager

Projects Update

City Manager Mark Baldwin discussed the Raleigh Street Extension, TIF District and other City projects. He pointed out that the Town Square Pedestrian Plaza is nearing completion.

14. Unfinished Business

There was no unfinished business.

15. New Business

a. Supplemental Resolution 2011-20 putting Ordinance 2011-07 into effect—Combined Waterworks and Sewerage System Refunding Bonds, Series 2011

See 8A.

b. Resolution 2011-21 authorizing George Karos, Mayor of Martinsburg, to enter law into a contractual agreement with the WV Development Office to receive grant funds in the amount of \$10,000 for the Friends of Norwalk Foundation, for use in assistance to purchase the last remaining 1914 Norwalk Underslung 6, manufactured in Martinsburg, WV and retain a portion of WV's

industrial heritage, and designate Martin Frye, Treasurer, Friends of the Norwalk Foundation to administer such funds pursuant to the provisions of the Fiscal Year 2011 Community Participation Grant Program.

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger, to approve Resolution 2011-21 authorizing George Karos, Mayor of Martinsburg, to enter law into a contractual agreement with the WV Development Office to receive grant funds in the amount of \$10,000 for the Friends of Norwalk Foundation, for use in assistance to purchase the last remaining 1914 Norwalk Underslung 6, manufactured in Martinsburg, WV and retain a portion of WV's industrial heritage, and designate Martin Frye, Treasurer, Friends of the Norwalk Foundation to administer such funds pursuant to the provisions of the Fiscal Year 2011 Community Participation Grant Program. Motion carried unanimously.

c. Diocese of Wheeling-Charleston appealing the October 17, 2011 decision of the Historic Preservation Review Commission—John Street School, 120 W. John Street.

Mr. John Reardon explained that the John Street School renovation would be a multi-million dollar project, and the Diocese purchased the property with the intent of razing the structure. He stated that the Diocese does not have issue with Historic Preservation, and has preserved other historic structures for its use, but the cost to restore the John Street School is overwhelming. Mr. Reardon also emphasized that the structure is an environmental hazard and is not cost effective to restore, for any purpose.

Councilman Lewis expressed that he would like to ensure the space will be an attractive green space, not an unattractive property such as a gravel parking lot. Mr. Reardon confirmed that the intention is to clean up the rubble and put down top-soil and grass and keep it maintained to City specifications.

Councilman Yauger agreed that the building should be razed, as it unfortunately cannot be renovated in a cost-effective manner. Mr. Reardon expressed that it would be very costly to even purify the air so the building is safe for human habitation.

Motion made by Councilman Lewis, seconded by Councilman Parkinson to overturn the decision of the HPRC and allow the John Street School to be demolished by the Diocese of Wheeling-Charleston. Motion carried unanimously in a roll call vote.

Legal Counsel Kin Sayre stated that the Diocese must wait thirty (30) days before demolishing the structure to allow for possible appeals of the Council's decision. City Engineer/Planning Director Mike Covell added that the Diocese could submit their demolition permit application at any time, but it would not be released until the 30 day period has expired.

d. Approve/deny permit application to construct porch at 312 N. High Street—Carol L. Puffinburger.

Motion made by Councilwoman Gunnoe, seconded by Councilman Lewis, to approve the permit application to construct a porch at 312 N. High Street—Carol Puffinburger. Motion carried unanimously.

e. Approve/deny bid for snow removal in four (4) municipal parking lots—Allen Plotner.

Motion made by Councilman Wachtel, seconded by Councilman Yauger, to approve the bid for snow removal in four municipal parking lots, awarded to Allen Plotner. Motion carried unanimously.

f. Approve/deny purchase of four (4) Ford Expeditions and one (1) Chevrolet Impala to be used as police vehicles (\$113,656 + cost to equip)—Police Levy.

Motion made by Councilman Woods, seconded by Councilman Etherington, to approve the purchase of four Ford Expeditions and one Chevrolet Impala to be used as police vehicles in the amount of \$113,656 plus the cost to equip, with funds to be provided by the Police Levy—State Contract. Motion carried unanimously.

Motion made by Councilwoman Gunnoe, seconded by Councilman Woods to authorize the Mayor to sign Subrecipient Agreements with the above organizations for use of the FY 2011 CDBG Funds. Motion carried unanimously.

g. Authorize City Recorder to post public notice for City Auction.

Motion made by Councilman Yauger, seconded by Councilman Etherington to authorize the City Recorder to post public notice for City Auction. Motion carried unanimously.

h. Approve/deny Standard and Poor's engagement letter to provide public rating for Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 2011 A (Tax-Exempt) and Series 2011 B (Taxable.)

See Item 8B.


Executive Session

Motion made by Councilman Woods, seconded by Councilman Parkinsons to enter into executive session to discuss personnel matters. Motion carried successfully. Council entered executive session at 7:36 pm.

Adjournment

Motion made by Councilman Parkinson, seconded by Councilwoman Gunnoe to adjourn at 7:45 PM. Motion carried unanimously.


Gena Long, City Recorder


George Karos, Mayor