

**City Of Martinsburg
Regular Council Meeting
October 13, 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 Yaeger and Betty Gunnoe. Not present was Gregg Wachtel. 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, Chief Kevin Miller, Police Department and Chief Paul Bragg, Fire Department.

3. Salute to Flag

Councilman Lewis led the Salute to the Flag.

4. Prayer—Pastor Sharon Reed, Grace Wesleyan Church

Pastor Reed delivered the invocation.

5. Approve September 15, 2011 regular Council meeting minutes

Motion made by Councilman Parkinson, seconded by Councilman Etherington, to approve the September 15, 2011 regular Council meeting minutes. Motion carried unanimously.

6. Approve August 2011 Administrative and Financial Report.

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

7. Presentations

a. Proclamation in harmony with Christian Heritage Week in West Virginia—November 20-26, 2011 as proclaimed by Governor Earl Ray Tomblin.

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

b. Make comment on ABC Zoning Form for Mezcal Mexican Grill, LLC at 203 S. Maple Avenue.

Mr. Ramon Gomez spoke on behalf of the Mezcal Mexican Grill. Mr. Gomez explained that the establishment will be a family restaurant and the hours will be; Monday through Saturday 11AM-10PM and Sunday 11AM-9PM.

Mayor Karos requested that the ABC Zoning Form be forwarded to the ABC with no additional comment.

c. Proclamation designating October 23-31, 2011 as Red Ribbon Week—Young Marine Corp League.

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

8. Petitions From Citizens

There were no petitions from citizens.

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

- (a) Historic Preservation Review Commission meeting minutes—August 01, 2011
- (b) Code Appeals Board meeting minutes—July 13, 2009
- (c) Code Appeals Board draft meeting minutes—September 14, 2011
- (d) Letter of resignation from Don Wood—Historic Preservation Review Commission.

Motion made by Councilman Yauger, seconded by Councilman Woods, to receive and file items 9A-D. Motion carried unanimously.

10. Reports of Chairpersons of Council Standing Committees

There were no reports of chairpersons of council standing committees.

11. Report of Mayor

a. Discuss appointment to Telemon Unity Action Board—see enclosed bylaws.

Motion made by Councilman Woods, seconded by Councilwoman Gunnoe, to accept Mayor Karos's recommendation and appoint Councilman Lewis to the Telemon Unity Action Board.

b. Schedule Special Meeting

Mayor Karos scheduled a Special Council Meeting on Thursday, October 20, 2011 for purposes of conducting the third and final reading of Ordinance 2011-08 and other items as necessary.

12. Report of City Attorney

Redistricting update

Legal Counsel Kin Sayre explained that the draft map has been returned from the State redistricting office, and some manipulation is required to bring the numbers in line. He stated that the Redistricting Committee will meet again to manipulate the ward lines to make the wards more equal, and then schedule a public hearing before bringing the completed map back to Council for approval. He indicated the map will be finished by the 2012 election, Mark Baldwin added that time is of the essence as the County is waiting on the City so they can release their own redistricted map. Mr. Sayre agreed, adding that City wards cannot dissect County precincts, and the County requires a final map from the City before drawing final precinct lines.

Mr. Sayre expressed thanks to Senator Unger and his legal counsel, Mark Maclovich, for helping to secure the draft ward map. City Recorder Gena Long added that appreciation is due to Berkeley County employees Gary Wine and Jeff Frye for being instrumental in helping the City acquire a "shapes" map complete with census data.

13. Report of City Manager

Projects Update

City Manager Mark Baldwin stated that all contracts have been awarded for the Raleigh Street project, and are underway.

The Energy Efficiency Project is also underway, and approximately thirty days from completion, the items being completed now are punch list items, mostly with lighting.

The Town Square project is underway, with the pavers at the intersection of King and Queen being replaced. They are expected to be completed in time for the Apple Harvest Parade. Over the next two to four week, Mr. Baldwin stated, the Plaza should begin to take shape.

He indicated that, tentatively, the dedication for the project is set in May along with Heritage Day festivities, if that pleases the Council, when the weather is better and people are downtown for Heritage Day. The Council agreed to hold the dedication on Heritage Day as long as agreements can be made with those hosting that event.

Mr. Baldwin discussed future spring/summer projects, such as gateway signage and paving projects.

14. Unfinished Business

a. Third and Final Reading of Ordinance 2011-03: An Ordinance Amending Ordinance 2010-15, which established job descriptions for employees of the City of Martinsburg.

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger to read and approve Ordinance 2011-03: An ordinance amending Ordinance 2010-15, which established job descriptions for employees of the City of Martinsburg. Motion carried unanimously.

b. Third and Final Reading of Ordinance 2011-04: Amending Fire Civil Service rules and regulations, Rule IX: Grading System for Promotions to the Rank of Captain and Lieutenant.

Motion made by Councilman Yauger, seconded by Councilman Parkinson, to read and approve Ordinance 2011-04, amending Fire Civil Service rules and regulations at Rule IX: Grading System for Promotions to the Ranks of Captain and Lieutenant. Motion carried unanimously.

c. Third and Final Reading of Ordinance 2011-05: Ordinance annexing to the City of Martinsburg a parcel of real estate consisting of .35 acres and identified upon Berkeley County, West Virginia tax maps in the Opequon tax district, and providing for the institution of the necessary proceedings before the County Council of Berkeley County, West Virginia, in accordance with West Virginia Code §8-6-4 (annexation without election).

Motion made by Councilman Woods, seconded by Councilman Yauger, to hear and approve Ordinance 2011-05: Ordinance annexing to the City of Martinsburg a parcel of real estate consisting of .35 acres and identified upon Berkeley County, West Virginia tax maps in the Opequon tax district, and providing for the institution of the necessary proceedings before the County Council of Berkeley County, West Virginia, in accordance with West Virginia Code §8-6-4 (annexation without election). Motion carried unanimously.

d. Third and Final Reading of Ordinance 2011-06: Amending Ordinance 2009-05: Regulations governing outdoor burning in the Municipal limits of the City of Martinsburg, at Section C.1.b.

Motion made by Councilman Etherington, seconded by Councilman Yauger, to hear and approve Ordinance 2011-06, amending Ordinance 2009-05: Regulations governing outdoor burning in the municipal limits of the City of Martinsburg, at Section C.1.b. Motion carried unanimously.

e. Third and Final Reading of Ordinance 2011-07: Amending the City of Martinsburg Zoning Map to rezone an improved parcel of real estate, consisting of approximately 32,399 square-feet, from its current zoning classification of IG (General Industrial) and approximately 10,371 square-feet from its current zoning classification of RMM (Multiple-Family, Medium-Density Residential), also identified on the Berkeley County Tax Map M13, parcels 462 and 462.1, postal address 511 Cumberland Valley Place, located in the Martinsburg District, Berkeley County, West Virginia, owned by Martinsburg Holdings, LCC, from its current zoning classification of RMM and IG to BC (Community Business)

Motion made by Councilman Lewis, seconded by Councilwoman Gunnoe, to hear and approve Ordinance 2011-07 to amend the City of Martinsburg Zoning Map to rezone two improved parcels of real estate, the first consisting of approximately 32,399 square-feet, from its current zoning classification of IG (General Industrial) and the second consisting of approximately 10,371 square-feet from its current zoning classification of RMM (Multiple Family, Medium Density Residential), also identified on the Berkeley County Tax Map M13, parcels 462 and 462.1, postal address 511 Cumberland Valley Place, located in the Martinsburg District, Berkeley County, West Virginia, owned by Martinsburg Holdings, LLC., from its current zoning classifications of RMM and IG to BC (Community Business). Motion carried unanimously.

15. New Business

a. Authorize Crews & Associates and Bowles, Rice, McDavid, Graff & Love to prepare documents for refunding proposition for Series 2001 Waterworks and Sewerage Bonds.

Motion made by Councilman Yauger, seconded by Councilman Woods, to authorize Crews and Associates and Bowles, Rice, McDavid, Graff and Love to prepare documents for refunding proposition for Series 2011 Waterworks and Sewerage Bond. Motion carried unanimously.

b. First and second reading of Ordinance 2011-08: Authorizing the refunding of the city of Martinsburg combined waterworks and sewerage system revenue bonds, Series 2001. Ordinance providing as to amount, maturities, interest rates, redemption provisions, purchase price and other details as to the Combined Waterworks And Sewerage System Revenue Bonds, Series 2001 and authorizing a preliminary official statement, official statement, bond purchase agreement, continuing disclosure agreement and other documents relating to the offering and sale of such Combined Waterworks and Sewerage System Refunding Revenue Bonds; and adopting other provisions relating thereto.

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger, to hear the first and second reading of Ordinance 2011-08, authorizing the refunding of all or part of the City of Martinsburg Combined Waterworks and Sewerage System Revenue Bonds, Series 2001. Ordinance providing as to amount, maturities, interest rates, redemption provisions, purchase price and other details as to the Combined Waterworks and Sewerage System Revenue Bonds, Series 2001 and authorizing a preliminary official statement, official statement, bond purchase agreement, continuing disclosure agreement and

other documents relating to the offering and sale of such Combined Waterworks and Sewerage System Refunding Revenue Bonds; and adopting other provisions relating thereto. Motion carried unanimously.

d. Resolution 2011-19: A resolution on behalf of Hospice of the Panhandle.

Motion made by Councilman Lewis, seconded by Councilwoman Gunnoe, to approve Resolution 2011-19: A resolution on behalf of Hospice of the Panhandle. Motion carried unanimously.

e. Cynthia Thorn Baynham appealing the September 12, 2011 decision of the Historic Preservation Review Commission regarding 407 W. Burke Street

Ms. Baynham explained that she had appealed to the Historic Preservation Review Commission (HPRC) to install vinyl replacement windows in the same configuration on her rental house at the above address. The Commission had denied her, she stated, as Commissioner Clipp had indicated that the windows on the front of the residence appeared to be in working order and did not need replacement.

Ms. Baynham stated that the windows in the rear of the property are not operable, and Rental Housing Inspector John Skinner had stated that he will not provide Letters of Compliance to rental homes with inoperable windows. Ms. Baynham also argued that wooden windows are not efficient, and stated that the R-factor of a wood window with storm windows is 1, while vinyl replacement windows have an R-factor of 4-5.

Mr. Sayre confirmed that Ms. Baynham had informed the HPRC that several windows in the rear of the structure are without window weights and are inoperable. The Commissioners had issue only with windows on the front and visible side, as those fall within the Commission's jurisdiction. Mr. Sayre stated that the Commissioners had found that the windows on the front were only in need of maintenance and did not need replacement. Ms. Baynham stated that she would like all of the windows to match.

Councilman Lewis stated that he does not feel that vinyl replacement windows will detract from the residence and asked that Council consider them.

City Engineer/Planning Director Mike Covell informed the Council that, per the HPRC minutes, Ms. Baynham had stated that the windows are in good condition. He explained that the HPRC is charged with upholding the guidelines of the Secretary of the Interior, which states that it is improper to replace operable windows. He stated that the guidelines do not condemn vinyl replacement windows, but do recommend keeping the same configuration with the mullions on the outside of the panes. The less expensive vinyl replacement windows have the mullions between two panes. Mr. Covell stated that HPRC's decision was appropriate and in line with the standards of the Secretary of the Interior.

Councilman Woods asked if the structure was a contributing structure having any historical significance. Mr. Covell stated that he does not have that information available at the moment. Ms. Baynham stated that it is not.

Mr. Covell added that the replacement windows appear to be the same size and configuration, but he does not know if the mullions are inside or out. Ms. Baynham stated that the grids are on the inside, but that she has had tenants remove grids from the outside of other structures.

Motion made by Councilman Lewis, seconded by Councilwoman Gunnoe, to grant Ms. Baynham's appeal, overturning the decision of the HPRC, and allowing vinyl replacement windows with the same configuration. Motion approved unanimously.

f. Terry L. Walker appealing the September 12, 2011 decision of the Historic Preservation Review Commission regarding 118 N. Spring Street.

Mr. Terry Walker stated that he had been before the Historic Preservation Review Commission (HPRC) and his request to install vinyl replacement windows with a 6/6 configuration had been denied. Mr. Walker explained that some of the windows had been replaced on the front of the structure in 2009, when it was damaged, without requirement for HPRC approval. He decided to replace the existing windows to match those two, changing from the existing 2/2 configuration to 6/6, which is similar to the house across the street. He stated that the windows are custom sized and have already been purchased.

Mr. Covell confirmed, adding that the building permit issued two years previous had indicated that Mr. Walker should seek HPRC approval before installing the windows, but no follow-up inspection was ever done. Mr. Covell stated that Mr. Walker's structure currently has mostly 2/2 windows, appropriate for the age of the structure, which is probably post-Civil War. The house across the street, mentioned by Mr. Walker, is older, built when it was more difficult to produce glass in large sheets, which is why it has 6/6 windows.

After confirmation by Mr. Sayre that the windows are custom made and cannot be changed, motion was made by Councilman Lewis, seconded by Councilman Yauger to grant the appeal, overturning the decision of the HPRC, and allowing Mr. Walker to install 6/6 vinyl replacement windows. Motion carried unanimously.

g. Authorize the Mayor to sign Subrecipient Agreements with the following organizations for use of FY 2011 CDBG Funds:

1) Project CD-11-11 Telamon Corporation, Inc., \$10,000 for installation of HVAC system in transitional family housing unit

2) Project CD-11-12 Boys and Girls Club, \$53,000 for replacement of windows and repair, insulation painting of ceiling in gymnasium room.

3) Project CD-11-13 Community Networks, Inc., \$8,000 for installation of new hot water system in Bethany House shelter.

Motion made by Councilwoman Gunnoe, 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.

h. Approve/deny Martinsburg Fire Department Standard Operating Procedure for Uniforms (Station Wear).

Motion made by Councilman Etherington, seconded by Councilman Yauger, to approve the Martinsburg Fire Department Standard Operating Procedure for uniforms (station wear). Motion carried unanimously.

i. Approve/deny request for funds for security system at Oatesdale Park—Martinsburg Little League Association--\$10,000 (Refer to Budget and Finance Committee).

Motion made by Councilman Woods, seconded by Councilman Lewis, to forward request from the Martinsburg Little League Association for \$10,000 for funds to install security system at Oatesdale Park to the Budget and Finance Committee. Motion carried unanimously.

j. Approve/deny Alternate Mainline Extension Agreement between the City of Martinsburg and Blue Ridge Community and Technical College.

Mr. Baldwin explained that the necessary water model shows that the installation is acceptable and also the developer is responsible for the cost of the mainline extension. The agreement, if approved, will be forwarded to the Public Service Commission for review.

Motion made by Councilwoman Gunnoe, seconded by Councilman Woods, to approve the Alternate Mainline Extension Agreement between the City of Martinsburg and Blue Ridge Community and Technical College. Motion carried unanimously.

k. Approve/deny reimbursement for street lights to Orchard Development, LLC--\$2,100.00

Mr. Baldwin explained that Orchard Development had submitted a request for dedication of streets and street lights to the City in October of 2010, but due to necessary repairs found in inspections, the dedication was approved in September 2011. As there were no repairs necessary on the street lights, Orchard Development is asking the City for reimbursement of half of the utility cost.

Motion made by Councilman Etherington, seconded by Councilman Parkinson, to approve the reimbursement for street lights to Orchard Development, LLC., in the amount of \$2,100. Motion carried unanimously.

Approve/deny Engineering Services Agreement with Thrasher Engineering for the Kilmer Springs Waterline Relocation Project-- \$25,800 (+ \$10,000 estimated inspection costs)

Utilities Director Steve Knipe explained that, as part of the Raleigh Street Extension, the waterline into the Kilmer Springs Plant is being relocated, as the plant is over 150 years old and the existing pipes are not efficiently configured.

Motion made by Councilman Yauger, seconded by Councilman Parkinson, to approve engineering services agreement with Thrasher Engineering for the Kilmer Springs Waterline Relocation Project in the amount of \$25,800 plus an estimated \$10,000 for inspection costs. Motion carried unanimously.

Approve/deny Rejexit Program for trees in Downtown Martinsburg—Erlich Pest Control--\$760/visit * 5 recommended visits--\$3,800.

Mr. Baldwin explained that the treatment of the downtown trees should help to keep Starlings and other migratory birds from roosting in the trees and defecating in the parking lots, on parking meters and sidewalks, which causes substantial complaint from downtown business owners and consumers. The targeted area, he stated, will protect City-owned interests, such as the parking lots and meters.

Motion made by Councilman Etherington, seconded by Councilman Woods, to approve the Rejexit Program for trees in Downtown Martinsburg at a total cost of \$3,800 payable to Erlich Pest Control. Motion carried unanimously.

Discuss Christmas holiday schedule for City employees.


Motion made by Councilman Yauger to close City offices at 12:00 noon on Friday, December 23, 2011 and reopen at 8:00 AM on Tuesday, December 27, 2011

Executive Session

There was no need for executive session.

Adjournment

Motion made by Councilman Parkinson, seconded by Councilwoman Gunnoe to adjourn at 7:40 PM.
Motion carried unanimously.


Gena Long, City Recorder
George Karos, Mayor