

**CITY OF MARTINSBURG
REGULAR COUNCIL MEETING
APRIL 9, 2009
THE J. OAKLEY SEIBERT COUNCIL CHAMBERS**

With a quorum present, the regular session of the Martinsburg City Council was called to order by City Recorder Sharon A. Flick, at 6:30 p.m. The following Council Members were present: Rodney Woods, Gregg Wachtel, Max Parkinson and Roger Lewis. Also present were: Mark S. Baldwin, City Manager, Kin Sayre, City Attorney, Scott Doyle, Police Corporal, Paul Bragg, Fire Chief, Steve Knipe, Utilities Director and Pat McMillan, Community Development Director.

3. SALUTE TO FLAG

Councilman Woods led the Pledge of Allegiance to the Flag.

4. PRAYER

The invocation was led by Councilman Parkinson.

APPOINT CHAIRPERSON TO MEETING

Motion made by Councilman Lewis, seconded by Councilman Parkinson to appoint Sharon A. Flick, City Recorder, to chair the meeting. Motion carried unanimously.

ADD ITEMS TO AGENDA

The City Recorder requested that Council add the following three items to the agenda at items 17 n, o and p:

- (n) Approve/Deny 2009 Martinsburg MS Walk – Sunday, April 26, 2009 from 1:00 p.m. to 4:00 p.m.
- (o) Approve/Deny Berkeley County Ministerial Good Friday Cross Walk in downtown beginning at Trinity United Methodist Church at 10:30 a.m. to noon – Friday April 10, 2009
- (p) Adopt Resolution 2009-08 of the Council of the City of Martinsburg amending the FY 2007 and FY 2008 HOME Program budget and Annual Plans

Motion made by Councilman Lewis, seconded by Councilman Wachtel to approve the revised agenda. Motion carried unanimously.

5. APPROVE MARCH 12, 2009 REGULAR COUNCIL MEETING MINUTES

Motion made by Councilman Woods, seconded by Councilman Parkinson to approve the March 12, 2009 regular Council meeting minutes. Motion carried unanimously.

6. APPROVE MARCH 26, 2009 SPECIAL COUNCIL MEETING MINUTES

Motion made by Councilman Lewis, seconded by Councilman Wachtel to approve the March 26, 2009 special Council meeting minutes. Motion carried unanimously.

**7. PUBLIC HEARING – A PUBLIC HEARING HAS BEEN SCHEDULED TO SOLICIT
CITIZEN COMMENTS ON SUBSTANTIAL AMENDMENTS TO THE CITY OF
MARTINSBURG’S FY 2007 AND FY 2008 ANNUAL ACTION PLANS FOR THE USE
OF HOME INVESTMENT PARTNERSHIP PROGRAM FOR THE EASTERN
PANHANDLE HOME CONSORTIUM OF WEST VIRGINIA**

The City Recorder opened the public hearing to solicit citizen comments on substantial amendments to the City of Martinsburg’s FY 2007 and FY 2008 Annual Action Plans for the use of the HOME Investment Partnership Program for the Eastern Panhandle HOME Consortium of West Virginia at 6:35 p.m.

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Ms. Pat McMillan, Community Development Director, stated, in accordance with the City's Citizen Participation Plan for the use of HOME Investment Partnership funds the hearing was advertised thirty days ago. Ms. McMillan further stated the proposed amendments are to decrease the Morgan County Homebuyer Assistance Program by \$5,000 and create a Morgan County Tenant Assistance Program. Further, change the scope of activity for Charles Town affordable revitalization – affordable housing to include direct homebuyer assistance for downpayment and closing costs for eligible low income homebuyers.

There were no public comments.

The City Recorder closed the public hearing at 6:40 p.m.

P. ADOPT RESOLUTION 2009-08 OF THE COUNCIL OF THE CITY OF MARTINSBURG AMENDING THE FY 2007 AND FY 2008 HOME PROGRAM BUDGET AND ANNUAL PLANS

Motion made by Councilman Lewis, seconded by Councilman Wachtel to adopt Resolution 2009-08 of the Council of the City of Martinsburg amending the FY 2007 and FY 2008 HOME Program budget and annual plans. Motion carried unanimously.

8. PUBLIC HEARING - A PUBLIC HEARING HAS BEEN SCHEDULED TO SOLICIT CITIZEN COMMENTS ON THE CITY OF MARTINSBURG'S FIVE YEAR CONSOLIDATED PLAN FOR FY 2009-2013 FOR ITS HOUSING AND COMMUNITY DEVELOPMENT NEEDS, AND THE FY 2009 ANNUAL ACTION PLAN FOR THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME INVESTMENT PARTNERSHIP AND AMERICAN DREAM DOWNPAYMENT INITIATIVE FUNDS

The City Recorder opened the public hearing at 6:40 p.m.

Ms. Pat McMillan, Community Development Director, reported that the City of Martinsburg became an entitlement jurisdiction community, to receive Community Development Block Grant funds, in 2004. Ms. McMillan further reported that the City is nearing completion of the fifth year of the first five year plan. Ms. McMillan advised the City is in the process of developing a new consolidated plan for the next five year period and an annual plan for FY 2009. Ms. McMillan advised these plans have been on display since April 1, 2009. Ms. McMillan stated the FY 2009 budget is to support local public services in the community that serve the needy, youth, victims of domestic violence and children who are at risk. Ms. McMillan further stated the City is also hoping to do public infrastructure improvements. Ms. McMillan reported the HOME program has been very successful in the Panhandle, and as of today thirty nine families have been assisted in purchasing homes and an additional eleven families are in the process of moving toward closing on home purchases. Ms. McMillan advised the plan would be on display until May 1, 2009.

Ms. Ann Smith, Executive Director Shenandoah Women's Center, thanked Council for funding their program this current fiscal year. Ms. Smith advised they were requesting funding for counseling services in the next fiscal year. Ms. Smith stated their federal and state funding has been drastically cut and they feel it is important that victims of violence receive free counseling services.

The City Recorder closed the public hearing at 6:45 p.m.

9. PRESENTATIONS

There were no presentations.

10. PETITIONS FROM CITIZENS

Mr. Fred Blackmer, Eastern Panhandle Homebuilders Association, Director of Government Affairs, addressed Council to discuss the Community Development Fee that Council enacted in September 2008. Mr. Blackmer asked Council to give serious consideration to suspending the collection of

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fees until the Ordinance is reviewed and either rescinded or modified to serve the purpose for which it is intended and to comply with West Virginia law. Mr. Blackmer advised he appeared before Council on two occasions and he had concerns as to whether this fee was legal under West Virginia statute. Mr. Blackmer further advised that since he was in front of Council the 23rd Judicial Circuit Court has ruled on a case much like the City of Martinsburg's fee. Mr. Blackmer advised it was the City of Ranson versus the County Commission of Jefferson County. Mr. Blackmer further advised the Judge's narrative, in the case, speaks specifically to authorized fees and who and what are authorized to be collected. Mr. Blackmer stated that impact fees are not authorized in the West Virginia Code for municipalities. Mr. Blackmer felt the City's fee was an impact fee and the only other option would be proffering, but proffers cannot be done for a fixed amount as a condition of issuance of building permits or any other approval of a land use Ordinance.

Mr. Blackmer stated he has met with the City Manager, City Attorney and spoken with the City Council without resolution to this matter. Mr. Blackmer further stated the Eastern Panhandle Homebuilders Association clearly understands with growth and development there are strains placed on budgets and decisions that have to be made regarding public infrastructure and public services. Mr. Blackmer advised the Eastern Panhandle Homebuilders Association has always been willing to work with governing bodies throughout their region with these issues. Mr. Blackmer further advised they are to a point where the Eastern Panhandle Homebuilders Association went on record, at a Board meeting in January, authorizing litigation involving the City of Martinsburg, over these fees. Mr. Blackmer stated this was not the time to be spending money on litigation with money, finances, and services being difficult for towns and local governments as well as their members. Mr. Blackmer further stated this matter would be seeing litigation if the City and the Homebuilders Association cannot work together and resolve the City's issue of financing and their issue of fees they do not support. Mr. Blackmer requested the City suspend the enforcement and collection of the fees pending a review of the Ordinance to ascertain how it can be changed or rescinded.

The City Attorney noted the City was in receipt of a copy of the order from the City of Ranson case dealing with voluntary proffers and the fact the City of Ranson did not want to allow the County to collect the impact fees. The City Attorney stated he did not believe that was applicable to the City of Martinsburg's case. The City Attorney further stated this matter has been discussed on multiple occasions and he feels that these service fees are authorized under West Virginia Code § 8-13-13. The City Attorney advised, approximately two years ago, the case of Cooper versus Charleston, the State Supreme Court upheld the City's right to apply service fees. The City Attorney stated this matter was up to City Council with regards to what they wished to do.

Councilman Lewis felt the Council has addressed this matter and decided the Council feels these fees are legal. Councilman Lewis further felt the Ordinance should stand as is.

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

A. PLANNING COMMISSION – MINUTES MARCH 4, 2009

B. BERKELEY COUNTY ANIMAL CONTROL – REPORT FEBRUARY 2009 AND MARCH 2009

C. VETERANS SERVICE ORGANIZATION – MINUTES MARCH 19, 2009

D. MARTINSBURG-BERKELEY COUNTY PARKS & RECREATION – MINUTES FEBRUARY 17, 2009

Motion made by Councilman Wachtel, seconded by Councilman Parkinson to receive and file items 11 a-d. Motion carried unanimously.

12. REPORTS OF CHAIRPERSONS OF COUNCIL STANDING COMMITTEES

A. COUNCIL AS A WHOLE COMMITTEE - MINUTES 4-01-09

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Motion made by Councilman Lewis, seconded by Councilman Wachtel to approve the Council as a Whole Committee meeting minutes of April 1, 2009. Motion carried unanimously.

The Council as a Whole Committee meeting minutes of April 1, 2009 were as follows:

**COUNCIL AS A WHOLE COMMITTEE MEETING
WEDNESDAY, APRIL 1, 2009 – 4:30 p.m.**

PRESENT: Mayor George Karos, Richard Yauger, Max Parkinson, Roger Lewis and Dennis J. Etherington

OTHERS PRESENT: Mark S. Baldwin, City Manager; Fire Chief Paul E. Bragg; Mike Covell, City Engineer/Planning Director; Tracy Smith, City Planner and HPRC members Don Wood and Keven Walker

UNABLE TO ATTEND: Councilmembers Betty Gunnoe, Gregg Wachtel and Rodney Woods

Mayor Karos opened the meeting and the following items were discussed:

Draft Outdoor Burning Ordinance – The consensus of the Committee was to forward the ordinance for 1st and 2nd reading at the April 9, 2009 City Council meeting.

Historic District Overlay Expansion Overview – HPRC members and City staff provided an overview of the proposed expansion. They indicated there were no public comments at the HPRC public meeting and explained future steps to approve the district. **Questions and comments from Councilmembers:**

Mayor Karos suggested making the Boyd Avenue area contiguous to the existing district. This would prevent a 2nd district from being created. HPRC members and City staff members felt HPRC Commission would be in agreement with this suggestion.

Councilman Yauger asked how S. Queen Street was selected. Mike Covell stated the properties included on S. Queen Street are those properties fronting S. Queen Street only. Councilman Yauger asked if any properties on South Street were considered. Mike Covell stated “No”.

Councilman Yauger also asked about the Boydville property. Tracy Smith responded the rear access of Boydville and the old law firm building is included.

Roger Lewis requested that proper public hearing signs be posted throughout the proposed expanded neighborhoods for the Planning Commission Public Hearing. He also suggested that a fact sheet be provided for councilmembers and the general public.

Councilman Max Parkinson commended HPRC and City staff and indicated the expansion would be good.

Next Steps:

HPRC and City staff recommended that Council’s recommendation to include all of Boyd Avenue area in the expanded district be forwarded back to the HPRC Commission.

HPRC will consider Council comments and forward a final draft of the expansion district for Council review.

Upon Council approval, HPRC will make application to the Martinsburg Planning Commission and a map amendment

The Martinsburg Planning Commission will conduct a public hearing on the proposed historic district expansion.

The Planning Commission recommendation will be forwarded to City Council.

Example Ordinance Language for Garage / Yard Sales – The Committee discussed this issue and recommended additional information be provided for future consideration.

B. BUDGET AND FINANCE COMMITTEE – MINUTES 4-01-09

Motion made by Councilman Lewis, seconded by Councilman Woods to approve the Budget and Finance Committee meeting minutes of April 1, 2009. Motion carried unanimously.

The Budget and Finance Committee meeting minutes of April 1, 2009 were as follows:

BUDGET & FINANCE COMMITTEE MEETING MINUTES

April 1, 2009

approximately 4:45 p.m. (following Council As A Whole Committee Meeting)

Present: Chairman of Budget & Finance Committee, Richard Yaeger; Roger Lewis, and Max Parkinson

Others Present: Mayor George Karos, Mark S. Baldwin, City Manager; and Councilmember Dennis J. Etherington

Unable to Attend: Rodney Woods and Gregg Wachtel

Chairman Yaeger opened the meeting and the following was discussed:

1. Martinsburg-Berkeley County Parks & Recreation request for additional funding for their operational budget

Mr. Yaeger explained Parks & Rec was requesting additional funds with an amendment to the current breakdown of funds from the Hotel/Motel Tax.

PRESENT BREAKDOWN OF 6% HOTEL/MOTEL TAX:

- 3%, per State Code, is allocated to the CVB
- 1.5% is dedicated to the Parks & Rec Board for their O&M Budget
- 1.5% was dedicated to paying back the City's Reserve Fund for funding the Rec Center Wings (\$750,000)

PROPOSED BREAKDOWN

- 3% Hotel/Motel Tax remains with the CVB, per State Code
- 2% is allocated to Parks & Rec Board for O&M expense – O&M Budget would increase from \$90,000 to \$120,000, a \$30,000 increase
- 1% would go towards paying back the City's Reserve Account for the Rec Center funding. The City would collect \$60,000 per year instead of \$90,000. This would increase the estimated loan pay off to be 7.33 years rather than 4.89 years (difference of 2.44 years longer).

The consensus of the Committee was to recommend the above-referenced proposed breakdown to City Council. The Committee also recommends fireworks funding be maintained from the City in the amount of \$10,000 and that Parks & Rec include “the fireworks are sponsored by the City of Martinsburg”, when advertising the event. The

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Committee also recommended that the Parks & Rec Board consider setting aside some of the additional \$30,000 in a capital improvement reserve account for future projects.

2. B&O Tax Credit Ordinances Amendments

The consensus of the Committee was to recommend to City Council to forward the ordinances for 1st and 2nd reading at the April 9, 2009 City Council meeting. Amended language in the ordinance specifies that “the credit may only be taken when an otherwise qualifying business files the required Business & Occupation Tax return on or before the required due date. If the return is not filed timely, then the credit will be disallowed”.

13. REPORT OF MAYOR

The City Recorder advised Mayor Karos was recommending the reappointment of the individuals listed under 13 a, b and c.

A. REAPPOINT THE FOLLOWING INDIVIDUAL TO THE MARTINSBURG HOUSING AUTHORITY:

DONALD ANDERSON – TERM 5-04-09 – 5-04-14

Motion made by Councilman Wachtel, seconded by Councilman Parkinson to reappoint Donald Anderson to the Martinsburg Housing Authority with a term of 5-04-09 – 5-04-14. Motion carried unanimously.

B. REAPPOINT THE FOLLOWING INDIVIDUAL TO THE MARTINSBURG/BERKELEY COUNTY PARKS AND RECREATION BOARD:

ROGER ENGLE – TERM 5-01-09 – 5-01-12

Motion made by Councilman Woods, seconded by Councilman Wachtel to reappoint Roger Engle to the Martinsburg/Berkeley County Parks and Recreation Board with a term of 5-01-09 – 5-01-12. Motion carried unanimously.

C. REAPPOINT THE FOLLOWING INDIVIDUALS TO THE MARTINSBURG SHADE TREE COMMISSION:

GINGER GRIMES – TERM 5-09-09 – 5-09-12
MARY BOYD KEARSE – TERM 5-09-09 – 5-09-12

Motion made by Councilman Lewis, seconded by Councilman Woods to reappoint Ginger Grimes and Mary Boyd Kearse to the Martinsburg Shade Tree Commission both with terms of 5-09-09 – 5-09-12. Motion carried unanimously.

D. SCHEDULE SPECIAL CITY COUNCIL MEETING FOR TUESDAY, APRIL 21, 2009 TO APPROVE FY 2009-2010 LEVY RATES AND OTHER ITEMS AS NECESSARY – 5:00 P.M.

The City Recorder announced there would be a special City Council meeting on Tuesday, April 21, 2009 to approve the FY 2009-2010 Levy Rates and other items as necessary at 5:00 p.m.

E. SCHEDULE SPECIAL CITY COUNCIL MEETING ON TUESDAY, MAY 5, 2009 TO APPROVE THE FIVE YEAR CONSOLIDATES PLAN FOR 2009-2013 AND THE FY 2009 ANNUAL PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG) AND HOME AND OTHER ITEMS AS NECESSARY – 5:00 P.M.

The City Recorder announced there would be a special City Council meeting on Tuesday, May 5, 2009 to approve the Five Year Consolidated Plan for 2009-2013 and the FY 2009 Annual Plan for

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the Community Development Block Grant Program (CDBG) and HOME and other items as necessary at 5:00 p.m.

14. REPORT OF CITY ATTORNEY

The City Attorney had no report.

15. REPORT OF CITY MANAGER

The City Manager had no report.

16. UNFINISHED BUSINESS

There was no unfinished business.

17. NEW BUSINESS

A. FIRST AND SECOND READING OF ORDINANCE 2009-01 TO AMEND ARTICLE 951 GARBAGE COLLECTION SECTIONS 951.06, CHARGES FOR COLLECTION BY CITY, SECTIONS (A) AND (B)(2) OF THE MARTINSBURG CITY CODE

Motion made by Councilman Lewis, seconded by Councilman Wachtel to read through the first and second reading of Ordinance 2009-01 to amend Article 951 garbage collection Sections 951.06, charges for collection by City, Sections (a) and (b)(2) of the Martinsburg City Code, by title only. Motion carried unanimously.

The City Manager advised the City will run the appropriate legal advertisement for the public hearing to be held at the May 14, 2009 regular City Council meeting.

B. FIRST AND SECOND READING OF ORDINANCE 2009-02 AMENDING THE CITY OF MARTINSBURG CODE, PART 7, BY AMENDING AND REENACTING ARTICLE 755, SECTION 755.03 TO PROVIDE FOR A BUSINESS AND OCCUPATION TAX CREDIT FOR NEW BUSINESS

Motion made by Councilman Lewis, seconded by Councilman Woods to read through the first and second reading of Ordinance 2009-02 amending the City of Martinsburg Code, Part 7, by amending and reenacting Article 755, Section 755.03 to provide for a Business and Occupation Tax Credit for new business, by title only. Motion carried unanimously.

C. FIRST AND SECOND READING OF ORDINANCE 2009-03 AMENDING THE CITY OF MARTINSBURG CODE, PART 7, BY AMENDING AND REENACTING ARTICLE 755, SECTION 755.03A TO PROVIDE FOR THE DESIGNATION OF THE MARTINSBURG DOWNTOWN DEVELOPMENT DISTRICT AND BUSINESS AND OCCUPATION TAX CREDIT FOR THE MARTINSBURG DOWNTOWN DEVELOPMENT DISTRICT

Motion made by Councilman Wachtel, seconded by Councilman Lewis to read through the first and second reading of Ordinance 2009-03 amending the City of Martinsburg Code, Part 7, by amending and reenacting Article 755, Section 755.03A to provide for the designation of the Martinsburg Downtown Development District and Business and Occupation Tax Credit for the Martinsburg Downtown Development District, by title only. Motion carried unanimously.

D. FIRST AND SECOND READING OF ORDINANCE 2009-04 TO AMEND ORDINANCE 2004-22 PROVIDING FOR THE CONTROL OF BACKFLOW AND CROSS-CONNECTIONS WITHIN THE SERVICE AREA OF THE CITY OF MARTINSBURG

Motion made by Councilman Wachtel, seconded by Councilman Woods to read through the first and second reading of Ordinance 2009-04 to amend Ordinance 2004-22 providing for the control of

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backflow and cross-connections within the service area of the City of Martinsburg, by title only. Motion carried unanimously.

E. FIRST AND SECOND READING OF ORDINANCE 2009-05 TO PROVIDE FOR REGULATIONS GOVERNING OUTDOOR BURNING IN THE MUNICIPAL LIMITS OF THE CITY OF MARTINSBURG

Motion made by Councilman Lewis, seconded by Councilman Wachtel to read through the first and second reading of Ordinance 2009-05 to provide for regulations governing outdoor burning in the municipal limits of the City of Martinsburg, by title only. Motion carried unanimously.

F. DISCUSS DRAFT FLOODPLAIN ORDINANCE

The City Engineer/Planning Director reported that the current floodplain Ordinance has been in place since 1997 and the City will be receiving a new set of floodplain maps. The City Engineer/Planning Director advised the maps are much improved and much more effective. The City Engineer/Planning Director further advised FEMA has required the City of Martinsburg to update the floodplain Ordinance. The City Engineer/Planning Director reported that the revised Ordinance clarifies terms and provides clarity on how to guide individuals through the development process and allows some relief to individuals that wish to put accessory structures on their property. The City Engineer/Planning Director felt the revised Ordinance has more enforcement ability.

Councilman Woods questioned if any communications will be provided to individuals that live in the affected areas.

The City Engineer/Planning Director advised individuals in the floodplain area will not be affected.

G. APPROVE/DENY ADDITIONAL FUNDING ALLOCATION FOR MARTINSBURG/BERKELEY COUNTY PARKS & RECREATION – HOTEL/MOTEL TAX

Motion made by Councilman Wachtel, seconded by Councilman Parkinson to approve an additional funding allocation for the Martinsburg/Berkeley County Parks & Recreation from the Hotel/Motel Tax. Motion carried unanimously.

H. DISCUSS EXPANSION OF HISTORIC DISTRICT OVERLAY, FROM HISTORIC PRESERVATION REVIEW COMMISSION (HPRC), AND FORWARD COMMENTS TO HPRC AS RECOMMENDED AT THE APRIL 1, 2009 COMMITTEE MEETING

During the April 1, 2009 Council as a Whole Committee meeting the consensus of Council was to make the Boyd Avenue area contiguous to the existing district. This would prevent a 2nd district from being created.

Motion made by Councilman Woods, seconded by Councilman Wachtel to forward Council comments to the Historic Preservation Review Commission (HPRC) as recommended at the April 1, 2009 Committee meeting. Motion carried unanimously.

The City Manager stated this will go back to the HPRC for revisions then come back to Council for approval. Once Council approves the document it will go to the Planning Commission.

I. APPROVE/DENY LEASE BETWEEN CITY OF MARTINSBURG AND EASTERN PANHANDLE SAFE COMMUNITY/CITY OF MARTINSBURG

Motion made by Councilman Lewis, seconded by Councilman Parkinson to approve the lease between the City of Martinsburg and the Eastern Panhandle Safe Community/City of Martinsburg. Motion carried unanimously.

J. APPROVE/DENY LEASE BETWEEN CITY OF MARTINSBURG AND PULLIN,

FOWLER, FLANAGAN, BROWN & POE, PLLC – CAPERTON OFFICE SUITES

Motion made by Councilman Wachtel, seconded by Councilman Woods to approve the lease between the City of Martinsburg and Pullin, Fowler, Flanagan, Brown & Poe, PLLC for space at the Caperton Office Suites. Motion carried unanimously.

The City Manager reported that the Caperton office suites are now full.

**K. APPROVE/DENY REQUEST OF BERKELEY COUNTY ROUNDHOUSE
AUTHORITY TO UTILIZE SPACE AT CAPERTON OFFICE SUITES 2ND FLOOR
CURRENTLY LEASED BY GEORGE WASHINGTON HERITAGE TRAIL**

The City Manager reported the original renovations to the Caperton Train Station originated with a grant through the George Washington Heritage Trail to renovate the second and third floors. The City Manager further reported Council recently approved them moving out of the second floor to the porch level. The City Manager advised there will be no money exchanging from the Roundhouse Authority to the George Washington Heritage Trail. The George Washington Heritage Trail and the Roundhouse Authority felt it would be more conducive for visibility and marketing to be located at the Caperton Office Suites. The City Manager further stated there is no money being exchanged between the George Washington Heritage Trail and the City of Martinsburg for lease payment. It is based on the square footage as to what the lease would be until that amount of funds run out under a term period. The City Manager advised the City of Martinsburg is paying for the utilities and the City would have a small amount of electric to pay for the Roundhouse Authority.

Motion made by Councilman Wachtel, seconded by Councilman Lewis to approve the request of the Berkeley County Roundhouse Authority to utilize space at the Caperton Office Suites on the 2nd floor which is currently leased by the George Washington Heritage Trail. Motion carried unanimously.

The City Manager advised the City will generate a lease, with a term, for the Berkeley County Roundhouse Authority and require a certificate of liability insurance naming the City of Martinsburg as an additional insured.

**L. APPROVE/DENY PURCHASE OF SIX (6) BALLISTIC VESTS – WEST VIRGINIA
UNIFORMS – \$3,408.00 – MARTINSBURG FIRE DEPARTMENT WITH FUNDS TO
BE TAKEN FROM THE FIRE/EMS FUND**

Motion made by Councilman Woods, seconded by Councilman Wachtel to approve the purchase of six ballistic vests from West Virginia Uniforms, in the amount of \$3,408, for the Martinsburg Fire Department with funds to be taken from the Fire/EMS Fund. Motion carried unanimously.

**M. APPROVE/DENY MARCH OF DIMES ANNUAL “MARCH FOR BABIES” ON
SATURDAY, APRIL 25, 2009 BEGINNING AT 9:30 A.M.**

Motion made by Councilman Lewis, seconded by Councilman Wachtel to approve the March of Dimes annual “March for Babies” on Saturday, April 25, 2009 beginning at 9:30 a.m. Motion carried unanimously.

**N. APPROVE/DENY 2009 MARTINSBURG MS WALK – SUNDAY, APRIL 26, 2009
FROM 1:00 P.M. TO 4:00 P.M.**

Motion made by Councilman Wachtel, seconded by Councilman Woods to approve the 2009 Martinsburg MS Walk on Sunday, April 26, 2009 from 1:00 p.m. to 4:00 p.m. Motion carried unanimously.

**O. APPROVE/DENY BERKELEY COUNTY MINISTERIAL GOOD FRIDAY CROSS
WALK IN DOWNTOWN BEGINNING AT TRINITY UNITED METHODIST CHURCH
AT 10:30 A.M. TO NOON – FRIDAY APRIL 10, 2009**

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Motion made by Councilman Wachtel, seconded by Councilman Parkinson to approve the Berkeley County Ministerial Good Friday Cross Walk in downtown beginning at Trinity United Methodist Church at 10:30 a.m. to noon on Friday April 10, 2009. Motion carried unanimously.

18. 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)**

There was no executive session.

19. ADJOURNMENT

Motion made by Councilman Parkinson, seconded by Councilman Wachtel to adjourn the meeting at 7:15 p.m. Motion carried unanimously.

Sharon A. Flick, City Recorder