

**City Of Martinsburg
Regular Council Meeting
March 8, 2012
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 6:36 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 and Mark Spickler, Finance Director.

Motion made by Councilman Lewis, seconded by Councilwoman Gunnoe, to allow Councilman Wachtel to run the meeting in Mayor Karos's stead. Motion carried unanimously.

3. Salute to Flag

Councilman Woods led the Salute to the Flag.

4. Prayer—Pastor Danny Custer—Martinsburg Union Rescue Mission

Pastor Custer delivered the invocation.

5. Approve February 9, 2012 regular Council meeting minutes

Motion made by Councilwoman Gunnoe, seconded by Councilman Parkinson, to approve the February 9, 2012 regular Council meeting minutes. Motion carried unanimously.

6. Approve January 2012 Administrative and Financial Report.

Motion made by Councilman Yauger, seconded by Councilman Woods, to approve the January 2012 Administrative and Financial Report. Motion carried unanimously.

7. Presentations

(a) Proclamation—Fair Housing Month—April 2012

The City Recorder read the Proclamation.

(b) Proclamation—100th Anniversary of the Girl Scouts of the USA—March 12, 2012

The City Recorder read the Proclamation and presented it to the Girl Scouts.

(c) Chesapeake Bay Community Trees Grant—Herb Peddicord, Chesapeake Bay Watershed Forester, WV Division of Forestry (Move item 15f up for approve/deny).

Mr. Herb Peddicord, WV Division of Forestry, explained that the Division is working with communities to maintain urban tree canopies. He encouraged the City to set an urban tree canopy goal to increase or at least maintain the current percentage of tree canopy and stated that a \$10,000 grant is available, with at least half to go toward tree planting.

Mr. Baldwin stated that the initiative will tie in well with the MS4 projects and help the Shade Tree Commission to update records and maintain canopy levels, adding that staff is in favor of the request.

Council considered item 15f at this time.

Approve/deny Chesapeake Bay Trees Grant letter of intent to apply for grant funds--\$20,000 (\$10,000 Bay Grant, \$10,000 City match, with \$5,000 in kind.)

Motion made by Councilwoman Gunnoe, seconded by Councilmen Yauger and Parkinson, to approve the Chesapeake Bay Trees Grant letter of intent to apply for grant funds--\$20,000 (\$10,000 Bay Grant, \$10,000 City match, with \$5,000 in kind). Motion carried unanimously.

8. Petitions From Citizens

- Mr. Joe Gray, 405 Sweetbriar Road, spoke in support of item 14A. Mr. Gray thanked Legal Counsel Kin Sayre for working with him to create a Resolution to present to Council. Mr. Gray stated that he has one reservation about the presented Resolution, and that is that it does not include a reference to amending the Constitution, but that it is implied and the Resolution is worthy as worded.

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

- (a) Martinsburg Board of Zoning Appeals January 03, 2012 meeting minutes
- (b) Martinsburg-Berkeley County Parks and Recreation Board January 17, 2012 meeting minutes.
- (c) City of Martinsburg Police Department Calendar Year 2011 Statistical Activities Report.

Motion made by Councilman Yauger, seconded by Councilwoman Woods to receive and file items 9a-9c. 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) Appoint Ms. Terry Colburn to the Martinsburg Historic Preservation Review Commission to fill expired term beginning 1/1/2012 and ending 1/1/2015.

Motion made by Councilman Lewis, seconded by Councilman Parkinson to accept Mayor Karos's recommendation and appoint Ms. Terry Colburn to the Martinsburg Historic Review Commission to fill expired term beginning 1/1/2012 and ending 1/1/2015. Motion carried unanimously.

(b) Appoint Mr. Michael L. Kyne, Jr. to the Martinsburg Historic Preservation Review Commission to fill the unexpired term beginning 1/21/2011 and ending 1/21/2014.

Motion made by Councilman Yauger, seconded by Councilman Etherington, to accept Mayor Karos's recommendation and appoint Mr. Michael L. Kyne, Jr. to the Martinsburg Historic Preservation Review Commission to fill the unexpired term beginning 1/21/2011 and ending 1/21/2014. Motion carried unanimously.

(c) Appoint Ms. April J. King to the Martinsburg Board of Zoning Appeals as an alternate to fill unexpired term beginning 1/1/2010 and ending 1/1/2013.

Motion made by Councilman Lewis, seconded by Councilman Etherington, to accept Mayor Karos's recommendation and appoint April J. King to the Martinsburg Board of Zoning Appeals as an alternate to fill unexpired term beginning 1/1/2010 and ending 1/1/2013. Motion carried unanimously.

(d) Appoint Ms. Brenda Orndorff to the Eastern Panhandle Transit Authority to fill the unexpired term beginning 8/1/11 and ending 8/1/14.

Motion made by Councilman Yauger, seconded by Councilman Woods, to accept Mayor Karos's recommendation and appoint Ms. Brenda Orndorff to the Eastern Panhandle Transit Authority to fill the unexpired term beginning 8/1/11 and ending 8/1/14. Motion carried unanimously.

(e) Approve staff committee to evaluate engineer qualification statements for the Waste Water Treatment Plant Upgrade Project (Utilities Director Steve Knipe, City Engineer/Planning Director Michael Covell, Assistant Utilities Director James Kelly, Chief Operator Waste Water Treatment Plant Kenny Michael and City Manager Mark Baldwin)

Motion made by Councilman Etherington, seconded by Councilman Yauger, to approve staff committee to evaluate engineer qualification statements for the Waste Water Treatment Plant Upgrade Project (Utilities Director Steve Knipe, City Engineer/Planning Director Michael Covell, Assistant Utilities Director James Kelly, Chief Operator Waste Water Treatment Plant Kenny Michael and City Manager Mark Baldwin). Motion carried unanimously.

(f) Appoint Roger Lewis and Dennis Etherington as co-chairs for the "Take Pride in Your Community Spring Clean-up" event.

Motion made by Councilman Woods, seconded by Councilman Parkinson, to appoint Roger Lewis and Dennis Etherington as co-chairs for the "Take Pride in Your Community Spring Clean-up" event. Motion carried unanimously.

(g) Schedule Budget and Finance Committee meeting for Wednesday, March 21, 2012 at 4:30 PM.

Acting Mayor Wachtel scheduled a Budget and Finance Committee for Wednesday, March 21, 2012 at 4:30 PM.

(h) Schedule Special City Council meeting for Tuesday, March 27, 2012 at 5:00 PM.

Acting Mayor Wachtel scheduled a Special City Council meeting for Tuesday, March 27, 2012 at 5:00 pm.

12. Report of City Attorney

There was no report of the City Attorney.

13. Report of City Manager

(a) Projects update.

City Manager Mark Baldwin discussed the Raleigh Street Project, which is well underway and the TIF Project which should be complete within the next sixty days.

(b) Transportation Enhancement Grant—Train Station Corridor--\$656,151.00 (\$524,920.80 grant funds, 131,230.20 city match)

Mr. Baldwin stated that the grant application has been submitted, and money is set aside in the City's budget to meet the match requirement, should it be approved.

(c) Wastewater treatment plant upgrade project—update.

Mr. Baldwin stated that he and Utilities Director Steve Knipe had been to Charleston twice to discuss the project with the Infrastructure and Jobs Council, who recommended that the City apply to the state revolving fund for a 30 year, zero interest loan for the entire amount (\$47 million plus a .5% administrative fee) though the City is hoping for grants which would lower the loan amount.

He reminded Council that the project is to bring the City into compliance with the EPA/DEP guidelines for the Chesapeake Bay by the deadline of December of 2015.

14. Unfinished Business

(a) Resolution 2012-04: Resolution of the Council of the City of Martinsburg calling upon the United States Congress to ensure a fair and equitable electoral process

Mr. Sayre explained that the Resolution is asking Congress to review the electoral process, taking what steps are necessary to ensure a fair and equitable process, including, but not limited to a Constitutional amendment.

Motion made by Councilman Woods, seconded by Councilman Lewis to approve Resolution 2014-04: Resolution of the Council of the City of Martinsburg calling upon the United States Congress to ensure a fair and equitable electoral process. Motion carried unanimously.

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

Motion made by Councilwoman Gunnoe, seconded by Councilman Woods to remove item 14b from the table for further discussion and decision. Motion carried unanimously.

Mr. Sayre explained that the Diocese's request to demolish the structure was denied by the Historic Preservation Review Commission (HPRC) after considerable discussion at a public hearing. After asking questions of the representative of the Diocese, the HPRC made the determination that the structure contributed to the character of the neighborhood and the historic overlay district.

City Engineer/Planning Director Michael Covell stated that the Planning Department review was general in nature, not analytical, no samples were collected for testing. The inspection was done from a safety standpoint, and it was discovered that the east face has the most issues. The structure, he said, is intact and sound, it has obviously settled, but Mr. Covell believes it is not actively settling. Mr. Covell added that the far eastern corner of the 2nd floor is in most immediate need of renovation, due to a leaking roof that has not been repaired. Mr. Covell stated that he does not believe the conditions in the structure are toxic, and neither he nor the other inspectors have suffered any ill effects from being inside the structure.

He pointed out that the systems have been upgraded, are probably functional, but would most likely not pass inspection. He also stated that he noticed signs of activity in the structure until a few months past and that much of the original wood floors and characteristics are salvageable.

Mr. Covell stated that his inspection was conducted on the use of the structure as residential and he finds it to have suffered from lack of maintenance.

Councilman Yauger suggested that the structure be demolished due to the low value and high cost of maintenance, he cannot see putting the estimated \$160,000 for remediation into this structure.

Councilman Woods asked Mr. Covell if the Planning department inspection had included an estimate of cost to repair.

Mr. Covell responded that a cost to repair was intentionally not part of the inspection, but the estimates given by the Diocese far exceed what would be required to meet minimum code requirements.

Mr. John Reardon, Diocese of Wheeling, stated that the Parish had been instructed to discontinue use of the building on a regular basis and had hired a third party to conduct an environmental evaluation. He believes the building is in worse condition than was reported in the Planning Department report, and that he had two independent companies give estimates to remediate the structure and restore it back to its original use and condition.

Mr. John Gongola, SDI Environmental, 1920 Main Street, Wheeling, stated that the structure does have hazardous environmental issues, such as bird and bat droppings and black mold. He said he cannot guarantee that the house could be made environmentally safe, even after remediation, because of the hazardous black mold, which is a zero tolerance mold.

Mr. Keven Walker, HPRC Vice-Chairman, explained that he is also a preservation professional for the National Park Service. He reminded the Council that the HPRC is appointed to review historic preservation requests, keeping in mind what is best for the City. The HPRC does not draw a line in the sand, and does try to work with property owners and have common sense, and it is rare that a request is denied with a unanimous decision, as was the case with this structure.

Mr. Walker addressed the condition of the property; his professional opinion is that demolition is not the only option. He also stated that the structure has historical significance and that preservation should be considered a tool for economic development and the future of Martinsburg. Mr. Walker pointed out that the City is losing structures that define the City, and that Martinsburg should look to enhance what it has.

Mr. Walker stated that the structure is in need of repair because maintenance was not done. The structure, he pointed out, was used as a maintenance office and shed by the Church and he finds it hard to believe that all need for routine maintenance was overlooked. This structure, he said, is an example of demolition by neglect and should not be tolerated; that the City should expect property owners to take care of their structures, have enough pride in our City to take, at least, the minimum of care for the structures. The HPRC believes that allowing demolition will send the message that it is acceptable to allow buildings to fall to such a state of disrepair that demolition is the only option.

Mr. Herb Peddicord stated that he had once lived in that home, and it was renovated in 1991. The house, he said, is a solid, sound house, virtually a log cabin underneath. Mr. Peddicord stated that he approached church officials about 4-5 years ago regarding the roof needing repair, so they were aware. Mr. Peddicord stated that the house may not be of historical value, but he would not like to see it demolished.

Mr. Clarence E. Martin II, 6393 Arden Nolville Road, stated that he has been involved in extensive remediation and restoration work via the Roundhouse Authority, and finds that the cost of work often exceeds the estimate, that the true nature of the remediation cannot be determined until one uncovers the “bones” of the structure.

Mr. Martin went on to say that restoration is very expensive and the extent cannot be determined by looking at the surface. He pointed out that the house is the sole house on a commercial block and, as such, is not in harmony with the neighborhood. Mr. Martin indicated that, per the Martinsburg Zoning Ordinance, the HPRC is only concerned with exterior architectural features as can be seen from the street, and that this structure does not have any, does not fit into the neighborhood and does not add to the streetscape.

Councilman Lewis stated that the HPRC’s decision prohibited the demolition of the structure, it did not say that one nickel had to be spent to rehab the building.

Mr. Sayre stated that the Planning Department would require some remediation, to ensure that the structure meets current code.

Councilman Lewis asked if the Diocese had considered selling the property.

Mr. Martin responded that he does not know anyone who would purchase the property knowing the amount of money required to bring it up to standards, it is an environmental hazard and has no marketable value.

Councilman Lewis disagreed, stating that investors are purchasing homes and renovating them, mostly self-employed contractors with the skills to bring the buildings back.

Councilman Woods asked if the structure had been cited for code violations. Mr. Covell stated that there is no record of any citations.

Motion made by Councilman Woods, seconded by Councilman Yauger, to grant the Diocese’s appeal of the HPRC’s decision. Councilman Parkinson called for a roll call vote, in which Councilpersons Woods, Etherington, Yauger, Parkinson and Gunnoe voted “aye.” Councilman Lewis voted “no.” Motion carried.

15. New Business

(a) First and Second reading of Ordinance 2012-01: An Ordinance to provide for the adoption, approval and implementation of an intergovernmental agreement between the City of Martinsburg, West Virginia, a municipal corporation, and Blue Ridge Community and Technical College, a state institution of higher education, to enter into an agreement for an alternate mainline extension agreement

Motion made by Councilman Gunnoe, seconded by Councilman Woods, to hear the First and Second reading of Ordinance 2012-01: An Ordinance to provide for the adoption, approval and implementation of an intergovernmental agreement between the City of Martinsburg, West Virginia, a municipal corporation, and Blue Ridge Community and Technical College, a state institution of higher education, to enter into an agreement for an alternate mainline extension agreement. Motion carried unanimously.

(b) Approve/deny Resolution 2012-05: A Resolution of the City Council of the City of Martinsburg to approve amendment of FY 2010 and FY 2011 HOME program funds to area-wide for Homebuyer Assistance

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger, to approve Resolution 2012-05: A Resolution of the City Council of the City of Martinsburg to approve amendment of FY 2010 and FY 2011 HOME program funds to area-wide for Homebuyer Assistance. Motion carried unanimously.

(c) Approve/deny authorization for either the Mayor or the City Manager to sign the Grantee Closeout Certification and Grant Closeout Agreement for the Community Development Block Grant-Recovery (CDBG-R) Program, Grant B-09-MY-54-0006.

Motion made by Councilwoman Woods, seconded by Councilman Etherington, to approve authorization for either the Mayor or the City Manager to sign the Grantee Closeout Certification and Grant Closeout Agreement for the Community Development Block Grant-Recovery (CDBG-R) Program, Grant B-09-MY-54-0006. Motion carried unanimously.

(d) Approve/Deny Draft FY 2012-2013 Community Development Block Grant Program (CDBG) and HOME investment Partnership Annual Action Plan.

Motion made by Councilman Yauger, seconded by Councilwoman Gunnoe, to approve Draft FY 2012-2013 Community Development Block Grant Program (CDBG) and HOME investment Partnership Annual Action Plan. Motion carried unanimously.

(e) Approve/deny Deed of Dedication to the City of Martinsburg for alleyway north of W. Race Street and west of Boyd Avenue.

This item was stricken as the Deed of Dedication was not yet available.

(f) Approve/deny Chesapeake Bay Trees Grant letter of intent to apply for grant funds--\$20,000 (\$10,000 Bay Grant, \$10,000 City match, with \$5,000 in kind.)

See item 7C.

(g) Approve/deny bid for installation of DI Voice Vault ® II Digital Audio Recorder at City Police Headquarters—Stephen Campbell and Associates--\$13,595

Motion made by Councilman Etherington, seconded by Councilman Woods to approve bid for installation of DI Voice Vault ® II Digital Audio Recorder at City Police Headquarters—Stephen Campbell and Associates--\$13,595, from the Police Fund. Motion carried unanimously.

(h) Approve/deny bid for demolition of Orchard House and other structures (bid opening 3/6/12)

Motion made by Councilman Woods, seconded by Councilman Parkinson, to approve bid for demolition of Orchard House and other structures--\$11,445 to United Wreckers. Motion carried unanimously.

(i) Approve/deny bid for bay addition at Public Works—Minghini's General Contractors, Inc.--\$210,830.00

Mr. Baldwin stated that this is project has been budgeted in the current year and has come in under budget.

Motion made by Councilman Yauger, seconded by Councilman Lewis, to approve bid for bay addition at Public Works—Minghini's General Contractors, Inc.--\$210,830.00. Motion carried unanimously.

(j) Approve/deny request for permission, and approval of route, on behalf of the Berkeley County Ministerial Association to conduct the Good Friday Crosswalk on April 6, 2012 from 10:30 am until 12:00 pm.

Motion made by Councilman Yauger, seconded by Councilman Etherington, to approve request for permission, and approval of route, on behalf of the Berkeley County Ministerial Association to conduct the Good Friday Crosswalk on April 6, 2012 from 10:30 am until 12:00 pm. Motion carried unanimously.

Police Chief Kevin Miller said he had no issue with the event.

(k) Approve/deny the Gateway Garden Club's request to landscape the area around the Bishop Monument at the three-way junction of Stephen Street, Faulkner Avenue and Virginia Avenue.

Motion made by Councilman Woods, seconded by Councilwoman Gunnoe, to approve the Gateway Garden Club's request to landscape the area around the Bishop Monument at the three-way junction of Stephen Street, Faulkner Avenue and Virginia Avenue. Motion carried unanimously.

(l) Approve/deny the following Standard Operating Procedures for the Martinsburg Fire Department

- i. Rope Rescue Operations**
- ii. Specialized Technical Operations Team**
- iii. Structural Collapse Search and Rescue**
- iv. Trench Rescue Operations**
- v. Confined Space Search and Rescue**
- vi. Emergency Medical Services: EMS Supplies and Restocking**

Motion made by Councilman Etherington, seconded by Councilman Yauger, to approve the above Standard Operating Procedures for the Martinsburg Fire Department. Motion carried unanimously.

(m) Approve/deny City of Martinsburg's 22nd Annual "Take Pride in your Community" Spring Clean-up event for May 19, 2012.

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger, to approve City of Martinsburg's 22nd Annual "Take Pride in your Community" Spring Clean-up event for May 19, 2012. Motion approved unanimously.

(n) Approve/deny Prosperity Landscaping services for Town Square Pedestrian Plaza--\$2600.00

Mr. Baldwin explained that the services will include maintenance for approximately 4-6 months and recommended approval as the landscaping is under a one year warranty.

Motion made by Councilman Yauger, seconded by Councilwoman Gunnoe, to approve Prosperity Landscaping services for Town Square Pedestrian Plaza--\$2600.00. Motion carried unanimously.

(o) Discuss FY 2012-2013 property tax levy rates.

Mr. Baldwin recommended the minimum levy increase with no public hearing requirement, Council agreed.

(p) Approve/deny Eastern Panhandle TrailBlazer's request for a sprint from S. Queen to Town Square as part of Heritage Days events—May 12, 2012.

This item was stricken from the agenda as the event was cancelled.

(q) Approve/deny The Arts Centre's request to hold Wine and Arts Festival on the lawn of Boydville, Saturday May 26, 2012 and Sunday, May 27, 2012, including approval of letter of endorsement to ABC Commission and Public Works assistance.

Motion made by Councilman Woods, seconded by Councilmen Etherington and Yauger, to approve The Arts Centre's request to hold Wine and Arts Festival on the lawn of Boydville, Saturday May 26, 2012 and Sunday, May 27, 2012, including approval of letter of endorsement to ABC Commission and Public Works assistance. Motion carried unanimously.

(r) Approve/deny Resolution 2012-06: A Resolution 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 cornice and roof repairs at the Apollo Civic Theatre.

Motion made by Councilman Yauger, seconded by Councilwoman Gunnoe, to approve Resolution 2012-06: A Resolution 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 cornice and roof repairs at the Apollo Civic Theatre. Motion carried unanimously.

17. Executive Session

No executive session was needed.

Adjournment

Motion made by Councilman Parkinson, seconded by Councilwoman Yauger to adjourn at 8:00 PM. Motion carried unanimously.

George Karos, Mayor

Gena Long, City Recorder