

**CITY OF MARTINSBURG  
REGULAR COUNCIL MEETING  
JANUARY 8, 2009  
THE J. OAKLEY SEIBERT COUNCIL CHAMBERS**

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

**3. SALUTE TO FLAG**

Councilman Wachtel led the Pledge of Allegiance to the Flag.

**4. PRAYER**

The invocation was given by Mayor Karos.

**5. APPROVE DECEMBER 11, 2008 REGULAR COUNCIL MEETING MINUTES**

Motion made by Councilman Wachtel, seconded by Councilman Woods to approve the December 11, 2008 regular Council meeting minutes. Motion carried unanimously.

**6. APPROVE NOVEMBER 2008 ADMINISTRATIVE AND FINANCIAL REPORT**

Motion made by Councilman Yauger, seconded by Councilman Lewis to approve the November 2008 Administrative and Financial Report. Motion carried unanimously.

**INTRODUCTION OF BOY SCOUT TROOP 29 – UNITED METHODIST CHURCH  
PIKESIDE**

Mayor Karos introduced members of Boy Scout Troop 29 and welcomed them to the Council meeting.

**7. PUBLIC HEARING – SOLICIT CITIZEN COMMENTS TO PRESENT SUBSTANTIAL  
AMENDMENTS TO THE CITY OF MARTINSBURG'S FY 2007 ANNUAL ACTION  
PLAN FOR USE OF HOME INVESTMENT PARTNERSHIP PROGRAM FOR THE  
EASTERN PANHANDLE HOME CONSORTIUM OF WEST VIRGINIA**

Mayor Karos opened the public hearing to solicit citizen comments to present substantial amendments to the City of Martinsburg's FY 2007 Annual Action Plan for use of the HOME Investment Partnership Program for the Eastern Panhandle HOME Consortium of West Virginia at 6:35 p.m.

Ms. Pat McMillan, Community Development Director, reported the City of Martinsburg is the grantee of federal dollars through both the Community Development Block Grant program and the HOME Investment Partnerships program and annually a plan is prepared and submitted to HUD for approval. Ms. McMillan advised that, over the course of time, there are occasions where the programs need to be amended either by a minor amendment or a substantial amendment. Ms. McMillan further advised this request is a substantial amendment for funds that were programmed for Jefferson County. This amendment is to split a program into two parts with one portion to be used for construction of new affordable housing, or rehabilitation of housing in the amount of \$60,000 and the balance of the original funding to be used for direct homebuyer assistance.

Ms. McMillan reported that a notice was published thirty days in advance of this public hearing.

There were no comments from the public.

Mayor Karos closed the public hearing at 6:38 p.m.

**8. PRESENTATIONS**

**A. MAKE COMMENTS ON ABC APPLICATION FOR ROCK CLIFF PIZZA & SUBS –  
107 ROCK CLIFF DRIVE**

Ms. Gina Butts, Rock Cliff Pizza & Subs, was present to answer any questions.

Lieutenant Catlett advised the Police Department had no comments.

There were no negative comments regarding the ABC application for Rock Cliff Pizza & Subs.

Motion made by Councilman Wachtel, seconded by Councilman Woods to forward the ABC application for Rock Cliff Pizza & Subs to the ABC Commission without comment. Motion carried unanimously.

**B. FY 2007-2008 AUDIT OVERVIEW – COX HOLLIDA PRICE, LLP**

Mr. Chuck Young, Cox Hollida Price, LLP, gave a brief overview of the FY 2007-2008 City of Martinsburg audit. Mr. Young pointed out the City of Martinsburg has a new fund entitled “Other Post Employment Benefits”, which is a fund set up to help with the new GASB requirements of 43 and 45 related to post employment benefits. Mr. Young further pointed out the auditors have an unqualified opinion on the financial statements. Mr. Young noted there was positive activity in all funds.

The Finance Director pointed out that assets have been added to the funds, such as water lines, streets, etc.

Mr. Young advised that when a governmental entity is audited the audit is done under governmental auditing standards. Mr. Young further advised that one of the reports required is internal control and compliance. Mr. Young stated only one finding was found during their testing. Mr. Young further stated that from time to time there is a purchase order dated after the invoice, which is an internal control finding.

Mr. Young stated when federal funds are expended in excess of \$500,000 a special audit is required. Mr. Young further stated the Community Development Block Grant program was the largest program for federal funds. Mr. Young noted that there were no findings of compliance or internal control issues with the Community Development Block Grant program.

Mr. Young reported this is a fairly clean audit and appreciated the help the staff and management provided.

The Finance Director thanked the Assistant Finance Director for preparing most of the financial statements and working with the auditors on a daily basis.

**9. PETITIONS FROM CITIZENS**

There were no petitions from citizens.

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

**A. MARTINSBURG-BERKELEY COUNTY PARKS & RECREATION – MINUTES  
NOVEMBER 18, 2008**

**B. LETTER FROM U.S. SENATOR ROBERT C. BYRD TO MAYOR KAROS  
REGARDING THE DISCONTINUANCE OF THE 7:15 P.M. MARC TRAIN –  
NOVEMBER 19, 2008**

**C. LETTER FROM U.S. SENATOR ROBERT C. BYRD TO MAYOR KAROS  
REGARDING THE DISCONTINUANCE OF THE 7:15 MARC TRAIN –  
DECEMBER 11, 2008**

**D. LETTER FROM MARYLAND TRANSIT ADMINISTRATION DISCUSSING**

**MARC TRAIN SERVICE REDUCTIONS – DECEMBER 12, 2008**  
**E. LETTER FROM CHAMBER OF COMMERCE APPOINTING MR. TOM BELFIELD TO POLICE CIVIL SERVICE COMMISSION TO FILL UNEXPIRED TERM OF MR. BILL SITES, WHICH EXPIRES DECEMBER 31, 2009 – DECEMBER 22, 2008**

Motion made by Councilman Woods, seconded by Councilman Yauger to receive and file items 10 a-e. Motion carried unanimously.

**11. REPORTS OF CHAIRPERSONS OF COUNCIL STANDING COMMITTEES**

There were no reports of Chairpersons of Council Standing Committees.

**12. REPORT OF MAYOR**

**A. APPOINT THE FOLLOWING INDIVIDUAL TO THE BOARD OF ZONING APPEALS:**

**JIM CASTLEMAN – ALTERNATE TO FILL THE UNEXPIRED TERM OF BRENDA CASABONA – 1-01-07 – 1-01-10**

Mayor Karos recommended that Mr. Jim Castleman be appointed, as an alternate to the Board of Zoning Appeals, to fill the unexpired term of Brenda Casabona with the term being January 1, 2007 to January 1, 2010.

Motion made by Councilman Yauger, seconded by Councilman Parkinson to accept the recommendation of the Mayor. Motion carried unanimously.

**B. RESCHEDULE THURSDAY, FEBRUARY 12, 2009 REGULAR CITY COUNCIL MEETING TO THURSDAY, FEBRUARY 5, 2009 AT 6:30 P.M.**

Mayor Karos requested the Thursday, February 12, 2009 regular City Council meeting be rescheduled to Thursday, February 5, 2009 at 6:30 p.m.

Motion made by Councilman Lewis, seconded by Councilman Parkinson to reschedule the Thursday, February 12, 2009 regular City Council meeting to Thursday, February 5, 2009 at 6:30 p.m. Motion carried unanimously.

**13. REPORT OF CITY ATTORNEY**

The City Attorney reported the City of Martinsburg has received two positive decisions in recent legal matters. The City Attorney further reported Judge Sanders reversed the Fire Civil Service Commissions decision on a fireman. The City Attorney stated the Commission said the City was not correct in terminating the employee and Judge Sanders reversed the decision and said the City was correct in terminating the employee.

The City Attorney also advised that in a police matter the plaintiff has withdrawn his complaint.

**14. REPORT OF CITY MANAGER**

There was no report of the City Manager.

**15. UNFINISHED BUSINESS**

There was no unfinished business.

**16. NEW BUSINESS**

**A. ADOPT RESOLUTION 2009-01 AUTHORIZING GEORGE KAROS, MAYOR OF THE CITY OF MARTINSBURG, TO ENTER INTO A CONTRACTUAL AGREEMENT WITH THE WEST VIRGINIA DEVELOPMENT OFFICE TO RECEIVE GRANT FUNDS IN THE AMOUNT OF \$5,000 FOR THE MARTINSBURG-BERKELEY COUNTY PUBLIC LIBRARY, TO PURCHASE FURNISHINGS, EQUIPMENT AND BANNERS FOR THE WEST VIRGINIA BOOK FAIRE IN APRIL 2009, AND DESIGNATE PAMELA COYLE, DIRECTOR, TO ADMINISTER SUCH FUNDS PURSUANT TO THE PROVISIONS OF THE FISCAL YEAR 2008 COMMUNITY PARTICIPATION PROGRAM**

Motion made by Councilman Wachtel, seconded by Councilman Woods to adopt Resolution 2009-01 authorizing George Karos, Mayor of the City of Martinsburg, to enter into a contractual agreement with the West Virginia Development Office to receive grant funds in the amount of \$5,000 for the Martinsburg-Berkeley County Public Library, to purchase furnishings, equipment and banners for the West Virginia Book Faire in April 2009, and designate Pamela Coyle, Director, to administer such funds pursuant to the provisions of the fiscal year 2008 Community Participation Program. Motion carried unanimously.

**B. ADOPT RESOLUTION 2009-02 AMENDING THE FY 2007 HOME PROGRAM BUDGET AND ANNUAL PLAN**

Motion made by Councilman Yauger, seconded by Councilman Lewis to adopt Resolution 2009-02 amending the FY 2007 HOME Program Budget and Annual Plan. Motion carried unanimously.

**C. ADOPT RESOLUTION 2009-03 AMENDING THE FY 2007 HOME PROGRAM BUDGET AND ANNUAL PLAN**

Motion made by Councilman Parkinson, seconded by Councilman Etherington to adopt Resolution 2009-03 amending the FY 2007 HOME Program Budget and Annual Plan. Motion carried unanimously.

**D. APPROVE/DENY MEMORANDUM OF AGREEMENT SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION PURSUANT TO 36 CFR 800, BETWEEN THE CITY OF CHARLES TOWN, THE CITY OF CHARLES TOWN HISTORIC LANDMARKS COMMISSION, EUGENE TAYLOR AND MARY TAYLOR (OWNERS), ROGER RIDDLE OF XAVIER HOMES AND THE CITY OF MARTINSBURG**

Motion made by Councilman Wachtel, seconded by Councilman Etherington to approve the Memorandum of Agreement submitted to the Advisory Council on Historic Preservation Pursuant to 36 CFR 800, between the City of Charles Town, the City of Charles Town Historic Landmarks Commission, Eugene Taylor and Mary Taylor (OWNERS), Roger Riddle of Xavier Homes and the City of Martinsburg. Motion carried unanimously.

The City Manager stated the City of Martinsburg is the grantee and anything involving HOME dollars has to filter through the City of Martinsburg.

**E. APPROVE/DENY ESCROW AGREEMENT BETWEEN S. EUGENE TAYLOR AND MARY TAYLOR, THE CITY OF MARTINSBURG, WEST VIRGINIA FOR THE EASTERN PANHANDLE HOME CONSORTIUM OF WEST VIRGINIA AND THE CITY OF CHARLES TOWN, WEST VIRGINIA**

Motion made by Councilman Parkinson, seconded by Councilman Yauger to approve the Escrow Agreement between S. Eugene Taylor and Mary Taylor, the City of Martinsburg, West Virginia for the Eastern Panhandle Home Consortium of West Virginia and the City of Charles Town, West Virginia. Motion carried unanimously.

**F. AUTHORIZE CITY MANAGER TO SUBMIT TRANSPORTATION ENHANCEMENT GRANT APPLICATION – TOWN SQUARE PEDESTRIAN PROJECT**

Motion made by Councilman Etherington, seconded by Councilman Wachtel to authorize the City Manager to submit the Transportation Enhancement Grant Application for the Town Square Pedestrian Project. Motion carried unanimously.

The City Manager reported the City of Martinsburg has received the first round of funds with the City's match being \$75,000. The City Manager further reported this request is for the additional funding for the second portion of the grant in the amount of \$329,211 with the City match being \$82,303 for a total project cost of \$411,513.

**G. APPROVE/DENY PURCHASE OF TEN (10) DESKTOP COMPUTERS FOR EASTERN PANHANDLE DRUG & VIOLENT CRIMES TASK FORCE – STATE CONTRACT – LENOVO - \$14,920 – FUNDS TO BE REIMBURSED THROUGH THE TASK FORCE**

Motion made by Councilman Wachtel, seconded by Councilman Woods to approve the purchase of ten desktop computers for the Eastern Panhandle Drug & Violent Crimes Task Force, through the state contract, from Lenovo in the amount of \$14,920 with the funds to be reimbursed through the Task Force. Motion carried unanimously.

**H. APPROVE/DENY PAYMENT OF 2% OF TOTAL PROCEEDS OF PREVIOUS YEAR'S PROJECTED TAX COLLECTION TO BERKELEY COUNTY ASSESSOR FOR VALUATION FUND**

Motion made by Councilman Lewis, seconded by Councilman Woods to approve the payment of 2% of the total proceeds of the previous year's projected tax collection to the Berkeley County Assessor for the valuation fund. Motion carried unanimously.

The Finance Director advised the Assessor receives 2% of the property tax in order to fund the department. The Finance Director further advised the Assessor must justify to the State of West Virginia if the percentage is going to be 1%, 1 ½ % or 2%. The Finance Director stated that he reviewed the request and there does not appear to be anything out of the ordinary that would cause the City to try to oppose the request.

**I. APPROVE/DENY INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY COMMISSION OF BERKELEY COUNTY, CITY COUNCIL OF MARTINSBURG, WEST VIRGINIA, EASTERN WEST VIRGINIA REGIONAL AIRPORT AUTHORITY, BERKELEY COUNTY DEVELOPMENT AUTHORITY AND THE BERKELEY COUNTY ROUNDHOUSE AUTHORITY TO MAKE APPLICATION TO THE WEST VIRGINIA PUBLIC PORT AUTHORITY REQUESTING THE PORT AUTHORITY GRANT PERMISSION FOR THE CREATION OF A LOCAL INLAND PORT DISTRICT**

The City Manager reported the Intergovernmental Agreement is mainly in final form with the exception of a few names that need to be added to it in a couple of sections. The City Manager suggested that Council make their motion contingent upon the final review of the document.

Councilman Wachtel requested he be allowed to abstain as his brother is the Chairman of the Eastern West Virginia Regional Airport Authority.

The City Attorney stated that being the brother of the Chairman is not statutorily a reason to abstain.

Councilman Yauger noted he serves on the Roundhouse Authority.

The City Attorney advised he is the City's appointee and therefore is not statutorily a reason to abstain.

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Motion made by Councilman Lewis, seconded by Councilman Yauger to approve the Intergovernmental Agreement between the County Commission of Berkeley County, City Council of Martinsburg, West Virginia, Eastern West Virginia Regional Airport Authority, Berkeley County Development Authority and the Berkeley County Roundhouse Authority to make application to the West Virginia Public Port Authority requesting the Port Authority grant permission for the creation of a Local Inland Port District contingent upon the final review of the document. Motion carried unanimously.

**17. 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 Parkinson, seconded by Councilman Lewis to go into executive session at 7:00 p.m. for legal matters. Motion carried unanimously.

Motion made by Councilman Wachtel, seconded by Councilman Yauger to go out of executive session at 7:15 p.m. Motion carried unanimously.

**18. ADJOURNMENT**

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

George Karos, Mayor

Sharon A. Flick, City Recorder