

**City Of Martinsburg
Regular Council Meeting
Thursday, February 9, 2017
The J. Oakley Seibert Council Chambers**

With a quorum present, the regular session of the Martinsburg City Council was called to order by City Attorney Kin Sayre at 6:30 p.m. The following Council Members were present: Gregg Wachtel, Harriet Johnson, Dennis Etherington, Kevin Knowles, Ken Collinson, Mark Baker and Jason W. Baker. Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder, Police Chief Maury Richards; Fire Chief Paul Bragg, City Engineer/Planning Director Mike Covell; and Finance Director Mark Spickler.

Motion made by Councilman Etherington, seconded by Councilman M. Baker, to appoint Councilman Wachtel as Acting Mayor, as Mayor Karos was not available. Motion carried unanimously.

3. Salute to Flag

Councilman Etherington led the Salute to the Flag.

4. Prayer—

Walter Bowers delivered the invocation.

5. Approve January 12, 2017 Regular Meeting Minutes

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the January 12, 2017 Regular Meeting Minutes. Motion carried unanimously.

6. Approve January 19, 2017 Special Meeting Minutes (Joint Meeting with County Council)

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the January 19, 2017 Special Meeting Minutes. Motion carried unanimously.

7. Approve December 2016 Administrative and Financial Report

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the December 2016 Administrative and Financial Report. Motion carried unanimously.

8. Presentations

a. Administer Oath of Office to Firefighter/EMT-Basic Tony Lupis

b. Administer Oath of Office to Police Officer Roderick Holloway

c. Administer Oath of Office to Police Officer Rodney Crawford

The City Recorder administered the above oaths of office.

d. Award of Commendation Letter to PFC Williamson and PFC Everhart from the Office of Senator Joe Manchin

Deputy Chief Swartwood read the letters and presented them to the officers.

d. Proclamation—Mayoral Recognition Day for National Service—April 4, 2017

e. Proclamation—National Athletic Training Month—March 2017

Both proclamations will be forwarded to the requestor.

9. Petitions from Citizens

Acting Mayor Wachtel reminded each petitioner that they were restricted to two (2) minutes.

David Anderson, Music Court, referenced the parking lot behind City Hall, asking that Council take future grown into consideration before finally settling on a location for the new Police Station/Municipal Court

Mr. Peter Hartman, N. Tennessee Avenue, expressed appreciation for the prompt reply for more concise street signs at the crossroads of Tennessee and Illinois Avenue. Mr. Hartman stated that he had ongoing problems with mail delivery, as the signage was unclear, and the City's response should correct the issue.

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

a. Hagerstown/Eastern Panhandle Metropolitan Planning Organization Interstate Council October 19, 2016 Meeting Minutes and Berkeley County WV Projects Update

b. City of Martinsburg Fire Department Annual Report for 2016

c. Human Relations Committee June 6, 2016 Meeting Minutes and Draft January 25, 2017 Meeting Minutes

d. Historic Preservation Review Commission December 5, 2016 Meeting Minutes

e. Board of Zoning Appeals December 6, 2016 Meeting Minutes

f. Planning Commission December 7, 2016 Meeting Minutes

g. For the Kids, by George Children's Museum January 5, 2017 Meeting Minutes and Director's Report

h. Berkeley County Animal Control Incident Summary for Calendar Year 2016

Motion made by Councilman Etherington, seconded by Councilman Collinson, to receive and file item 10A-10H. Motion carried unanimously.

11. Reports of Chairpersons of Council Standing Committees

a. February 1, 2017 Council as a Whole Committee Minutes

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the Committee Minutes. Motion carried 5-1, Councilman J. Baker no.

**Council as a Whole Committee Minutes
Wednesday, February 1, 2017**

Present: Mayor George Karos, Kevin Knowles, Jason Baker, Mark C. Baker, Gregg Wachtel, Dennis Etherington, Harriet Johnson and Ken Collinson.

Others in Attendance: Mark Baldwin, City Manager; Chief of Police Maurice Richards; Deputy Chief George Swartwood; Chris Peterson, Bowles Rice for City Attorney; Morning Herald and Martinsburg Journal.

Unable to Attend: None

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

1. Mayor provided an overview of the history relating to the City's purchase of the American Legion lots and building since 2006. He also informed the Committee the City has been working with Silling Architects off and on since 2007 in regards to this project.

2. Silling Architects provided a PowerPoint presentation (see attached) on their analysis of the property available to construct a new Police Department/Municipal Court Facility. Silling's PowerPoint provided a space analysis for MPD's operations and space requirements as well as the Municipal Court system. Silling's recommendation was for a three (3)-story, 29,706 sq. ft. building. Their analysis also outlined the exterior site. Silling also informed the Committee that several conversations were held with City Staff, etc. regarding the needs for a new facility. Study indicates the site is suitable for the project.

Silling Architects also gave an estimated schedule: complete design phase in the next six (6) months; bid phase October of 2017, fifteen to eighteen months construction period with an estimated completion date of mid-2019.

3. Chief of Police Maurice Richards and Deputy Chief George Swartwood stated to the Committee their favorable response to Silling's presentation and recommendation. They also stated this site is favorable to them as it relates to providing service to the public. They also felt the project would be a great addition to the Police Department and Court system and boost morale. The Chief and Deputy Chief thanked Council and management for considering the project.

4. Mayor Karos opened the floor to the Committee members. A great deal of discussion was held between the Committee, Silling Architects and staff.

After discussion, consensus of the Committee was to recommend to City Council was to recommend to City Council that this site be utilized for the new construction for the MPD/Municipal Court Facility (consensus was 6-1).

City Manager stated this item, as well as Silling Architects' proposal for design fees will be placed on the February 9, 2017 City Council agenda.

5. Timing for the demolition of the building was discussed; to be determined at a later date.

6. City Manager reminded City Council if this project is approved to move forward, keep in mind the next phase would be to eventually discuss the renovations to City Hall.

Meeting adjourned.

12. Report of Mayor

a. Reappoint Bonn "Buzz" Poland to the Martinsburg-Berkeley County Parks and Recreation Board—3/1/2017-3/1/2020

Motion made by Councilman Etherington, seconded by Councilman Collinson, to reappoint Mr. Poland through 3/1/2020. Motion carried, 5-1, Councilman J. Baker voting no.

b. Reappoint the following to the Planning Commission –3/1/2017-3/1/2020

- **George Reichard**

- Jeffrey Molenda
- Reenie Raines
- Scott Hamilton

Motion made by Councilman Knowles, seconded by Councilman M. Baker, to reappoint the above to the Planning Commission through 3/1/2020. Motion carried unanimously.

c. Report the following vacancies

- Board of Zoning Appeals (1 alternate)**
- Parking Authority (2)**
- Shade Tree Commission (1)**
- Planning Commission (1)**
- Historic Preservation Review Commission (1)**

13. Report of City Attorney

a. Discuss Potential Litigation against Drug Manufacturers as it Relates to Abuse of Prescription Pain Drugs

Mr. Sayre reported that other WV cities are considering filing litigation against drug manufacturers, and this will likely be a class action suit that cities can choose to take part in. The City would be responsible for payment of the filing fees and the remainder of the attorney's fees would be paid on a contingency basis.

Further discussions included the liability for manufacturers vs. the liability of doctors and pharmacists. Councilman Knowles mentioned that manufacturers failed to properly indicate the addictive qualities of the prescription pain killers, which is why they may be found liable. Also discussed were the uses of the money gained by the Attorney General's settlement against drug manufacturers.

14. Report of City Manager

a. Projects Update

Nothing further to report.

15. Unfinished Business

None.

16. New Business

a. First and Second Reading of Ordinance 2017-01 to Annex into the City of Martinsburg an Unimproved Parcel of Real Estate Consisting of New York Avenue, Extended, currently located in Arden Tax District

Motion made by Councilman Etherington, seconded by Councilman J. Baker, to read Ordinance 2017-01 through the first and second reading, by title only. Motion carried unanimously.

b. Approve Resolution 2017-02 Authorizing a Memorandum of Understanding (MOU) between the City of Martinsburg, Berkeley County Council, Berkeley County Prosecuting Attorney, Berkeley County Sheriff's Department, Martinsburg Police Department, Community Alternatives to Violence and the Shenandoah Women's Center for application and administration of STOP VAWA funds

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve Resolution 2017-02. Motion carried unanimously.

c. Approve/deny issuance of Special Events Permit 1701 for Gods in the Square event, to be held on Saturday, March 18, 2017 from 2 PM until 6 PM, in the Town Square Pedestrian Plaza and a portion of E. King Street, contingent upon proof of adequate liability insurance and payment of any fees for City services (see recommendation)

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve Special Events Permit 1701, contingent upon meeting staff recommendations and proof of adequate liability insurance. Motion carried unanimously.

d. Approve/deny issuance of Special Events Permit 1702 for Southern Heritage and Flag Day event, to be held on Saturday, March 4, 2017 from 11 AM until 12 PM, including a rolling processional street blockage from the Town Square Pedestrian Plaza to E. Race Street, contingent upon proof of adequate liability insurance and payment of any fees for City services (see recommendation)

Motion made by Councilman J. Baker, seconded by Councilman Knowles, to approve Special Events Permit 1702, contingent upon meeting staff recommendations and proof of adequate liability insurance. Motion carried unanimously.

e. Authorize Letter of Endorsement to ABCA for the temporary issuance of license to sell beer at the 26th Annual Toughman Contest, February 17-18, 2017, to be held at the Berkeley 2000 Recreation Center

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve the letter of endorsement. Motion carried 4-3, with Councilman M. Baker, Councilwoman Johnson and Councilman Etherington voting no and Acting Mayor Wachtel breaking the tie.

Councilman J. Baker asked if there were any issues with alcohol at the previous event. Chief Richards said there were not. Councilman Collinson added that the Executive Board of Parks and Rec also reported no issues and recommended approval.

f. Discuss request, and take action as necessary, regarding appointment process of Martinsburg-Berkeley County Public Library Board members (see request)

Mr. Baldwin stated that he had distributed a letter from Delegate Overington, who was requesting to change the appointment for the Martinsburg-Berkeley County Library Board. Currently, the City of Martinsburg has five appointments and have been receiving one appointment recommendation from the Berkeley County Board of Education and one from the Berkeley County Council. Delegate Overington has asked that the process be changed to be in line with the budget formula, a legislative act that was passed last year, but vetoed by Governor Tomblin. Mr. Baldwin stated that this is a local issue, and could and should be resolved locally. Delegate Overington has recommend that the Berkeley County Council appoint three members, the City of Martinsburg appoint one member and the Board of Education appoint one. Mayor Karos agreed that a change is possible, but recommend that the City of Martinsburg retain two appointments, the County Council make two appointments and the Board of Education appoint one. The decision is up to the City Council.

Councilman Etherington stated that the main library branch is in Martinsburg and the City should have to appointed members. He also pointed out that one branch of the library is in a County school, so they should be represented. Two other branches are in the County, and the County should have two appointments. Councilman Etherington agreed with the 2-2-1 ratio suggested by the Mayor and, in the spirit of cooperation, suggested that the City Attorney draw up an ordinance.

Councilman J. Baker asked how the current Library budget is broken down. Gretchen Frye, Library Director, stated that Berkeley County contributes \$600K, the City contributes \$100K and the BOE contributes \$110K. She pointed out that it is a misconception that the BOE no longer contributes, but per recent legislation, did reduce their contribution by \$500K annually.

Councilman M. Baker stated that he is also in favor of the 2-2-1 appointment ratio. He felt he did need to specify that the changing of the process should not result in the ouster of the current appointed members. He also asked that those members with the longest remaining terms be City appointments. He suggested that the City Attorney send a letter to the BOE and to the Berkeley County Council with the details and recommendations before drafting an ordinance, to be sure this is an agreeable compromise.

Councilman J. Baker pointed out that the County gives substantially more each year and should have three members.

Councilman Etherington made a motion to send the letter in favor of the Mayor's recommendations, with the contingency that the City of Martinsburg retain the two appointments with the longest remaining terms. The motion was seconded by Councilman Collinson and approved 4-2 with Councilman J. Baker and Councilman Knowles voting no.

g. Approve/deny Deed of Dedication of Certain Streets to the City of Martinsburg, located within the Gallery Subdivision, including Daintree Drive, Tarkay Place (formerly Homer Lane) and Celadon Court (formerly McMannus Court)

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the Deed of Dedication.

The City Manager stated that Planning is satisfied that the streets meet City requirements, but they will be double checked before the deeds are finalized to ensure that all is as it should be. The Homeowner's Association should be functional and collecting fees.

The motion was passed 5-1, Councilman J. Baker voting no.

h. Approve/deny Martinsburg Police Department Body Camera Policy

Chief Richards stated that the department has had the cameras for some time and has conducted training. The department is finalizing their policy and conducting final implementation and training; the cameras should be live by late the following week.

Motion made by Councilman Knowles, seconded by Councilman J. Baker, to approve the Body Camera Policy. Motion carried unanimously.

i. Approve/deny purchase of Fire Reporting Software from Emergency Reporting--\$3,596

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve the software purchase. Motion carried unanimously.

j. Approve/deny two-year Medical Claims Assistance Billing Agreement between the City of Martinsburg and Medical Claims Assistance, Inc. for 3rd party billing for medical services

Motion made by Councilman J. Baker, seconded by Councilman Knowles, to approve the agreement. Motion carried unanimously.

k. Approve/deny additional services for Planning Department Community Development Software Project—Harris, Inc.--\$10,455

The City Manager stated that the actual cost is \$9,205.

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the additional services. Motion carried unanimously.

I. Approve/deny Council as a Whole Committee recommendation to utilize City-owned property (former American Legion and lots) for new Martinsburg Police Department Station/ Municipal Court facility

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the recommendation. Motion carried 5-1, Councilman J. Baker no.

m. Approve/deny Silling Architects proposal for design fees, etc. for new Martinsburg Police Department Station/Municipal Court Facility (proposal to be available February 6, 2017)

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the recommendation.

Councilman M. Baker stated that the Council should discuss financing before making approvals. He asked where the money is coming from, and if a basement is a possibility since a 4th floor cannot be added.

Mr. Baldwin stated that the fees are based on what has been presented, if changes are made, the architectural fees will need to be adjusted.

Councilman M. Baker stated that Council should slow down and make sure everything is correct. A previous Council made the mistake with the existing City Hall by not allowing for construction that would facilitate a third floor and the City is paying for that now.

Mr. Baldwin stated that the can discuss the basement with Silling, and asked that Council approve the recommendation with the contingency that the City Manager seek a cost in Silling's services to present a design with a basement.

Motion was amended and seconded to be contingent upon City Manager asking Silling Architect if their proposal, as presented, changes (design fees, etc.) in order to evaluate and provide a cost estimate to include a basement level. Motion carried unanimously.

n. Approve/deny engineering services for water and sewer line relocation for the Oak Street Bridge Replacement Project—Alpha Associates--\$34,861 (in addition \$3,000 soil boring and, if needed, part time-inspection for 30 days--\$36,000)

Motion made by Councilman Knowles, seconded by Councilman J. Baker, to approve the engineering services. Motion carried unanimously.

Mr. Baldwin added that the WVDOT is requesting that the City finalize the easements, which is 90% complete.

o. Approve/deny HRI Pay Application No. 8 for the Church Street Storm Drainage Improvement Project--\$139,596.29

Motion made by Councilman Collinson, seconded by Councilman M. Baker, to approve the pay application. Motion carried unanimously.

Councilman J. Baker asked if there is enough money to finish the project if HRI does not return to complete it (not that this is a likely scenario). The City Manager said there is.

18. Executive Session

Motion made and seconded by enter Executive Session for personnel at 7:27 PM

Adjournment

Meeting adjourned by unanimous consent at 7:43 PM.

Gregg Wachtel, Acting Mayor

Gena Long, City Recorder