

**City Of Martinsburg
Regular Council Meeting
Thursday, March 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 Mayor George Karos 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, and Public Works Director Jeff Wilkerson.

3. Salute to Flag

Councilman Etherington led the Salute to the Flag.

4. Prayer—

Pastor Cartwright delivered the invocation.

5. Approve February 9, 2017 Regular Meeting Minutes

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the February 9, 2017 Regular Meeting Minutes. Motion carried unanimously.

6. Approve January 2017 Administrative and Financial Report

Motion made by Councilman Etherington, seconded by Councilman M. Baker, to approve the January 2017 Administrative and Financial Report. Motion carried unanimously.

7. Presentations

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

The City Recorder read the Proclamation, which was accepted by an Americorp Vista.

b. Make Comment on ABCA Zoning Form for Café del Sol Martinsburg, LLC—796 Foxcroft Avenue

Richard Saltos, part owner, discussed the hours of operation, which are until 9 PM Monday through Thursday, and 10 PM on Friday and Saturday.

Motion made by Councilman Wachtel, seconded Councilman M. Baker, to forward the Form to the ABCA without comment. Motion carried unanimously.

8. Petitions from Citizens

Mr. Randy Lewis, Main Street Martinsburg, thanked Council for their continued support of Main Street events. He added that the organization brings traffic into the downtown business district on a daily basis and appreciates collaboration from the City of Martinsburg. Mr. Lewis stated that he hopes Council can recognize the return on their investment into Main Street Martinsburg, in terms of new developers and businesses in the downtown as well as promoting and retaining existing businesses. Mr. Lewis finished by stating that events are important to a thriving downtown in terms of tourism and generation of traffic.

Mayor Karos thanked Mr. Lewis and Main Street Martinsburg for a good job; he stated that he often sees locals in downtown restaurants, which is preferable for them going out of town for dinner.

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

a. Berkeley County Animal Control January 2017 Incident Report

b. Eastern Panhandle Transit Authority January 17, 2017 Meeting Minutes and Board of Director's Report

c. For the Kids, by George Children's Museum February 16, 2017 Board of Directors Meeting Minutes and Director's Report

d. Martinsburg Police Department 2016 Annual Report

Motion made by Councilman J. Baker, seconded by Councilman Collinson, to receive and file item 10A-10D. Motion carried unanimously.

Councilman Knowles commended the Police Department on an impressive annual report.

10. Reports of Chairpersons of Council Standing Committees

a. Council as a Whole February 27, 2017 Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the Committee Minutes. Motion carried unanimously.

**Council as a Whole Committee Minutes
Monday, February 27, 2017**

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

Others in Attendance: Mark Baldwin, City Manager; Mark B. Spickler, Finance Director; Kin Sayre, City Attorney; members of the media and public

Unable to Attend: None

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

1. FY 2016-2017 Budget Overview Update—Mark Spickler, Finance Director, provided an overview of the GF Budget and Sales Tax Revenues through December 2016
2. Discuss 2017-2018 Property Tax Levy Rates—Finance Director Mark Spickler provided an overview of the projected 2017-2018 property tax levy rates. Assessed values did not increase for the 8th straight year; therefore, no discussion or action needed in regards to increasing property taxes.
3. Discuss other Governmental Entities and Outside Agencies Budget Requests (see attached list of recommendations to be funded from the GF and Coal Severance Accounts)

As part of the budget request(s) review, the following was also discussed

a. Berkeley County Health Department—approved funding in the amount of \$30,000. \$15,000 allocation and \$15,000 for Harm Reduction Program.

b. Apollo Civic Theatre—Committee did not recommend funding. Committee stated funding could be evaluated at a later date if the Apollo needed matching grant dollars or matching funds for projects.

Berkeley Day Report Center—Committee did not recommend funding at this time. The Committee requested additional information in order to consider funding.

4. Discuss creating future Utility Billing Supervisor position—Finance Director Mark Spickler explained the need for the Utility Billing Supervisor position.

The consensus of the Committee was to approve the request with additional information to be presented at a future Council meeting.

5. Discuss funding/replacement of parking meters an vacant position in Parking—Mark Spickler, Finance Director, requested \$100,000 from the Coal Severance Account to replace the remaining meters with digital mechanisms and hire a part-time attendant rather than a part-time meter repair person.

Consensus of the Committee was to approve the purchase of the additional digital mechanisms and to proceed with hiring a part-time meter attendant, at no additional cost, since it replaces the part-time meter repair position.

The next Council as a Whole Committee meeting was scheduled for Monday, March 20, 2017 at 5 PM, with a Special City Council meeting scheduled to approve budgets on Monday, March 27, 2017 at 5 PM.

Meeting adjourned.

11. Report of Mayor

a. Schedule Council as a Whole Committee Meeting for Monday, March 20, 2017 at 5:00 PM to discuss FY 2017-2018 budgets

b. Schedule Special Council Meeting for Monday, March 27, 2017 beginning at 5 PM for the purposes of approving FY 2017-2018 budgets and other business as needed

c. Reappoint Richard Lowman to the Parking Authority—4/1/2017-4/1/2020

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve Mr. Lowman's reappointment to the Parking Authority through 4-1-2020. Motion carried unanimously.

d. 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)

Mayor Karos reminded Council of the Comprehensive Plan Workshop scheduled for March 15 at 6:30 PM.

12. Report of City Attorney

a. Martinsburg-Berkley County Library Board Appointments Update

Mr. Sayre reported that the Berkeley County Council seems to be in agreement with the proposed 2-2-1 appointment arrangement. City Council wishes to retain the two appointments with the longest remaining terms and the County would like to have the next upcoming two appointments. Mr. Sayre stated that the next step is to draft an ordinance and work with the Library Board to draft updated bylaws.

b. Immediate Solicitation of Funds (Panhandling) Ordinance Update

Mr. Sayre stated that Berkeley County has passed a vehicular safety ordinance, which is not at all like the ordinance that the City and County had last been discussing. Mr. Sayre cautioned that he does have questions about the constitutionality of the County's ordinance, and if the City Council wishes to pursue this, he would recommend that a traffic control consultant be retained to ensure that this ordinance is the most effective way to address traffic control. Mr. Sayre reminded Council of the importance of drafting an ordinance that will pass constitutional muster.

c. Update a Review of Potential Lawsuits against Manufacturers of Opioids

Mr. Sayre stated that this issue was discussed at Municipal League, and several municipalities are interesting in joining the class action suit. As of today, more cities and counties have joined. It is difficult to prove damages and increased expenses due to the overuse of prescribed opioids. The City will be asked to contribute to the filing fee and the remaining legal fees will be on a contingency basis.

d. Arts Centre Structure Update

City Engineer/Planning Director Michael Covell gave an update, stating that progress is being made. The Arts Centre is looking into engineering approaches and immediate actionable steps to be able to open the sidewalk to pedestrian traffic. The GSA is getting involved, which could provide a funding mechanism for the repair, as the Arts Centre does not have the funds.

e. Property at 117 S. Queen Street Update

The property has been reviewed by engineers and the insurance company is working on mobilizing contractors. There is a protective walkway for pedestrians on the sidewalk. The City of Martinsburg is working with the owner and the insurance company to expedite remediation.

14. Report of City Manager

a. Projects Update

Mr. Baldwin reported that the City's obligations with right of way agreements and the outlining of utility relocations are substantially complete. The State is finalizing bid specifications and he is hopeful that activity will begin this year.

15. Unfinished Business

a. Third and Final 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 Opequon Tax District and Authorizing the Mayor to File an Application with the County Council for Annexation by Minor Boundary Adjustment in Accordance with West Virginia Code 8-6-5 (Annexation by Minor Boundary Adjustment)

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2017-01 through the final reading, by title only, and adopt. Motion carried unanimously.

Mr. Sayre stated that next step is to apply to the County Council for annexation, post the property and publish a notice of public hearing.

16. New Business

a. First and Second Reading of Ordinance 2017-02 Amend And Re-Enact Part Fifteen – Fire Prevention Code, Article 1501 Section 1501.01 Of The Codified Ordinances Of The City Of Martinsburg, And Repealing Ordinance Number 2014-15 Of The City Of Martinsburg, West Virginia.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to read Ordinance 2017-02 through the first and second reading, by title only. Motion carried unanimously.

b. First and Second Reading of Ordinance 2017-03 Providing that the 200 Block of South High Street in the City of Martinsburg shall have One-Way Vehicular Traffic Running in a Southerly Direction beginning at the Intersection of East King Street and Continuing along the Remaining Length of South High and thence One Way Running in an Easterly Direction on McSherry Street to the Intersection with Seibert Street

Motion made by Councilman Knowles, seconded by Councilman M. Baker, to read Ordinance 2017-03 through the first and second reading, by title only. Motion carried unanimously.

Mr. Baldwin stated that the Police Department had recommended guard rail in the sharp curve, however, there may be a conflict with right of way and utility lines. In that case, more noticeable signage will be installed to warn of the directional restriction and sharp curve.

c. First and Second Reading of Ordinance 2017-04 to Amend the Codified Ordinance of the City of Martinsburg, Section 5: General Offenses Code, at Section 533.06: Tampering with and Theft of Utilities; CATV by adding Subsection 533.06 (d): Interference with Meter; Penalty

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2017-04 through the first and second reading, by title only. Motion carried 5-2, Councilman M. Baker and Councilman J. Baker voting no.

d. Approve/deny Resolution 2017-03 Amending the FY 2016 HOME Program Budget and Annual Action Plan

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Resolution 2017-03. Motion carried unanimously.

e. Approve/deny issuance of Special Events Permit # 1703 for Berkeley Heights 5K event, to be held on Saturday, May 20, 2017 from 8 AM until 10:30 AM, along the attached route, contingent upon proof of adequate liability insurance and payment of any fees for City services (\$787.50 recommended)

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the issuance of Special Events Permit # 1703, contingent upon the proof of adequate liability insurance and payment of recommended fees for City services. Motion carried unanimously.

f. Approve/deny issuance of Special Events Permit # 1704 for ROCS Classic Norwalk Soap Box Derby event, to be held on Saturday, June 10, 2017 (rain date of June 17) from 6:30 AM until 3:30 PM, along attached route and in Town Square Pedestrian Plaza, contingent upon proof of adequate liability insurance and payment of any fees for City service (\$3,750 recommended)

Mr. Baldwin stated that, post negotiations with the Police Department and Public Works Department, the recommended fees are now \$1,922.50.

Councilman Knowles stated that when the ordinance was created, some opportunities were included to allow the City to waive fees. He stated that this event has been going on for years and is not for profit. Councilman Knowles stated that it is his opinion that the fees are prohibitive.

Mr. Sayre stated that the ordinance does allow for a waiver of fees on those events that are City funded or co-funded, and there is really no reason to have an ordinance at all if the fees are waived for events that do not meet those criteria. The City should remain content neutral, picking and choosing is problematic.

Councilman Knowles pointed out that the other events approved with fees were not events that have been going on in the City for years.

Councilman Wachtel stated that, hopefully, the event holders will realize the true cost of these events in the City. If the fees are waived for one, they must be waived for all.

Motion made by Councilman Etherington, seconded by Councilman M. Baker, to approve the issuance of Special Events Permit 1704, contingent upon proof of adequate liability insurance the payment of fees for City services. Motion carried, 5-2, Councilman Knowles and Councilman Collinson voting no.

g. Approve/deny issuance of Special Events Permit # 1705 for 8th Annual Pet Parade and Easter Egg Roll, Saturday, April 15, 2017 from noon until 2 PM, proceeding south on Queen Street from Martin Street to the Town Square, and reservation of the Town Square Pedestrian Plaza, contingent upon proof of adequate liability insurance and payment of any fees for City Services (\$315 recommended, if not waived via Section 155.09(b) of Ordinance 2016-32)

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the issuance of Special Events Permit #1705, contingent upon proof of adequate liability insurance and waiving all fees. Motion carried unanimously.

h. Approve/deny issuance of Special Events Permit # 1706 for Main Street Martinsburg Truffle Shuffle 5K race, Saturday, April 29, 2017 from 8 AM until 9:30 AM, along the attached route contingent upon proof of adequate liability insurance and payment of any fees for City Services (\$1,470 recommended, if not waived via Section 155.09(b) of Ordinance 2016-32)

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve the issuance of Special Events Permit #1706, contingent upon proof of adequate liability insurance and waiving all fees. Motion carried unanimously.

i. Approve/deny issuance of Special Events Permit #1707 for Main Street Martinsburg Farmer's Market, mid-May through September, from 4 PM until 7 PM, on the 200 block of E. King Street, contingent upon proof of adequate liability insurance and payment of any fees for City Services (\$0.00 recommended)

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve the issuance of Special Events Permit #1707, contingent upon proof of adequate liability insurance and waiving all fees. Motion carried unanimously.

j. Approve/deny issuance of Special Events Permit # 1708 for Main Street Martinsburg Fridays at Five, Friday evenings in June through August, from 5 PM until 7 PM, in the Town Square Pedestrian Plaza, contingent upon proof of adequate liability insurance and payment of any fees for City Services (\$1,260 recommended, if not waived via Section 155.09(b) of Ordinance 2016-32); including a letter of endorsement to the ABCA for the sale of alcoholic beverages

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the issuance of Special Events Permit #1708, contingent upon proof of adequate liability insurance and waiving all fees, including letter of endorsement to ABCA. Motion carried unanimously.

k. Approve/deny issuance of Special Events Permit # 1709 for Main Street Martinsburg's 16th Annual Bike Night, Saturday, August 19 from 5 PM until 7 PM, in the E. Burke Street Parking Lot, and the 100 Blocks of E. and W. Burke and Martin and E. King, and the 100 and 200 blocks of N. and S. Queen Street contingent upon proof of adequate liability insurance and payment of any fees for City Services (\$15,720 recommended, if not waived via Section 155.09(b) of Ordinance 2016-32); including a letter of endorsement to the ABCA for the sale of alcoholic beverages

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the issuance of Special Events Permit #1709, contingent upon proof of adequate liability insurance and waiving all fees, including letter of endorsement to ABCA. Motion carried unanimously.

Mr. Baldwin pointed out that the application states that the event ends at 7 PM, however, it is generally closer to 1 AM.

I. Approve/deny issuance of Special Events Permit # 1710 for Main Street Martinsburg's 14th Annual Chili Cook-off, Saturday, October 7, 2017 from 2 PM until 5 PM, in the Town Square Pedestrian Plaza, E. King Street and City Parking Lots, contingent upon proof of adequate liability insurance and payment of any fees for City Services (\$820 recommended, if not waived via Section 155.09(b) of Ordinance 2016-32); including a letter of endorsement to the ABCA for the sale of alcoholic beverages

Motion made by Councilman Wachtel, seconded by Councilwoman Johnson, to approve the issuance of Special Events Permit #1710, contingent upon proof of adequate liability insurance and waiving all fees, including letter of endorsement to the ABCA. Motion carried unanimously.

M Approve/deny issuance of Special Events Permit # 1711 for the Main Street Martinsburg Christmas Tree Lighting, Friday, December 1, 2017 from 6 PM until 8 PM in the Town Square Pedestrian Plaza, contingent upon proof of adequate liability insurance and payment of any fees for City Services (\$210 recommended, if not waived via Section 155.09(b) of Ordinance 2016-32)

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the issuance of Special Events Permit #1711, contingent upon proof of adequate liability insurance and waiving all fees. Motion carried unanimously.

n. Approve/deny issuance of Special Events Permit # 1712 for Main Street Martinsburg Old Town Christmas Parade, Saturday, December 2, 2017 from 5:45 PM until 7:30 PM, along attached route, contingent upon proof of adequate liability insurance and payment of any fees for City Services (\$1,420 recommended, if not waived via Section 155.09(b) of Ordinance 2016-32)

Motion made by Councilman Wachtel, seconded by Councilman M. Baker, to approve the issuance of Special Events Permit #1712, contingent upon proof of adequate liability insurance and waiving all fees. Motion carried unanimously.

o. Approve/deny other Main Street Martinsburg requested annual and community items: Festival of Banners (June –September) and Snowman Spectacular (January-March 2018)—not subject to fees for City Services

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve all other requested MSM events. Motion carried unanimously.

p. Approve/deny issuance of Special Events Permit # 1713 for Berkeley County Ministerial Association Good Friday Cross Walk on Friday, April 14, 2017 from 10:30 AM until 12 noon along the sidewalks in Downtown Martinsburg, contingent upon proof of adequate liability insurance and payment of any fees for City Services (\$0.00 recommended)

Motion made by Councilman M. Baker, seconded by Councilman Wachtel, to approve Special Events Permit #1713, contingent upon proof of adequate liability insurance the payment of recommended fees for City services. Motion carried unanimously.

q. Approve/deny scheduling of Take Pride in your Community Spring Clean-Up for Saturday, May 20, 2017

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the scheduling of spring clean-up on May 20. Motion carried unanimously.

Public Works Director Jeff Wilkerson stated that refuse will be collected from 7 AM until 2 PM at the Recycling Center. City residents may drop off up to one truck load at no cost. Detail will be advertised.

Councilman M. Baker asked if the City would be accepting electronics. Mr. Wilkerson said he cannot accept electronics.

Councilman Etherington asked if elderly or handicapped residents can request a pick-up. Mr. Wilkerson stated that they just have to call in advance.

r. Approve/deny bid for construction services for water and sewer line relocation for the North Queen Street Underpass Project—Snyder Environmental Services, Inc.--\$834,490

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve the bid as recommended. Motion carried unanimously.

Councilman Etherington pointed out that the bid was lower than anticipated.

s. Approve/deny Fire Department Standard Operating Procedure Emergency Medical Services Infection Control Program

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the SOP. Motion carried unanimously.

t. Approve/deny purchase of Police Department Canine Unit—Shallow Creek Kennels--\$14,000 for purchase and training of dog and handler—Drug Forfeiture Fund

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the purchase and training of the K9 unit and handler. Motion carried unanimously.

Councilman M. Baker asked if the dog will be able to interact with crowds and children without aggression.

Chief Richards replied that this kennel supplies police units all over the country and he has been assured that the training will include public interaction, however, the unit is an animal and its behavior cannot be guaranteed at all times.

u. Approve/deny Resolution 2017-04 Repealing Resolution 2016-28 and Approving Invoices Relating to Construction and Other Services for the City of Martinsburg Wastewater Treatment Plant Upgrade Project and Authorizing Payment Thereof

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve Resolution 2017-04. Motion carried unanimously.

Mr. Baldwin stated that this is a partial final payment, some funds are being withheld for defective parts.

v. Approve/deny Resolution 2017-05 Adopting the 2017 Multi-Jurisdictional Hazard Mitigation Plan Update for Berkeley and Morgan County Municipal

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Resolution 2017-05. Motion carried unanimously.

18. Executive Session

Adjournment

Meeting adjourned by unanimous consent at 7:43 PM.

George Karos, Mayor

Gena Long, City Recorder