

**City Of Martinsburg
Regular Council Meeting
Thursday, April 13, 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 (6:40 PM). Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder, Police Deputy Chief George Swartwood; Fire Chief Paul Bragg, Public Works Director Jeff Wilkerson, City Engineer/Planning Director Michael Covell and Utilities Director Steve Knipe.

3. Salute to Flag

Councilwoman Johnson led the Salute to the Flag.

4. Prayer—

Minister Ujima Tyson, New Beginnings Ministry of Help, delivered the invocation.

5. Approve March 9, 2017 Regular Meeting Minutes

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve the March 9, 2017 Regular Meeting Minutes. Motion carried unanimously.

6. Approve March 27, 2017 Special Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the March 27, 2017 Special Meeting Minutes

7. Approve February 2017 Administrative and Financial Report

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the February 2017 Administrative and Financial Report. Motion carried unanimously.

8. Presentations

a. Administer Oath of Office to Firefighter/EMT Basic Michael Cardello

The City Recorder administered the Oath.

b. Big Springs Water Treatment Plant Contract No. 1—Granular Activated Carbon Equipment Procurement—George Rest, OBG and Steve Knipe, City of Martinsburg

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to move item 16 M and N to be considered immediately after the proclamation. Motion carried unanimously.

Mr. Rest gave an overview of the progress thus far, stating that bids have been reviewed and the OBG had recommended that the City select the lower priced of the two alternatives, as it meets all of the necessary elements. Mr. Knipe agreed with the recommendation and with the 12 foot diameter equipment.

Mr. Rest added that the project will commence soon after the expected delivery date in the first week of July. The contract with the vendor details that half of the necessary equipment is due on an expedited schedule so that the

equipment can be put into service as soon as possible, and the other half will arrive and be installed approximately six weeks later. The estimated cost was approximately \$1.18M, and the bid came in at about \$500K less than expected.

The next step will be to solicit bids for general construction contracts. The structure will be built around the equipment, and the two alternatives will be to build a right-sized building or a slightly larger structure to accommodate future growth. The capacity, when the equipment is in operation, will be 2.8 million gallons per day (if the plant were to run 24/7), and the 2nd phase will allow for 5 million gallons per day, which aligns with recent upgrade to the WWTP.

11 m. Approve/deny bid recommendations for Big Springs Water Plant Granular Activated Carbon Equipment Procurement Bid—TIGG--\$674,985—Bid Alternative 1.1B

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the bid recommendation. Motion carried unanimously.

11 n. Approve/deny amendment to Agreement for Task E—Big Springs Water Treatment Plant Interim Services for Treatment of PFAAs--\$126,368

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

c. Lake Thomas Quarry Update—Steve Knipe, Utilities Director and Jeff Wilkerson, Public Works Director

Mr. Wilkerson introduced the newly hired Stormwater Coordinator Chad Minnick and Stormwater Technician Kristin Bisom. He then provided the following update prepared by Mr. Minnick:

At approximately 11:30 AM on April 3, 2017, both Public Works Director Jeff Wilkerson and Utilities Director Steve Knipe were made aware of potential slippage of Lake Thomas's southwest wall face. After a brief examination of the site, Utilities Director Steve Knipe contacted Stormwater Coordinator Chad Minnick. Knipe, Wilkerson and Minnick then toured both the north and south ends of Lake Thomas. The group found considerable slippage of the rock face had occurred, and a thick black material was rising to the surface of the water. At this time, Chad Minnick notified the WVDEP Spill Line of the event and was informed that a WVDEP representative would be in touch soon. We also surveyed all potential points of access and inspected every known discharge point into Lake Thomas, in the hopes of ruling out any illegal dumping scenario. After inspecting all potential points of entry, we concluded that the material witnessed in the lake had to come from within the lake itself. As Lake Thomas is not the drinking water source for the City of Martinsburg, there was consensus that there was no need to escalate the situation and wait for WVDEP to arrive. This point cannot be stressed enough: This does not affect drinking water in any way.

Steve Knipe, Chad Minnick and Stormwater Technician Kristen Bisom met with WVDEP Inspector Mike Kanehl on Friday, April 7 to survey the situation. It was, at this point, that the City was instructed to remove the surface material and sample the material.

Current Activities:

Since the initial discovery of the material, the Stormwater Office has been communicating with potential cleanup contractors, conducting samples of the material and conducting visual observations twice daily.

We are still in conversation with contractors as to their final proposals. We are waiting on final cost estimates for the material cleanup. In preparation for the cleanup effort, the Public Works Department has completed an access ramp to serve as a put-in for boats.

A sample of both lake water and the solid material was taken to a local lab for analysis. Those results should be to us within the next couple days.

At present, there does not appear to be any further release of material that has made it to the surface. While we cannot confirm the connection, we theorize that the release of material is somehow related to the shifting wall face and debris that entered the lake. The Stormwater Office will continue making daily observations over the next three months.

d. Proclamation—National Park Trust’s 7th Annual Kids to Parks Day—May 20

The Proclamation will be forwarded to the requestor.

e. Proclamation—Fair Housing Month—April 2017

The City Recorder presented the Proclamation.

9. Petitions from Citizens

Mr. John Shook, 411 W. Burke Street, stated that since the playground at Burke Street School had been renovated and relocated, his neighborhood had been subject to considerable noise coming from large groups of people playing basketball at all hours of the day and night. Mr. Shook asked for more patrol in the area to ensure that noise ordinances were being followed. He also supports the idea of installation of a removable background, which would be removed at approximately 4:30 each day.

Deputy Chief Swartwood stated that he is not familiar with excessive calls, but he will look into it and assign additional patrols.

City Attorney Kin Sayre added that the school is Board of Education property and, while it is subject to City of Martinsburg ordinance, the BOE is responsible for the equipment.

Councilman J. Baker pointed out that when school is not in session, the property is open to the public, which he supports, as it allows kids to have a safe place to play and stay out of trouble. He stated that he does not have an issue with the installation of a removable backboard; however, it is ridiculous to remove it at 4:30 PM, especially in the summer time when there are still 4-5 hours of daylight. Councilman Wachtel agreed, adding that residents living in close proximity to schools and parks should be expectant of associated noise.

Mayor Karos suggested that Mr. Shook speak to the School Board if he had suggestions for their equipment. Mr. Shook stated that he wanted to make it clear that his issue is not with children using the equipment appropriately in the early evening, but adults that use it well into the evening, and he is asking for enforcement of the noise ordinance.

Deputy Chief Swartwood stated that he would continue to monitor the situation.

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

a. Eastern Panhandle Transit Authority February 22, 2017 Board Meeting Minutes and Financial Report

b. Eastern WV Regional Airport Authority February 7, 2017 Meeting Minutes and Financial Report

c. Comcast Xfinity Customer Equipment Update Notification, effective beginning May 9, 2017

d. Historic Preservation Review Commission March 6, 2017 Meeting Minutes

e. Planning Commission March 1, 2017 Meeting Minutes

f. For the Kids, by George Children's Museum March 2, 2017 Meeting Minutes and Director's Report

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

11. Reports of Chairpersons of Council Standing Committees

12. Report of Mayor

a. Reminder of Special Council Meeting scheduled for Tuesday, April 18, 2017 at 5 PM to approve levy rates (per State Code) and other business as needed

b. Reappoint Geraldine Price to the Housing Authority—5/4/2017-5/4/2022

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the Mayor's recommendation and reappoint Ms. Price through 5/4/2022. Motion carried 6-1, Councilman J. Baker no.

c. Reappoint the following to the Shade Tree Commission—5/9/2017-5/9/2020

- Randy Lewis
- Steve Knipe
- Dennis Etherington

Motion made by Councilman Wachtel, seconded by Councilwoman Johnson, to approve the Mayor's recommendations to reappoint the above to the Shade Tree Commission through 5/9/2020. Motion carried unanimously.

Councilman J. Baker noted that the Shade Tree Commission seems to have very few meetings, yet there is continued activity with shade trees in the City of Martinsburg. He also noted that he had heard that many decision had been made in Executive Session. He asked that these issues be examined, and to make any changes that needed to be made, by ordinance if necessary.

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)

13. Report of City Attorney

a. New York Avenue Extended Annexation Update

The petition is to go before the County Council soon to annex the property by minor boundary adjustment.

b. Property at 117 S. Queen Street Update

City Engineer Mike Covell stated that there have been assessments and engineering reports on the condition of this building which indicate that the threat level to the public is very high. He went on to say that he understands that the property owner is attempting to secure quotes and get a contractor and that he is expected to begin work immediately to address the hazard.

Mr. Charles Connolly, 405 Boyd Avenue, stated that he does regret the delay, but that the bids have been very high. He stated that Mr. Tom Clevenger can get started as early as April 14 with building scaffolding. Mr. Clevenger concurred, stating that the scaffolding must be built all the way up and the job is very hazardous. He stated that he needs be sure to do the work as safely as possible, which will take time.

Mr. Sayre stated that as long as there is forward movement, he does not recommend legal action; however, there are several options that the City could use if the work does not begin soon, including on-the-spot citations, court action or even a nuisance hearing.

Councilman M. Baker asked Mr. Clevenger if he intend to stay on the job until it finished. Mr. Clevenger replies that he does, but the job is intensive in terms of time needed and labor, and he will need 20-30 days to mitigate the hazard. When it is time to demolish the damaged parapet wall, he would like to do it very early on a Sunday morning, around 6-15-6:30 AM as traffic is very light at that time.

Council discussed this for some time, and it was determined that Staff could work with Mr. Clevenger to ensure safety during the demolition. Councilman J. Baker recommended closing the south bound lane of that block of Queen Street in order to reduce risk of injury. Councilman Wachtel recommended that all area residents and businesses be notified to the extent possible.

c. Update on 300 W. King Street property

Mr. Covell stated that communication with the responsible parties has been regular and adequate and he is satisfied that forward motion will begin on this project as soon as possible. Minghini's General Contractors, Inc. has been secured, and has provided a timeline to Council.

Councilman Knowles asked if other areas of the building have been checked for stability. Mr. Covell stated that they have not, to his knowledge, and that the building has several maintenance needs, which he hopes will be addressed going forward.

14. Report of City Manager

a. Projects Update

Mr. Baldwin briefly discussed the several projects which are listed in the update.

15. Unfinished Business

16. New Business

a. First and Second reading of Ordinance 2017-05 To Amend And Reenact Section 147-03 - Library Board Membership; Terms; Vacancies Of The City Of Martinsburg Code, Part 1, Administrative, Chapter 5-Administrative Article 147 Public Library Commission

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2017-05 through the first and second reading, by title only. Motion carried unanimously.

b. First and Second Reading of Ordinance 2017-06 to repeal Section 311.04--Parade and Assemblages of the City of Martinsburg Codified Ordinance Part 3—Traffic Code, Chapter Three—Street and Traffic Control Devices (Replaced by Section 155, via Ordinance 2016-32)

Motion made Councilman Knowles, seconded by Councilman Etherington, to read Ordinance 2017-06 through the first and second reading, by title only. Motion carried unanimously.

c. First and Second Reading of Ordinance 2017-07 to Approve and Adopt Current Replacement Pages to the Codified Ordinances

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2017-07 through the first and second reading, by title only. Motion carried unanimously.

d. Approve/deny Resolution 2017-08—FY 2017-2018 Animal Control Services Agreement between the City of Martinsburg and Berkeley County Council--\$117,500

Motion made by Councilman M. Baker, seconded by Councilman Knowles, to approve Resolution 2017-08. Motion carried 6-1, Councilman J. Baker voting no.

e. Approve/deny issuance of Special Events Permit # 1717 for The Place of Hope in the Square Event, Saturday, July 29, 2017 (rain date August 5) from 1 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 (\$0.00 recommended)

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve Special Events Permit 1717 as requested, contingent upon proof of adequate liability insurance and payment of any fees for City services.

Councilman Etherington commented that he was concerned about events that hold the square for a number of hours and suggested that Council consider instating a maximum number of hours to for an event to be held. Mr. Sayre stated that, if Council wished to go this route, they would need to take care to instate the maximum for all applicants. Councilman M. Baker agreed that a maximum would be reasonable and it would have to be for all applicants.

Motion carried unanimously.

f. Approve/deny issuance of Special Events Permit # 1718 for Jamfest Event, Saturday, May 27, 2017 from 10 AM until 4 PM in the Town Square Pedestrian Plaza, 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 J. Baker, to approve Special Events Permit 1718, as requested, contingent upon proof of adequate liability insurance and payment of any City fees. Motion carried unanimously.

Councilman Etherington repeated his concerns regarding length of time for Town Square reservations.

g. Approve/deny request from the HOPE Dealer Project to affix yellow balloons to parking meters and light posts along Queen and King Street from May 14 through May 20, to be removed promptly on May 21

Motion made by Councilman Knowles, seconded by Councilman J. Baker, to approve the request.

Councilwoman Johnson expressed concern regarding the helium in the balloons which might not last for seven days. Ms. Tina Stride, Reliance Road, stated that she will monitor the balloons to ensure they are not drooping.

Motion carried unanimously.

h. Approve/deny request from Relay for Life to affix purple ribbons to parking meter and light posts along Queen and King Streets from May 21-May 27, to be removed promptly on May 28

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

i. Authorize Mayor to sign a Letter of Endorsement for St. Joseph End of Summer Festival—Saturday, September 23, from 2 until 8 PM

Motion made by Councilman Etherington, seconded by Councilman Collinson, to authorize the Mayor to sign the Letter of Endorsement. Motion carried unanimously.

j. Approve/deny purchase of coupling upgrade for Jaws of Life Rescue Tool and preventative maintenance plan—Interstate Rescue (sole supplier)--\$6,504.30 for upgrade and \$2,697 for maintenance—total \$9,201.30 (previously budgeted—General Fund)

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve the purchase of the upgrade, as requested. Motion carried unanimously.

k. Approve/deny purchase of four (4) Ford Explorers, outfitted to with lights, sirens and cages, at \$27,574 each—Stephen's Auto (State Contract) + \$5,000 per vehicle for outfitting total cost--\$130,296 (FY 2017 Police Levy)

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the purchase of the vehicles. Motion carried 6-1, Councilman J. Baker voting no.

Discussion included the need for the vehicles and that this would allow for older vehicles to be taken out of service.

l. Approve/deny bid recommendation for Xerox WV-7556HCT copier for Stormwater Management Office—Dice Imaging--\$5,978.00

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the bid recommendation for the copier. Motion carried unanimously.

m. Approve/deny bid recommendations Big Springs Water Plant Granular Activated Carbon Equipment Procurement bid—TIGG--\$674,985--Bid Alternate 1.1B (see memo from OBG)

See Presentations.

n. Approve/deny amendment to agreement for Task E —Big Springs Water Treatment Plant Interim Services for Treatment of PFAAs--\$126,368

See Presentations.

o. Discuss and take action as necessary to items pertaining to Lake Thomas Quarry

No action at this time.

Motion made by Councilman Knowles, seconded by Councilman Etherington, to table discussion and action. Motion carried unanimously.

p. Discuss sanitary sewer easement through the property belonging to Eric Westergard (Exchange Place) and take action as necessary

Mr. Sayre explained that it is an estimated cost of \$5500.00 to re-route the easement. He also explained that, customarily, the City offers a free tap to land owners that allow for an easement, which has a value of approximately \$5,500. Mr. Westergard is not interested in a tap, and would be amenable to accepting a payment of \$5,500.

Motion made by Councilman M. Baker, seconded by Councilman Etherington, to approve the payment to Mr. Westergard in the amount of \$5,500 in exchange for placement of a sanitary sewer easement through his property, and not offer him a free tap. Motion carried unanimously.

q. Approve/deny Scope of Services for Chester Engineers to Update City of Martinsburg Water Model—not to exceed \$9,900

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the Scope of Services. Motion carried unanimously.

Mr. Knipe stated that this is in relation to the connection with Berkeley County Public Service District, which may be impacted by the water load required by Proctor and Gamble.

r. Approve/deny Change Order #6 between the City of Martinsburg and HRI, Inc. for the Church Street Stormwater Project--\$26,966 + 19 calendar days

Motion made by Councilman M. Baker, seconded by Councilman Etherington, to approve Change Order #6. Motion carried unanimously.

City Manager Mark Baldwin explained that this is for paving and a junction box. Negotiations for liquidated damages are still on-going.

18. Executive Session

Motion made by Councilman Knowles, seconded by Councilman Etherington, to go into Executive Session for legal, personnel and real estate at 8:01 PM. Motion carried unanimously.

Adjournment

Meeting adjourned by unanimous consent at 8:20 PM.

George Karos, Mayor

Gena Long, City Recorder