

**City Of Martinsburg  
Regular Council Meeting  
Thursday, May 11, 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 Maurice Richards; Fire Chief Paul Bragg, Finance Director Mark Spickler, Community Development Administrator Nancy Strine, City Engineer/Planning Director Michael Covell and Utilities Director Steve Knipe.

**3. Salute to Flag**

Councilman Etherington led the Salute to the Flag.

**4. Prayer—**

Pastor Mark Mooney, Otterbein United Methodist Church, delivered the invocation.

**5. Approve April 13, 2017 Regular Meeting Minutes**

Motion made by Councilman J. Baker, seconded by Councilman Knowles, to approve the April 13, 2017 Regular Meeting Minutes. Motion carried unanimously.

**6. Approve April 18, 2017 Special Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the April 18, 2017 Special Meeting Minutes

**7. Approve March 2017 Administrative and Financial Report**

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

**8. Presentations**

**a. Richard Lemanowicz, representing Vertical Bridge Development, LLC, regarding proposed lease agreement for City of Martinsburg owned property located at the intersection of Mall Road and Porter Avenue (see map—Item 16 C)**

Motion made by Councilwoman Johnson, seconded by Councilman Wachtel, to move item 16 C up to be considered directly after Item 8A.

Mr. Richard Lemanowicz, representing Vertical Bridge Development, LLC, stated that his client is interested in placing another communications tower in the City of Martinsburg near Mall Drive. The City ordinance requires that City-owned property be considered before privately owned property, therefore, the property at Ambrose Park is being considered. The ordinance also requires that the developer retain the Center for Municipal Service to serve as a consultant to determine the need for a tower at that location. Mr. Lemanowicz is seeking the City's blessing to move forward with that consultant.

Councilman M. Baker asked about the suitability of the tower in a park. Mr. Baldwin responded that Council does not have to approve the location of the tower now, the ultimate decision regarding whether or not to lease the land can be made after review of the consultant's recommendations, which may suggest other locations. Mr. Lemanowicz added that his client is sensitive to the fact that this is a park and all attempts will be made to ensure that the tower is appropriate for the location.

Councilman J. Baker asked if other locations can be considered during the consulting process. City Attorney Kin Sayre further explained that the ordinance requires the developer to consider a co-location first, then a City-owned property before exploring other options. The suggested location is just a starting point and the other preferable locations might be suggested by the consultant for Council and the developer to consider.

**16c. Discuss and take action as necessary on Vertical Bridge Development, LLC's interest in leasing City of Martinsburg property located at the intersection of Mall Road and Porter Avenue (see map)**

Motion made by Councilman Wachtel, seconded by Councilman J. Baker, to allow Vertical Bridge Development, LLC to proceed with consulting with the Center for Municipal Service to determine need and location for a possible communications tower in or near the proposed location. Motion carried unanimously.

**b. Proclamation—Paint the Town Purple Week**

Mayor Karos read the Proclamation and presented it to the Berkeley County Relay for Life team.

**c. Proclamation—Men's Health Month—June 2017**

The Proclamation will be forwarded to the requestor.

**9. Petitions from Citizens**

Mr. David Anderson spoke about item 16Q, the approval of the design of the new Police Department/Municipal Court facility. He recommended that Council be sure to consider future need and expand the vision as Councilman J. Baker and Councilman M. Baker have suggested, with a fourth floor or basement level, as the parcel is landlocked and it will be difficult to modify later.

Ms. Dolly Fergus, Latte da Cupcakery, stated that she is hosting a Mother's Day event on Saturday and is asking if vendors can set up just outside her store, which would be on the Town Square.

Mr. Sayre stated that this is a timeliness issue, as this should have been requested via Special Events Permit application and approved by Council earlier. Ms. Fergus stated that there must have been some confusion, as when she called City Hall, she was informed that she only needed to ensure that her vendors were licensed, and was not informed of the application process.

Consensus of Council was to allow Ms. Fergus to proceed with her planned event and to catch up on the application process, as there were no additional City services recommended by applicable Department Heads.

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

- a. Proclamation regarding National Day of Prayer, May 4, 2017, as read at the Martinsburg Public Library**
- b. Eastern Panhandle Transit Authority (EPTA) March 20, 2017 Meeting Minutes and Financial Report**
- c. Eastern West Virginia Regional Airport Authority March 07, 2017 Meeting Minutes and Budget Report**

d. Letter of resignation from Christina Lundberg from the Human Relations Committee, effective June 30, 2017

e. Letter of resignation from Vernon Cartwright from the Human Relations Committee, effective June 30, 2017

f. Letter of resignation from A. Stephen Cox from the Eastern West Virginia Regional Airport Authority, effective June 30, 2017

g. Historic Preservation Review Commission April 3, 2017 Meeting Minutes

h. Planning Commission April 5, 2017 Meeting Minutes

i. For the Kids, by George Children’s Museum April 6, 2017 Board of Directors Meeting Minutes and Director’s Report

j. Berkeley County Homeland Security Emergency Management Press Release for the “Alert Berkeley” Swift 911 Emergency Notification System

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

**11. Reports of Chairpersons of Council Standing Committees**

**a. Council as a Whole Committee May 2, 2017 Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the Council as a Whole Committee May 2, 2017 Meeting Minutes as follows. Motion carried unanimously.

**Council as a Whole Committee Minutes  
Tuesday, May 2, 2017—4:30 PM**

**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; Mark B. Spickler, Finance Director; Chief of Police Maurice Richards; Deputy Chief George Swartwood, Jody Driggs and Brian Estep of Silling Architects.

**Unable to Attend:** none

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

**A. Project overview-to-date—Silling Architects:**

1. Survey Services: Silling informed the Committee that the survey has been completed.
2. Hazardous Material Services: Silling informed the Committee the hazardous materials services have been completed. Silling is awaiting final results.
3. Geotechnical Services: Silling informed the Committee that the geotechnical services have been completed. Silling introduced Brian Neely from ECS. Mr. Neely provided information on the five (5) different borings. He informed the Committee several of the borings did indicate hard rock.

Soil/rock conditions: Silling and ECS provided an overview of soil and rock conditions for the site.

Various questions were asked by Committee members and answered by Silling Architects.

**B. Schematic Design Overview—Silling Architects**

1. Building Design Concepts—Silling Architects provided a PowerPoint presentation showing schematic design for the new Police/Municipal Court building with and without a basement.

Option 1: Without Basement Presentation/ Three (3)-story schematic design—  
Total estimated cost to date \$12,866,611. Silling reiterated their comments made at the February 2017 Committee meeting, that this option meets future space requirements for PD/Court and allows for growth into the future.

Option 2: with Basement and three (3)-story schematic design—  
Silling Architects provided information regarding their evaluation to construct a basement. Information included discussion with ECS, KDM Consultants (construction estimate) and Valley Rock Systems. This evaluation concluded the estimate to construct the basement including other costs is \$3.2M.

Total estimated cost to construct new building with basement is \$16,082,557.

Various questions were asked by Committee and answered by Silling Architects.

Mayor Karos asked the Committee, at this point, if there is a consensus to move forward with Option 1 or Option 2. After some discussion, it was determined to move forward with funding options overview.

2. Project funding overview: Finance Director Mark Spickler provided the Committee an overview for the following:

Option 1 (without basement)—Finance Director indicated approximately \$13,111,000 would be needed to construct the new building without a basement. He stated \$9M is currently available for the project and approximately \$4,115,000 would be needed to complete the project.

Mr. Spickler provided bond options and yearly payments at 4% interest for 5 years, 7.5 years and 10 years. Mr. Spickler indicated, it was his opinion, that if this option was chosen the City would possibly not have to borrow the \$4.1 M as it could be budgeted through City revenue sources (GF/Sales Tax) over the next 2 years. This would allow for the building to be paid off without borrowing funds and allowing our budget revenues to be available for other City services operations and projects. A sales tax budget was provided in regards to this option.

Option 2 (with basement)—Finance Director indicated approximately \$16,330,000 would be needed to construct the new building with a basement. Once again, he stated that \$9M is currently available for the project and approximately \$7,330,000 would be needed to complete the project.

Mr. Spickler provided bond options and yearly payments at 4% interest for 5 years, 7.5 years, 10 years and 15 years. Mr. Spickler indicated that, it was his opinion, that if this option was chosen, the City would have to borrow the additional \$7,330,000. He also indicated that choosing this option would possible not allow additional revenues to be available for other City projects, employee pay and benefits, economic development incentives, City Hall renovations, etc. A sales tax budget was provided in regards to this option.

Various questions were asked by the Committee and answered by Finance Director Mark B. Spickler and City Manager Mark S. Baldwin.

The City Manager stated after several meetings and conversations with Silling Architects, Finance Director, Mayor, Chief of Police and Deputy Chief, Option 1 without the basement would allow the City to remain fiscally sound compared to Option 2 with basement.

Chief of Police stated he favored Option 1 without basement, echoing Silling Architect's statement that adequate space would be available with future growth potential. He also stated this option provided a more favorable financial outcome for the City.

After this overview, the Committee asked several questions. One question in particular was if the building could be designed both ways. Silling Architects said this would be very difficult to do and costly, as they would be required to do two different types of designs in order to bid the project.

Mayor Karos asked the Committee what the consensus was, taking into consideration the information provided.

**Consensus of the Committee was to approve Silling Architects to move forward with designing the PD/Court building without a basement. Consensus was 5 in favor, 1 not in favor and 1 abstaining.**

Mayor Karos then asked the Committee what the consensus was in regards to funding the project, taking into consideration the information provided.

**Consensus of the Committee was to proceed with the project with no basement without borrowing funds for the project.**

3. Exterior building design overview—Silling Architects continued with the PowerPoint presentation showing the Committee the exterior building design, to date.

4. Committee action on Schematic Design, project budget and project funding

**Consensus of the Committee was to move forward with the schematic design presented and project budget and funding as presented in Option 1, no basement by Silling and Finance Director.**

C. next steps for design development and construction documents were discussed by Silling Architects—estimated schedule complete design October 2017; bid and award November 2017; begin construction late 2017-2018; estimated completion date May 2019.

**Silling Architects indicated as project design and other elements are completed for the project, cost estimates for the project will vary. Silling will keep the City informed as the process moves along.**

Meeting adjourned.

## **12. Report of Mayor**

### **a. Reappoint the Following to Eastern Panhandle Regional Airport Authority—7/1/2017-6/30/2020**

- **Rick Wachtel**
- **Maria Lorensen**

Motion made by Councilman M. Baker, seconded by Councilman Collinson, to approve the Mayor's recommendation for the above appointments. Motion carried unanimously.

### **b. Reappoint Chris Amores to the Human Relations Committee—7/1/2017-6/30-2019**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the Mayor's recommendation and reappoint Mr. Amores through 6/30/2019. Motion carried unanimously.

**c. Fireworks Notice/Ordinance**

Mr. Baldwin reminded that, per the Ordinance passed in 2016, the discharge of fireworks in the City of Martinsburg remains illegal, though the sale is permitted. Martinsburg Police Department will be out in full force in the weeks surrounding the 4<sup>th</sup> of July.

Mayor Karos reiterated that the penalty for discharge of fireworks in the City limits is up to a \$500 fine and up to 30 days imprisonment.

**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)**

**Airport Authority (1 as of July 1)**

**Human Relations Committee (2 as of July 1)**

**13. Report of City Attorney**

**a. New York Avenue Extended Annexation Update**

Mr. Sayre stated that he had appeared today before the County Council and they tabled the matter, as they had not received the paperwork in time for review and they were wondering if the City would consider annexing the 5-7 tracts previously requested. Mr. Sayre stated that he expects the petition to be taken from the table at the next County Council meeting.

**14. Report of City Manager**

**a. Projects Update**

**15. Unfinished Business**

**a. Third and Final 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 Knowles, seconded by Councilman Etherington, to read Ordinance 2017-05 through the third and final reading, by title only, and adopt. Motion carried unanimously.

**b. Third and Final 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 Etherington, seconded by Councilman Etherington, to read Ordinance 2017-06 through the third and final reading, by title only, and adopt. 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 third and final reading, by title only, and adopt. Motion carried unanimously.

**16. New Business**

**a. First and Second Reading of Ordinance 2017-08 to Amend the City of Martinsburg Zoning Map to Rezone 1.053 Acres of an Improved Parcel Containing Approximately 20.383 Acres from IL (Light Industrial) to BC (Community Business)**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to read Ordinance 2017-08 through the first and second reading, by title only. Motion carried unanimously.

**b. Approve/deny purchase of three (3) LIDAR hand-held radar units--\$1,464 each—total \$4,392—Drug Forfeiture and Seizure Fund**

Motion made by Councilman Knowles, seconded by Councilman M. Baker, to approve the purchase of three (3) LIDAR units, as requested. Motion carried unanimously.

**c. Discuss and take action as necessary on Vertical Bridge Development, LLC's interest in leasing City of Martinsburg property located at the intersection of Mall Road and Porter Avenue (see map)**

See Item 7A.

**d. Approve/deny appointment of Dale Buck, Esq. as Municipal Court Judge, effective July 1, 2017**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the appointment of Dale Buck as Municipal Court Judge, effective July 1, 2017. Motion carried unanimously.

**e. Approve/deny Agreement between the City of Martinsburg and Nancy S. Strine Consultants, LLC for CDBG and HOME Administration, July 1, 2017 through June 30, 2018**

Motion made by Councilman Knowles, seconded by Councilman J. Baker, to approve the agreement between the City of Martinsburg and Nancy S. Strine Consultants, LLC. Motion carried unanimously.

**f. Approve/deny request from the South Kentucky/Valley Street residents to close a portion of Valley Street and the alley between Kentucky Avenue and Valley Street in conjunction with the City "Take Pride in your Community" Spring Clean Up Event—Saturday, May 20, 2017**

Motion made by Councilman Wachtel, seconded by Councilman M. Baker, to approve the request to close the street and alley portions as requested. Motion carried unanimously.

**g. Approve/deny Martinsburg Fire Department's participation in the American Cancer Society Relay for Life at Spring Mills High School (due to construction at Coburn Field track) on June 3, 2017—one (1) EMS vehicle and two (2) personnel**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the request for Fire/EMS vehicle and personnel to be present at Spring Mills High School track on June 3 for the Relay for Life event. Motion carried 6-1, Councilman M. Baker voting no.

Councilman Etherington asked for confirmation that this is a one-time request. Councilman Collinson confirmed that it is.

**h. Approve/deny Mutual Aid Agreement between the City of Martinsburg and Berkeley County, West Virginia for Fire, Emergency Medical Services, Specialized Rescues and Disasters, effective July 1, 2017**

Motion made by Councilman Collinson, seconded by Councilwoman Johnson, to approve the mutual aid agreement between the City of Martinsburg and Berkeley County. Motion carried unanimously.

**i. Approve/deny Mutual Aid Agreement between the City of Martinsburg and Jefferson County, West Virginia for Fire, Emergency Medical Services, Specialized Rescues and Disasters, effective July 1, 2017**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the mutual aid agreement between the City of Martinsburg and Jefferson County. Motion carried unanimously.

**j. Approve/deny bid recommendation 15-ton HVAC unit for Engine Room of Fire Department—Trenary Service Company--\$17,000**

Motion made by Councilman M. Baker, seconded by Councilman Wachtel, to approve the bid recommendation as submitted. Motion carried unanimously.

**k. Approve/deny bid recommendation for 600 digital parking meters—Duncan Parking Technologies--\$79,200 (if approved by 5/31/2017)**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the bid recommendation as submitted. Motion carried 6-1, Councilman M. Baker voting no.

Councilman J. Baker asked if the discount for ordering before the end of May was because the supplier is shipping out last year's models. Finance Director Mark Spickler stated that it is possible, he isn't sure. Councilman J. Baker asked how long the service agreement will be in place with older models. Mr. Spickler stated that the models recommended are the same models the City generally purchases annually in smaller quantities.

**l. Approve/deny purchase of 2017 Jeep Grand Cherokee 4x4 for Stormwater employees in Public Works Department—Stephens Auto (state contract)--\$28,484 (previously budgeted)**

Motion made Councilman Etherington, seconded by Councilman Knowles, to approve the purchase as recommended.

Councilman J. Baker asked why an SUV was recommended and not a truck, as the vehicle will be needed for field work.

Mr. Baldwin stated that the request was as recommended by the Public Works Director, that the vehicle is for the Stormwater Program, which is under the supervision of the Public Works Director. Mr. Wilkerson was away at a conference and not available for comment.

Motion made by Councilman J. Baker, seconded by Councilman M. Baker, to table the matter until further information is available. Motion failed 5-2; Councilman Wachtel, Councilwoman Johnson, Councilman Etherington, Councilman Knowles and Councilman Collinson voting no.

Original motion carried 6-1, Councilman J. Baker voting no.

**m. Approve/deny quote 14" Optimal Flow Cold Planer for Public Works Department—Alban Cat--\$11,799.00**

Motion made by Councilman M. Baker, seconded by Councilman J. Baker, to approve the quote for the Cold Planer as recommended. Motion carried unanimously.



**n. Approve/deny HRI Pay Application No. 9 for the Church Street Storm Drainage Improvement Project--\$187,478.54**

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve Pay Application #9. Motion carried unanimously.

Councilman M. Baker asked if this was the final payment. Mr. Baldwin stated that there will be one more, and this payment is not for any amount due that is still in negotiation.

**o. Approve/deny Snyder Environmental Services, Inc. Pay Application #1 for N. Queen Street Underpass Utility Relocation Project--\$118,094.72**

Motion made by Councilman M. Baker, seconded by Councilman Collinson, to approve Pay Application #1. Motion carried unanimously.

**p. Approve/deny agreement between City of Martinsburg and Zambelli Fireworks Manufacturing Corporation for July 4, 2017 fireworks display--\$10,000**

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the agreement with Zambelli Fireworks. Motion carried unanimously.

Councilman J. Baker asked about a rain date. Mr. Baldwin replied that the rain date of July 5 is included in the contract.

**q. Approve/deny construction of new Martinsburg Police Department/Municipal Court structure, as recommended at the May 2, 2017 Council a Whole Committee meeting (see minutes)—build option without basement, project estimated cost \$12.8M, estimated funding of \$13.1M (no borrowing of funds) and approval for Silling Associates to move forward with design per above and Committee recommendations, per minutes**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the construction of the structure as recommended by the Council as a Whole, without basement, for an estimated cost of \$13.8M, with no projected borrowing of funds, and for Silling Architects to move forward as recommended. Motion carried 5-2, Councilman M. Baker and Councilman J. Baker voting no.

**18. Executive Session**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to go into Executive Session for legal and personnel at 7:25 PM. Motion carried unanimously.

**Adjournment**

Meeting adjourned by unanimous consent at 7:45 PM.

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George Karos, Mayor

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Gena Long, City Recorder