

**City Of Martinsburg
Regular Council Meeting
Thursday, June 8, 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, Public Works Director Jeff Wilkerson, City Engineer/Planning Director Michael Covell and Utilities Director Steve Knipe.

3. Salute to Flag

Councilman J. Baker led the Salute to the Flag.

4. Prayer—

Rev. Dr. Rufus Burton, First Presbyterian Church, delivered the invocation.

5. Approve May 11, 2017 Regular Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the May 11, 2017 Regular Meeting Minutes. Motion carried unanimously.

6. Approve April 2017 Administrative and Financial Report

Motion made by Councilwoman Johnson, seconded by Councilman Etherington, to approve the April 2017 Administrative and Financial Report. Motion carried unanimously.

7. Presentations

a. Administer Oath of Office to Firefighter/EMT Basic Shane Herber

Oath was administered by City Recorder.

b. Make comment on ABCA Zoning Form for Mb Lounge and Restaurant—127 E. King Street—continent upon June 6, 2017 approval by the Board of Zoning Appeals for alcohol sales in the BD Zoning District

Mr. Devon Walker, Nottingham Blvd, was available to answer questions.

Police Chief Richards stated that the Police Department had no concerns at this time.

Motion made by Councilman J. Baker, seconded by Councilman Wachtel, to forward Zoning Form to the ABCA without comment.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to move item 15Q under Item 7C on the agenda and add item 7D, a presentation by Dennis Pinigis, Air National Guard Environmental Protection Program. Motion carried unanimously.

c. Big Springs Water Plant Upgrade Project Update—Steve Knipe, Utilities Director and George Rest, OBG (See item 15Q).

Mr. Knipe stated that the City has procured the services of OBG to determine the best course of action to properly equip the Big Springs Water Plant to filter out contaminants. In the meantime, City forces were utilized to get the original spring back online to supply water to the City of Martinsburg. Contracts were awarded to procure equipment, and now Council is to consider awarding the bid to construct the infrastructure to house the equipment.

Mr. Rest, OBG, stated that the bids had been taken for installation of the granular carbon equipment. There are two alternatives. The first would allow for 2.5 million gallons per day (MGD), which serves the City's current need, and the second would allow for 5 MGD. OBG is recommending that Council approve Snyder Environmental Services, Inc.'s Alternative 2 if adequate funds are available. Alternative 2 will allow for the following factors: meet demand on one shift; allows for maintenance if one piece of equipment must be taken offline while still meeting demand; to take advantage of the economics of scale (30% more cost for 100% more output); and avoids future disruption and cost of future upgrade if expanded capacity is required.

Mr. Rest conceded that Snyder Environmental did not provide a very aggressive schedule, however, Mr. Knipe felt that the City could work with the provided estimated time. Considering cost savings in other areas, the bid by Snyder Environmental would allow the City to select Alternative 2 for only slightly more than was originally estimated for the 2.5 MGD project.

7 d.

Mr. Dennis Pinigis, Air National Guard Environmental Restoration Program, informed Council that the originally discussed cooperative agreement between the City of Martinsburg and the United States Air Force has been "paused," and is under legal review. Councilman M. Baker asked exactly what was meant by the word "paused." Mr. Pinigis responded that the Air Force does not have fiscal authority at this time to enter into any reimbursement agreements with the City of Martinsburg.

Mr. Pinigis went on to say that the City would not be receiving any reimbursement from the Air Force for money already spent for treatment or infrastructure, as was originally indicated. City Manager Mark Baldwin reminded Council that the City had been assured that there would be a reimbursement for previously spent funds and future costs of treating the contaminants. The City has already spent approximately \$1M on equipment and mitigation. If the City moves forward without an agreement, there will be no reimbursement for money spent prior to an agreement by the Air Force. He asked Mr. Pinigis if there were any other entities or branches of the Federal Government from whom the City should seek reimbursement.

Mr. Pinigis replied that legal and administrative staff are currently reviewing the agreement and identifying revenue sources, and in the best case scenario, a cooperative agreement would be forthcoming in mid-summer.

Councilman M. Baker asked if Council should hold off until there were further developments on the agreement. Mr. Sayre replied that Council must consider the needs of the citizens of the City. He stated that there are processes, such as filing a claim or seeking legislative action to force the Air Force to honor their original agreement. He stated that the City also will likely have to file claims to recoup operating costs.

Councilman M. Baker stated that the City made a commitment to Proctor and Gamble to supply them water, which was based on the Air Force taking responsibility for and offering to reimburse the City for the contamination of the water supply. The City of Martinsburg must move forward, otherwise this could be a national economic development embarrassment, as Proctor and Gamble has not constructed a facility in the US for some time. The Air Force, Councilman M. Baker stated, was the only entity using the fire retardant that contaminated the water supply, and they were reckless in its use.

Councilman Wachtel asked for a list of names of those of those involved in the decision to pause the cooperative agreement. Mr. Pinigis stated that he could provide that information at a later date. He added that there are approximately 75 Air Force installations nationwide that are in need of inspection for contaminant and Martinsburg is a priority. City Manager Baldwin asked if this was the same study that the Air Force had indicated was underway a year ago. Mr. Pinigis stated that it is; that regulatory review and other logistics have taken a considerable amount of time.

Mayor Karos thanked the representatives from the National Guard for coming and stated that Council would definitely be pursuing the matter further.

15 q. Approve/deny bid recommendation for Big Springs Water Treatment Plant Contract #2-- GAC Upgrades— Bid Alternate #1--\$1,556,450—Snyder Environmental Services, Inc. or Bid Alternate #2--\$2,124,450—Snyder Environmental Services, Inc. (see attached)

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the bid recommendation for Alternative #2--\$2,124,450. Motion carried unanimously.

8. Petitions from Citizens

Mr. Randy Lewis, Main Street Martinsburg, thanked Council for the consideration of Item 15K. He wanted to clarify that Main Street is only asking to extend the hours for use of the Square, that CASA will be seeking their own ABCA license.

Motion made by Councilman M. Baker, seconded by Councilman Wachtel, to move item 15K up on the agenda. Motion carried unanimously.

k. Approve/deny amendment to Special Events Permit # 1708, Main Street Martinsburg Fridays at Five, to extend event ending time from 7 PM until 10 PM on Friday, August 18, 2017 to accommodate CASA's Flamingo Fandango event, to include an amended Letter of Endorsement to the ABCA for beer sales

Motion made by Councilman Knowles, seconded by Councilman Etherington, to extend the hours for the Fridays at Five on Friday, August 18, 2017 until 10 PM, as requested. Motion carried unanimously.

Mr. Randy Lewis, Main Street Martinsburg stated that he appreciates the support from the City of Martinsburg. He further added that Main Street will not be serving as a "go-thru organization" for those entities seeking to avoid special event fees. City Manager Mark Baldwin responded that he appreciates that, adding that no one at the City of Martinsburg is sending organizations to Main Street in order to be considered for sponsorship, in order to have fees waived.

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

a. Proclamation regarding Heritage Days, May 12-14, 2017, as read in the Town Square Pedestrian Plaza

b. Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) March 15, 2017 meeting minutes and Berkeley County projects update

c. Eastern Panhandle Regional Planning and Development Council—Region 9 February 13, 2017 Meeting Minutes

d. Letter of Resignation from Donald Anderson from the Martinsburg Housing Authority, effective June 8, 2017

Motion made by Councilman Wachtel, seconded by Councilman J. Baker, to receive and file item 9A-9D. Motion carried unanimously.

10. Reports of Chairpersons of Council Standing Committees

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

11. Report of Mayor

a. Fourth of July Fireworks Update/Reminder of City Ordinance and notifications regarding the discharge of fireworks

b. Schedule Special City Council Meeting for Monday, July 31, 2017 at 5 PM to approve FY 2017-2018 budget amendments, per State code, and other business as needed

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)**
- **Housing Authority (1)**

Mayor Karos stated that he has a number of letters of interest and hopes to have many of the board and commission vacancies filled in July.

12. Report of City Attorney

a. New York Avenue Extended Annexation Update

Mr. Sayre stated the Berkeley County Council did approve the annexation by minor boundary adjustment. The public hearing will be held on the 29th of June, and he anticipates it to be complete following that process.

b. Update and Review of Potential Lawsuits against Manufacturers of Opioids

Mr. Sayre reported that Berkeley County is likely to move forward. He indicated that the City may become involved by default if a class action suit is initiated, unless the City of Martinsburg chooses to opt out. He asked Council if they would like to invite a law firm in to give a presentation on the issue. He indicated that the City of Martinsburg would not be part of any settlement that Berkeley County may receive, as the suit deals with expenditures from each individual political subdivision. The City of Martinsburg does not likely have a large cash expenditure to claim for treatment opioid related issues, but would have to determine the true cost if it is decided to enter into a suit.

Councilman J. Baker stated that he is not in favor of the City's involvement in legal action against drug manufactures, and that the action should be taken against doctors and pharmacists. He does not want a presentation regarding this issue.

The consensus of Council was not to invite any law firms to present this issue.

City Manager Mark Baldwin suggested leaving the door open for consideration in case there are future developments.

Councilman Knowles stated that it is foolish not to at least hear the information and that Council needs to get its head out of the sand regarding the heroin epidemic in Martinsburg.

Councilman Wachtel stated that he has heard many presentations on this issue.

Councilman J. Baker confirmed that he fully understands that the City of Martinsburg needs to get a handle on the heroin epidemic; however, this type of suit does not do that.

Again, Councilman Knowles asked the Council to at least be open to hearing the information.

Councilman M. Baker asked if the Attorney General's office would make comment on the issue, or potentially represent the City. Mr. Sayre responded that the AG can make comment, but cannot represent the City.

13. Report of City Manager

14. Unfinished Business

a. Third and Final Reading of Ordinance 2017-08 to Amend the City of Martinsburg Zoning Map to Rezone .897 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 third and final reading, by title only, and adopt. Motion carried unanimously.

15. New Business

a. First and Second Reading of Ordinance 2017-09 Amending Ordinance 2016-34 Which Established Job Descriptions For Employees Of The City Of Martinsburg, West Virginia

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to read Ordinance 2017-09 through the first and second reading, by title only. Motion carried unanimously.

b. Approve/deny Resolution 2017-09: General Fund Budget Revision #4 for FY 2016-2017

Motion made Councilman Wachtel, seconded by Councilman Collinson, to approve Resolution 2017-09. Motion carried unanimously.

c. Approve/deny Police Levy Fund Budget Revision #2 for FY 2016-2017

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve Police Levy Fund Budget Revision #2. Motion carried unanimously.

d. Approve/deny Fire/EMS Fund Budget Revision #2 for FY 2016-2017

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the Fire/EMS Budget Revision #2. Motion carried unanimously.

e. Approve/deny Water & Sewer Fund Budget Revision #2 for FY 2016-2017

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve the Fire/EMS Budget Revision #2. Motion carried unanimously.

f. Approve/deny Sanitation Fund Budget Revision #2 for FY 2016-2017

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the Sanitation Fund Budget Revision #2. Motion carried unanimously.

g. Approve/deny Parking Fund Budget Revision #2 for FY 2016-2017

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the Parking Budget Revision #2. Motion carried unanimously.

h. Appointments to the following positions:

- **City Recorder—Gena Long**

Motion made by Councilman Knowles, seconded by Councilwoman Johnson, to nominate Gena Long to serve as City Recorder through 6/30/2018. Motion carried unanimously.

- **Treasurer—**

Motion made by Councilman Wachtel, seconded by Councilwoman Johnson, to nominate Dennis Etherington to serve as Treasurer from 7/1/2017- 6/30/2018. Motion carried unanimously.

Motion made by Councilman M. Baker, seconded by Councilman Collinson, to nominate Jason Baker to serve as Treasurer from 7/1/2017-6/30/2018. Motion carried unanimously.

Votes for Dennis Etherington: Councilman Wachtel, Councilwoman Johnson, Councilman Etherington.

Votes for Jason Baker: Councilman Knowles, Councilman Collinson, Councilman M. Baker, Councilman J. Baker

Councilman J. Baker was appointed to Treasurer beginning 7/1/2017

i. Confirm consensus of Special Events Permit # 1720 for Mothers' Day Charitable Shopping Event in the Town Square Pedestrian Plaza, as requested by Latte Da Cupcakery on Saturday, 5/13/17 from 10 AM until 4 PM

Motion made by Councilman Collinson, seconded by Councilman J. Baker, to confirm the consensus. Motion carried unanimously.

Councilman Etherington mentioned that this was another event in which the Square was reserved for an excessive amount of time, in his opinion. City Manager Baldwin stated that this issue can be discussed in an upcoming Committee meeting.

j. Approve/deny Special Events Permit # 1721 for Girl Scouts Candle Vigil in the Town Square Pedestrian Plaza on Saturday, October 28, 2017 from 7PM until 8 PM, contingent upon proof of adequate liability insurance and payment for any City services (\$0.00 recommended)

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the event as requested, contingent upon proof of adequate liability insurance and payment for City services. Motion carried unanimously.

k. Approve/deny amendment to Special Events Permit # 1708, Main Street Martinsburg Fridays at Five, to extend event ending time from 7 PM until 10 PM on Friday, August 18, 2017 to accommodate CASA's Flamingo Fandango event, to include an amended Letter of Endorsement to the ABCA for beer sales

See Item 8.

l. Approve/deny renewal of health insurance with Highmark Blue Cross Blue Shield (see memo)

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the renewal. Motion carried unanimously.

m. Approve/deny renewal of workers' compensation insurance with BrickStreet Insurance

Motion made by Councilman J. Baker, seconded by Councilman Etherington, to approve the renewal with Brick Street for an annual premium of \$264,315. Motion carried unanimously.

Mr. Baldwin added that this is a decrease from the previous renewal.

n. Approve/deny renewal of causality and liability insurance with Travelers Indemnity Company

Motion made by Councilman M. Baker, seconded by Councilman J. Baker, to approve the renewal with TIC for an annual premium of \$725,224. Motion carried unanimously.

o. Approve/deny purchase of 25 Motorola APX 4000 portable police radios—Teletronic (sole supplier)--\$66,431.25 (FY 2017-18 Police Levy Fund)

Motion made by Councilman M. Baker, seconded by Councilman Collinson, to approve the purchase as requested. Motion carried unanimously.

p. Approve/deny Resolution 2017-10 authorizing an agreement between the City of Martinsburg and Berkeley County Schools for the provision of a School Resource Officer--\$60,000 payable to the City of Martinsburg—effective July 1, 2017

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve Resolution 2017-10.

Mr. Sayre stated that he is still reviewing this agreement and clarifying issues with the Board of Education.

Motion made by Councilman M. Baker, seconded by Councilman J. Baker, to table the issue. Motion carried unanimously.

q. Approve/deny bid recommendation for Big Springs Water Treatment Plant Contract #2-- GAC Upgrades—Bid Alternate #1--\$1,556,450—Snyder Environmental Services, Inc. or Bid Alternate #2--\$2,124,450—Snyder Environmental Services, Inc. (see attached)

See Item 7 C and D.

r. Approve/deny Change Order # 7 between the City of Martinsburg and HRI, Inc. for the Church Street Storm Drainage Improvement Project--\$100,000 plus 16 calendar days

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve Change Order #7. Motion carried unanimously.

s. Approve/deny Change Order #8 between the City of Martinsburg and HRI, Inc. for the Church Street Storm Drainage Improvement Project--\$24,930.48 credit to the City

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Change Order #8. Motion carried unanimously.

t. Approve/deny HRI Pay Application No. 10 for the Church Street Storm Drainage Improvement Project--\$163,216.38 (final)

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

u. Approve/deny Snyder Environmental Services, Inc. Pay Application #2 for N. Queen Street Underpass Utility Relocation Project--\$185,166.50

Motion made by Councilman Etherington, seconded by Councilman J. Baker, to approve the Pay Application as submitted. Motion carried unanimously.

v. Approve/deny additional fees for Engineering Services for N. Queen Street Underpass Structural Repairs and Underpass Enhancements--\$10,000-- Alpha Associates

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the additional fees. Motion carried unanimously.

w. Approve/deny Contract of Lease Agreement between the City of Martinsburg and the State of West Virginia Department of Administration/Real Estate Division for the lease of office suites 102 and 103 of the Caperton Train Station

Motion made by Councilman J. Baker, seconded by Councilman M. Baker, to approve the lease agreement as submitted. Motion carried unanimously.

18. Executive Session

Motion made by Councilman Knowles, seconded by Councilman M. Baker, to go into Executive Session for personnel at 7:54 PM. Motion carried unanimously.

Adjournment

Meeting adjourned by unanimous consent at 8:12 PM.

George Karos, Mayor

Gena Long, City Recorder