

**City Of Martinsburg
Regular Council Meeting
Thursday, September 14, 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, Community Development Administrator Nancy Strine, Public Works Director Jeff Wilkerson, and Utilities Director Steve Knipe.

3. Salute to Flag

Councilman M. Baker led the Salute to the Flag.

4. Prayer—

Rev. Dr. Ken Walker lead the invocation.

Mayor Karos announced that Item 15 I will not be considered this evening. Motion made by Councilman Wachtel, seconded by Councilman Etherington, to remove strike Item 15 I from the agenda.

Mayor Karos also announced added item 11 B to schedule a Council as a Whole Committee Meeting for Thursday, 9/28/17 beginning at 4:30 PM.

5. Approve August 10, 2017 Regular Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the August 10, 2017 Regular Meeting Minutes. Motion carried unanimously.

6. Approve July 2017 Administrative and Financial Report

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

7. Presentations

a. Make Comment on ABCA Zoning Form for HUB Co-Op, LLC, dba Mad Kat Café and Wine Bar, 131 N. Queen Street

Mr. Drew Johnson was available for comment and questions.

Mayor Karos asked about the hours of the café. Mr. Johnson replied that the hours will, for the time being, be lunch and dinner hours, closed on Monday and open for brunch on Sundays.

Motion made by Councilman J. Baker, seconded by Councilman Collinson, to forward the zoning form without comment. Motion carried unanimously.

b. Proclamation—Constitution Week—Shenandoah Valley Chapter and William Henshaw Chapter—National Daughters of the American Revolution

Mayor Karos read the Proclamation and presented it to both Chapters.

c. Marti Steiner—Recovery Coach Academy—Informational Presentation on Recovery Coaching

No one was present for the presentation.

8. Petitions from Citizens

Ms. Helen Henderson, W. Burke Street, asked about progress with the projects on E. Martin Street, which are to be funded by a grant. Ms. Henderson also commented about industrial vehicles being parked in residential areas.

Mr. Dan Duleya, Berkeley County Council, commented on item 16H, regarding the hotels on Winchester Avenue, stating that the County Commission would not be opposed to annexing the properties into the City, however it is has been discovered that the hotels are in the Windewald Zoning District, one of the few areas of the County with zoning, and the County Council hopes to use this tool to curb the illegal activities happening in the hotels. Mr. Duleya also stated that the County's Board of Zoning Appeals has no current members and asked concerned citizens to volunteer.

Ms. Diana Collins read the following statement:

I am here tonight to request that my City Council oppose the First Energy transfer to WV ratepayers, the Pleasants Power Plant. Currently, Potomac Edison is seeking approval from the WV Public Service Commission to agree with this deal. This is not a good deal for Martinsburg residents. As customers of Potomac Edison, the subsidiary of First Energy, this \$195 million dollar purchase would not provide Martinsburg construction jobs, energy efficiency, and renewable energy business, but will lock us into an uncompetitive, losing scenario where we will not attract new businesses seeking 100% energy independence.

Another WV investment in an uncompetitive coal-fired from the Ohio energy market does not make sense when this same investment in energy efficiency programs like First Energy does in Maryland, Ohio, Pennsylvania and New Jersey is needed here in Martinsburg and West Virginia. A \$1 million investment in these energy efficiency programs supports, on average, two times the amount of jobs than coal power generation jobs. The average wage for these energy efficiency and construction jobs is nearly \$5,000 above the national average median income. Why won't Potomac Edison invest in these jobs for Martinsburg and West Virginia as they do for other states?

The reason they don't? They think we will pay for their poor decisions to not diversify their portfolio as they have done elsewhere. Here in Martinsburg, we are smarter than that. Their stockholders need to lose money on their bad investments, not the hard-working families of Martinsburg.

Although First Energy states that we will not lose money with this transaction, we know we have already lost \$160 million when they were granted a bailout of the Harrison Power Plant in 2013 by the Public Service Commission. Our rates have continued to increase, and in their 2015 Annual Report, we saw a 12.5% increase in West Virginia with a more than 30% increase in rates since 2009, according to Energy Efficient West Virginia, a policy group in Charleston.

For these reasons, and the common good of Martinsburg, I urge the City of Martinsburg to oppose this transaction by resolution.

Trendon (name unclear), Boyd Avenue, spoke about working to increase wages for public service workers and strive to be more competitive in order to keep a reliable workforce local.

Jeff Boehm, N. Tennessee Avenue, spoke in favor the proposed urban deer management ordinance, stating that there are several significant herds of deer in the City, which are only growing. The deer are becoming a nuisance and a threat to public health and safety. He felt that a humane hunt would be more merciful than starvation, which will be the case if the herds continue to grow.

Greg Marks, Byrd Drive, was in support of the urban deer management ordinance, stating that he has many deer in his neighborhood.

David Anderson, Music Court, was in favor of the request to designate a portion of W. Stephen Street as one-way, as he felt Council should take the opportunity to support a successful downtown business. He also commended the Public Works Department for their work in keeping downtown clean.

Dennis Clarke spoke in favor of the urban deer hunt, he stated that the nuisance deer are becoming a bigger problem every year.

Ms. Kathy Chapman, Winchester Avenue, spoke about the Relax Inn and Heritage Inn, stating that all they want is for the businesses to be law abiding and not allow the drugs and prostitution to continue within the establishment. If the business owners are not willing to do so, they she would like to see the property annexed so that City ordinances may be enacted to ensure compliance.

Ms. Elizabeth Day gave the following statement:

Good evening, my name is Elizabeth Day. My husband, David, and I live in the City on Winchester Avenue.

Yesterday, I read the news story quoting Mr. Sayre about the petition presented at last month's meeting, but an important detail was missed. Chapter 8, Article 6 of the West Virginia Code lists not one, but three, annexation methods, one of which is a minor boundary adjustment, which would not require the motel owners' signatures.

The intent in providing you with 282 signatures was to demonstrate people's exasperation with the problems we've had on the south end. There is no boundary line magic keeping crime from crossing Thompson Street into Martinsburg. With Winchester Avenue as the main southern gateway to the City, imagine what visitors driving into town think while seeing the prostitutes and thugs there. Last month, I said this problem was costing us one way or another. It still is, now in the form of police overtime. And, while maps might indicate this as being the County's problem, the reality is that the City, residents and businesses all share the misery. We must fix this.

I maintain that if the motel owners won't exert control over their guests, then they should pay to offset excess emergency service usage and police overtime. At least after annexation, the City would receive property and B&O taxes. But mainly, the drug house ordinance could be enforced, reducing or even eliminating the number of 911 calls there.

Please note that we are deeply grateful to the Council and Martinsburg Police for devoting additional resources to our community, and we congratulate them on the closure of 12 drug houses. But, we wonder

if the intense effort in our community is sustainable. Whether by annexation or by other means, we are asking this Council for its wisdom in inventing a more lasting solution. Thank you for your time.

John Plowden, Boyd Avenue, stated that law enforcement is overwhelmed with drug problems. He stated that the people and the City must work together to help resolve the issue. He stated that his neighborhood community program has been using drones to photograph users and dealers, which has decreased issues in his neighborhood, as they do not like to be exposed to the light of day.

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

a. Departmental Overtime/Equipment Usage Reports for MSM Bike Night, August 12, 2017--\$16,226.75

b. West Virginia Project CommuniTree Grant Proposal, as submitted by the Shade Tree Commission

c. Planning Commission August 2, 2017 Meeting Minutes

d. Shade Tree Commission September 7, 2017 Meeting Minutes

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

10. Reports of Chairpersons of Council Standing Committees

a. Council as a Whole Committee August 30, 2017 Meeting Minutes

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the Council as a Whole Committee Meeting Minutes as follows:

Council as a Whole Committee Minutes

Wednesday, August 30, 2017—4 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 Spickler, Finance Director, Chief of Police Maury Richards; Deputy Chief George Swartwood; City Attorney Kin Sayre; City Engineer/Planning Director Kim Petrucci; Public Works Director Jeff Wilkerson; Jody Driggs and Brian Estep of Silling Architects; Greg Fox of Terradon Corp. members of the media and public.

Unable to Attend:

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

A. Silling Architects provided a project overview of the following:

1. The previously presented three (3) story floor plans;
2. The previously presented schematic design and cost estimate;
3. Silling and Terradon provided an in-depth overview of the elements and costs to resolve stormwater design to meet State and City codes
4. Overview of processes involved in the Design Development Phase—electrical, mechanical, HVAC, plumbing, stormwater, materials and overall site plan
5. Stated exterior design elements completed
6. Stated interior design to be finalized
7. Provided and overview of the exterior of the building. Showed various building material components.

8. Provided overview of the site detailing the stormwater bioswale and parking for the new building, existing City Hall parking lot and City parking lot off Race Street.
9. Discussed new cost estimate for the Design Development Phase as compared to the Schematic Design Phase. Indicated costs increased approximately \$704,530 (City had an additional contingency of \$250,000 reducing additional costs to approximately \$454,530) and explained what drove the cost increases (SW/HVAC/Generator and Parking Lot Redevelopment Plan). City indicated funding for project still available.
10. Informed Council that Silling would provide an onsite project evaluation every two (2) weeks throughout the project and as needed. They further explained they will review submittals, RFIs, Change Orders, Pay Applications, etc.
11. Indicated demolition of existing building will be part of bid package.
12. Discussed need to plan for future employee temporary parking before project commences.

After discussion, consensus of the Committee was for Silling Architects to continue into the next phase of their development. Councilman M. Baker requested Continental Brick be notified and considered to bid on the brick for the building. Councilman J. Baker requested alternate bids for gas and diesel generator. Overall, all Council Committee members provided positive comments on the design and progress to date.

11. Report of Mayor

a. Appoint Gregory Janes to the West Virginia Regional Airport Authority to fill an Expired Term—7-1-2017-6/30/2020

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the appointment of Mr. Janes to the Airport Authority through 6/30/2020. Motion carried unanimously.

b. Report the following vacancies:

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

12. Report of City Attorney

a. Discuss Urban Deer Management Ordinance

Mr. Sayre reported that a draft ordinance had been developed using several other municipal ordinances and discussions with Staff and the Police Department.

Councilman J. Baker asked if the ordinance would include hunting on public property. Mr. Sayre stated that it does not, but it can always be amended later if that is desirable. Councilman J. Baker stated that there are significant deer herds near Lake Thomas and feels that it should be included.

Councilman M. Baker asked if property owners can combine to form a five acre tract. Mr. Sayre stated that all combined properties must share at least one owner, per the draft, but some cities do allow this and it can be considered.

The City Recorder pointed out that the draft requires a Class Y License for the use of a crossbow, but that the State of West Virginia no longer requires a special license to use a crossbow, and asked Council to consider if they wanted to make that change. Per the Police Department, a crossbow will allow for a cleaner kill and potentially require less tracking of wounded deer by the Police.

The City Manager asked Council to make their comments and concerns known by Wednesday. He also pointed out that, though WVDNR requires that municipalities advise them of the intent to hold an urban deer hunt by August 30, officials have indicated that they may be willing to work with the City to hold on one in 2017 if the ordinance passes.

Councilman M. Baker suggested changing the previously scheduled Council as a Whole Committee Meeting on September 28 to a Special City Council Meeting to read the ordinance through the first and second reading so it can pass the third and final in October, if approved. The Mayor scheduled a Special City Council Meeting for Thursday, September 28, 2017 at 5 PM to hear the Urban Deer Management Ordinance and other business as needed.

13. Report of City Manager

A. Projects Update

No further comment.

14. Unfinished Business

a. Third and Final Reading of Ordinance 2017-11 to Amend and Reenact the Codified Ordinances of the City of Martinsburg to Amend Part Nine: Streets, Utilities and Public Services Code, Chapter Five: Other Public Services, Article 951: Garbage Collections at Section 951.02: Container Requirements and Section 951.06: Charges for Collection by City

Motion made by Councilman J. Baker, seconded by Councilman Collinson, to read Ordinance 2017-11 through the third and final reading, by title only, and adopt. Motion carried unanimously.

16. New Business

a. Approve/deny Trick or Treat for children 12 and under in the City of Martinsburg on Tuesday, October 31, 2107 from 6-8 PM

Motion made by Councilman Etherington, seconded by Councilman M. Baker, to hold Trick or Treat as proposed. Motion carried unanimously.

b. Discuss Holiday Schedule for Christmas and New Year's (see example), take action as necessary

Motion made by Councilman Wachtel seconded by Councilman Etherington, to close City Hall at noon on Friday, December 22, 2017 and all day on Tuesday, December 26, 2017, with these days to be treated as any other holiday. Motion carried unanimously.

c. Approve/deny flu shots for City employees and elected officials--\$20 each (payable by City of Martinsburg)

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the flu shots for employees and elected officials. Motion carried unanimously.

d. Approve/deny Special Events Permit # 2017-26 for Mountain State Apple Harvest Festival's request to hold the Grand Feature MSAHF Parade on Saturday, October 21, 2017 from 8:30 AM until 4 PM along the attached route, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services (\$15,369.90 recommended, if not waived via Section 155.09(b) of Ordinance 2016-32)

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve Special Events Permit # 2017-26, as proposed, and waive the \$15,369.90 in recommended fees for City services in accordance with Section 155.09 (b), contingent upon proof of adequate liability insurance. Motion carried unanimously.

e. Approve/deny Special Events Permit # 2017-27 for Martinsburg Renew's request to hold a Multicultural Heritage Festival in the Town Square Pedestrian Plaza on Saturday, September 23, 2017 from 12 noon until 4 PM, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services (\$140 recommended)

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Special Events Permit 2017-27, reducing the total request hours from 8 to 4, including set up and tear down, contingent upon proof of adequate liability insurance and payment of fees for City services. Motion carried unanimously.

f. Approve/deny Special Events Permit # 2017-28 for Cornerstone Bible Church's request to hold the annual National Life Chain vigil at the intersection of Queen and King Streets on Sunday, October 1, 2017 from 2-3 PM, along the sidewalks and in the Town Square Pedestrian Plaza, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services (\$0.00 recommended)

Motion made by Councilman J. Baker, seconded by Councilman Etherington, to approve Special Events Permit # 2017-28, as requested, contingent upon proof of adequate liability insurance. Motion carried unanimously.

g. Discuss, and take action as necessary, citizen petition received August 10, 2017 regarding further allocation of public safety resources to the Town Square Pedestrian Plaza and surrounding areas

Chief Richards stated that the Police Department has increased foot and bike patrols in that area and that the Town Square is in good condition. He stated that other issues may be happening on private property and encouraged concerned citizens to call the police department if that is happening.

Councilman Knowles and Mayor Karos reported that businesses and residents have both indicated there has been a significant improvement.

h. Discuss, and take action as necessary, citizen petition received August 10, 2017, regarding consideration to annex properties located at 1022-1024 Winchester Avenue into the City of Martinsburg

Mayor Karos stated that this is an ongoing issue with substantial progress, arrests are being made, the Police Department is working overtime specifically in this area and the County is working on correcting what they can and working on abatement, where possible.

City Manager Mark Baldwin agreed, and added that it might be prudent to wait and see what the County can do with their zoning ordinance. He also agreed that there has been improvement.

Councilman Wachtel added that the County should be reimbursing the City for costs incurred in enforcement.

Councilman Knowles stated that, if these properties were in the City, they would be in his ward. He has seen improvement, and suggested that affected residents of Ward II and Ward I look into appointment to the Berkeley County Board of Zoning Appeals.

Councilman J. Baker stated that if this issue comes back to the City for annexation, the entirety of Winchester to the intersection with Apple Harvest Drive should be annexed; the hotels alone will not provide enough revenue to offset the considerable cost of annexation and enforcement. Mayor Karos agreed, adding that squaring off the boundaries is helpful to first responders.

Mr. Baldwin assured the residents that the City is aware of the issue and working on it, they are looking at a variety of options to determine the most expedient way of mitigating the issue. Ms. Day added that she has seen considerable improvement, however, she still saw four prostitutes walking by her home that very day.

i. Discuss, and take action as necessary, request to designate W. Stephen Street as a one-way street, in a westerly direction, between the intersections of Maple Avenue and Raleigh Street

This item was removed from consideration at this time.

j. Approve/deny bid recommendation for 44 SBCA units for Martinsburg Fire Department (MFD)--\$286,333.69—Municipal Emergency Services

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the purchase of the SCBA units. Motion carried unanimously.

Mr. Baldwin added that the funds for this purchase will come from a FEMA grant.

k. Approve/deny bid recommendation for 88 air-cylinders for SCBA units for MFD--\$61,399.60—Municipal Emergency Service

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the purchase of air units. Motion carried unanimously.

This purchase is City funded, as well as the following item, and some cost savings were realized when bids came in.

l. Approve/deny bid recommendation for 8 SBCA Facepiece Thermal Imaging Cameras--\$13,604.06—Municipal Emergency Service

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the purchase of cameras. Motion carried unanimously.

m. Approve/deny purchase of one 2017 Dodge Ram 1500 4x4—Greenbrier Motor Company (State Contract)--\$29,264 and one 2017 Jeep Grand Cherokee—Stephens Auto Center (State Contract)--\$28,484—Planning Department

Councilman J. Baker stated that the inspectors had indicated they all were in favor of trucks over SUVs. Mr. Baldwin stated that his was the recommendation provided by the Department Head, he was not sure of the discussions that had occurred which had resulted in this recommendation.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the vehicle purchases, as requested. Motion carried unanimously.

n. Approve 2017/2018 JAG Grant application for \$10,957 (City Match--\$39) in federal funds to purchase six mobile fingerprint identification scanners and associated accessories.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to submit the grant application as proposed. Motion carried unanimously.

o. Approve/deny purchase of Quad Crisis Response Module—Rescue Phone, Inc.--\$6,495 Martinsburg Police Department—JAG Grant

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the purchase of the rescue phone, as proposed. Motion carried unanimously.

p. Approve/deny Approve/Deny Joint Funding Agreement (JFA) between the Department of the Interior U.S. Geological Survey and the City of Martinsburg for partial operation and maintenance of a streamgaging station on Tuscarora Creek in Martinsburg, October 1, 2017-September 30, 2018--\$4,200.00 (Utilities Department)

Mr. Knipe stated that his program has been in effect for fifteen (15) years, and this is a continuation of that program. The streamgaging provides a good deal of information, in real time.

Motion made by Councilman J. Baker, seconded by Councilman Wachtel, to approve the joint funding agreement.
Motion carried unanimously.

q. Approve/deny opting into the Highmark WV Emergency Ambulance Services non-network benefits program--\$8,760.60 annually

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

r. Approve/deny Snyder Environmental Pay Application # 5 for N. Queen Street Underpass Utility Relocation Project--\$53,532.32

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Pay Application # 5.
Motion carried unanimously.

s. Approve/deny Change Order No. 1 between the City of Martinsburg and Snyder Environmental Services, Inc. for the N. Queen Street Underpass Project—41 calendar days/\$0.00 dollars

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Change Order #1. Motion carried unanimously.

t. Approve/deny Snyder Environmental Pay Application # 1 for Big Springs Water Treatment Plant Upgrade--\$370,939.23

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve Pay Application #1.
Motion carried unanimously.

u. Approve/deny Amendment # 2 for Big Springs WTP Interim Services for Treatment of PFAAs--\$87,894

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve Amendment # 2. Motion carried unanimously.

v. Approve/deny 4th Annual Building Steam Fundraiser Event to be held at the Caperton Train Station on Friday, November 3, 2017, as proposed, contingent upon the proof of adequate liability insurance.

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the event, as requested.
Motion carried unanimously.

18. Executive Session

Council entered executive session at 7:44 for Personnel reasons.

Adjournment

Meeting adjourned by unanimous consent at 8:02 PM.

George Karos, Mayor

Gena Long, City Recorder