

**City Of Martinsburg
Regular Council Meeting
Thursday, November 9, 2017
The J. Oakley Seibert Council Chambers**

With a quorum present, the regular session of the Martinsburg City Council was called to order by Mayor 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; Gena Long, City Recorder, Police Chief Maury Richards; Fire Chief Paul Bragg; Finance Director Mark Spickler; City Engineer/Planning Director Kim Petrucci; Public Works Director Jeff Wilkerson, and Utilities Director Steve Knipe.

3. Salute to Flag

Councilman Collinson led the Salute to the Flag.

4. Prayer—

Pastor Mark Cantley, St. Luke's United Methodist Church, led the invocation.

5. Approve October 12, 2017 Regular Council Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the October 12, 2017 Regular Meeting Minutes. Motion carried unanimously.

6. Approve October 26, 2017 Special Council Meeting Minutes

Motion made by Councilwoman Johnson, seconded by Councilman Etherington, to approve the October 26, 2017 Special Meeting Minutes. Motion carried unanimously.

7. Approve September 2017 Administrative and Financial Report

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

8. Presentations

a. Resolution of Appreciation for Retiring Water Operator II Gerald Parsons

Mayor Karos read the Resolution and presented it to Mr. Parsons, thanking him for his years of service to the City.

b. Proclamation—National Hunger and Homelessness Awareness Month

The proclamation will be forwarded.

c. Empower U Program—Rousawn Dozier

Mr. Dozier discussed the program, which is designed to provide mentoring and other support to young men, particularly those without a strong male influence at home. Mr. Dozier stated that there are currently 40-50 participants and they meeting regularly to speak with and receive encouragement from a variety of community leaders.

9. Petitions from Citizens

There were no petitions from citizens.

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

a. Planning Commission October 4, 2017 Meeting Minutes

b. For the Kids, by George Children Museum October 12, 2017 Board Minutes and Director's Report

c. Memo from Comcast, dated October 7, 2017, regarding upcoming channel changes

d. Martinsburg-Berkeley County Summary of Pool Seasons Revenue and Expenditure Reports through 2017 pool season

e. Memo from West Virginia Department of Highways, dated October 17, 2017, regarding award of the 2017 Transportation Alternative Grant for the Martinsburg Train Station Corridor Project

f. Letter of Resignation from Mr. William Gain from the City of Martinsburg Police Civil Service Commission (City appointment), effective December 31, 2017

g. Letter from Thomas Belfield (Chamber appointment) requesting not to be reappointed to the Police Civil Service Commission following the expiration of his term on December 27, 2017

h. Letter of Resignation from Ms. Michelle Schoppert from the Board of Zoning Appeals, Effective November 1, 2017

i. Shade Tree Commission October 5, 2017 Meeting Minutes

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

11. Reports of Chairpersons of Council Standing Committees

a. October 30, 2017 Council as a Whole Committee Minutes

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve the October 30, 2017 Council as a Whole Committee Minutes and enter them into the minutes of the meeting. Motion carried unanimously.

COUNCIL AS A WHOLE COMMITTEE MINUTES

Monday, October 30, 2017

4:30 p.m.

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; Jeff Wilkerson, Public Works Director; Kim Petrucci, City Engineer/Planning Director; Sandy Hangar of Frazier Associates; Dick Klein, Rick Colebank and Chuck Branch of Alpha Associates

UNABLE TO ATTEND:

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

1. Gateway and Wayfinding Signage System Project Update – (City General Fund) Ms. Sandy Hanger, Frazier Associates, \$400,000 Budgeted

Ms. Sandy Hanger presented a PowerPoint presentation with an overview of the project. She informed the Committee the three minor changes recently were: to limit the amount of “Trail Blazer” signs in the historic downtown area, and replace those signs with “You are Here/Pedestrian Signage” and outlined the design for the public parking lot(s) illuminated signs. She also updated the Committee on additional scope of work and associated fees for Frazier Associates and civil engineer, Alpha Associates. Proposal submitted for November 9, 2017 City Council meeting. She indicated the new cost estimate for the signage program is \$350,000 - \$400,000.

Consensus of the Committee was to move forward with the project as outlined by Ms. Hanger. See attached design.

2. N. Queen Street Water & Sewer Upgrade Project Update – (City Water/Sewer) Mr. Richard Klein, Alpha Associates, Inc. Contractor: Snyder Environmental, Inc. - \$834,490

Mr. Dick Klein, Alpha Associates, provided an update on this project. Completion date mid-November, 2017.

3. N. Queen Street Structural, Underpass Enhancements and Streetscape Project Update – (City General Fund Reserve) Mr. Richard Klein, Alpha Associates, Inc. \$1.1M (Structural Improvements and Underpass Enhancements Est. Only, No Streetscape)

Mr. Dick Klein, Alpha Associates, provided an update on this project indicating the new cost estimate for all elements of the Structural and Underpass Improvements is approximately \$1.1M.

Mr. Klein indicated this project’s design could be completed by the end of November and be ready to bid.

City Manager, Mark Baldwin, informed the Committee it was his recommendation that this project be bid in late spring/early summer after bids are opened for the new Police Department/Municipal Court Building, Gateway & Wayfinding Signage Project and Train Station Corridor Project.

City Manager also informed the Committee of the cost breakdown for the Project of the \$1.1M was: Liberty Street Storm Sewers - \$188,825 (City property); Underpass Enhancements - \$388,860 (City property); Underpass Structural – \$606,595 (CSX property)

4. Train Station Corridor Grant Update – (WVDOT 80% / City 20% - General Fund Reserve) Mr. Richard Klein, Alpha Associates, Inc.

2013-14 Grant (Awarded 3/15)	- \$ 192,500 (\$154,000 State; \$38,500 City)
2015-16 Grant	- 95,000 (State) – Design Only
2017 Grant (Awarded 10/17)	- 846,903 (State \$677,522; City \$169,381)
	\$1,134,403 (State \$926,522; City \$207,881)

City Manager, Mark Baldwin, updated the Committee on funds available for the project as listed above with the most recent Grant awarded October, 2017.

Mr. Dick Klein, Alpha Associates, provided an overview of the design to date. He informed the Committee he was contracted to design the project by WVDOT, per the Grant process. He presented the Committee with four (4) different design options.

After a great deal of discussion, consensus of the Committee was for Alpha Associates to continue the design option element of Option No. 4. See attached design.

5. Oak Street Bridge City W/S Utility Relocation Project Update – (City Water/Sewer) Mr. Richard Klein, Alpha Associates, Inc Contractor: Pro Contracting, Inc. \$554,301 – awarded

Mr. Dick Klein, Alpha Associates, provided an overview of this project, indicating the completion date the end of November, 2017.

6. Oak Street Bridge Replacement Project - (WVDOT 80% / City 20% - GF Reserve) - \$823,357 (WVDOT - \$658,686; City \$164,671)

WVDOT has issued Notice to Proceed to Rock Forge Bridge Company
Project to commence – Est. Completion Date May/June 2018

*Any Change Orders will require the City to participate in 20% of the cost.

7. East Burke Street Bridge Project Update – (WVDOT 80% / City 20% GF Reserve) - \$2.4M (WVDOT - \$1,920,000; City - \$480,000)

WVDOT Awarded bid to Orders Construction

Notice to Proceed to be issued

Est. Completion Date June / July 2018

*Any Change Orders will require the City to participate in 20% of the cost.

8. Big Springs Water Treatment Plant Upgrade Project – (City Water/Sewer) - \$4.5M Engineers: O'Brien & Gere Contractor: Snyder Environmental, Inc. & TIGG, Inc.

Building floor poured, 4 GAC units delivered and installed, mechanical and electrical on-going; first 4 GAC tanks to be filled with carbon early November. Water to produce by the end of November from 1st 4 GAC units (approximately 2M gal/day), other 4 tanks to be delivered mid-November, building construction to begin December, Est. completion date Feb/March 2018.

9. New Police Department / Municipal Court Building - (City GF, Sales Tax, Police Levy) - \$13.5M Silling Architects

Design completed; Silling to present to HPRC and Planning Commission in November, Advertise for bids in mid-November, pre-bid meeting early December, bid opening in mid-January 2018, award bid mid-January, 2018, Commence construction February 2018, Est. project completion date July 2019.

10. 2018 Street Repaving Program – (City) - \$716,638 (City GF \$600,000; CDBG \$116,638) City Funds: Evaluating Woodbury Avenue and SW and S. Georgia Avenue & SW Remaining funds to be utilized for other streets

CDBG Funds: To be utilized in low/mod areas

Street Repaving - List to be finalized
 Advertise and Bid Winter 2018
 Pave Spring / Summer 2018

11. Comprehensive Plan Update – (City General Fund) - \$89,424 Consultant – Berkley Group

Stakeholder meetings have been held
 Planning Commission has been updated
 Berkley Group continues to work on Comp. Plan for future presentations
 Completion date 2018

**12. Brownfield’s Grant Update - \$400,000 (\$200,000 Hazardous; \$200,000 Petroleum – EPA Grant)
 Consultant: Environmental Resources & Consulting**

Various Committee and Public meetings held
 Phase I & II Environmentals to be conducted on various sites
 Project on-going
 Completion date 2018

13. Public Works Salt Storage Shed – (City General Fund) - \$18,500 Contractor: W. Harley Miller, Inc.

Project to commence late October 2017
 Est. completion December 2017

14. Fire Department Front Apron Replacement – (City General Fund) - \$200,000 budgeted

City Manager, Mark S. Baldwin, provided an overview of projects listed above as No. 6-14.

TOTAL FUNDS INVESTED INTO CITY PROJECTS: \$ 26,671,113

City of Martinsburg General Fund	\$ 1,307,924
City of Martinsburg General Fund Reserve	\$ 1,952,552
City of Martinsburg Sales Tax, GF, Levy	\$ 13,500,000
City of Martinsburg W/S Department	\$ 5,888,791
WVDOT Grant/Bridge Funding	\$ 3,505,208
EPA / Brownfield’s Grant	\$ 400,000
CDBG Grant - Street Repaving	\$ 116,638
TOTAL	\$ 26,671,113

Public Improvements:	
Signs, Underpass, Train Station, Street Repaving, Salt Shed, New PD/Court Building –	\$17,069,541
Transportation:	
(2) Bridges -	\$ 3,223,357
Water/Sewer Projects -	\$ 5,888,791
Planning (Comp Plan) -	\$ 89,424

Environmental (EPA & Brownfield's) \$ 400,000

TOTAL: \$26,671,113

Some of the projects listed are in the process of construction and will be completed soon; other projects listed will be bid late 2017 and early 2018 and be under construction in early to mid-2018 and completed in 2018 / 2019.

Funding for the above-mentioned projects were planned for and budgeted, per the approval of City Council, over the past few years. Funding for these projects were allocated and have been reserved over a period of the last few years.

It is also important to note the City of Martinsburg has also leveraged other funding sources for these projects through various state and federal grant programs (WVDOT, EPA).

Recently completed projects:

King & Church Street Stormwater - \$2.1M (City, CDBG, WVDOT)
Mall Drive Sidewalk Improvements - \$10,000 (City General Fund)
City of Martinsburg Website – City staff
City Hall Parapet Wall Repair - \$29,500 (City General Fund)
E. Burke Street Parking Lot - \$350,000 (Parking Fund)

Mayor, City Council, Department Heads and their respective staff and the various consultants are to be commended for the dedication and efforts in planning for these projects and seeing them to fruition.

Future Projects to be Considered:

City Hall Renovations – Est. cost \$2M (after PD/Municipal Court Building constructed)
E. Martin Street Parking Lot Renovation – Est. cost \$300,000 (Parking /General Fund)
Market House Building Improvements - \$1.5M (City General Fund, Sales Tax, Grants)

Keep in mind, provisions will need to be made for the upkeep and maintenance of all other City-owned facilities, i.e. Caperton Train Station and Office Suites, Public Works buildings, Fire Station, Water/Sewer facilities.

12. Report of Mayor

a. Appoint Thomas Johnson (current alternate) as Regular Member of the Board of Zoning Appeals to fill an unexpired term ending 1/1/2019

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the Mayor's recommendation to appoint Mr. Johnson as a regular member of the BZA. Motion carried unanimously.

b. Fire Civil Service Commission Appointment

Item was struck from agenda as more information was needed from the Local 805.

c. Report the following vacancies:

- **Board of Zoning Appeals (2 alternates)**
- **Parking Authority (2)**
- **Shade Tree Commission (1)**
- **Historic Preservation Review Commission (1)**
- **Police Civil Service Commission (1City/1Chamber)**

13. Report of City Attorney

a. Discuss Draft Agreement with Skinner Law Firm and other Associated Documents

City Attorney Kin Sayre declined to comment, as his firm, Bowles Rice, represents retailers of opioids and if the suit moves in that direction, there may be a conflict of interest. He introduced Jared Adams, Attorney, how has reviewed the documents.

Mr. Adams stated that the agreement and other associated documents are standard, establishing a contingency fee and clarifying that the Skinner Law Firm will advance all costs. The law firm will also not be able to collect any fees unless the suit is successful. The City would be responsible for fees and costs, out of pocket, only if the City refuses to accept a settlement that is recommended, in good faith, by the Skinner Law Firm or if the City withdraws as a client without good cause.

Councilman Knowles asked for confirmation that the City, outside of the two conditions stated above, is not and never will be liable for any costs or fees unless a settlement has been reached, and in that case, the costs and fees will come from the proceeds of the settlement. Mr. Adams confirmed that those are the conditions of the agreement.

Councilman M. Baker asked if the City is guaranteed any percentage of any settlement. Mr. Adams stated that the City would get the entire amount, minus any costs and attorney fees as outlined in the agreement. This is not a class action suit, wherein several parties would split the proceeds, but each suit is a separate suit, though the Court system may wish to group them as is often the case in large and complex settlements.

Councilman Wachtel asked if there was a possibility of a countersuit, and if so, would Skinner Law Firm represent the City. Mr. Adams replied that he saw no basis for a countersuit, but if there were, Skinner Law Firm would represent the City.

The consensus of Council was to move forward with consideration and action on the agreement, a Resolution and any other necessary action at the December meeting.

14. Report of City Manager

a. Projects Update

**See Council as a Whole Committee October 30, 2017 Meeting Minutes
City of Martinsburg/Municipal Court Building Update**

The City Manager added that there is a supplemental agreement forthcoming for Item 16 H (Train Station Corridor Project) and recommended that this item be struck from the agenda at this time.

15. Unfinished Business

A. Third and Final Reading of Ordinance 2017-15 Providing for an Election for Additional Levy, to Renew the Levy which Expires June 30, 2019, by the City of Martinsburg, West Virginia May 8, 2018 Special Election, in Conjunction With the WV Primary Election

Motion made by Councilman J. Baker, seconded by Councilman M. Baker, to read Ordinance 2017-15 through the third and final reading, by title only, and approve. Motion carried unanimously.

16. New Business

A. First and Second Reading of Ordinance 2017-16 to Amend the Rules and Regulations of the Fire Civil Service Commission of the City of Martinsburg, West Virginia, as Adopted by the Martinsburg City Council, at Physical Agility Test Standards

Motion made by Councilman Knowles, seconded by Councilman M. Baker, to approve the first and second reading of Ordinance 2017-16, by title only. Motion carried unanimously.

b. Resolution to Urge the President of the United States and the United States Congress to Continue the Federal Historic Tax Credit Program, and to Otherwise Provide with Respect, Thereto

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve the Resolution urging the continuation of the Federal Historic Tax Credit Program. Motion carried unanimously.

c. Approve/deny Special Events Permit # 2017-30 for a “Christmas Eve on the Square event” requested by Kingdom of Love Ministries for Sunday, December 24, 2017 from 12-4 PM in the Town Square Pedestrian Plaza, contingent upon proof of adequate liability insurance and payment of any recommended fees for City Services (\$0.00)

Motion made by Councilman J. Baker, seconded by Councilman Knowles, to approve Special Events Permit 2017-30, contingent upon proof of adequality liability insurance.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to amend the motion to reduce the total hours from set-up to tear-down to 12-1. Motion to amend carried 5-2, Councilman J. Baker and Councilman Knowles voting no.

Motion to approve, as amended, carried 6-1, Councilman Knowles voting no.

d. Approve/deny Special Events Permit # 2017-31 for an “Our Lady of Guadalupe Procession” requested by St. Joseph Catholic Church for Saturday, December 9, 2017 from 7 AM until 7:45 AM, along described route, contingent upon proof of adequate liability insurance and payment of any recommended fees for City Services--\$0.00

Motion made by Councilman Etherington, seconded by Councilman M. Baker, to approve Special Events Permit 2017-31, as submitted, contingent upon proof of adequate liability insurance. Motion carried unanimously.

e. Approve/deny Special Events Permit # 2017-32 for “Christmas in the Streets, requested by River’s Edge Ministries for Saturday, December 16, 2017 from 5-7 PM, in the Town Square Pedestrian Plaza, contingent upon proof of adequate liability insurance and payment of any recommended fees for City Services and payment of any recommended fees for City Services--\$0.00

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve Special Events Permit 2017-32, as submitted, contingent upon proof of adequate liability insurance. Motion carried unanimously.

f. Approve/deny amended scope of services and fees for Gateway/Wayfinding Signage Project—Frazier Associates--\$16,995/ Alpha Associates--\$27,707—Total--\$44,365

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the amended scope of services and fees, as submitted. Motion carried unanimously.

g. Approve/deny Final Design Concept for the Gateway Wayfinding Project—Per October 30, 2017 Council as a Whole Committee Meeting Consensus (see attachments to minutes)

Motion made by Councilman Collinson, seconded by Councilman Collinson, seconded by Councilman Etherington, to approve the final design concept for the Gateway/Wayfinding Signage Project, as noted in the Council as a Whole Committee Minutes. Motion carried unanimously.

h. Approve/deny Concept/Design Option # 4 for the Train Station Corridor Project—Per October 30, 2017 Council as a Whole Committee Meeting Consensus (see attachments to minutes)

No action at this time.

i. Approve/deny purchase of uniforms for City of Martinsburg Police Department Honor Guard—Marlow White Company--\$2,615.85

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the expenditure for the uniforms as requested. Motion carried unanimously.

j. Approve/deny funding for Martinsburg Police Department Officer Recognition and Awards Ceremony, December 7, 2017--\$1,065

Motion made by Councilman Wachtel, seconded by Councilman M. Baker, to approve the expenditure for the awards ceremony, as requested. Motion carried unanimously.

k. Approve/deny of Computerized Maintenance Management Software subscription and associated programs, setup and installation for the Wastewater Treatment Plant—HACH--\$9,994 (2 year subscription)

Motion made by Councilman Wachtel, seconded by Councilwoman Johnson, to approve the expenditure for the software, as requested. Motion carried unanimously.

l. Approve/deny Memorandum of Understanding (MOU) between the City of Martinsburg, Berkeley County Ambulance Authority and the Morgan County EMS outlining the creation and acceptance of the Eastern Panhandle EMS Education System (EPEMSES)

Motion made by Councilman Wachtel, seconded by Councilwoman Johnson, to approve the MOU as presented. Motion carried unanimously.

m. Approve/deny payment to HRI for Wastewater Treatment Plant Upgrade Project--\$150,000 (147,636.50 being retained)

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

n. Approve/deny Snyder Environmental Pay Application # 7 for N. Queen Street Underpass Utility Relocation Project--\$ 30,477.60

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve Pay Application # 7 for the N. Queen Street Underpass Utility Relocation Project. Motion carried unanimously.

o. Approve/deny Snyder Environmental Pay Application # 3 for Big Springs Water Treatment Plant Upgrade--\$265,700.64

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve Pay Application # 3 for the Big Springs Water Treatment Plant Upgrade. Motion carried unanimously.

p. Approve/deny Pro Contracting Pay Application #2 for Oak Street Bridge Utility Relocation Project--\$25,749

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve Pay Application # 2 for the Oak Street Bridge Utility Relocation Project. Motion carried unanimously.

q. Resolution in Support of the NAACP Freedom Fund Dinner, to be held on Sunday, November 19, 2017 at the Holiday Inn on Foxcroft Avenue in Martinsburg, WV

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the Resolution in support of the NAACP Freedom Fund Dinner. Motion carried unanimously.

Council entered executive session at 7:24 for legal reasons.

Council returned to regular session at 8:01 PM.

r. Approve/deny Agreement between the City of Martinsburg and Executive Search Firm for Economic/Community Development Director

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve the retention of Jorgenson Consulting, to search for an Economic/Community Development Director. Motion carried unanimously.

Adjournment

Meeting adjourned by unanimous consent at 8:03 PM.

George Karos, Mayor

Gena Long, City Recorder