

**City Of Martinsburg  
Regular Council Meeting  
Thursday, December 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 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, City Attorney Kin Sayre, Police Chief Maury Richards; Fire Chief Paul Bragg; Finance Director Mark Spickler; City Engineer/Planning Director Kim Petrucci; Public Works Director Jeff Wilkerson, CDBG/HOME Administrator Nancy Strine, and Utilities Director Steve Knipe.

**3. Salute to Flag**

Councilman J. Baker led the Salute to the Flag.

**4. Prayer—**

Lay Rabbi Steve Sassoon, Beth El Congregation led the invocation.

**5. Approve November 9, 2017 Regular Council Meeting Minutes**

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

**6. Approve October 2017 Administrative and Financial Report**

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

Mayor Karos announced that Item 15 K will be moved up for consideration immediately after Item 7B.

**7. Presentations**

**a. Administer Oath of Office to Police Officers Nahshon Cook and Britney Conner**

The City Recorder administered the Oath.

**b. Richard Lemanowicz, Representing Vertical Bridge Development II, LLC., Regarding Communications Tower Project at 800 Boston Street (See 15K)**

Mr. Lemanowicz stated that the tower was constructed and it is 144.5 feet, which is 24.5 feet too tall for the current approvals. The FCC allows for a one-time extension which would allow for it to be 140 feet once approved, however, the additional 4.5 feet needs to be addressed. The extension is currently under review by the City's consultant, and the additional 4.5 feet is a result of changes to the foundation.

Mr. Lemanowicz proposed holding a public hearing and vote for a special use permit to construct a tower of 144.5 feet.

City Attorney Kin Sayre stated that there are two issues, one is that the tower exceeds the height allowed by the City's ordinance, which is 140 feet. The Council would need to grant a variance from the provisions of the ordinance.

The second issue is that the City is the landlord and, as such, can determine if a tower of that height is acceptable on City property. Mr. Sayre recommended that Vertical Bridge come back to Council with a request for a special use permit and a lease amendment for Council to consider.

Councilman J. Baker asked if a beacon is necessary at that height. Mr. Lemanowicz stated that the FCC requires a beacon at 195 feet.

Mr. Lemanowicz stated that the goal is to have more information for discussion and potential action at the February Council meeting. No further action was required at this time.

#### **8. Petitions from Citizens**

There were no petitions from citizens.

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

- a. EPTA Board of Directors October 16, 2017 Meeting Minutes and Financial Reports**
- b. Historic Preservation Review Commission October 2 and November 6, 2017 Meeting Minutes**
- c. Board of Zoning Appeals August 1, 2017 Meeting Minutes**
- d. For the Kids, By George Children's Museum November 7, 2017 Board Meeting Minutes and Director's Report**
- e. Application Form for WVDHHR, Office of Environmental Health Services 2017-2018 Local Source Water Protection Grant for City of Martinsburg Early Warning System--\$50,000 (no City Match)**
- f. US Department of Housing and Urban Development FY 2016-2017 Program Year Review Letter and Annual Performance Assessment for CDBG and HOME Programs**
- g. Notification of IAFF Local 805 Appointment of Steve Canby to the Martinsburg Fire Civil Service Commission Appointment—11/13/2017-11/13/2021**
- h. Notification of Chamber of Commerce Appointment of Kelly Tanksley to the Martinsburg Police Civil Service Commission—1/1/2018-1/1/2022**
- i. Resolution of Accomplishment to Honor the Martinsburg High School Bulldogs 2017 Football Team for a Successful Season, and to Commend the Outstanding Players and Coaches for Capturing the 2017 Class AAA State Football Championship Title**
- j. Notice of Public Hearing for FY 2018 CDBG and HOME program funds to be held on Thursday, January 11, 2018 at 6:30 PM**
- k. City of Martinsburg Annual Report for MS4 Program (WVR030017) as submitted to the WVDEP 12/1/16-12/1/17**
- l. Martinsburg/Berkeley County Convention and Visitor's Bureau December 2017 Agenda and Profit and Loss Statement**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to receive and file item 9A-9I. Motion carried unanimously.

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

**11. Report of Mayor**

**a. Reappoint the following to the Martinsburg-Berkeley County Convention and Visitors Bureau Board—term 1/1/2018-1/1/2020:**

- Kelly Tanksley
- Vanessa Williamson

Motion made by Councilman Knowles, seconded by Councilman Etherington, to reappoint the above to the M-BC CVB Board through 1/1/2020. Motion carried unanimously.

**b. Reappoint the following to the Board of Zoning Appeals—term 1/1/2018-1/1/2021**

- Martin Bales
- Brenda Casabona

Motion made by Councilman Knowles, seconded by Councilman Collinson, to reappoint the above to the Board of Zoning Appeals through 1/1/2021. Motion carried unanimously.

**c. Reappoint the following to the Historic Preservation Review Commission—term 1/1/2018-1/1/2021**

- Steve Knipe
- Terry Colburn

Motion made by Councilman Collinson, seconded by Councilman Knowles, to reappoint the above to the HPRC through 1/1/2021. Motion carried unanimously.

**d. Reappoint Yvonne Jenkins to the Martinsburg Planning Commission—term 1/1/2018-1/1/2021**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to reappoint Ms. Jenkins to the Planning Commission through 1/1/2021. Motion carried unanimously.

**e. Appoint Chris Amores to the Martinsburg Police Civil Service Commission to fill an unexpired term—1/1/2018-1/1/2019**

Motion made by Councilman J. Baker, seconded by Councilman Etherington, to appoint Mr. Amores to the Police Civil Service Commission through 1/1/2019. Motion carried unanimously.

**f. Appoint Cam Trowbridge to the Shade Tree Commission to fill an expired term—5/9/16-5/9/19**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to appoint Mr. Trowbridge to the Shade Tree Commission through 5/9/2019. Motion carried unanimously.

**g. 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)**

**12. Report of City Attorney**

**13. Report of City Manager**

**14. Unfinished 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 Etherington, seconded by Councilman Knowles, to read Ordinance 2017-16 through the third and final reading, by title only, and adopt. Motion carried unanimously.

**15. New Business**

**A. Approve/deny Resolution 2017-15 retaining Skinner Law Firm to Represent the City of Martinsburg in Litigation against those Involved in the Wrongful Distribution of Prescription Pain Pills, Creating a Public Nuisance**

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve Resolution 2017-15. Motion failed, Councilman J. Baker, Councilwoman Johnson, Councilman Wachtel and Councilman Etherington voting no.

**B. Approve/deny Contingent Fee Agreement between the City of Martinsburg and the Skinner Law Firm for Representation in the above Litigation**

No action necessary.

**c. Authorize the Mayor to Sign the Subrecipient Agreements with the following organizations for the use of FY 2017 CDBG Funds:**

- **Boys and Girls Club (Martinsburg Site)—ADA Accessible Handicap Ramp and Automatic Door Opener on John Street Entry--\$18,700**
- **C-Cap—Emergency Rental Assistance--\$5,000**
- **Court Appointed Special Advocates (CASA)—support of volunteer program--\$5,000**
- **Safe Haven Child Advocacy Center—case management support--\$5,000**
- **Berkeley County Meals on Wheels—Dine with Dignity program--\$5,000**
- **Boys and Girls Club, Martinsburg Site—membership scholarships--\$8,000**
- **Shenandoah Women’s Center—case management support--\$5,000**
- **Berkeley Senior Services—in-home care services--\$5,000**
- **Community Networks, Inc.—case management for Bethany House--\$3,000**
- **HOPE Living/Learning Center—upgrade fire alarm system at 208 E. John--\$10,000**

- **Martinsburg/Berkeley County Parks and Recreation—Leeland Playground Project—replace existing broken equipment, purchase new equipment, privacy fence--\$17,561**
- **Martinsburg/Berkeley County Parks and Recreation—MLK Park--purchase a slide and spring rider--\$9,020**
- **Martinsburg/Berkeley County Parks and Recreation—Oak Street Park Project—replace existing basketball equipment, buy tots swings, benches and soccer goals--\$6,948**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to authorize the Mayor to sign subrecipient agreements with the above agencies. Motion carried unanimously.

**d. Approve/deny Authorization to Sign Agreement between the City of Martinsburg and Habitat for Humanity of the Eastern Panhandle to Reserve CHDO Funds for Lot No. 19 in Auburndale Subdivision in the Amount of \$48,699**

Councilman J. Baker asked if he should recuse himself as he serves as President of the Habitat Board. City Attorney Kin Sayre stated it is not necessary as he does not profit from this voluntary service.

Motion made by Councilman Knowles, seconded by Councilman J. Baker, to approve the authorization for the reservation of CHDO funds. Motion carried unanimously.

**e. Approve/deny Resolution 2017-16 Amending the FY 2016 HOME Program Budget and Annual Plan**

Motion made by Councilman J. Baker, seconded by Councilman M. Baker, to approve Resolution 2017-16. Motion carried unanimously.

*Mayor Karos pointed out that item 15F-15J were previously budgeted.*

**f. Approve/deny Bid Recommendation for Thirty-six (36) Pairs of Structural Firefighting Boots for the Martinsburg Fire Department—Witmer Public Safety--\$11,592**

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

**g. Approve/deny Bid Recommendation for Thirty-six (36) Structural Firefighting Hoods for the Martinsburg Fire Department—Witmer Public Safety--\$1,242**

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve the recommendation as submitted. Motion carried unanimously.

**h. Approve/deny Bid Recommendation for Thirty-six (36) Structural Firefighting Coat and Pants Sets for the Martinsburg Fire Department—Municipal Emergency Services--\$102,420.72**

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

**i. Approve/deny Bid Recommendation for Thirty-six (36) Structural Firefighting Helmets for the Martinsburg Fire Department—Municipal Emergency Services--\$10,250.28**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the recommendation as submitted. Motion carried unanimously.

**j. Approve/deny Bid Recommendation for Thirty-six (36) Pairs of Structural Firefighting Gloves for the Martinsburg Fire Department—Witmer Public Safety--\$2,988**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the recommendation as submitted. Motion carried unanimously.

**k. Discuss and Take Action as Necessary on Proposed Resolution(s) Regarding Matters Referenced in Attached Letter and Prior Presentation (Item 7B)**

No action necessary at this time.

**l. Approve/deny Memorandum of Understanding (MOU) between the City of Martinsburg and TIGG, LLC in Relation to Testing Protocols to Measure Levels of PFOAs and PFOS in the City of Martinsburg's Water Supply—TIGG to Reimburse the City 50% of Laboratory Costs, not to Exceed \$7,500 for the First Year.**

Motion made by Councilman Etherington, seconded by Councilman J. Baker, to approve the MOU as presented. Motion carried unanimously.

**m. Approve/deny Cooperative Services Agreement between the City of Martinsburg and the United States Department of Agriculture Animal and Plant Inspection Services, Wildlife Services, for an Integrated Wildlife Management Program Directed at Reducing Human Health Risks, Safety Risks and Property Damage Associated with Black Vultures and Turkey Vultures in the City of Martinsburg through November 30, 2018—not to Exceed \$7,800**

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve the agreement. Motion carried unanimously.

**n. Approve Declaration of Special Conditions in Reference to the Intention of City of Martinsburg to use the War Memorial Park Property as Outdoor Recreational Use for the General Public in Accordance with the Land and Water Conservation Fund Act of 1965, as Amended**

Councilman M. Baker asked if the Park and Rec Board is in favor of this declaration. Mr. Sayre stated that the declaration is necessary in order to obtain a grant applied for by Parks and Rec.

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the Declaration of Special Conditions. Motion carried unanimously.

**o. Approve/deny Purchase of one 2018 Chevrolet Silverado 4x4 V8 Crew-Cab Long-bed Pick-up Truck, Previously Budgeted, for the Public Works Department—Bob Robinson Chevrolet (State Contract) --\$28,920**

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the purchase as requested. Motion carried unanimously.

**p. Approve/deny Purchase of one 2017 Tandem Axle Dump Truck for the Public Works Department—Highway Motors, Inc.--\$103,459.75 Including Associated Equipment and Warranties (\$5,768) for a Total of \$109,277.75**

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

**Approve/deny Snyder Environmental Pay Application # 8 for N. Queen Street Underpass Utility Relocation Project--\$35,424.97**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Pay Application # 8 for the N. Queen Street Underpass Utility Relocation Project. Motion carried unanimously.

**o. Approve/deny Snyder Environmental Pay Application # 4 for Big Springs Water Treatment Plant Upgrade--\$257,511.07**

Motion made by Councilman Wachtel, seconded by Councilwoman Johnson, to approve Pay Application # 4 for the Big Springs Water Treatment Plant Upgrade. Motion carried unanimously.

**p. Approve/deny Pro Contracting Pay Application #3 for Oak Street Bridge Utility Relocation Project**

No action taken as no application had been submitted as of the meeting date.

Motion made by Councilman Knowles, seconded by Councilman Etherington, to go into Executive Session for legal and real estate at 6:59 PM. Motion carried unanimously.

**Adjournment**

Meeting adjourned by unanimous consent at 7:32 PM.

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George Karos, Mayor

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Gena Long, City Recorder