

**City of Martinsburg  
Regular Council Meeting  
Thursday, August 16, 2018  
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 PM. 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; Community Development Director Nancy Strine; City Engineer/Planning Director Kim Petrucci; Public Works Director Jeff Wilkerson and Finance Director Mark Spickler

**3. Salute to Flag**

Councilman Knowles led the salute to the Flag.

**4. Prayer—**

Steve Sasson, BethEl Assembly of God, delivered the invocation.

**5. Approve July 12, 2018 Regular Council Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the July 12, 2018 Regular Council Minutes. Motion carried unanimously.

**6. Approve July 30, 2018 Special Council Meeting Minutes**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the July 30, 2018 Special Council Meeting Minutes. Motion carried unanimously.

**7. Approve June 2018 Administrative and Financial Report**

Motion made by Councilman Etherington, seconded by Councilwoman Johnson to approve the June 2018 Administrative and Financial Report. Motion carried unanimously.

**8. Presentations**

**a. Administer Oath of Office to Police Officers Kevin Gayle and Michael Roberts, II**

The Oath was administered by the City Recorder.

**b. Proclamation—National Payroll Week—September 3-7**

**8. Petitions from Citizens**

Ms. Barbara Bratina, 116 N. Tennessee Avenue delivered the following prepared statement:

I am here to ask that you vote NO on the Animal Control Agreement from Berkeley County. I already pay my taxes to the Sheriff of Berkeley County, just like someone from Inwood or Falling Waters, so I have paid my fair share for animal control. I also pay my dog tax to the County Assessor, just like someone from Inwood or Falling Waters. So, why should I be taxed twice, just because I live in the City?

Additionally, the Berkeley County Council has NOT provided the City with an actual budget for animal control which includes revenues received. Simply sending an expense sheet is not acceptable. In fact, the Berkeley County Council's combined revenue and expenditure budget for animal control for Fiscal Year 2017 is listed on their website. The budget does NOT list, as revenue received the \$117,500 given last year by the City of Martinsburg. There is a line item for Intergovernmental Revenues, but nothing is listed. Where did this \$117,500 go? It is irresponsible for any City Council member to vote to "give" money for a project without complete records being provided.

The Berkeley County Council says that the number of phone calls received are the County's basis for the City's "fee." Yet phone calls do not necessarily equal physical responses. The Berkeley County Council has NOT provided a log from animal control which lists the number of responses to an actual location in the City. Again, no accurate records have been provided. Even if the City Council wants to be benevolent, should any expenditure from the City be based on facts.

Quite frankly, the City of Martinsburg owes the Berkeley County Council NOTHING. We have already paid our fair share through our county taxes and dog tax. The residents of Martinsburg should NOT have to pay again for this service. Please vote NO on the Animal Control Agreement with Berkeley County

Thank you for allowing me my voice.

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

**a. Eastern WV Airport Authority June 27, 2018 Special Meeting Minutes and Financial Reports**

**b. Comcast Correspondence(s), dated July 31, 2018, regarding programming changes**

**c. For the Kids, by George Board of Directors August 2, 2018 Meeting Minutes and Director's Report**

Motion made by Councilman Collinson, seconded by Councilman Knowles, to receive and file items 9A-9D. Motion carried unanimously.

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

**a. Council as a Whole Committee July 30, 2018 Meeting Minutes**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the July 30, 2018 Committee as a Whole Committee Meeting Minutes, as attached. Motion carried unanimously.

**11. Report of Mayor**

**a. Reminder of Special City Council Meeting scheduled for Wednesday, September 5, 2018 at 6 PM for public presentation of the City-wide update to the Comprehensive Plan (joint meeting with Planning Commission)**

**b. Report the following vacancies:**

- Board of Zoning Appeals (1 alternate)
- Parking Authority (2)
- Human Relations Committee (2)
- Airport Authority (1)
- Code Appeals Board (engineer or architect) and alternate (2)

**13. Report of City Attorney**

**14. Report of City Manager**

**a. Street Repaving List—Bid Opening September 5, 2018**

Mr. Baldwin discussed on-going City projects and reported that the bid for the paving list was to be opened in early September.

**15. Unfinished Business**

**16. New Business**

**a. First and Second Reading of Ordinance 2018-15 Amending Ordinance 2018-11 Which Established Job Descriptions for Employees of The City of Martinsburg, West Virginia**

Mr. Baldwin explained that the position for a GIS tech would be shared with the Utilities Department, as would the cost.

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2018-15 through the first and second reading, by title only. Motion carried unanimously.

**b. First and Second Reading of Ordinance 2018-16 Amending the City of Martinsburg Zoning Map to Rezone an Unimproved Parcel South of Meridian Parkway Containing Approximately 14.52 Acres from BP (Planned Business) to BC (Community Business)**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to read Ordinance 2018-16 through the first and second reading, by title only. Motion carried unanimously.

**c. First and Second Reading of Ordinance 2018-17 annexing to the City of Martinsburg a parcel of real estate consisting of .8821 acres and identified upon Berkeley County, West Virginia tax maps in the Opequon tax district, map 10 as Parcel 8.3 and providing for the institution of the necessary proceedings before the County Council of Berkeley County, West Virginia, in accordance with West Virginia code § 8-6-4 (annexation without election).**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2018-17 through the first and second reading, by title only. Motion carried unanimously.

**d. First and Second Reading of Ordinance 2018-18 Amending the City of Martinsburg Zoning Map to Rezone an Unimproved Parcel Identified as the South-Western end of Triamigas Drive, Containing Approximately .8821 Acres from Unzoned to BC (Community Business)**

Motion made by Councilman Collinson, seconded by Councilman Knowles to read Ordinance 2018-18 through the first and second reading, by title only. Motion carried unanimously.

**e. Approve/deny Resolution 2018-13 Concerning FY 2018-2019 General Fund Revision #2**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve Resolution 2018-13. Motion carried unanimously.

**f. Approve/deny Resolution 2018-14 Amending the FY 2017 CDBG Program Budget and Annual Plan**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2018-14. Motion carried unanimously.

Mr. Baldwin explained that this Resolution will divert unused funds to the street repaving project.

**g. Approve/deny Change Order between the City of Martinsburg and Jefferson Asphalt Products Company (CDBG Street Repaving and ADA Ramps)--\$5,328**

Motion made by Councilman Collinson, seconded by Councilman J. Baker, to approve the Change Order as requested. Motion carried unanimously.

**h. Authorize Mayor to sign agreement between the City of Martinsburg and Habitat for Humanity of the Eastern Panhandle for Lot 21 (108 Humanitarian Way) in the Auburndale Subdivision--\$49,473—FY 2016 CHDO Funds**

Prior to discussion and motion, Councilman J. Baker disclosed that he was the President of the non-profit Board for Habitat for Humanity and asked if he should recuse himself. Mr. Sayre stated that State Law requires members of non-profit board, in which a vote on a financial matter is taking place, are required to disclose the relationship, but are not required to recuse.

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

**i. Authorize Mayor to sign FY 2016 HOME Match Agreement between the City of Martinsburg and Habitat for Humanity of the Eastern Panhandle for Lot 21 (108 Humanitarian Way) in the Auburndale Subdivision**

Prior to discussion and motion, Councilman J. Baker disclosed that he was the President of the non-profit Board for Habitat for Humanity and asked if he should recuse himself. Mr. Sayre stated that State Law requires members of non-profit board, in which a vote on a financial matter is taking place, are required to disclose the relationship, but are not required to recuse.

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

**j. Approve/deny Special Events Permit 1820 for The Alzheimer's Association's Walk to End Alzheimer's, Saturday, September 29, 2018 from 9 AM until 12 noon, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services (\$210.00 recommended)**

Motion made by Councilman Wachtel, seconded by Councilman J. Baker, to approve Special Events Permit 1820 as requested, contingent upon proof of adequate liability insurance and the payment of \$210 for City services. Motion carried unanimously.

**k. Confirm Receipt of Submission to Applicable Elected Representative in relation to the Kings Daughters Apartment Multifamily Housing Revenue Bonds**

Ms. Frankie Parsons, Dinsmore and Shultz, spoke about items 16k-16n, describing the purpose of the documents. Ms. Parsons that the City is a pass-through agency only and is not responsible for any bond payments.

Motion made by Councilman Wachtel, seconded by Councilwoman Johnson, to confirm receipt of the documents. Motion carried unanimously.

**l. Confirm receipt of MSRB Rule G-17 Disclosure in relation to the Kings Daughters Apartment Multifamily Housing Revenue Bonds**

Motion made by Councilman Wachtel, seconded by Councilwoman Johnson, to approve the receipt of the G-17 documents. Motion carried unanimously.

**m. Authorize the Mayor to sign Bond Purchase Agreement and the Rule 15 C 2(12) Certificate and any other documents to effectuate the closing**

Motion made by Councilman Collinson, seconded by Councilman Knowles, to authorize the Mayor to sign the closing documents. Motion carried unanimously.

**n. Authorize the Mayor to execute the approval of issuance of the City of Martinsburg, West Virginia Multifamily Housing Revenue Bonds (Kings Daughters Apartments) Series 2018 A-1, Taxable Series 2018A-2 and Subordinate Series 2018B**

Motion made by Councilman J. Baker, seconded by Councilman Knowles, to authorize the Mayor to execute the approval documents. Motion carried unanimously.

**o. Approve/deny Memorandum of Agreement between the City of Martinsburg and Berkeley County Emergency Ambulance Authority for a Single Service Event; City to provide two (2) Advanced Life Support Crews on September 22, 2018 from 5 PM until midnight**

Motion made by Councilman J. Baker, seconded by Councilman Collinson, to approve the Memorandum of Understanding. Motion carried unanimously.

**p. Discuss and take action as necessary on Gateway/Wayfinding Signage bid from Color.ad--\$552,160**

Mr. Baldwin stated that there was substantial pre-bid interest, however, only one bid was received. The bid was over budget, however, there may be some alternatives that can be reviewed and selected within the bid-specs. Mr. Baldwin recommended working with the bidder and presenting change orders as alternative options are reviewed. Mr. Baldwin added that he is not recommending that Council accept the bid at this time as further review is required.

Councilman J. Baker asked why not just reject all of the bids. Mr. Baldwin stated that he would do that if the sole bidder and the City are not able to come to agreements within the advertised bid-specs.

**q. Approve/deny bid recommendation for two (2) garbage trucks for the Public Works Department—Total Equipment Solutions--\$287,754 (total)**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the bid recommendations for the two garbage trucks, as submitted. Motion carried unanimously.

**r. Authorize City Attorney to draft Memorandum of Understanding between the City of Martinsburg and W. Harley Miller for use of the structure located at 128 W. Race Street for contractor storage**

Motion made by Councilman Knowles, seconded by Councilman Collinson, to authorize the drafting of the MOU. Motion carried unanimously.

**s. Approve/deny Pay Application # 3 for W. Harley Miller for the Martinsburg Police Department/Municipal Court building--\$397,890**

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve the pay application as submitted. Motion carried unanimously.

**t. Approve/deny Stormwater Design Projects in reference to National Fish and Wildlife Technical Assistance Grant (see memo)**

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the stormwater design projects. Motion carried unanimously.

**u. Discuss and take action as necessary regarding Urban Deer Hunt on City-owned properties**

Mr. Baldwin stated that the City owns two properties which meet the acreage requirements, the Lake Thomas area and the seven acres adjacent to Oatesdale Park. He asked if Council would like to designate one or both of those areas as urban deer management areas and allow bow hunting.

Mr. Sayre added that the hunters would be selected by lottery, that it would be a potential violation of the Ethics Act to allow only City employees to hunt the land, especially if the take was kept by the employees. He recommended that, should Council designate one or both tracts, that an advertisement be placed and hunters assigned certain days and times to hunt.

Mr. Baldwin added, due to concerns about access to public works equipment, that the City will control the process and will know exactly who is on the land at specific times. He also stated that there are safety parameters built into the ordinance, such as the requirements to hunt from a tree stand, shooting in a downward and interior trajectory.

Public Works Director Jeff Wilkerson recommended that the Council not designate the Lake Thomas tract, as it is a safety liability for the hunters.

Mr. Baldwin stated that there is a release that the hunters must sign, but agreed that the tract might be a liability, as there are many cliffs and rocky crags around the quarry. He stated that Council can elect to add this property at another time, if they wish.

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve the 7-acre tract adjacent to Oatesdale Park as an urban deer management tract and to advertise and accept applications to hunt on the tract. Motion carried unanimously.

Motion made by Councilman Knowles, seconded by Councilman Collinson, to go into Executive Session at 7:12PM for legal matters. Motion carried unanimously.

**16 v. Discuss and take action as necessary regarding FY 2018-2019 Animal Control Agreement**

Motion made by Councilman Collinson, seconded by Councilman M. Baker, to submit a one-time donation of \$25,000 to Berkeley County for animal control, to decline to enter into an animal control agreement and to ask for proper fiscal documentation. Motion failed; Councilman J. Baker, Councilman Wachtel, Councilwoman Johnson, and Councilman Etherington voting no.

Meeting adjourned by unanimous consent at 7:55 PM

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George Karos, Mayor

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Gena Long, City Recorder