

**City of Martinsburg
Regular Council Meeting
Thursday, May 9, 2019
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 Baker. Also present were: Mark Baldwin, City Manager; Gena Long, City Recorder, City Attorney Kin Sayre, Police Chief Maury Richards; Utilities Director Steve Knipe, Fire Chief J.D. Hummingbird, Economic/Community Development Director Shane Farthing and City Engineer/Planning Director Kim Petrucci.

3. Salute to Flag

Councilman Collinson led the salute to the flag.

4. Prayer—

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

5. Approve April 11, 2019 Regular Council Meeting Minutes.

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the April 11, 2019 Regular Council Minutes. Motion carried unanimously.

6. Approve April 16, 2019 Special Council Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman J. Baker, to approve the April 16, 2019 Special Meeting Minutes. Motion carried unanimously.

7. Approve March 2019 Administrative and Financial Report

Motion made by Councilman Collinson, seconded by Councilman J. Baker, to approve the March 2019 Administrative and Financial Report. Motion carried unanimously.

8. Presentations

a. Communications Tower at Property Located at Intersection of Mall Road and Porter Avenue—Richard Lemanowicz, LLP (See item 16 F & G, Move Up on Agenda

Mr. Lemanowicz stated that the tower proposed is 100 foot in height, designed to resemble a tree, and will be surrounded by a board on board fence. The agreement is a thirty-year standard lease agreement.

16 f. Approve/deny Lease and Proposed Design for Communications Tower at the Corner of Mall Road and Porter Avenue

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

16 g. Discuss and Take Action as Necessary Regarding Request of Martinsburg-Berkeley County Parks and Recreation Board to Receive Rents from above Communications Tower to be used for Ambrose Park

Councilman Etherington stated that he believes this allocation is a good idea and asked if Council would have the ability to approve expenditure of surplus funds to be used in other City parks.

City Attorney Kin Sayre stated that the terms of the agreement would be drawn up in a Memorandum of Understanding and Council would approve said MOU. He asked Council, if they were of the consensus to approve the request, to move to draft a Memorandum of Resolution with Parks and Rec.

Councilman J. Baker stated that he is in favor of granting the request, but would like to see surplus funds be used for capital improvements, not operations costs.

Steve Catlett, Executive Director of the Martinsburg-Berkeley County Parks and Recreation Board, stated that currently the Board pays invoices up-front and presents them to Finance Director Mark Spickler for reimbursement, they could continue that practice with these funds. He would like for some of the money to be used in operations, specifically at Ambrose Park, allowing the Children's Garden to be open more hours and to be free for the children.

Councilman M. Baker agreed, stating that the cost of operations at Ambrose is high and some children don't have the money to pay admission to a City park. All parks should be accessible to all.

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to draft a Memorandum of Understanding with Parks and Recreation for the rental income from the cell phone tower. Motion carried unanimously.

b. Proclamation Men's Health Month—June 2019

The City Recorder will forward the Proclamation.

c. Resolution of Accomplishment—Boy Scouts of America Martinsburg Eagle Scouts

City Recorder Gena Long read the Resolution and presented it to representatives of the Boy Scouts.

d. Make Comment on ABCA Zoning Form for Curtis L. Johnson, Sr., d.b.a. Johnny's Boy, LLC—127 E. King Street, (former Station Grill), contingent upon Special Exception by the Board of Zoning Appeals

Curtis Johnson and Johnny Johnson, Boyd Avenue, thanked Council for considering the application, they were grateful for the opportunity to continue representing the community. Mayor Karos and Councilman Knowles thanked them for investing in Martinsburg.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to forward the form without comment, contingent upon a Special Exception from the Board of Zoning Appeals.

9. Petitions from Citizens

Mr. Francis Daniels, 422 S. Illinois, stated that he has recently moved to the City, from the country, and is unaccustomed to the noises, specifically motorcycles. He asked that Council consider an ordinance with maximum decibel levels. He also asked that Council consider a citation generating radar camera unit, which Mr. Sayre stated is prohibited in West Virginia.

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

a. Proclamation—National Day of Prayer—as read at the Martinsburg Public Library—May 2, 2019

b. Proclamation—Paint the Town Purple for Hope, to be read at the American Cancer Society Relay for Life kick-off May 11, 2019

c. Resolution of Accomplishment—Boys and Girls Club—Teen Center Dedication—as read at the Boys and Girls Club—April 12, 2019

d. Eastern Panhandle Transit Authority March 18 and April 15, 2019 Meeting Minutes and Financial Reports

e. Human Relations Committee April 15, 2019 Draft Minutes

f. Board of Zoning Appeals April 2, 2019 Regular Meeting Minutes

g. Martinsburg Police Department Annual Report

h. Martinsburg-Berkeley County Convention and Visitor's Bureau February 27, 2019 Meeting Minutes and Financial Statement

i. US Department of Housing and Urban Development Notice of Fiscal Year 2019 CDBG and HOME Allocations

j. For the Kids, by George, Children's Museum April 4, 2019 Meeting Minutes and Financial Report

k. Eastern West Virginia Airport Authority March 11 and March 18, 2019 Meeting Minutes and Financial Reports

l. Main Street Martinsburg April 22, 2019 Board of Directors Meeting Minutes

Motion made by Councilman Knowles, seconded by Councilman Etherington, to receive and file the 10A-10L. Motion carried unanimously.

Mayor Karos congratulated the Police Chief on the positive annual report.

11. Reports of Chairpersons of Council Standing Committees

12. Report of Mayor

a. Appoint Monique Boots to fill an unexpired alternate term on the Board of Zoning Appeals through 1/1/2022 (seat vacated by David Carroll)

Motion made by Councilman Collinson, seconded by Councilman Knowles, to accept the appointment of Ms. Boots. Motion carried unanimously.

b. Membership on Berkeley County Development Authority

Motion made by Councilman Etherington, seconded by Councilman M. Baker, to accept the Mayor's recommendation to forward three names to the County Council for consideration and to encourage the reappointment of Mayor Karos. Motion carried unanimously.

c. Appoint Shane Farthing to the Martinsburg-Berkeley County Convention and Visitor's Bureau to fill an expired term ending 1/1/2021 (vacated by Matthew DeHaven)

Motion made by Councilman Knowles, seconded by Councilman Etherington, to accept the appointment of Mr. Farthing. Motion carried unanimously.

Report the following vacancies:

- **Historic Preservation Review Commission (1)**
- **Parking Authority (2)**

13. Report of City Attorney

14. Report of City Manager

City Manager Mark Baldwin stated that the HPRC has denied the City's request to tear down the Widmeyer building and Kim will file a petition to appeal the decision for the June Council meeting.

15. Unfinished Business

a. Third and Final Reading of Ordinance 2019-02 To Amend and Re-Enact Portions Of The Codified Ordinances Of The City Of Martinsburg, Part Seventeen – Building And Housing Code, Article 1711 – West Virginia State Building Code, Section 1711.01 – Adoption; And Repealing Ordinance Number 2016-19 Of The City Of Martinsburg, West Virginia.

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2019-02 through the third and final reading, by title only, and adopt. Motion carried unanimously.

b. Third and Final Reading of Ordinance 2019-03 to Amend the City of Martinsburg Zoning Map to Rezone an Improved Parcel Identified as 700 E. Moler Avenue from its Current BC (Community Business) Zoning Classification to RUB (Urban Residential Class B)

Motion made by Councilman Knowles, seconded by Councilman Etherington, to read Ordinance 2019-03 through the third and final reading, by title only, and adopt. Motion carried unanimously.

c. Third and Final Reading of Ordinance 2019-04 to Amend the Text of the City of Martinsburg Zoning Ordinance at Section 560 "Table of Zoning District Uses" to Allow Hotel/Motel Use in Planned Business (PB) Districts with Site Plan

Motion made by Councilman Knowles, seconded by Councilman Etherington, to read Ordinance 2019-04 through the third and final reading, by title only, and adopt. Motion carried unanimously.

16. New Business

a. First and Second Reading of Ordinance 2019-05 Amending Ordinance 2018-15 Which Established Job Descriptions for Employees of The City of Martinsburg, West Virginia

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

b. Approve/deny Special Events Permit 1928 for St. John's Lutheran Church's Back to School Block Party to be held on Saturday, August 17, 2019 from noon until 3 PM on W. Martin Street, contingent upon proof of adequate liability insurance and payment of any fees for City services--\$0.00

Motion made by Councilman J. Baker, seconded by Councilman Collinson, to approve Special Events Permit 1928, as submitted, contingent upon proof of adequate liability insurance. Motion carried unanimously.

c. Approve/deny Special Events Permit 1933 for Bikers Against Child Abuse's Child Abuse Awareness Ride on Saturday, May 18, 2019 from 1-5 PM, along attached route, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services--\$70.00

Motion made by Councilman J. Baker, seconded by Councilman Collinson, to approve Special Events Permit 1933 as submitted, contingent upon proof of adequate liability insurance and payment of \$70 for City services.

d. Approve/deny quote for HVAC at the Caperton Train Station--\$2,864.80—A.S.K. Heating and Air Conditioning

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the quote recommendation. Motion carried unanimously.

e. Approve/deny Resolution 2019-07 for an Intergovernmental Agreement between the City of Martinsburg and the West Virginia Department of Transportation, Division of Highways in association with an Agreement in regards to the Martinsburg Train Station Corridor Transportation Alternatives (State Project U302-Mar/TI-11)

No action.

f. Approve/deny lease and proposed design for Communications Tower at the corner of Mall Road and Porter Avenue

See item 8 A.

g. Discuss and take action as necessary regarding request of Martinsburg-Berkeley County Parks and Recreation Board to receive rents from above Communications Tower, to be used for Ambrose Park (see attached memo and M-BC Parks and Rec meeting minutes)

See item 8 A.

h. Discuss and take action as necessary regarding sewer project—W. Race Street at Vista Lane (see attached)

City Manager stated that there are three residences on septic tanks in this area and, overall, there have been few issues but the City does provide sewer service the area and it's time to get those residences hooked into the wastewater system.

Utilities Director Steve Knipe stated that he has not discussed this with the residents yet, but there was a run-over issue recently and before the situation gets worse, he would like to get this work completed. He stated that the City will cover the cost to install the lateral lines.

Motion made by Councilman Etherington, seconded by Councilman Collinson, to do the necessary work as recommended by Mr. Knipe.

i. Authorize solicitation for bids to remove trees on Vista Lane in relation to the above sewer project

Motion made by Councilman Etherington, seconded by Councilman Knowles, to authorize solicitation of the bids. Motion carried unanimously.

j. Approve/deny submission of Fire House Subs grant application--\$21,149.69 (no City match) for 37 individual thermal imaging cameras

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the submission. Motion carried unanimously.

k. Approve/deny request from Main Street Martinsburg and the Alzheimer's Association to place purple ribbons on parking meters in the downtown area from June 7 through June 28 for Alzheimer's Association Awareness Month

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

I. Approve/deny annual mosquito control treatments for War Memorial Park, P.O. Faulkner Park and Lambert Park--\$8,840 (three treatments) --Ehrlich

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the treatment. Motion carried unanimously.

Mr. Baldwin stated that they will treat all the regularly treated areas in the parks and along the creeks.

m. Approve/deny Change Order #2 between the City of Martinsburg and W. Harley Miller for the Martinsburg Police Department/Municipal Court building—building adjustments and roof pavers (see attached)

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the change order. Motion carried; Councilman J. Baker voting no.

n. Approve/deny Pay Application # 12 for W. Harley Miller for the Martinsburg Police Department/Municipal Court building--\$586,575

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

Executive Session

Council went into Executive Session for legal and personnel at 7:15 PM.

Meeting adjourned by unanimous consent at 7:27 PM.

George Karos, Mayor

Gena Long, City Recorder