

**City of Martinsburg
Regular Council Meeting
Thursday, December 12, 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: Harriet Johnson, Dennis Etherington, Kevin Knowles, Ken Collinson, Kimberly Nelson and Jason Baker. Not present was Gregg Wachtel. Also present were: City Manager Mark Baldwin, Gena Long, City Recorder, City Attorney Kin Sayre, Police Chief Maury Richards; Fire Chief J.D. Hummingbird, Public Works Director Jeff Wilkerson, Utilities Director Steve Knipe, Economic/Community Development Director Shane Farthing, and City Engineer/Planning Director Kimberly Petrucci.

3. Salute to Flag

Councilman Baker led the salute to the flag.

4. Prayer—

Pastor Ujjima Tyson, Ministry of Hope, lead the invocation.

5. Approve November 14, 2019 Regular Council Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the November 14, 2019 Regular Meeting Minutes. Motion carried unanimously.

6. Approve October 2019 Administrative and Financial Report

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the September 2019 Administrative and Financial Report. Motion carried unanimously.

7. Presentations

a. Resolution of Appreciation for Retiring Martinsburg Police Lieutenant Michael Usack (Twenty-One Years of Service)

Police Chief Maury Richards read the Resolution.

c. Solid Waste Delivery/Disposal—Michael Schmidt, Entsorga WV, LLC

Mr. Michael Schmidt and Emily Dyson, representing Entsorga WV, LLC, described the solid waste disposal process at the organization and stated that the result is fuel for plants such as Argos, which is proven to be cleaner than coal. They requested that the City consider entering into a contract for delivery and disposal of solid waste.

City Manager Mark Baldwin stated that draft contract has been received and Council would need to determine if they are interested in authorizing staff and the City Attorney to review and negotiate a contract for future approval.

Further discussion regarding Entsorga's primary buyer, Argos, and environmental issues ensued. Ms. Dyson stated that she cannot speak to the environmental issues from Argos, however, she can state that fuel provided by Entsorga is cleaner than coal.

15 G. Discuss and Take Action as Necessary Regarding Solid Waste Delivery/Disposal Agreement with Entsorga WV, LLC

Motion made by Councilman J. Baker, seconded by Councilman Etherington, to authorize staff and legal to continue discussions and negotiations on the draft agreement with Entsorga.

b. Make Comment on ABCA Zoning Form for Carry-Out Sales at 201 Winchester Avenue—7-11, Inc.

Police Chief Richards summarized a letter of comment he had prepared to be forwarded to the Alcoholic Beverage Commission. Also included with his comments are letters from various organizations and businesses including the Chamber of Commerce, Main Street Martinsburg, Depot Florist, Alpha Associates, Progressive Printing, Martinsburg Union Rescue Mission and Berkeley County Schools. Chief Richards stated that he is looking forward to working with 7-11 Corporate offices, which has terminated the existing franchise agreement at that store, and asked that they hire a responsible on-site manager and staff, install adequate exterior lighting, erect fencing and hiring on-site security.

Calls for police service at this location, Chief Richards stated, exceed 2,500 since September 1, 2015 for a variety of activities and suspicious persons. The criminal activity spreads out into the adjoining neighborhoods, and the above-mentioned requests would help significantly.

Ms. Tina Hiden and Mr. Earl Stegall, representing 7-11 Corporate, addressed Council and Chief Richards regarding these concerns. Ms. Hiden stated that the store has been a franchise location and she understands it has been an issue in Martinsburg. She was made aware of the issues by Chief Richard and moved to terminate the franchise agreement, the store has been totally taken back by Corporate at this point. Staff has been re-trained, lighting and fencing are in process, as well as security cameras. Certified managers will be appointed to run the store. She stated that, already, the store has improved greatly.

Several members of the public spoke regarding the condition of the store and the negative impact it has on the neighborhood.

Councilwoman Nelson stated that she is not afraid to walk about Martinsburg and does so frequently. However, she stated, she does not visit that particular location as she is concerned for her safety. She asked what percentage of sales are from alcohol at that location.

Ms. Hiden stated that she estimates that over 50% of sales are from alcohol.

Councilwoman Nelson asked if 7-11 Corporate can cover that revenue for a period of six months, or so, to determine if the cessation of alcohol sales helps with the criminal activity in that neighborhood.

Ms. Hiden stated that she is not sure the store could be self-sufficient without alcohol sales. The goal of 7-11 is to improve the location and re-franchise it to a responsible franchisee who will keep the standard set by Corporate.

Councilwoman Nelson asked if stores with high pedestrian traffic are more of an issue to neighborhoods.

Ms. Hiden stated that, of the three stores she has taken over on behalf of Corporate, one was walking traffic, one was mixed and one was more driving traffic.

Councilman Baker asked if 7-11 owns the store. Chief Richards stated that the building is leased.

Councilman Knowles pointed out that Ms. Hiden had not addressed the idea of on-site security. He felt that it is necessary at this location.

Ms. Hiden responded that 7-11 is currently conducting a comprehensive assessment of needs at the location. She asked that the City give Corporate time to make it right. They have been addressing the loitering issues significantly already.

Councilman Knowles stated that the store needs on-site security, immediately. This location has been an issue for approximately fifteen years. The Martinsburg Police Department has cleaned up that neighborhood significantly and this store remains an issue.

Councilwoman Nelson asked if individuals are purchasing alcohol from the 7-11 and carrying it down the railroad tracks, bringing an inebriated and criminal element to surrounding neighborhoods. Chief Richards responded that likely all of the alcohol being carried down the tracks is from this location. Thousands of hours of police work have been dedicated to criminal activity at or stemming from this store. He strongly suggested on-site security. He pointed out that the numbers from 7-11 indicate that this store earns in excess of \$1M annually from alcohol sales, they can certainly afford a security guard.

Councilwoman Nelson asked about a store that sells groceries and other needs for downtown residents, not liquor. Ms. Hiden stated that 7-11 can look at increasing the offering of groceries and other sundries, however, she does not feel that model would be profitable.

Councilman Baker pointed out that this location is an alcohol and cigarette stop, and that is the reality of the situation. The situation needs to be managed with that fact in mind. He stated that the City has closed 60 drug houses, which have resulted in less calls total than this one store has in the past three years. He felt the Chief is being very lenient with 7-11 in not closing the store. It is his opinion that the store could close entirely and that part of town would be improved.

City Manager Mark Baldwin summarized the comments of the Chief, Council and public, by saying that location is situated in a gateway into Downtown, and is not presenting a very positive perception of Downtown Martinsburg to visitors. The City welcomes the business, however, Corporate needs to take more pride in that location. He asked about changing the hours for alcohol sales. He suggested that management get with the Police Department immediately and that the situation will continue to be monitored.

Ms. Hiden thanked Council, staff and the public for their comments and stated that she would take all the suggestions and feedback back to 7-11 Corporate.

Motion was made by Councilman J. Baker, seconded by Councilman Etherington, to forward the Zoning Form to the ABCA with comment.

8. Petitions from Citizens

Ms. Elizabeth Day, Winchester Avenue, read the following into the record:

My name is Elizabeth Day. My husband and I live at 800 Winchester Avenue. We thank the MPD for their efforts in shutting down illegal activity using the three-year-old drug house ordinance. Official reports say that violent crimes are down 51%. Property crimes are down 35%. We can appreciate the much longer intervals of normal and quiet in our town and certainly support the City in its call for “stiff and serious penalties” for the owners/landlords/managers of repeat offender nuisance properties.

To any owner or landlord here to complain about having to shoulder responsibility for their properties—effectively subjecting us all, their neighbors, to the crime perpetrated by their tenants—I say shame on you. Having lived in close proximity to a few nuisance properties for several years, we can attest to the constant assault on our peace and damage to our property.

In addition to “stiff and serious penalties,” owners with multiple and repeat drug house violations should be required to put up a surety or cash bond for every rental property they own—perhaps \$2,500 each. The City should be able to draw that money every time another property related to the owner or landlord is declared a public nuisance to offset the cost of additional law enforcement activities.

It’s not a license fee which would be punitive to all clean landlords. Nor is it a fine, because the landlord broke no law in leasing to criminal types. But it is an insurance policy upon which the City and taxpayers can draw to make a dent into the additional costs of rectifying problems when owners are inattentive to their properties.

Thank you for your time.

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

- a. Martinsburg-Berkeley County Convention and Visitor’s Bureau October 2, 2019 Meeting Minutes**
- b. Eastern Panhandle Transit Authority October 21, 2019 meeting minutes**
- c. Comcast memos regarding price changes, effective December 20, 2019 and program changes, effective January 1, 2020**
- d. Eastern West Virginia Regional Airport Authority October 21, 2019 Meeting Minutes and Financial Report**
- e. For the Kids, by George Children’s Museum November 7, 2019 Meeting Minutes**
- f. Memorandum from City Recorder regarding interactive voter map**
- g. Letter from WVDOT, Division of Highways, dated October 18, 2019 regarding Train Station Corridor Project**
- h. Letter from WV Division of Culture and History, dated December 3, 2019, in response to above correspondence regarding Train Station Corridor Project**

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

City Manager Mark Baldwin pointed out items 9 G-9H in regards to Historic Preservation Review Commission approval requirements for the Train Station Corridor to fulfill the requirements of the State of West Virginia. The project will need to go through the City's process, including legal notice and public hearing.

10. Reports of Chairpersons of Council Standing Committees

11. Report of Mayor

a. Appoint Mr. Robert Ridenour to the Martinsburg Housing Authority to fill unexpired term ending 5/4/2022 (Geraldine Price)

Motion made by Councilman Collinson, seconded by Councilman Knowles, to appoint Mr. Ridenour. Motion carried; Baker voting no.

b. Reappoint the following to the Historic Preservation Review Commission through 1/1/2023:

**Kenda Rogers
Brance McCune
Christopher Cox
Mark Jordan**

Motion made by Councilman Collinson, seconded by Councilman Baker, to appoint the above to the HPRC. Motion carried unanimously.

c. Reappoint the following to the Board of Zoning Appeals through 1/1/2023:

**Doreane Mosser
Mary Dulyea**

Motion made by Councilman Baker, seconded by Councilman Collinson, to appoint the above to the BZA. Motion carried unanimously.

Report the following vacancies:

- **Historic Preservation Review Commission (1)**
- **Parking Authority (2)**
- **Planning Commission (1)**
- **M-BC CVB (2 as of 1/1/2020)**

12. Report of City Attorney

Nothing to report.

13. Report of City Manager

a. Projects Update

City Manager Mark Baldwin discussed ongoing projects in the City of Martinsburg.

The East Burke Street Bridge project is completed. However, additional fencing is needed and the State has indicated that the funds are not available at this time, and this item should be on the January agenda. Additionally, the City is waiting on the final total for the committed 20% of this project, as well as the Oak Street Bridge project.

The Martinsburg Police Department/Municipal Court Building is being finished and he believes move-in will be in a couple months.

Gateway signs are still being erected, the City is working with CSX on the North Queen Street Underpass project.

He stated that the City should consider an informal dedication for the bridge projects as well as the Gateway signs in the near future.

14. Unfinished Business

a. Third and Final Reading of Ordinance 2019-12 Amending and Reenacting the City of Martinsburg Code, Part 5; General Offenses Code, Chapter 5, Administrative, at Article 552, Drug and Gang Houses, Houses of Prostitution and Other Disorderly Houses, Section 552.03 (b); Penalty

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2019-12 through the third and final reading, by title only, and adopt. Motion carried; Baker voting no.

b. Third and Final Reading of Ordinance 2019-13 Amending Ordinance 2019-06 Which Established Job Descriptions for Employees of The City of Martinsburg, West Virginia

Motion made by Councilman Etherington, seconded by Councilman Baker, to read Ordinance 2019-13 through the third and final reading, by title only. Motion carried unanimously.

15. New Business

a. Approve/deny the following CDBG Sub-recipient Agreements:

- **Martinsburg/Berkeley County Parks and Recreation—251 E. Burke Street--\$50,000 (half basketball court and landscaping)**
- **Boys and Girls Club—\$30,854 (curb/sidewalk repair at John and Queen)**
- **Boys and Girls Club--\$9,750 (railing on sidewalk at Queen Street)**
- **Boys and Girls Club--\$131,211 (ADA Accessible restrooms)**
- **C-Cap--\$7,000 (Emergency Rental Assistance)**
- **CASA--\$6,188 (volunteer recruitment and support)**
- **Safe Haven Child Advocacy Center--\$6,000 (case management)**
- **Meals on Wheels--\$6,000 (Dine with Dignity program)**
- **Boys and Girls Club--\$10,000 (tuition assistance)**
- **Eastern Panhandle Empowerment Center--\$5,000 (rental assistance)**
- **Berkeley Senior Services--\$6,000 (in-home care services)**
- **Community Networks, Inc.--\$5,000 (case management)**

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

b. Discuss and Take Action as Necessary Regarding Letter of Request from Martinsburg/Berkeley County Parks and Recreation Board—CDBG—Oak Street Park Restrooms Project

City Manager Mark Baldwin explained that, per memorandums from Executive Director Steve Catlett, there has been an increase in cost from what was budgeted for these restrooms, mainly due to prevailing wage rates triggered by the use of CDBG money. The amount needed is \$83,000. The options are to not do the project, to install a different type of restroom facility, or that the City agrees to give the funds currently earmarked for CDBG street repaving. Mr. Baldwin stated that, if this is Council's wish, a resolution for substantial amendment can be prepared and there will

be a hearing process. The repaving can be done in the future or can be considered during the general fund repaving process in 2020.

Motion made by Councilman Knowles, seconded by Councilman Etherington, to move forward with the process to provide the needed funds to Parks and Rec. Motion carried unanimously.

c. Approve/deny Special Events Permit 2019-44, Christmas Eve in the Square 2019, 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 Collinson, to approve the event as requested, contingent upon proof of adequate liability insurance. Motion carried unanimously.

d. Approve/deny Cooperative Service Agreement between the City of Martinsburg and the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS) Wildlife Services (WS) for the damage management program in relation to black vultures and turkey vultures in the City of Martinsburg--\$7,800

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

e. Approve/deny recommendation for Martinsburg Fire Department thirty-seven (37) Seek Reveal Fire Pro thermal imaging cameras—Municipal Emergency Services--\$23,162

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

f. Discuss and take action as necessary recycling memorandum from Public Works regarding change in recycling vendor

Motion made by Councilman Knowles, seconded by Councilwoman Nelson, to move forward with Public Works Superintendent's recommendation. Motion carried unanimously.

g. Discuss and take action as necessary regarding solid waste delivery/disposal agreement with Entsorga WV, LLC

See 7 C.

h. Discuss and take action as necessary regarding additional fencing at E. Burke Street Underpass/Bridge project—City Manager to provide report.

City Manager Mark Baldwin gave a report and stated that he had no action this month.

Councilman Baker asked if it would be appropriate to clean up the area now and fence the entire parcel, especially since a park is planned for that location.

City Manager Baldwin stated that the City does not want to get ahead of Parks and Rec in planning. If the area is cleaned up now and made attractive to citizens, it would be inviting the public onto the property and creating a liability situation.

Councilman Baker stated that the City should go ahead and do the work, that Parks and Rec will match what is placed there by the City.

Mr. Baldwin stated that the City needs to communicate with Parks and Rec before making a decision. Community Development Administrator Nancy Strine added that fencing and clearing is included in the scope of work for CDBG money for the Parks and Rec project.

Councilman Baker stated that, with the bridge project, an open space was created and many people are stopping there. It is a hazard with a drop-off to the creek that is not fenced. He stated that the area needs to be secured property immediately to protect the public.

Motion made by Councilman J. Baker, seconded by Councilman Knowles, to include clearing and fencing the entire area in the outgoing bid. Motion carried unanimously.

i. Approve/deny Change Order 7 between the City of Martinsburg and W. Harley Miller for the Martinsburg Police Department/Municipal Court Building--\$_____

No action.

j. Approve/deny Pay Application #17 for W. Harley Miller for the Martinsburg Police Department/Municipal Court Building--\$520,638

Motion made by Councilman Baker, seconded by Councilwoman Johnson, to approve the payment. Motion carried unanimously.

k. Approve/deny Client Additional Services Confirmation between the City of Martinsburg and Frazier Associates for construction management--\$4,286

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

l. Approve/deny Pay Application #4 for Rite Light Signs for Gateway/Wayfinding Signage Project--\$58,4479.60

Motion made by Councilman Baker, seconded by Councilwoman Johnson, to approve the payment. Motion carried unanimously.

Executive Session

Motion made by Councilman Etherington, seconded by Councilman Collinson, to go into Executive Session for personnel and legal at 7:52 PM.

Meeting adjourned by unanimous consent at 8:11 PM.

George Karos, Mayor

Gena Long, City Recorder