

**City of Martinsburg  
Regular Council Meeting  
Thursday, November 14, 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 (6:40 PM), 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, 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—**

Mayor George Karos led the invocation.

**5. Approve October 10, 2019 Regular Council Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the October 10, 2019 Regular Meeting Minutes. Motion carried unanimously.

**6. Approve October 21, 2019 Special Meeting Minutes**

Motion made by Councilman Collinson, seconded by Councilwoman Johnson, to approve the October 21, 2019 Special Meeting Minutes.

**7. Approve September 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.

**8. Presentations**

**a. Administer Oath of Office to Firefighters/EMT Basic Brandon Shirley, Wesley Weaning, Edward Michon, Joshua Watt, Lesley Fraley and Joshua Figueuroa**

The City Recorder administered the Oath of Office

**b. Proclamation—National Hunger and Homelessness Awareness Week—November 16-24, 2019**

The City Recorder read the Proclamation.

Ms. Pat McMillan, Faith Community Coalition for the Homeless, thanked Council for their support. FCCH is a last resort resource to help individuals when shelters are full. In 2018, 336 individuals were served, including 159 children. Through September of 2019, 378 individuals have been served and the organization has paid for 376 hotel nights.

**c. Proclamation—Christian Heritage Week—November 24-30, 2019**

The City Recorder to forward Proclamation.

**d. Make Comment on ABCA Application for The Little Inn, 418 W. King Street (change of ownership)**

Ms. Linda Gall, owner, was present. She stated that The Little Inn is a small tavern on W. King Street. Her husband, the previous owner, is recently deceased and she is taking over the business.

Motion made by Councilman J. Baker, seconded by Councilman Knowles, to forward the form to the ABCA without comment. Motion carried unanimously.

**e. Martinsburg Police Chief Maurice Richards, Drug House Ordinance—3<sup>rd</sup> Year Update and Assessment**

Chief Richards discussed statistics from the drug house ordinance, stating that Martinsburg is over 50% tenant occupied, with 4,262 rental properties owned by 714 landlords, and the Police Department has found that the majority of illegal drug sales are being conducted from rental units and the drug house ordinance has proven an effective too to help meet the challenge.

Chief Richards pointed out the reduction of crime and overdoses, not only in the individual homes identified as drug houses, but in the entire surrounding neighborhoods, reporting that calls for service have been significantly decreased. In addition to decreasing crime, the ordinance is saving lives as overdoses and violent crime rates have decreased in the impacted areas. The ordinance has proven to be very innovative and several other cities in West Virginia have adopted similar ordinances.

Chief Richards stated that, while the drug house ordinance has been very effective, it would be more effective by increasing penalties for repeat offending landlords and an ordinance is on the agenda to allow for that. He thanked Councilman Baker for the suggestion that, after twelve months, the time starts over for purposes of assessing fines for repeat violations.

Mayor Karos asked if Chief Richards is finding that landlords are replacing problem tenants with good tenants after being cited. Chief Richards stated that is a mandate of the ordinance, that landlord found in violation are required to conduct thorough background checks on future tenants and only offer residence to those free of drug selling and violent crime charges.

**9. Petitions from Citizens**

Ms. Sarah Duncan, Summit Point, spoke regarding the changes to the drug house ordinance. Ms. Duncan is a local realtor and her father, Mickey Duncan, owns multiple rental houses in the City and has been cited under the drug house ordinance previously. She stated that, from a real estate standpoint, the enforcement is beneficial, however the press regarding the drug houses is not attractive to prospective residents.

She stated that her father has purchased many abandoned and neglected homes in Martinsburg and fixed them up, however, his name has been tarnished by the press regarding drug houses. She stated that the ordinance is unfair

for those landlords who own multiple properties because, statistically, there is more opportunity to have problem tenants and that landlords should not be responsible for monitoring the behaviors of tenants.

Mr. Douglas Snowden, Church Street, disagreed with Ms. Duncan. He stated that Mr. Duncan's properties are notorious for being in disrepair and housing problem tenants, that some do not even have working plumbing and one home has individuals living in a shed in the rear yard. He asked Council to consider pulling business licenses from those landlords in consistent violation of the ordinance.

Ms. Helen (last name unclear), Virginia Avenue, stated that she works for Mr. Duncan and she is afraid for his safety in the event that he reports drug activity and is named in the newspaper. She stated that Mr. Duncan is doing the backgrounds as required and trying to clean up the properties.

Mr. Jason Romage, S. Queen Street resident and business owner, stated that he chose to open his business in Martinsburg. He stated that the Snowden family owns many rentals and their reputation speaks for itself. He requested that the Police Department hold him responsible for his rental as all are responsible for maintaining the condition of the City.

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

- a. Historic Preservation Review Commission September 9, 2019 and October 7, 2019 Meeting Minutes**
- b. Eastern Panhandle Transit Authority September 16, 2019 Meeting Minutes and Financial Reports**
- c. Main Street Martinsburg October 23, 2019 Meeting Agenda and Financial Reports**
- d. Letter from Comcast regarding programming changes, effective October 10, 2019**
- e. Eastern West Virginia Regional Airport Authority September 9, 2019 Meeting Minutes**
- f. Martinsburg Planning Commission October 2, 2019 Meeting Minutes**
- g. Martinsburg Board of Zoning Appeals October 1, 2019 Meeting Minutes**
- h. Memorandum from Internet Essentials from Comcast regarding expansion of eligibility low-income households**

Motion made by Councilman Collinson, seconded by Councilwoman Johnson, to receive and file 10A-10H. Motion carried unanimously.

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

**a. October 29, 2019 Council as a Whole Committee Minutes**

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve Council as a Whole Committee Minutes for October 29, 2019 as follows. Motion carried unanimously.

**12. Report of Mayor**

**a. Discuss Christmas Holiday Schedule/Take Action as Necessary (Previously discussed September 12, 2019)**

City Manager Mark Baldwin stated that Christmas is on a Wednesday and Council gave employees an extra holiday on Christmas Eve. He stated that Council might wish to consider giving Thursday, December 26 as an additional holiday as well, to allow for travel.

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve Thursday, December 26, 2019 as an additional City holiday. Motion carried unanimously.

Councilman J. Baker asked if it was proper to take action on this item since it is listed under report of the Mayor and not business. City Attorney Kin Sayre stated that he is satisfied that the item was sufficiently noticed to take action.

**Report the following vacancies:**

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

**12. Report of City Attorney**

**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. Unfortunately, one of the contractors opened the underpass early before the leaves were swept out and the silt socks had been removed, and there was flooding during a large storm. That situation has been rectified. There are continued discussions with WVDOH regarding railing and lighting. Councilman Baker suggested speaking with Parks and Rec regarding lighting as a pocket park will be situated in that area.

Traffic signal upgrades have commenced and the work is throughout the City.

Also discussed were the North Queen Street underpass project and the Gateway/Wayfinding signage, both in progress.

Councilman J. Baker asked about the traffic light at High and Moler. City Manager Baldwin stated that the bid opening will be in the next week and the State typically takes thirty days or so to review and award.

**15. Unfinished Business**

**a. Third and Final Reading of Ordinance 2019-09 to Amend And Reenact The Codified Ordinances Of The City Of Martinsburg To Amend Part Seven – Business And Taxation Code, Article 733– Second Hand Dealers Section 733.01 Through 733.99**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to read Ordinance 2019-09 through the third and final reading, by title only. Motion carried; Baker voting no.

**b. Third and Final Reading of Ordinance 2019-10 Authorizing the Mayor to Execute Necessary Documents to Purchase the Property known as Real Estate Located in Fairground Heights, Lots 17-18, as Shown on Tax Map M3, Parcel 6 for the Amount of Twenty-Seven Thousand Dollars (\$27,000)**

Motion made by Councilman Collinson, seconded by Councilwoman Johnson, to read Ordinance 2019-10 through the third and final reading, by title only. Motion carried unanimously.

**16. New Business**

**a. First and Second 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 first and second reading, by title only. Motion carried; Baker voting no.

Councilman Baker stated that, while the alteration to accommodate a one-year reset for purposes of assessing a penalty is helpful, he believes the ordinance to be a violation of due process.

**b. First and Second 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 Collinson, seconded by Councilwoman Johnson, to read Ordinance 2019-06 through the first and second reading, by title only. Motion carried unanimously.

**c. Approve/deny filing fees for June 2020 City of Martinsburg General Election--\$10 Mayor and \$2 Councilperson**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve filing fees for June 2020 election. Motion carried unanimously.

**d. Approve/deny polling places for June 2020 City of Martinsburg General Election**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve polling places for June 2020 election. Motion carried unanimously.

**e. Approve/deny poll worker salary for 2020 City of Martinsburg General Election --\$150 each day worked/\$50 mandatory training/\$35 messenger premium + mileage/\$15 alternate party ride-back**

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve poll worker salary for June 2020 Election.

**f. Discuss and take action as necessary regarding electronic voting machines for June 2020 City of Martinsburg General Election**

The City Recorder stated that, per County Clerk John Small, there are ample electronic voting machines to accommodate the City election and Mr. Small has offered to lend those to the City. This will help with voter consistency as they are the same machine used in the County elections. The poll workers will be trained on these machines, but many will be familiar as they are the same workers that work County elections.

City Attorney Kin Sayre stated that canvassing procedures will be different.

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve the use of electronic voting machines in the June 2020 election. Motion carried unanimously.

**g. Approve/deny Special Events Permit 2019-41 for St. Joseph Catholic Church's Our Lady of Guadalupe Process on Sunday, December 8, 2019 from 7-7:45 AM along the attached route, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services (\$0.00 recommended)**

Motion made by Councilman Etherington, seconded by Councilman Baker, to approve Special Events Permit 2019-41, as requested, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services. Motion carried unanimously.

**h. Approve/deny Special Events Permit 2019-42 for River's Edge Ministries Christmas in the Streets Event on Saturday, December 14, 2019 from 5-7 PM, (4-8 for set-up/clean-up), in the Town Square Pedestrian Plaza, contingent upon proof of adequate liability insurance and payment of any recommend fees for City services (\$0.00)**

Motion made by Councilwoman Nelson, seconded by Councilman Baker, to approve Special Events Permit 2019-42 as requested, contingent upon proof of adequate liability insurance and payment of recommended fees for City services. Motion carried unanimously.

**i. Authorize Letter of Endorsement to the ABCA for the following fundraising events at the Berkeley County Roundhouse Authority:**

- **Irish Festival—March 28, 2020**
- **Circa Blue Festival—June 4-7, 2020**

Motion made by Councilman Knowles, seconded by Councilwoman Nelson, to authorize both letters of endorsement. Motion carried unanimously.

**j. Approve/deny Resolution 2019-20 authorizing Memorandum of Understanding between the City of Martinsburg and the Eastern Panhandle Drug and Violent Crime Task Force in regards to revised search warrant protocols and related issues**

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve Resolution 2019-20. Motion carried unanimously.

**k. Approve/deny quote recommendation for patrol rifle and shotgun upgrades—Valley Guns--\$7,633 (Drug Forfeiture Fund)**

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve purchase. Motion carried unanimously.

**l. Approve/deny purchase of secondhand dealer reporting service—Leads Online--\$4,262 annually (2019 prorated to \$2,841.33)—(18% Police Levy/72% General Fund)**

Motion made by Councilman Collinson, seconded by Councilman Baker, to approve purchase. Motion carried unanimously.

**m. Approve/deny bid recommendation for Martinsburg Fire Department fit test machine/equipment for respiratory protection devices—Premier Safety--\$10,125—(General Fund)**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve purchase. Motion carried unanimously.

**n. Approve/deny bid recommendation for Martinsburg Fire Department forty (40) winter parka jackets— Witmer Public Safety Group--\$12,812—(General Fund)**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve purchase. Motion carried unanimously.

**o. Approve/deny purchase of Martinsburg Fire Department two (2) Motorola Mobile Radios—Motorola (State Contract)--\$5,844.10—(General Fund)**

Motion made by Councilman Knowles, seconded by Councilwoman Johnson, to approve purchase. Motion carried unanimously.

**p. Approve/deny purchase of Martinsburg Fire Department forty-seven Motorola Portable Radios—Motorola (State Contract)--\$264,603.64—(General Fund)**

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

**q. Approve/deny the following Martinsburg Fire Department Standard Operating Procedures:**

- **Departmental Organization**
- **Departmental Rules and Regulations**
- **Uniform Requirements**
- **Training Program**
- **Definitions/Acronyms utilized in Fire Service**
- **EMS Annual Training**
- **EMS Documentation**
- **Securing Weapons**
- **Performance Improvement**

Motion made by Councilman Knowles, seconded by Councilman Baker, to approve procedures. Motion carried unanimously.

**r. Approve/deny quote recommendation for Martinsburg Utilities Department two (2) Electric Pallet Trucks for the Big Springs and Kilmer Water Treatment Plants—Winchester Equipment Company--\$4,298 each/total \$8,596 (Water Department Fund)**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve purchase. Motion carried unanimously.

**s. Approve/deny bid recommendation for inspection services for six (6) chemical storage tanks at the wastewater Treatment Plant—Chem Inspection, LLC--\$3,587 (Sewer Department Fund)**

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

**t. Approve/deny bid recommendation for Martinsburg Public Works Department 25-cubic-yard high-compaction, rear-loading garbage truck—Freightliner Western Star of Hagerstown--\$151,997 + \$3,127 warranties—total \$155,124 (Sanitation Fund)**

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

**u. Approve/deny request from Roberts Land Surveying to perform a curb cut on the west side of the 1000 block of North High Street**

Motion made by Councilman Knowles, seconded by Councilwoman Johnson, to approve request. Motion carried unanimously.

Planning and Public Works Departments have no issues.

**v. Authorize City Manager to solicit RFQ for engineering/architectural for E. Martin Street Parking Lot upgrade project**

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to authorize. Motion carried unanimously.

**w. Approve/deny preliminary engineering agreement between the CSX and the City of Martinsburg for N. Queen Street underpass project--\$9,460**

Motion made by Councilman Collinson, seconded by Councilwoman Johnson, to approve agreement. Motion carried unanimously.

**x. Approve/deny Change Order #6 between the City of Martinsburg and W. Harley Miller for the Martinsburg Police Department/Municipal Court building—\$74,459**

City Manager Mark Baldwin stated that this is a City request to provide for separate ventilation in the evidence room.

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

**y. Approve/deny Pay Application # 16 for W. Harley Miller for the Martinsburg Police Department/Municipal Court building--\$562,412**

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve pay application. Motion carried unanimously.

City Manager Mark Baldwin stated that it is likely that the milling and paving at the old Widmeyer building will be delayed until spring.

**z. Approve/deny Pay Application #3 for Rite Lite Signs for Gateway/Wayfinding Signage Project--\$129,396.60**

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

**aa. Discuss and take action as necessary regarding replacement of sidewalk on west side of North College (across from new Police Department building)—Race Street to MPD College Street entrance**

City Manager Mark Baldwin stated that no action is needed at this time, that the project can be done later more cost effectively.

**Executive Session**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to go into Executive Session for real estate and legal at 7:44 PM.

Meeting adjourned by unanimous consent at 7:57 PM.

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George Karos, Mayor



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Gena Long, City Recorder