

**City of Martinsburg
Regular Council Meeting
Thursday, October 10, 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 (6:40 PM), Ken Collinson, Kimberly Nelson and Jason Baker. Also present were: City Manager Mark Baldwin, Gena Long, City Recorder, Acting City Attorney Charles Printz, Police Chief Maury Richards; Fire Chief J.D. Hummingbird, Public Works Director Jeff Wilkerson and City Engineer/Planning Director Kimberly Petrucci.

3. Salute to Flag

Councilwoman Johnson led the salute to the flag.

4. Prayer—

Lay Rabbi Steve Sosson, Beth El Congregation delivered the invocation.

5. Approve September 12, 2019 Regular Council Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the September 12 Regular Meeting Minutes. Motion carried unanimously.

6. Approve August 2019 Administrative and Financial Report

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

Motion made by Councilman Collinson, seconded by Councilman Etherington to move item 12A to Item 7 F. Motion carried unanimously.

7. Presentations

a. Proclamation—Complex Regional Pain Syndrome Awareness Month—November 2019/ Color the World Orange Day—November 30, 2019

The City Recorder to forward the Proclamation.

b. Proclamation—Small Business Saturday—November 30, 2019

The City Recorder to forward the Proclamation

c. Administer Oath of Office to Police Sergeant Eric Neely

The City Recorder administered the Oath of Office.

d. Administer Oath of Office to Police Corporal Jon Smith

The City Recorder administered the Oath of Office.

f. Mike Collier, Uniwest—Virginia Avenue Properties

Mr. Collier discussed the proposed map amendment and project before Council for a vote. Uniwest owns twenty-nine acres, intended for mixed use. The concept plan presented by Mr. Collier called for a residential district on fifteen acres, more or less, which would be zoned BS, (Service Business). The project is to have multiple ingress/egress points, buffering and green space, contained traffic and internal pedestrian traffic. Mr. Collier stated that mixed-use is a developing trend in urban areas and there is a strong demand for apartments, with studies showing that similar apartment complexes have 96% occupancy.

Mr. Chad Wallen, Gordon Associates, discussed traffic concerns stating that a traffic study has been conducted. The multiple ingress/egress points would allow for traffic avoidance when entering and existing the developed area. He also mentioned future improvements to Rte. 45 which would alleviate much of the issue. Mr. Wallen showed Council data suggesting that residential use produces less traffic than commercial use.

Councilwoman Nelson stated that the proposal is for three-hundred plus residential units and is very close to the Essroc cement plant, which has been fined considerably for environmental concerns. She stated that the particulate matter travels as far as Winchester Avenue and is concerned that the proximity will cause issues with desirability of the units as well as significant health concerns to the residents. Councilwoman Nelson also expressed concern over the number of school children in the development, which would add to the already over-crowded public-school system.

Mr. Wallen stated that the plan provides for more than the required buffer space between the development and the industrial complex. He also addressed the issue of school-aged children, stating that such apartments generally do not have many children living in them.

Councilman Baker pointed out that Lee Trace, a similar apartment complex, appears to have very few children waiting on the bus in the mornings. The price point for the apartments is more geared to young professionals and not families.

Mr. Collier agreed, adding that the highest demand is for one-bedroom units.

Mr. Collier stated that he has spoken with several individuals from Essroc and they are not in favor of the development, as they are concerned that more residences will incur increased concerns about the particulate matter from the plant, and it may help to motivate them to improve business practices. He added that there have been no recent violations.

Councilman Knowles agreed with Councilwoman Nelson's concerns, adding that the cement factory is still polluting the surrounding areas, they are just not being caught. He stated that he cannot support a development that may be dangerous to residents and their property.

e. Discuss Potential Map Amendment Regarding AirBnB in the City of Martinsburg

Acting Attorney Printz stated that City ordinances are still being reviewed in light of change to state code regarding rental properties. He noted that there were several members of the public that may want to speak on this issue, but advised they wait until this item is listed on an agenda.

8. Petitions from Citizens

Mr. David Anderson, Music Court, asked Council to consider the impacts of development on infrastructure and suggested that a planned urban zoning might be more appropriate for the Uniwest project.

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

a. Eastern Panhandle Transit Authority August 19, 2019 Meeting Minutes and Financial Reports

b. Resolution of Appreciation for Retired Planning Secretary Betty Phillips for twenty-five years of service—as read September 20, 2019

c. Letter of resignation from Christopher Ross from the Martinsburg Planning Commission, effective immediately

d. Hagerstown/Eastern Panhandle Metropolitan Planning Organization Interstate Council May 15, 2019 Meeting Minutes

e. Board of Zoning Appeals September 3, 2019 Meeting Minutes

f. Planning Commission September 4, 2019 Meeting Minutes

g. Memo from Comcast regarding Xfinity programming changes

h. Technical Assistance from Federal Highway Administration’s “Everyday Counts”—Safe Transportation for Every Pedestrian Program—Foxcroft Avenue Corridor

i. Eastern West Virginia Regional Airport Authority August 12, 2019 Meeting Minutes and Financial Report

j. Martinsburg-Berkeley County Convention and Visitor’s Bureau June 26, 2019 Meeting Minutes

k. Notice of Appeal of the August 5, 2019 decision of the Historic Preservation Review Commission received September 11, 2019—appeal untimely—no action necessary

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to receive and file 9A-9K. Motion carried unanimously.

10. Reports of Chairpersons of Council Standing Committees

11. Report of Mayor

Report the following vacancies:

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

12. Report of City Attorney

Discuss Potential Text Amendment Regarding Airbnb in the City of Martinsburg

See Item 7 E.

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 should be completed in late October/early November and reopened to pedestrian and vehicular traffic.

ADA sidewalks are complete and new traffic signals and curb upgrades will commence, expected to be completed in September 2020. The City will be requesting that the State begin funding research for re-paving of State rights of way following that project.

The Martinsburg Police Station/Municipal Court upgrade is on target to reach substantial completion at the end of 2019.

Gateway/Wayfinding signs are being installed and footers will be dug for the memorial signs.

Mr. Baldwin discussed the Train Station Corridor project, which still requires extensive planning and utility work before commencement, as well as a historic review, which could take six to nine months to complete. The N. Queen Street underpass is fully designed and awaiting permitting before bid. He recommended that Council consider beginning that project first, as it is ready to bid and construction can commence in the spring. Council conceded.

Also discussed were the N. High Street traffic signal (out to bid), Market House Expressions of Interest (underway) and the Amtrak platform, which will include ADA improvements on the Caperton Train Station side.

14. Unfinished Business

a. Third and Final Reading of Ordinance 2019-08 Amending Ordinance 2018-15 which Established Job Descriptions for Employees of the City of Martinsburg, West Virginia

Motion made by Councilman Knowles, seconded by Councilman J. Baker, to read Ordinance 2019-08 through the third and final reading, by title only. Motion carried unanimously.

15. New Business

a. First and Second 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

Police Chief Maurice Richards explained that this ordinance is to make changes to the reporting requirements of second hand dealers. Currently, the Department receives hard copies via fax or email of daily transactions. The ordinance would allow for electronic reporting through the Leads Online system, which maintains a database to allow for easier tracking of stolen goods. The system should prove more efficient, more time effective and likely more cost effective when considering the alleviation of hours of manual searching.

Councilwoman Nelson asked if this would impact pawn shops only, or antique stores as well.

Chief Richards stated that all who are currently required to report will continue to be required to do so, the ordinance only changes the method of reporting.

Councilman Baker asked if every secondhand dealer is currently reporting.

Deputy Chief Swartwood stated that all that are required are reporting, to his knowledge.

Councilman Baker suggested looking at the broadness of the ordinance to ensure that businesses that should not have to report are not being subjected to the requirements of the ordinance, such as antique stores.

Chief Richards stated that the ordinance, as whole, can be reviewed, however this change is only to the reporting mechanism.

Motion made by Councilman Baker to table the ordinance. Motion died for lack of a second.

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

b. First and Second 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 Baker, seconded by Councilman Collinson to read Ordinance 2019-10 through the first and second reading, by title only. Motion carried unanimously.

c. First and Second Reading of Ordinance 2019-11 Amending the City of Martinsburg Zoning Map to Rezone an Unimproved Parcel Identified as South of Rte. 45, east and south of New York Avenue, west of Capital Cement Road, from its Current BC (Community Business) Zoning Classification to BS (Service Business)

Acting City Attorney stated that the Planning Commission had not recommended approval for this Map Amendment. He stated that Council's options are to approve, deny or table the request.

Motion made by Councilman Knowles, seconded by Councilwoman Nelson, to table the request. Motion failed; Baker, Collinson, Johnson and Wachtel voting no.

Motion made by Councilman Baker, seconded by Councilman Etherington, to read Ordinance 2019-12 through the first and second reading, by title only. Motion failed; Collinson, Nelson, Knowles and Wachtel voting no.

d. Remove from table and approve/deny Resolution 2019-07 authorizing agreement between the City of Martinsburg and the WV Department of Transportation, Division of Highways for the Transportation Alternatives grant program for the Train Station corridor—Total-\$1,138,172-(\$930,291.40 Grant/\$207,880.60 City Match)

No action taken.

e. Remove from table and authorize Letter of Endorsement to the ABCA in support of the Ghostly Gala Fundraiser, Saturday, October 26, 2019-Sunday, October 27, 2019 at the Apollo Civil Theatre

Motion made by Councilwoman Nelson, seconded by Councilman Collinson, to remove the request from the table. Motion carried unanimously.

Motion made by Councilman Baker, seconded by Councilwoman Nelson, to approve the request. Motion carried unanimously.

f. Approve/deny Special Events Permit 2019-39 to hold the Holiday Window Veiling on the street/sidewalk adjacent to 144 N. Queen Street on Friday, November 8, 2019 from 5:30-6:15 PM, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services--\$0.00 recommended

Motion made by Councilman Collinson, seconded by Councilman Baker, to approve Special Events Permit 2019-39, as requested, contingent upon proof of adequate liability insurance. Motion carried unanimously.

g. Approve/deny Special Events Permit 2019-40 to hold the Veterans Day Parade along the attached route on Sunday, November 10, 2019 from 1 PM-2PM, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services--\$857.50 recommended to be paid for City Services as per Ordinance

Motion made by Councilman Baker, seconded by Councilwoman Nelson, to approve Special Events Permit 2019-40, as requested, contingent upon proof of adequate liability insurance and payment of \$857.50 for City services. Motion carried unanimously.

h. Approve/deny USGS Water Monitoring Agreement (Streamgaging) between the City of Martinsburg and the United States Geological Survey--\$4,200

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

i. Approve/deny Martinsburg Police Department 2019 Officer Recognition and Awards Ceremony Funding Request--\$1,150

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

j. Approve/deny purchase of six (6) Level IV Armor Plate Ballistic Vests for the Martinsburg Police Department--\$2,982.72—RMA Armament, Inc + Patches and decals (\$227.08)—Total--\$3209.80—Drug Forfeiture Fund

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

k. Approve/deny purchase of two (2) Type IIIA Tactical Shields for the Martinsburg Police Department--\$4,158—Opticsplanet—Drug Forfeiture Fund

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

l. Approve/deny Change Order # 5 for the Police Department/Municipal Court building--\$16,526 and seven (7) days—rock excavation

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

m. Approve/deny Pay Application # 15 for W. Harley Miller for the Martinsburg Police Department/Municipal Court building--\$634,947.50

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

n. Approve/deny Pay Application #2 for Rite Lite Signs for Gateway/Wayfinding Signage Project--\$80,181.00

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

Executive Session

There was no Executive Session.

Meeting adjourned by unanimous consent at 7:38 PM.

George Karos, Mayor

Gena Long, City Recorder