

**City of Martinsburg  
Special Council Meeting  
Wednesday, May 27, 2020  
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 5:00 PM. The following Council Members were present: Harriet Johnson, Dennis Etherington, Kevin Knowles, Ken Collinson and Kimberly Nelson. Absent were Gregg Wachtel and Jason Baker. Also present were City Manager Mark Baldwin, City Attorney Kin Sayre, City Recorder Gena Long, Police Chief Maurice Richards and Planning Director/City Engineer Kim Petrucci.

**3. Salute to Flag**

Mayor Karos led the salute to the flag.

**4. Prayer—**

Councilwoman Johnson led the invocation.

**5. Public Nuisance Hearing—1310 W. Martin Street**

City Attorney Kin Sayre opened the hearing. He presented the public nuisance complaint presented by Chief Maurice Richards along with supporting documentation. He cited City Code section 1101, which deals with nuisance proceedings, along with several violations of the International Property Maintenance Code going back to 2011. While Mr. Timmothy Clarke is the current owner of the property, F. Dennis Clarke and Lola Clarke were also noticed as they had partial ownership of the property when several violations were issued.

Mr. Sayre went on to state that the Council will hear testimony on behalf of the City and on behalf of Mr. Clarke. If the Council finds the property to be a public nuisance, further action will be taken by Resolution at the June 11, 2020 Council meeting and Council will be asked to determine a penalty, which can be to issue a warrant for Mr. Clarke's arrest and a monetary fine, to recommend seizure of the property to the Berkeley County Circuit Court, or any other penalties as outlined in State and City code. The purpose of this meeting is to determine if 1310 W. Martin Street is, in fact, a public nuisance.

In June of 2019, the City of Martinsburg agreed to reduce a fine to \$5,000 from \$49,000, per the compliant, if Mr. Clarke would remain in compliance for one-hundred-eighty days. Mr. Clarke was unable to gain and maintain compliance in that time frame and was back in court in December of 2019 for the same violations. Further citations were issued in January 2020; the penalty for a third citation is up to \$300 per day that the violation exists. In February 2020, Mr. Clarke was issued a fourth citation, which can carry a penalty of \$500 per day that the violation exists. The monetary sanctions are not rectifying the problem. Photos taken on the day of the meeting show that the conditions of the property have worsened since the property owner was noticed for the hearing.

Mr. Sayre read the following correspondence into record as testimony on the City's behalf:

Mr. Norwood and Ms. Claudia Bentley, 120 N. Louisiana Avenue: We understand there is to be a nuisance hearing regarding the property owned by Tim Clarke on W. Martin Street in Martinsburg, WV on May 27, 2020. We live in this neighborhood and have been quite concerned about the condition of this property for some time. We do not understand why the issues have not been addressed. Not only is the condition of the

property detrimental to its immediate neighbors, but it is also a detriment to the property values in what continues to be advertised as the desirable west end.

We respectfully request that the City of Martinsburg take action to enforce applicable codes without any further delay. Other opportunities provided Mr. Clarke to remedy the situation have not been effective, and the residents of the area need Council's help. It is not reasonable to believe that the issues will be resolved without Council's intervention.

Mr. Timothy Snyder, Building Inspector for the City of Martinsburg, testified on behalf of the City of Martinsburg, after being sworn in by the City Recorder. Prior to promotion to Building Inspector, Mr. Snyder was the Code Enforcement Official for the City of Martinsburg. After confirming his position with the City, and his credentials and certifications to hold these positions, Mr. Snyder went on to say that he has had substantial interactions with Mr. Clarke and the neighbors in the area. He described a variety of abnormal behaviors in which he had witnessed or received complaints dealing with Mr. Clarke and his property. He sent multiple violations to Mr. Clarke, generally regarding the accumulations of rubbish and garbage on the property.

Mr. Clarke addressed Mr. Snyder, asking him if he recalled an incident in which shale was delivered to the Clarke home, to which the Dolan family next door were opposed. Mr. Clarke stated that Mr. Snyder had told him that he could have as much shale delivered as he wished.

Mr. Snyder stated that he did recall the incident, and that Mr. Clarke had requested a building permit to construct a fence and was attempting to artificially increase the grade of his lawn to increase the height of the fence, which is an illegal condition. He advised Mr. Clarke of this, as well as that the shale and fill dirt were encroaching into the alley, creating another illegal condition and that he had directed Mr. Clarke to remove the debris from the alley.

Ms. Holly Hartman, Code Enforcement Official since December 2018, testified on behalf of the City of Martinsburg, after being sworn in by the City Recorder. Ms. Hartman stated that maintains this position and possesses the credentials and certifications to do so. She was familiar with the issues at 1310 W. Martin Street before taking this position, due to her work as Planning Secretary previously and her duties, which involved mailing citations on behalf of the Code Enforcement Official. The property is not currently in compliance; there are broken windows, garbage accumulation, weeds and grass overgrowth, and general disarray.

Ms. Cheryl Dolan, 1312 W. Martin Street, read the following statement into the record as testimony on behalf of the City of Martinsburg, after being sworn in by the City Recorder:

Thank you for allowing us to speak tonight. My name is Cheryl Dolan and my husband, Doug Dolan, have lived next door to Tim Clarke since he moved into 1310 W. Martin Street.

Initially, we attempted a neighbor relationship and even paid him to do odd jobs for us. That relationship quickly turned. On almost a daily basis, he yells obscenities at us and complains about our dogs. We never allow our dogs out without supervision because he has told Animal Control that he would slit our pit bull's throat.

Last year, we converted our garage into a studio apartment for our daughter. During that entire process, Tim harassed the workers and took anything that was not nailed down intended to recycle and take to the

landfill. This was just added to the trash in his yard. He has also had truckloads of dirt dumped over the trash over the years, so it is basically an unlicensed landfill. This makes a perfect habitat for skunks, mice and other rodents which then causes us to have rodent problems.

As recently as last night at 3 AM, he drove down the alley across from our studio apartment, backed into his back yard with his lights shining into the apartment. He proceeded to unload more junk and honk numerous times as eh was spinning out of the back yard. These events occur frequently, walking not only our daughter, but our granddaughter whose bedroom is next to the alley.

Recently, he was hitting a plastic ball with a golf club and hit my car with his parents sitting in their car observing this behavior.

These are just a few of the problems we have dealt with over the past 10+ years. You have hundreds of pages of documents on record detailing many other times the Police have been called due to his disturbing the peace. You also have hundreds of documents showing the property condition.

At this point, should we decide to sell our property, we know his indifference will affect our property value or possibly make it unsellable.

Thank you for listening to firsthand how living next to Tim Clarke has affected me and my family.

At this point, the City rested.

Mr. Tim Clarke, 1310 W. Martin Street, stated that the fine was paid as agreed, and there was some dispute as to whether it was \$5,000 or \$6,000. He offered to produce a photograph of the property as it is today, having corrected some issues and installed a tarpaulin over some of the accumulation. He feels that every time he tries to comply, other charges are added. He addressed the issue of the neighbors' dogs by stating that he is afraid of them and they are constantly barking and aggressive. He feels that Municipal Court proceedings should be recorded and transcribed as he does not feel the proceedings have been accurately presented.

Mr. Clarke rested.

Mr. Sayre stated that he understands that the property is to go into foreclosure on June 8, and recommended that, should Council wish to make a motion to deem the property as nuisance, that the motion include that the matter will be taken up again on June 11, so that the results of the foreclosure sale are more clear.

Ms. Jennifer Clarke did not testify, but did offer that Mr. Clarke's perceptions of the condition and events surrounding his property are his own and do no reflect the opinions of the Clarke family.

## **6. New Business**

### **a. Take action, as necessary, on evidence presented at the Public Nuisance Hearing for 1310 W. Martin Street**

Motion made by Councilman Collinson, seconded by Councilman Knowles, to determine that 1310 W. Martin Street is a public nuisance, and that the matter be reset to June 11, 2020. Motion carried unanimously.

Meeting adjourned at 5:47 PM.

---

George Karos, Mayor

---

Gena Long, City Recorder