

**City of Martinsburg
Regular Council Meeting
Thursday, June 11, 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 6:30 PM. The following Council Members were present: Harriet Johnson, Gregg Wachtel, Dennis Etherington, Kevin Knowles, Ken Collinson and Kimberly Nelson. Physically present were City Manager Mark Baldwin, City Attorney Kin Sayre and City Recorder Gena Long, Police Chief George Swartwood and Finance Director Mark Spickler. Several members of the staff were present telephonically. Councilman Baker was absent.

3. Salute to Flag

Mayor Karos led the salute to the flag.

4. Prayer—

Councilman Knowles led the invocation.

5. Approve May 14, 2020 Regular Council Meeting Minutes

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the May 14, 2020 Regular Council Meeting Minutes. Motion carried unanimously.

6. Approve May 27, 2020 Special Meeting Minutes

Motion made by Councilwoman Johnson, seconded by Councilman Etherington, to approve the May 27, 2020 Special Meeting Minutes. Motion carried unanimously.

7. Approve April 2020 Administrative and Financial Report

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve the April 2020 Administrative and Financial Report. Motion carried unanimously.

8. Presentations

a. Make Comment on ABCA Zoning Form for Roadhouse Saloon, LLC, d.b.a. Roadhouse Saloon—1017 S. Queen Street

Mr. Harold Messick and Ms. Londa Reynolds, Inwood, WV, were present to answer questions. Mr. Messick stated that he had conducted business as a bar at this location twenty years ago and has been offered the opportunity to purchase the structure and open a club.

Councilman Knowles expressed concerns as there have been a number of issues with clubs in that location in the past eight-ten years. He asked what will be different now.

Mr. Messick stated that past owners have had live music and attract too many customers and too many out of state patrons. He stated that he will have security and added that there were minimal issues in that location when he was the business owner.

Councilman Knowles asked about the hours of operation.

Mr. Messick replied that he anticipates the hours to be from noon until midnight.

Chief Swartwood stated that he had the same concerns as Councilman Knowles, he finds the hours to be satisfactory and hopes the establishment is managed better in the future. He stated that he cannot recall any history from when Mr. Messick operated in that location previously.

Motion was made by Councilman Wachtel, seconded by Councilman Etherington, to forward to the ABCA with no comment.

b. Martinsburg-Berkeley County Parks and Recreation Board—Allen Corbin Executive Director and Steve Catlett, Superintendent of Parks (See items 16 N, 16 O and 16 P)

Mr. Catlett introduced Mr. Corbin, Executive Director and Mr. Williams, Board President. Mr. Catlett stated that, due to COVID 19, the parks system is struggling financially. Many employees have been furloughed and the parks are struggling to keep up maintenance with those that remain. They have ten full-time employees and have made none of the standard seasonal maintenance hires. The Recreation Center has been closed for three months. The Board has directed staff to reopen when it is legal and safe to do so.

Mr. Catlett stated that, with the City's consensus to use Lambert Park funding at War Memorial, the pool will be able to open for the summer. The pool is scheduled to open the following Saturday and some classes will be offered. He stated that he understands the concerns of closing Lambert Park, however, Parks and Rec is able to afford and staff only one pool as many lifeguards have already found other employment due to the uncertainty of opening at all. War Memorial has more amenities and can be better controlled for social distancing. Many area pools have decided not to open at all so Mr. Catlett was glad to be able to offer this to the citizens and visitors to Martinsburg.

Mr. Catlett went on to say that they are attempting to reopen playgrounds, but must determine how to keep up with the cleaning requirements with minimal staff. He stated that Parks and Rec is attempting to act in good faith to the community by opening one pool, but revenue is necessary. They have reached out to the State and FEMA for available grant funding as they understand that parks management will be heavily restricted until a vaccine is available for COVID 19.

Councilman Knowles asked if the City were to assist Parks and Rec, could the City request reimbursement of those funds from the State. Finance Director Mark Spickler replied that he does not believe that would be an eligible expense.

Councilwoman Nelson asked if polls have been taken to determine if the public wants the pools to be open. Mr. Catlett stated that there is considerable interest from the community and also from out of state, since many jurisdictions are not opening pools.

Mr. Spickler added that Parks and Recreation is funded by a portion of the hotel/motel tax, which is predicted to be decreased by 70-75% for the year, due to COVID.

Mr. Baldwin explained that the fiscal year is ending June 30, 2020 and the City has already authorized moving the subsidy approved for Lambert Park Pool to Memorial Park Pool. He predicts that Parks and Recreation will require more funding from the City to maintain operations in the next fiscal year.

Mr. Catlett added that he has been working closely with CDBG Administrator Nancy Strine for capital improvement funding through the entitlement.

Councilwoman Johnson asked if the pavilions are available for park guests. Mr. Catlett stated that they are, however, occupants must observe social distancing.

Councilman Wachtel asked about the generally held summer concert series. Mr. Catlett stated that the governor stated that live concerts may only be conducted at fairs and festivals and gatherings are limited to one hundred people, which would make it difficult to hold the concerts at this time.

Mr. Catlett concluded by stating that it has been an honor working with the City for the past 40+ years.

President Williams stated that Parks and Recreation will be installing the signage indicating the renaming of the facilities for retiring Executive Director Steve Catlett, and Council will be invited for the dedication ceremony when possible.

Motion made by Councilwoman Nelson, seconded by Councilman Collinson to move items 16N, 16O and 16 P up on the agenda. Motion carried unanimously.

16 N. Confirm Telephone Poll Consensus Authorizing Funding for Opening Park at War Memorial Pool

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to confirm the consensus. Motion carried unanimously.

16 O. Discuss/take action as necessary regarding Lambert Park Pool

No action.

16 P. Approve/deny Memorandum of Understanding between the City of Martinsburg and Martinsburg-Berkeley County Parks and Recreation regarding renaming of Lambert Park to R. Stephen Catlett Recreation Complex

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

9. Petitions from Citizens

Mr. Curtis Cox and Mr. Fernando Garcia, owners of Aspen Hall on Boyd Avenue, addressed item 16 C, asking that Council pass this ordinance to allow horses on their property.

Mr. Charlie Connelly, Shepherdstown WV, former owner of Aspen Hall supports the request of Mr. Cox and Mr. Garcia.

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

- a. Main Street Martinsburg April 20, 2020 Meeting Minutes and Financial Report
- b. Community Development Block Grant Coronavirus (CDBG-CV) Funding Overview
- c. Board of Zoning Appeals May 5, 2020 Meeting Minutes
- d. Historic Preservation Review Commission May 4, 2020 Meeting Minutes
- e. Notice of Resignation of Terry Colburn from the Historic Preservation Review Commission, per 6/1/2020 email received by the Planning Department
- f. Notice of public hearing for FY 2018 Annual Action Plan Substantial Amendment—Thursday, July 9, 2020—6:30 PM

Motion made by Councilman Wachtel, seconded by Councilman Collinson, to receive and file Items 10A-10F. Motion carried unanimously.

11. Reports of Chairpersons of Council Standing Committees

- a. Committee as a Whole May 19, 2019 Minutes

**Council as a Whole Committee Minutes
Tuesday, May 19, 2020
4 PM
J. Oakley Seibert City Council Chamber**

Present: Mayor George Karos, Councilmembers Kevin Knowles, Harriet Johnson, Dennis Etherington, Gregg Wachtel, Ken Collinson, Kimberly Nelson and, via phone, Jason Baker

Others in Attendance: Kin Sayre, City Attorney, Mark S. Baldwin, City Manger and Brenda Spaulding, HR Director

Unable to Attend: none

Mayor Karos opened the meeting explaining the purpose of the meeting was to interview three (3) internal applicants for the Chief of Police position.

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to go into Executive Session to conduct the interviews.

Motion was made by Councilman Collinson, seconded by Councilman Knowles, to adjourn the meeting.

12. Report of Mayor

- a. Schedule Special City Council Meeting for Thursday, July 23, 2020 or Monday, July 27 (TBD), at 5 PM to approve FY 2020-2021 Budget Revisions, per State Code, and other business as needed.
- b. Schedule Special City Council Meeting for Monday, August 3, 2020 at 5 PM for opening the canvass for the City of Martinsburg General Election

c. Schedule Special City Council Meeting for Wednesday, August 5, 2020 at 5 PM for purposes of certifying the results of the City of Martinsburg General Election

d. Schedule Special City Council Meeting for Wednesday, August 5, 2020, immediately following the conclusion of the 5 PM meeting, for purposes of administering oath of office to Mayor and Council

e. Appoint Brad Sensel to the Martinsburg-Berkeley County Parks and Recreation Board to fill and expired term—8/1/2020-8/1/2023

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to appoint Mr. Sensel. Motion carried unanimously.

f. Reappoint Ms. Robin Truax to the Human Relations Committee through 7/6/2022

Motion made by Councilman Knowles, seconded by Councilman Collinson, to reappoint Mr. Truax. Motion carried unanimously.

Report the following vacancies:

- **Historic Preservation Review Commission (2)**
- **Parking Authority (2)**
- **Planning Commission (1)**
- **Shade Tree Commission (1)**
- **Martinsburg-Berkeley County Public Library Commission (1)**
- **Human Relations Committee (1)**

13. Report of City Attorney

14. Report of City Manager

City Manager Mark Baldwin gave a brief projects update. There have been some COVID related delays, but work on all projects is picking up.

COVID funding mechanisms are coming available for first responders and the CARES Act. The portal is now open for local governments to request a portion of the \$1.2B in Federal funds made available to be released by the State. The City has requested \$1.9M, most of which is payroll related.

15. Unfinished Business

16. New Business

a. First and Second Reading of Ordinance 2020-06 to Amend and Reenact the City of Martinsburg Personnel Rules and Policies Section V: Employment at Subsection N: Compensatory Leave

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to read Ordinance 2020-06 through the first and second reading, by title only. Motion carried unanimously.

b. First and Second Reading of Ordinance 2020-07 to Amend and Reenact the City of Martinsburg Personnel Rules and Policies Section VI: Benefits at Section K: Personal Leave

Motion made by Councilman Collinson, seconded by Councilman Knowles, to read Ordinance 2020-07 through the first and second reading, by title only, and adopt. Motion carried unanimously.

c. First and Second Reading of Ordinance 2020-08 to Add to and/or Amend the Text of the Martinsburg Zoning Ordinance (MZO) at Article VI: "Design Regulations", Section 611.1 "Agricultural Uses" to Allow Mules, Ponies, and Horses in Residential Districts under Certain Conditions and to Reduce Distance for New Construction or Installment of Enclosure from 200-feet to 100-feet from an Adjacent Residential Lot

Mr. Sayre explained that the Planning Commission does not recommend this text amendment. The final decision is up to Council.

Motion made by Councilwoman Nelson, seconded by Councilman Knowles, to read Ordinance 2020-08 through the first and second reading, by title only. Motion failed; voting no were Council members Wachtel, Johnson, Etherington and Collinson.

d. Approve/deny Resolution 2020-09 approving General Fund Budget Revision #4 for FY 2019-2020

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve Resolution 2020-09. Motion carried unanimously.

e. Approve/deny Resolution 2020-10 approving Coal Severance Tax Fund Budget Revision #3 for FY 2019-2020

Motion made by Councilman Etherington, seconded by Councilwoman Johnson, to approve Resolution 2020-10. Motion carried unanimously.

f. Approve/deny Police Levy Fund Budget Revision #3 for FY 2019-2020

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

g. Approve/deny Fire/EMS Budget Revision #2 for FY 2019-2020

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

h. Approve/deny Sales Tax Fund Budget Revision #2 for FY 2019-2020

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

i. Approve/deny Water/Sewer Fund Budget Revision #2 for FY 2019-2020

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

j. Approve/deny Sanitation Fund Budget Revision #3 for FY 2019-2020

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

k. Approve/deny Parking Fund Budget Revision #2 for FY 2019-2020

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

I. Approve/deny Resolution 2020-11 of The City Council of The City of Martinsburg, West Virginia Concerning 1310 West Martin Street, Martinsburg, West Virginia

City Attorney Kin Sayre stated that 1310 W. Martin Street was declared a nuisance at the May 27 special meeting of the Council. This Resolution allows the City to file suit to mitigate the nuisance. Mr. Sayre stated that the property was sold as a foreclosure on June 8, and it was purchased by Mr. Dennis Clarke who sold it to a real estate investment group. Mr. Sayre stated that he has spoken to the new owners about the necessity of clearing the Code Violations and they have agreed to handle it as soon as they can get the property vacated. He recommended that Council adopt the Resolution with the understanding that the City should give the group some time to come to the Planning Department to formulate a plan to correct the issues, which is possible after the deed has been transferred and property vacated.

Motion made by Councilman Collinson, seconded by Councilman Wachtel, to adopt Resolution 2020-11. Motion carried unanimously.

m. Discuss/take action as necessary regarding restricted access to City Hall and other government buildings for the public, in relation to COVID-19 protocols

City Manger Mark Baldwin stated that the City is remaining compliant with all COVID regulations. City Hall has been closed to the public, but now intends to reopen with restricted access. The public is encouraged to continue using online and email services. The public has been very flexible in working with the City, but bills are now coming due and there will be increased interactions with customers. Signage encouraging masks and social distancing will be placed. Off-site locations, such as the Fire Department, will remain closed to the public for all non-emergency functions.

City Attorney Sayre added that the City is slowly reopening and there will likely be further conversations at future meetings.

Mr. Baldwin stated that mask and gloves are encouraged for those entering City Hall, but not mandatory at this time.

No action was necessary.

n. Confirm telephone poll consensus authorizing funding for opening park at War Memorial Pool (See 8B)

o. Discuss/take action as necessary regarding Lambert Park Pool (See Item 8B)

p. Approve/deny Memorandum of Understanding between the City of Martinsburg and Martinsburg-Berkeley County Parks and Recreation regarding renaming of Lambert Park to R. Stephen Catlett Recreation Complex (See 8B)

q. Discuss/take action as necessary regarding Independence Day fireworks display in relation to COVID-19 protocols

City Manager Mark Baldwin that the City does not hold sanctioned gatherings for fireworks, however he has concerns about encouraging gathering to view fireworks on other properties. Other areas are cancelling their displays and that may have the effect of creating larger than normal gatherings in Martinsburg.

Mr. Baldwin added that fireworks are illegal in City limits and this will be emphasized this year. Councilman Knowles asked about signage at fireworks stands and other sales locations notifying residents of this. Mr. Baldwin responded that the City does request those retailers to display those signs.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to cancel the City of Martinsburg's 2020 Independence Day fireworks display. Motion carried unanimously.

r. Approve/deny request from former Police Chief Maurice Richards to retain his duty weapon

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

s. Approve/deny Health Insurance Renewal Rates-Highmark Blue Cross/Blue Shield (0% increase for health/dental and life insurances—vision insurance forthcoming)

Mr. Spickler stated that there is also a 0% increase in the vision insurance.

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

t. Approve/deny Special Events Permit 2020-28 for Church without Walls Ministries Just Worship event in the Town Square Pedestrian Plaza on July 18, 2020 from 4 -7 PM, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services;

Motion made by Councilman Wachtel, seconded by Councilwoman Nelson, to approve this request with the added contingency that the event holder encourage social distancing guidelines and follow current regulations as promulgated by the Berkeley County Health Department.

u. Approve/deny additional expenditure for upgrading equipment during re-mounting process on three (3) City of Martinsburg ambulances--\$39,000

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

v. Approve/deny Change Order #8 for the Martinsburg Police Department/Municipal Court Project—\$16,901

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

w. Approve/deny Change Order #9 for Martinsburg Police Department/Municipal Court Project--\$266,424

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

x. Approve/deny Pay Application #25 to W. Harley Miller for Martinsburg Police Department/Municipal Court Project--\$13,512

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

Council entered executive session at 7:49 PM, for real estate, personnel and legal matters.

Meeting adjourned by unanimous consent at 8:23 PM.

George Karos, Mayor

Gena Long, City Recorder