

**City of Martinsburg  
Regular Council Meeting  
Thursday, October 8, 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 Harriet Johnson at 6:30 PM. The following Council Members were present: Cory Roman, Steve Knipe, Dennis Etherington, Kevin Knowles, Ken Collinson, Kimberly Nelson, and Jason Baker. Also present were City Manager Mark Baldwin, Assistant City Manager Andy Blake, City Attorney Kin Sayre, City Recorder Gena Long, Police Chief George Swartwood, Fire Chief J.D. Hummingbird, Public Works Director Jeff Wilkerson, CDBG/HOME Administrator Nancy Strine, Finance Director Mark Spickler, Planning Director/City Engineer Kim Petrucci, and Utilities Director Jim Kelly.

**3. Salute to Flag**

Mayor Johnson led the salute to the flag.

**4. Prayer—**

Walter Bowers, retired pastor, led the invocation.

**5. Approve September 10, 2020 Regular Council Meeting Minutes**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the September 10, 2020 Regular Council Meeting Minutes. Motion carried unanimously.

**6. Approve August 2020 Administrative and Financial Report**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the August 2020 Administrative and Financial Report. Motion carried unanimously.

**7. Public Hearing Regarding Ordinance 2020-16 Granting a Non-Exclusive Cable Franchise Agreement by and between the City of Martinsburg and Shenandoah Cable Television, LLC Pursuant to WV Code 24-D-1-1 et seq. and 47 USC 522 (Title VI of the Communications Act)**

Mayor Johnson opened the public hearing at 6:34 PM.

Mr. Chris Kyle, representing Shentel, spoke in favor of the agreement, reiterating previous discussions that the service will include broadband and video.

As no one else came forward for or against, the public hearing was closed at 6:35 PM.

Motion made by Councilman Collinson, seconded by Councilman Etherington, to move item 16 A up on the agenda. Motion carried unanimously.

**16 a. First and Second Reading of Ordinance 2020-16, by title only, of the City Council of the City of Martinsburg granting a non-exclusive cable franchise agreement by and between the City of Martinsburg and Shenandoah Cable Television, LLC, pursuant to WV Code 24-D-1-1 et. seq. and 47 USC 522 (Title VI of the Communications Act)**

Motion made by Councilman Knowles, seconded by Councilman Collinson, to read Ordinance 2020-16 through the first and second reading, by title only. Motion carried unanimously.

#### **8. Petitions from Citizens**

There were no petitions from citizens.

#### **9. Presentations**

##### **a. Christian Riddell, representing John Orem, regarding Article 522 of the Codified Ordinances of the City of Martinsburg, known as the “Drug House Ordinance”**

Mr. Riddell, Tennessee Avenue, spoke on behalf Mr. Orem and himself, a City resident. He feels there are various legal issues with the ordinance, some of Constitutional import. The issues included conflict with State Code, possible lack of notice and right to be heard on the part of the tenants, violation of Constitutional division of powers, violation of the right to a trial by jury and violation of the 8th Amendment by criminalizing status. Mr. Riddle also felt the statute is vague and allows for unconstitutional searches.

##### **b. Martinsburg Little League request for funding—William F. Queen**

Dr. Queen, Martinsburg Little League, explained to Council that the Little League is in dire financial straits due to COVID-19. The League operates from the City owned Oatesdale Park and is generally funded through registrations, concessions, fundraisers and sponsorships. Due to COVID, registration and concession revenue is substantially down and some unexpected expenses had to be addressed earlier in the year. The organization is in critical need of assistance for off-season expenses as the next opportunity to create revenue will be during registrations in February and the organization has very little in the bank. Dr. Queen asked the City for funding in the amount of \$40,000.

Councilman Knowles asked Dr. Queen if the Little League had applied for any state funding. Dr. Queen replied that he is not aware of any programs that they will qualify for. Councilman Knowles added that funding for programs for the area’s children is very important.

Motion made by Councilman Etherington, seconded by Councilman Collinson, that the City fund \$25,000 to the Martinsburg Little League.

Councilwoman Nelson asked where the figures came from, both the \$40K requested by Dr. Queen and the \$25k proposed by Councilman Etherington.

Dr. Queen responded that the League had lost approximately \$25,000 in concessions, which is the amount needed just to keep the electricity on during the off-season. \$8,000 had been refunded in registration fees. The League has done several fundraisers and cut costs were possible, but still has many expenses and needed projects. He felt he was not asking for more than was needed.

Councilman Etherington stated that the \$25,000 is a feasible number at this time.

Motion carried unanimously.

**9c. Capital Acquisitions presentation and request to clear City right-of-way/alley on the east side of Boyd Avenue**

Mr. Dan Dulyea, S. Queen Street, stated that he has purchased the property at 351 N. Maple Avenue and is asking permission to clear the City right of way adjacent of trees and debris. He stated that the property has issues with trash and squatters and he would like to make it more visually appealing and easily maintained.

Councilwoman Nelson asked what kind of business Mr. Dulyea intends to put on the property. Mr. Dulyea has not yet decided, he has met with several organizations and began basic clearing and cleaning at this time.

Councilman Knipe asked if the pins demarking the City right of way are visible. Mr. Dulyea responded that most are. He added that he is only seeking to clear the portion of the easement that abuts his property.

Councilman Nelson asked if Mr. Dulyea is asking the neighbors to assist. He replied that he is not, but they can if they wish.

Mr. Karl Scheib, 353 Boyd Avenue is opposed to the clearing, he prefers the wooded area as opposed to the view of the warehouse.

Mr. James Kolipoulos, 367 Boyd Avenue, is opposed to the clearing, the trees are a buffer to the warehouse and the noise from the train layover station.

Mr. Curtis Cox, 405 Boyd Avenue, is in in favor of clearing the property and supports Mr. Dulyea's efforts.

Ms. Deborah Hill, 351 Boyd Avenue, is okay with the clearing as long as it does not encroach on her property.

Councilwoman Nelson asked what Mr. Dulyea means by clearing, does he intend to remove all of the trees. Mr. Dulyea stated he intends to create a park-like setting.

Councilman Knowles asked Mr. Dulyea to confirm he was not looking to take over the easement, but simply clear and clean it. Mr. Dulyea confirmed this, adding that he is simply trying to discourage further accumulation of rubbish and squatting by the homeless in the area.

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

**d. Make Comment on Zoning Form for Project Thai, Inc., dba Thai Martinsburg Restaurant—200 W. Burke Street; contingent upon 10/6 approval for on-site consumption from the Board of Zoning Appeals**

Mr. Michael Kitt, Winchester Virginia, approached Council.

Mayor Johnson and Councilwoman Johnson stated that they are very excited for this new downtown establishment.

Chief Swartwood had no concerns.

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

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

- a. Historic Preservation Review Commission August 3, 2020 Meeting Minutes
- b. Board of Zoning Appeals August 4, 2020 Regular Meeting Minutes
- c. Resolutions of Appreciation for Martin and Marlyn Keesecker for their dedicated service to the Adam Stephens Memorial Association, as read by Mayor Johnson on September 28, 2020
- d. Eastern Panhandle Transit Authority July 20 and August 17, 2020 Meeting Minutes and Financial Reports
- e. For the Kids By George Children's Museum Meeting Minutes September 10, 2020.
- f. Correspondence from U.S. HUD regarding allocation of special COVID-19 allocation.
- g. Correspondence from Eastern WV Regional Airport Authority
- h. Certificate of Use and Occupancy- Martinsburg Police Department
- i. Correspondence from Comcast - Launch of Revolt HD and Aspire HD.
- j. Correspondence from Potomac Edison.

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

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

**12. Report of Mayor**

- a. Reminder of Council as a Whole Committee Meetings scheduled for October 14 and October 29, 2020 beginning at 5 PM.
- b. Congratulations and recognition to Councilman Kevin Knowles for being elected as president of the West Virginia Municipal League

Councilman Knowles thanked the Mayor, adding that the City of Martinsburg claims both the President of the WVML and the President of the City Manager's Association. He added that the last time the City held the position of President of the WVML was in the 1970s.

**Report the following vacancies:**

- Historic Preservation Review Commission (2)
- Parking Authority (2)
- Shade Tree Commission (1)
- Human Relations Committee (2)

**13. Report of City Attorney**

**14. Report of City Manager**

**15. Unfinished Business**

**a. Third and Final Reading of Ordinance 2020-14, by title only, amending Ordinance 2020-11, which established job descriptions for employees of the City of Martinsburg, WV**

Motion made by Councilman Etherington, seconded by Councilwoman Nelson, to read Ordinance 2020-14 through the third and final reading, by title only, and approve. Motion carried unanimously.

**b. Third and final reading of Ordinance 2020-15, by title only, prohibiting the digging or drilling of groundwater wells in the City of Martinsburg, WV**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2020-15 through the third and final reading, by title only, and approve. Motion carried 5-2; Baker and Roman voting no.

**16. New Business**

**a. First and second reading of Ordinance 2020-16 of the City Council of the City of Martinsburg Granting a Non-Exclusive Cable Franchise Agreement by and between the City of Martinsburg and Shenandoah Cable Television, LLC, pursuant to WV Code 24-D-1-1 et. seq. and 47 USC 522 (Title VI of the Communications Act)**

See item 7.

**b. First and second reading of Ordinance 2020-17 amending and reenacting the City of Martinsburg Code, Part 5: General Offenses, by amending Article 552: Drug and Gang Houses, Houses of Prostitution and other Disorderly Houses, Section 552-01-552.03**

Motion made by Councilman Etherington, seconded by Councilman Collinson to read Ordinance 2020-17 through the first and second reading, by title only. Motion carried unanimously.

**c. First and second reading of Ordinance 2020-18 to amend and reenact Article 355.01 of the City of Martinsburg Codified Ordinance prohibiting operation of use of all-terrain vehicles and street legal special purpose vehicles**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2020-18 through the first and second reading, by title only. Motion carried unanimously.

**d. Approve/deny Special Events Permit 2020-34 for Deliverance Ministry's Prayer in the Square to take place in the Town Square Pedestrian Plaza on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month from 6-7 PM, contingent upon proof of adequate liability insurance, adherence to any COVID-19 guidelines in place at the time of event and payment of any recommended fees for City services**

Motion made by Councilman Collinson, seconded by Councilman Baker, to approve this event from October 13-December 22, contingent upon proof of adequate liability insurance and adherence to any COVID-19 guidelines in place at the time of event. Motion carried unanimously/

**e. Approve/deny Special Events Permit 2020-35 for Deliverance Ministry's Sunday Worship Services to take place every Sunday from 9:30 AM until noon in the Town Square Pedestrian Plaza, contingent upon proof of adequate liability insurance and payment of any recommended fees for City services, and adherence to any COVID-19 related protocols in place at the time of the event**

This request has been pulled at this time. No action.

**f. Approve/deny Special Events Permit 2020-26 for Teresa L. Holmes-Lindsay of Bounce Back DNA Movement for “Why we Stand Storytelling” on Saturday, October 17 from 3-6 PM in the Town Square contingent upon proof of adequate liability insurance, adherence to any COVID-19 guidelines in place at the time of the event and payment of any recommended fees for City services**

Motion made by Councilman Knowles, seconded by Councilman Baker, to approve Special Events Permit 2020-26 as requested, contingent upon proof of adequate liability insurance and adherence to COVID-19 guidelines. Motion carried unanimously.

**g. Approve/deny Special Events Permit 2020-37 for Rev. Janis Wright “Just Worship and Prayer” on October 10, 2020 from 3-7 PM in the Town Square Pedestrian Plaza, contingent upon proof of adequate liability insurance, payment of any recommended fees for City services, and adherence to any COVID-19 protocols in place at the time of the event**

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve Special Events Permit 2020-37 as requested, contingent upon proof of adequate liability insurance and adherence to any COVID-19 protocols in place at the time of the event. Motion carried unanimously.

**h. Approve/deny Special Events Permit 2020-38 for Berkeley County in the Know Trump and First Responder Event, John Orem, October 18, 2020 from 3-8 PM, contingent upon proof of adequate liability insurance, payment of \$630 for City services and adherence to any COVID-19 protocols in place at the time of the event.**

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve Special Events Permit 2020-38 as requested, contingent upon receipt of \$630, proof of adequate liability insurance and adherence to any COVID-19 protocols in place at the time of the event. Motion carried unanimously.

**i. Approve/deny Capital Acquisition’s request to clear alley on east side of Boyd Avenue**

See item 9 c.

**j. Approve/deny Change Order #12 between the City of Martinsburg and W. Harley Miller for the Martinsburg Police Department/Municipal Court Building--\$615**

Motion made by Councilman Etherington, seconded by Councilman Baker, to approve Change Order #12. Motion carried unanimously.

**k. Approve/deny Pay Application #29 for Martinsburg Police Department/Municipal Court Project--\$10,185**

Motion made by Councilman Collinson, seconded by Councilman Baker, to approve Pay Application #29. Motion carried unanimously.

**l. Approve/deny Pay Application #30 for the Martinsburg Police Department/Municipal Court Project--\$375,477.77**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Pay Application #30. Motion carried unanimously.

**m. Confirm Snyder Environmental Service Proposal/Change Order to line sewer laterals—East Martin Street Project Phase I—not to exceed \$110,955**

Motion made Councilman Baker, seconded by Councilman Knowles, to confirm the Change Order. Motion carried unanimously.

**n. Confirm Snyder Environmental Services Proposal to install stormwater management from Spring Street to N. Queen Street as part of the E. Martin Street Phase 1 Project--\$74,687**

Motion made by Councilwoman Nelson, seconded by Councilman Knipe, to confirm the proposal. Motion carried unanimously.

**o. Approve/deny Pay Application #4 to Snyder Environmental for E. Martin Street Utility Relocation Project--\$22,784**

Motion made by Councilman Knipe, seconded by Councilwoman Nelson, to approve Pay Application #4. Motion carried unanimously.

**p. Approve/deny contract with AFM to provide security services for the Martinsburg Police Department--\$67,860 annually**

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

**q. Confirm purchase of ammunition from Mountaineer Custom Cartridge and Vance's Law Enforcement for Police Department--\$16,371.40**

Motion made by Councilman Knowles, seconded by Councilman Baker, to confirm purchase. Motion carried unanimously.

**r. Approve/deny purchase of K-9 related equipment from Executive Emergency for existing vehicle--\$6,741.50**

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

**s. Approve/deny purchase of portable police radios from Motorola Solutions--\$51,601.80**

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

**t. Approve/deny Change Order #1 with Capital Business Interiors--\$5,300—New Police Department**

Motion made by Councilman Baker, seconded by Councilman Knipe, to approve Change Order. Motion carried unanimously.

**u. Approve/deny Pay Application #3 for Capital Business Interiors--\$71,376.50**

Motion made by Councilman Etherington, seconded by Councilman Baker, to approve Pay Application #3. Motion carried unanimously.

**v. Approve/deny request for funding—Martinsburg Little League Association**

See item 9c.

**w. Approve/deny purchase of traffic line striper—Sherwin Williams--\$6,730**

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

**x. Approve/deny bid with Mountaineer Kitchen and Bath for Fire Station 1 Kitchen Remodel--\$26,805.31**

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

**y. Discussion regarding recommended personnel additions/changes at Martinsburg Fire Department—Chief Hummingbird**

Chief Hummingbird recommended changing the title of Captain to that of Battalion Chief, which is more accurate to the job descriptions of those individuals.

Chief Hummingbird also recommended adding the position of Fire Inspector, currently they are using firefighters off the floor, and the increasing duties require a designated person to run an efficient inspection program, which would include reviewing access and outdoor works with the Planning Department. City Manager Mark Baldwin added that this position has been routinely recommended at budget time.

Chief Hummingbird recommend adding the position of Division Chief, which would handle EMS operations, the current staff cannot keep up with the demand. This person would work with state, local and federal agencies and organizations to maintain compliance.

The consensus of Council was to move forward with the ordinances to make these changes and additions to strength.

**z. Approve/deny Pay-by-phone proposal in response to City's solicitation for mobile parking payment services--\$0 upfront/user fees in agreement**

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

**aa. Approve/deny purchase of one network laser printer with W. B. Mason--\$5,231.99**

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

**ab. Approve/deny Main Street Martinsburg's request to hold Christmas on Main Street on Friday, November 20, 2020 (previously approved for December 4)**

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

**ac. Approve/deny Main Street Martinsburg's request to suspend parking fees throughout the City, with the exception of King Street, Queen Street and City parking lots from November 20 through December 31, 2020**

Councilwoman Nelson asked why free parking was excluded on King and Queen Streets. Randy Lewis, Main Street Martinsburg, replied that this was the consensus of downtown businesses, to prevent business owners and employees from parking in front of the businesses.

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve the request. Motion carried 6-1; Baker voting no.

**ad. Approve/deny FY 2020 CDBG Subrecipient Agreement with Community Networks, Inc., Hope Living/Learning Center to upgrade heating unit--\$10,000**



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

**ae. Approve/deny FY 2020 CDBG Subrecipient Agreement with C-CAP for emergency rental assistance--\$7,000**

Motion made by Councilman Etherington, seconded by Councilman Knipe, to approve. Motion carried 6-1; Baker voting no.

**af. Approve/deny FY 2020 CDBG Subrecipient Agreement with CASA for volunteer support**

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

**ag. Approve/deny FY 2020 CDBG Subrecipient Agreement with Children's Home Society/SafeHaven Child Advocacy Center for case management--\$6,000**

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

**ah. Approve/deny FY 2020 CDBG Subrecipient Agreement with Berkeley County Meals on Wheels for Dine with Dignity Program**

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

**ai. Approve/deny FY 2020 CDBG Subrecipient Agreement with Boys and Girls Club to provide low/moderate resident memberships (\$10,000)**

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

**aj. Approve/deny FY 2020 CDBG Subrecipient Agreement with Eastern Panhandle Empowerment Center for rental assistance for survivors--\$6,000**

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

**ak. Approve/deny FY 2020 CDBG Subrecipient Agreement with Berkeley Senior Services for low/moderate in-home care--\$6,000**

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

**al. Approve/deny FY 2020 CDBG Subrecipient Agreement with CNI for case management services for Bethany House homeless shelter--\$5,704**

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

**am. Approve/deny FY 2020 CDBG-CV Subrecipient Agreement with C-CAP for emergency rental assistance--\$7,000**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve. Motion carried 6-1; Baker voting no.

**an. Approve/deny FY 2020 CDBG-CV Subrecipient Agreement with CASA to provide additional training/educational costs; PPE; and 50% new staff person due to COVID-19--\$20,666**

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

**ao. Approve/deny FY 2020 CDBG-CV Subrecipient Agreement with Berkeley County Meals on Wheels to provide elderly low-income individuals in the City to pay for rising meal costs, PPE and cleaning costs due to COVID-19--\$22,000**

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

**ap. Approve/deny FY 2020 CDBG-CV Subrecipient Agreement with Boys and Girls Club for additional staffing due to COVID-19; PPE and to purchase plexiglass dividers to prepare club for reopening in the Fall**

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

**aq. Approve/deny FY 2020 CDBG-CV Subrecipient Agreement with Eastern Panhandle Empowerment Center for rental assistance for survivors, testing, PPE and sanitation supplies--\$21,500**

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

**ar. Approve/deny FY 2020 CDBG-CV Subrecipient Agreement with CNI for additional staffing needs due to COVID/PPE; cleaning and hygiene supplies for Bethany House, a homeless emergency shelter for women and children--\$14,430**

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

**as. Approve/deny FY 2020 CDBG-CV Subrecipient Agreement with Catholic Charities of WV for stabilization services to pay for rental and utility assistance for the low and moderate residents in the City of Martinsburg needed due to COVID-19--\$12,000**

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

**at. Approve/deny FY 2020 CDBG-CV Subrecipient Agreement with Community Alternatives to Violence for funds to supplement operations/rent due to COVID-19--\$4,250**

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

**au. Approve/deny FY 2017 CHDO Cooperative Agreement with Habitat for Humanity of Eastern Panhandle by and between the City of Martinsburg and Habitat for Lot 21 (108 Humanitarian Way) in the Auburndale Subdivision--\$51,231**

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

**av. Approve/deny purchase and installation of card access system for City Hall—RCS Security, Inc.—8,100**

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

Council entered Executive Session at 8:19 PM for legal and real estate purposes.

Council entered Regular Session and adjourned at 8:45 PM.

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Harriet Johnson, Mayor

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Gena Long, City Recorder