

**City of Martinsburg
Regular Council Meeting
Thursday, November 12, 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: Steve Knipe, Dennis Etherington, Kevin Knowles, Ken Collinson, Kimberly Nelson, and Jason Baker. Also present were City Manager Mark Baldwin, 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 Economic/Community Development Director Shane Farthing.

3. Salute to Flag

Mayor Johnson led the salute to the flag.

4. Prayer—

Reverend Ken Walker, Calvary United Methodist Church, led the invocation.

Motion made by Councilman Collinson, seconded by Councilman Etherington, to move item 8A up on the agenda.

8 a. Administer Oath of Office to Police Officers Eric Milburn, Jeremy Pevahouse, Coby Engle and Daniel Smith

The City Recorder administered the Oath of Office.

5. Approve October 8, 2020 Regular Council Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the October 8, 2020 Regular Council Meeting Minutes. Motion carried unanimously.

6. Approve September 2020 Administrative and Financial Report

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

7. Petitions from Citizens

Mr. Peter Hartman, Tennessee Avenue, stated that he witnessed a City crew replacing the sidewalk on the corner of Tennessee Avenue and Illinois Avenue. He stated that, per City Charter, the adjacent property owner is responsible for replacing the sidewalk and that it is inappropriate for the City to pay the full cost to replace the sidewalk at that property. He felt that the City, if required to pay anything, should have paid a depreciated value as the sidewalk is approximately eighty years old.

Mr. Randy Lewis, Main Street Martinsburg, approached Council regarding special events scheduled in the City. He stated that it had been decided to cancel the Christmas Tree lighting ceremony, that the tree in the Square will be lit and individuals may take photos or view the tree, however, there will be no official gathering. He also wished to withdraw the request, agenda item 15 O, as the Apple Drop has been cancelled.

The City Recorder asked Council for a consensus to hold the Christmas Marketplace in the Town Square Pedestrian Plaza on November 28, as the application was overlooked and not listed on the agenda. Consensus was granted.

8. Presentations

b. Resolution of Appreciation for retiring City of Martinsburg employee Dale Birmingham for his forty years of City service

The City Recorder read the Resolution and presented it to Mr. Birmingham.

c. Proclamation—Christian Heritage Week—November 22-28, 2020

The City Recorder to forward the Proclamation.

d. Proclamation—Small Business Saturday—November 28, 2020

The City Recorder read the Proclamation and presented it to Randy Lewis, Main Street Martinsburg.

e. Proclamation—National Hunger and Homelessness Awareness Month—November 2020

The Mayor read the Proclamation and presented it to a representative from Community Networks, Incorporated.

f. Make comment on ABCA Zoning Form for Cracker Barrell Old Country Store, Inc., dba Cracker Barrell Old County Store #280—725 Foxcroft Avenue

Ms. Shannon Combs, Bowles Rice, was present. She stated that Cracker Barrell wishes to serve beer and wine only in their restaurant.

Motion made by Councilman Baker, seconded by Councilman Collinson, to forward without comment.

g. Make comment on ABCA Zoning Form for Springwood Hospitality, LLC, dba Home2 Suites Martinsburg—820 Foxcroft Avenue

Shannon Combs, Bowles Rice, was present.

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

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

a. Eastern West Virginia Regional Airport Authority August 10, 2020 Meeting Minutes and Financial Reports

b. Main Street Martinsburg August 17, 2020 and September 21, 2020 Meeting Minutes and Financial Reports

c. Eastern Panhandle Transit Authority Board of Director's September 12, 2020 Meeting Minutes and Financial Reports

d. Correspondence from Comcast Regarding the re-opening of a local office and closure of the Terrace Street customer service location

e. Correspondence from Martinsburg Little League Association thanking Council for the financial support approved at the October 9, 2020 Regular Council meeting

f. Letter of resignation from Kelly Tanksley, Police Civil Service Commission, effective November 8, 2020

g. Letter from Governor Jim Justice, addressed to WV Utility Companies, regarding COVID-19 Utility Services Grant Funding availability

h. Martinsburg-Berkeley County Parks and Recreation Board financial statements

i. Eastern West Virginia Airport Authority September 12, 2020 Meeting Minutes and financial statements

j. Planning Commission August 5, 2020 meeting minutes

k. Historic Preservation Review Commission September 14, 2020 meeting minutes

l. The Martinsburg Initiative Grant funding request

Motion made by Councilman Etherington, seconded by Councilman Collinson, to receive and file Items 9A-9L Motion carried unanimously.

10. Reports of Chairpersons of Council Standing Committees

a. Approve October 14, 2020 Council as a Whole Committee Meeting Minutes

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve October 14 minutes. Motion carried unanimously.

Council as a Whole Committee Minutes Wednesday, October 14, 2020—5 PM

Present: Mayor Harriet Johnson, Councilmembers Kevin Knowles, Kimberly Nelson, Dennis Etherington, Ken Collinson, Cory Roman and Steve Knipe

Others in Attendance: Mark S. Baldwin, City Manager, Andy P. Blake, Assistant City Manager and Shane C. Farthing, Community and Economic Development Director

Unable to attend: Jason Baker

Mayor Johnson opened the meeting and explained the purpose of the meeting was for a Community and Economic Development update. She then turned the meeting over the City Manager, Mark Baldwin.

City Manager provided an overview of the various City public improvement projects and other City initiatives.

The City Manger then turned the meeting over to Shane Farthing, Economic and Community Development Director for his PowerPoint presentation. The following was presented:

Urban Renewal Authority—the consensus of the Committee was to recommend to City Council the creation of the URA. \$75,000 estimated cost to develop the Urban Renewal Plan.

Building Commission—the consensus of the Committee was to recommend to City Council the creation of a Building Commission

Visual Improvements/Community Attractiveness: The consensus of the Committee was to continue to evaluate the beautification for Historic Downtown Martinsburg (hanging baskets and tree planting program); Cost to be determined

Mural Program: consensus of the Committee was also to recommend to City Council to develop a City-wide public mural program. Estimated cost is \$148,000 for eight murals.

Pilot—Scale Community Grant Program to support improvements to homes, businesses and neighborhoods (Residential Façade Program) Consensus of the Committee was to recommend to City Council the development of the application/guidelines for the Façade Matching Grant Program in the amount of \$125,000; estimated City cost is \$125,000 and public match of \$125,000 for approximately twenty-five properties

Pilot—Scale Community Grant Program to support improvements to homes, businesses and neighborhoods (Commercial Façade Program)—Consensus of Committee to recommend to City Council the development of application/guidelines for the Façade Matching Grant program. Estimated City cost \$50,000 and public match of \$50,000 for ten commercial properties.

Pilot Scale Community Grant Program to Support Improvements to Homes, Businesses and Neighborhoods (Community Clean-up Program)—Consensus of Council was to recommend to City Council this initiative--\$500 for each ward, twice a year, for a total of \$5,000

Pilot—Scale Community Grant Program to support improvements to homes, businesses and neighborhoods (Discretionary Grant Program)—consensus of Committee was to move forward with the recommendation in the amount of \$100,000. Application and guidelines to be completed.

Meeting adjourned.

b. Approve October 28, 2020 Council as a Whole Committee Meeting Minutes

Council as a Whole Committee Minutes
October 28, 2020

Present—Mayor Harriet Johnson, Councilmembers Kevin Knowles, Kimberly Nelson, Dennis Etherington, Ken Collinson, Cory Roman, Steve Knipe and Jason Baker

Others in Attendance-- Mark S. Baldwin, City Manager, Andy P. Blake, Assistant City Manager, Kin Sayre City Attorney, Shane Farthing, Economic and Community Development Director, Police Chief George Swartwood, Dana Keith, City Planner and Dick Klein, Alpha Associates

Unable to Attend—None

Mayor Johnson opened the meeting and stated the purpose of the meeting was for Alpha Associates to give an update on various City of Martinsburg public improvement projects.

1. Projects Update—Dick Klein, Alpha Associates, provided an update on the following projects:

- A. E. Martin Street Water, Sewer and Stormwater Projects
- B. Train Station Corridor Grant Project
- C. N. Queen Street Underpass Project
- D. N. Queen Street Streetscape Project

2. City Manager Mark S. Baldwin informed Council the above-mentioned projects are funded. However, additional funds may be needed. Funds are available. The City Manager also indicated that the City should move forward with the design and construction of the E. Martin Street parking lot. Further information will be forthcoming.

Meeting adjourned.

11. Report of Mayor

a. Approve/deny recommendation of Mayor to appoint Ian Fritz to the Martinsburg Historic Preservation Review Commission to fill and expired term ending 1/1/2022

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

b. Approve/deny recommendation of the Mayor to appoint Mark Thompson to the Shade Tree Commission to fill and expired term ending 5/9/2023

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

Report the following vacancies:

- **Historic Preservation Review Commission (2)**
- **Parking Authority (2)**
- **Shade Tree Commission (1)**
- **Human Relations Committee (2)**
- **Police Civil Service Commission (Chamber Appointment)**
- **Martinsburg-Berkeley County Parks and Recreation Board (1 City Appointment)**

12. Report of City Attorney

City Attorney Kin Sayre stated that there has been a considerable spike in COVID-19 cases in Berkeley County and state-wide. The City should be proactive and look at steps that can be taken to mitigate the infection rate where possible by protecting citizens and City employees. The City should discourage large gatherings, especially around the holidays, and pause court appearances, at least until the second Wednesday in December. He also discussed restricting public access to City Hall beginning November 23, with the consensus of Council.

City Manger Mark Baldwin reiterated that the numbers were spiking more due to colder weather and increased indoor activity. The consensus of the Department heads was to close City Hall to the public, except by appointment. He also requested that Council give the City Attorney and City Manager the authorization to extend or revise guidelines as necessary between meetings.

The consensus of Council was to review protocols and implement appropriate restrictions.

13. Report of City Manager

a. City Manager Report

The City Manager had nothing to add.

14. Unfinished Business

a. Third and final reading of [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 24D-1-1 et seq. and 47 USC 522 (Title VI of the Communications Act)

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2020-16 through the third and final reading, by title only, and adopt. Motion carried unanimously.

b. Third and final reading of [Ordinance 2020-17](#) amending and reenacting the City of Martinsburg Code, Part 5: General Offenses Code, Chapter 5, Administrative, by amending Article 522, Drug and Gang Houses, Houses of Prostitution and other Disorderly Houses, Section 552-01-552.03

Motion made by Councilman Etherington, seconded by Councilman Baker, to read Ordinance 2020-17 through its third and final reading, by title only, and adopt. Motion carried unanimously.

c. Third and final reading of [Ordinance 2020-18](#) to amend and reenact Article 355.01 of the City of Martinsburg Code prohibiting operation and use of all-terrain vehicles and street legal special purpose vehicles

Motion made by Councilman Etherington, seconded by Councilman Knowles, to read Ordinance 2020-18 through the third and final reading, by title only, and adopt. Motion carried unanimously.

15. New Business

a. First and second reading of Ordinance 2020-19 to enact Article 144 of the City of Martinsburg Code establishing the Martinsburg Municipal Building Commission

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read the first and second reading of Ordinance 2020-19, by title only. Motion carried unanimously.

b. First and second reading of Ordinance 2020-20 amending Ordinance 2020-14, which established job descriptions for employees of the City of Martinsburg, West Virginia for positions within the Martinsburg Fire Department

Motion made by Councilman Etherington, seconded by Councilman Knipe to read Ordinance 2020-20 through the first and second reading, by title only. Motion carried; Baker voting no.

c. First and second reading of Ordinance 2020-21 authorizing the necessary documents to purchase the property known as 104-108 S. Water Street and 232 E. Burke Street (Tax Map M10, Lots 10-11-12 of Swartz's Mill Lot) for \$18,000

Motion made by Councilman Etherington, seconded by Councilman Knipe, to read Ordinance 2020-21 through the first and second reading, by title only. Motion carried unanimously.

d. First and second reading of Ordinance 2020-22 to amend the City of Martinsburg Zoning Map to rezone 2.73 acres of an unimproved parcel west of the intersection of Edwin Miller Blvd. and Courthouse Drive; at the end of Courthouse Drive approximately 400 feet from its intersection with Forbes Drive and identified on Berkeley County Tax Map M25, Parcel 3.1 from RP (Planned Residential) and BP (Planned Business) to IL (Light Industrial)

Request withdrawn by applicant.

e. Approve/deny [Resolution 2020-22](#) authorizing an agreement between the City of Martinsburg and CSX to improve property adjacent to White Avenue

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve Resolution 2020-22. Motion carried unanimously.

f. Approve/deny [Resolution 2020-23](#) authorizing a request for qualifications/proposals to develop a redevelopment plan for the purpose of creating the Martinsburg Urban Renewal Authority

Motion made by Councilman Knowles, seconded by Councilwoman Nelson, to approve Resolution 2020-23. Motion carried unanimously.

g. Approve/deny [Resolution 2020-24](#) authorizing Master Agreement with Civil and Environmental Consultants, Inc (CEC) for Engineering Services

Motion made by Councilman Etherington, seconded by Councilwoman Nelson, to approve Resolution 2020-24. Motion carried unanimously.

h. Approve/deny Task Order with CEC for design/engineering service for parts of S. Alabama/S. Georgia Avenues--\$86,400

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

i. Approve/deny Task Order with CEC for design/engineering services for E. Martin Street parking lot--\$47,700

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

j. Approve/deny Task Order with CEC for on-call design/engineering services

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

k. Approve/deny [Resolution 2020-25](#) changing the titles of Planning Secretary, Police Secretary, Fire Secretary, Public Works Secretary, Utility Secretary and Executive Secretary to Planning Administrative Assistant, Police Administrative Assistant, Fire Administrative Assistant, Public Works Administrative Assistant, Utility Administrative Assistant and Executive Assistant

Motion made by Councilman Etherington, seconded by Councilwoman Nelson, to approve Resolution 2020-25. Motion carried unanimously.

l. Approve/deny [Resolution 2020-26](#) changing the title of Fire Captain to Fire Battalion Chief

Motion made by Councilman Etherington, seconded by Councilwoman Nelson, to approve Resolution 2020-26. Motion carried unanimously.

m. Approve/deny Special Event Permit for River's Edge Ministries request to hold Christmas in the Streets in the Town Square Pedestrian Plaza on Saturday, December 12, 2020 from 5-8 PM, contingent upon proof of adequate

liability insurance and payment of any recommended fees for City services and compliance with any COVID-19 protocols in place at the time of the event

Mayor Johnson asked Council to consider placing a pause on event approvals due to increased cases of COVID-19 locally, beginning December 1, 2020.

Councilman Baker stated that he was not in favor of restricting events in the public Town Square.

Motion made Councilman Knowles, seconded by Councilman Collinson, to approve the Special Events Permit. Motion carried unanimously.

n. Approve/deny Special Events Permit 2020-41 for Women’s Health Care event for the Faith Feeding Freedom 2nd Anniversary on Friday, November 20, 2020 from 11 AM until 2 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 the Special Events Permit. Motion carried unanimously.

Mayor Johnson asked for continued discussion on her above recommendation to hold further special events applications.

Motion made by Councilman Baker, seconded by Councilman Knowles, that this discussion was inappropriate and not germane to item 15 P, to be considered next. Motion failed; Knipe, Etherington, Collinson and Nelson voting no.

When asked for his recommendation on the matter, Fire Chief J D Hummingbird stated that he would not support any event which required him to send personnel to a gathering, however, no such requests had been made.

The Mayor reiterated that she is requesting that Council not approve any events to be held from December 1-December 31, until the spread of COVID could be evaluated. City Manager Mark Baldwin added that guidance from Council was needed so that staff could inform applicants and make recommendation as applications come in.

It was pointed out that approvals are contingent upon any COVID-19 protocols in place at the time of the event, which would include the Governor’s orders and any order promulgated by the Berkeley County Health Department. Chef Swartwood stated that the current Executive Order limits gatherings to twenty-five individuals, however, it is impossible to determine ahead of time how many people will show up and enforcement authority is not in place to control those numbers. In addition, the Martinsburg Police Department has no interest in breaking up holiday events in the Square and citing or arresting individuals for not being in compliance.

The consensus of the Council was to continue to accept and review applications and make decisions on a case by case basis.

o. Approve/deny Revision to Special Event 2020-19, Main Street Martinsburg’s Apple Drop to include closing of streets on listed blocks to allow for COVID-19 social distancing

item withdrawn by applicant.

p. Approve/deny bid recommendation for thirty-six (36) sets of Globe Athletix Turnout Gear for the Martinsburg Fire Department—Finley Fire Equipment--\$107,820 (\$105,000 previously budgeted)

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

q. Approve/deny bid recommendation for Graco Line Driver HD traffic line striper motorized attachment for the Public Works Department--\$6,220—Sherwin Williams

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

r. Approve/deny quote recommendation for sidewalk repair at the corner of Tennessee and Illinois Avenues—Plotner--\$2,500

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve the recommendation. Motion carried; Baker voting no.

s. Approve/deny ten-year body camera/Taser product (45 AB3 cameras, 6 docking stations and 36 Taser 7s with associated hardware) and service package for the Martinsburg Police Department--\$762,737.39 total (see memo for annual breakdown)--Axon

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

t. Approve/deny agreement between the City of Martinsburg and Aqualaw for legal services related to Capital Cement Contract Renewal and related matters

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

u. Confirm Council as a Whole Committee consensus regarding Economic and Community Development Report (see October 14, 2020 Minutes/Committee recommendations to City Council)

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

v. Approve/deny Pay application #4 to Snyder Environmental for E. Martin Street Utility Relocation Project--\$113,253.15

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

w. Approve/deny Pay Application #4 between the City of Martinsburg and Capital Business Interiors for Martinsburg Police Department/Municipal Court Project (final payment)--\$16,281

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

Council adjourned at 7:40 PM.

Harriet Johnson, Mayor

Gena Long, City Recorder