

**City Of Martinsburg
Regular Council Meeting
July 10, 2014
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 p.m. The following Council Members were present: Don Anderson, Dennis Etherington, Jason Baker, Gregg Wachtel, and Kevin Knowles. Not present was Roger Lewis and Max Parkinson. Also present were: Mark Baldwin, City Manager; Catie Wilkes Delligatti, Legal Counsel; Gena Long, City Recorder, Chief Paul Bragg, Martinsburg Fire Department, Chief Kevin Miller, Martinsburg Police Department, Steve Knipe, Utilities Director, Jeff Wilkerson, Public Works Director; Mark Spickler, Finance Director and; Michael Covell, Planning Director/City Engineer

3. Salute to Flag

Councilman Knowles led the Salute to the Flag.

4. Prayer—

Mayor Karos delivered the invocation.

5. Approve June 12, 2014 Regular Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve the June 12, 2014 Regular Meeting Minutes. Motion carried unanimously.

6. Approve May 2014 Administrative and Financial Report.

Motion made by Councilman Etherington, seconded by Councilmen Baker, to approve the May 2014 Administrative and Financial Report. Motion carried unanimously.

7. Presentations

a. Make comment on ABC Zoning Form—778 Foxcroft Avenue—Trinity Corp., DBA Daily Grind
As the business owner was not available, this item was discussed at approximately 7:10 PM upon his arrival.

Mr. James Brinkley, Trinity Corp, stated that he wished to explore the possibility of offering craft beers and wines by the glass along with his usual coffee shop offerings, which would extend services to his customers.

Councilman Knowles thanked Mr. Brinkley for a fine job as a City business owner.

Councilman Baker asked if Mr. Brinkley anticipated any expansions of his building. Mr. Brinkley stated that he is planning some minor renovation, but no expansion to the building.

The Zoning Form was, by Council consent, forwarded to the ABC without comment.

8. Petitions From Citizens

There were no petitions from citizens.

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

- a. Martinsburg-Berkeley County Convention and Visitors Bureau June 11, 2104 Meeting Minutes
- b. Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) Interstate Council April 16, 2014 Meeting Minutes
- c. HEPMPO FY 2012-2015 Transportation Improvement Program Berkeley County Projects
- d. Letter from Comcast, dated June 27, 2014, regarding encryption of Limited Basic service.

Motion made by Councilman Knowles, seconded by Councilman Etherington, to receive and file items 9A-9D. Motion carried unanimously.

10. Reports of Chairpersons of Council Standing Committees

There were no reports.

11. Report of Mayor

a. Reappoint Gregory Reed to the Eastern Panhandle Transit Authority (PANTRAN) 8/1/2014-8/1/2017

Motion made by Councilman Knowles, seconded by Councilman Etherington, to accept the Mayor's recommendation and reappoint Mr. Reed to the Eastern Panhandle Transit Authority through 8/1/2017. Motion carried unanimously.

b. Reappoint James McGowan to the Eastern Panhandle Transit Authority (PANTRAN) 8/1/2014-8/1/2017

Motion made by Councilman Etherington, seconded by Councilman Knowles, to accept the Mayor's recommendation and reappoint Mr. McGowan to the Eastern Panhandle Transit Authority through 8/1/2017. Motion carried unanimously.

c. Reappoint Brenda Orndorff to the Eastern Panhandle Transit Authority (PANTRAN) 8/1/2014-8/1/2017

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to accept the Mayor's recommendation and reappoint Ms. Orndorff to the Eastern Panhandle Transit Authority through 8/1/2017. Motion carried unanimously.

d. Reappoint Ted Morgan to the Martinsburg-Berkeley County Parks and Recreation Board (M-BC Parks and Rec) 8/1/2014-8/01/2017

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to accept the Mayor's recommendation and reappoint Mr. Morgan to M-BC Parks and Rec through 8/1/2017. Motion carried unanimously.

e. Reminder of Special Council Meeting for Tuesday, July 29, 2014 at 5:00 PM for FY 2014-2015 Budget Amendment per WV. State Code.

f. Reschedule regular August 14, 2014 meeting for Thursday, August 21, 2014 @ 6:30 PM (conflict with Municipal League Summer Conference August 13-15).

12. Report of City Attorney

a. Update on Cable Franchise Agreement between the City of Martinsburg and Comcast

City Manager Mark Baldwin stated that all previous areas of question or concern from Council had been addressed with Comcast and, as of the date of this meeting, a new draft had not been received. He hoped it would be received in time for the public hearing at the regular August meeting, but if not, the public hearing could be rescheduled.

13. Report of City Manager

a. Projects Update

The City Manager had nothing further to report.

b. Discuss new ambulances, cots and radios—Fire Department

Fire Chief Bragg provided the specifications that the Fire Department will require on new ambulances that will address Fire Department needs as well as State requirements, as well as the cots and power load systems, two way radios and computers and docking stations. He also pointed out that the ambulances currently in service will be traded in. He added that the existing ambulances are 2003 models and he expects to new models to remain in service for approximately fifteen years.

Councilman Baker asked what the exterior of the new ambulances will be composed of. Chief Bragg answered that they will be aluminum.

City Manager Mark Baldwin added that the City has been aware that ambulances will need to be replaced and has budget accordingly over the past several years, he is confident that the Fire/EMS Budget holds adequate funds.

Mayor Karos asked who sets the value for the trade-ins. Chief Bragg replied that will be part of the bid specifications.

City Manager Mark Baldwin thanked all departments for their hard work in assisting with the damage of recent storms.

14. Unfinished Business

There was no unfinished business.

Motion made by Councilman Knowles, seconded by Councilman Baker, to deny the appeal of the HPRC's May 05, 2014 decision. Motion carried 6-1, Anderson no.

Legal Counsel Kin Sayre asked that Council confirm that they were upholding the findings of the HPRC. After this was confirmed by Council, Mr. Sayre stated that a written statement of findings of fact and conclusions of law would be provided by the appellant.

15. New Business

a. First and second reading of Ordinance 2014-13: *An Ordinance to Adopt the 2014 Replacement Pages to the Codified Ordinances, to Adopt New Matter; to Repeal Ordinances in Conflict Therewith; and to Direct that the Statutory Requirements for the Codification be Complied With*

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to hear the first and second readings of Ordinance 2014-13, by title only. Motion carried unanimously.

b. Approve/deny Resolution 2014-07: *Coal Severance Budget Revision #1 for FY 2014-2015*

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve Resolution 2014-07. Motion carried unanimously.

c. Approve/deny Resolution 2014-08 *Authorizing George Karos, Mayor Of Martinsburg, To File An Application And Enter Into A Contractual Agreement With The West Virginia Development Office And Receive Grand Funds Through The Community Participation Grant Program For Cornice And Roof Repair At The Apollo Civic Theatre*

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2014-08. Motion carried unanimously.

d. Approve/deny renewal of Property and Causality Insurance (\$659,755) and WV Surcharge (\$3,523.12)— Travelers Indemnity Company of America (Total--\$663,278.12)

Councilman Anderson asked if the Property and Causality Insurance had been bid.

Stew Borger, Smith Nadenbousch Insurance, stated that it had not, there are few viable markets for an insurance policy of this magnitude and it is not bid every year.

Councilman Anderson asked why it was not bid.

Mr. Borger replied that most markets say the City of Martinsburg's policy is too much risk. The State Board of Risk, a former insurance provider for the City of Martinsburg, does not offer many of the coverages in the Traveler's package.

Councilman Anderson asked if the premium is in-line with market costs.

Mr. Borger replied that it is very much in line, and explained that the policy and premiums are thoroughly reviewed by the City Manager, City Recorder and Human Resources Director each year to ensure that premium increases are not unexplainably excessive. He added that some property had been reevaluated and determined to have increased significantly in value since the last assessment, adding approximately \$17M in replacement cost to the City's portfolio of property. He also pointed out that the City has several liability experiences in recent years with high reserves.

Councilman Anderson asked if the City of Martinsburg utilizes a local agency for insurance needs.

Mr. Borger replied that he is with Smith Nadenbousch, Queen Street, and the company has been meeting the City's insurance needs for over 50 years.

Councilman Anderson asked if the premium will increase again when the new WWTP is finished.

Mr. Borger said it definitely will, as the property coverage is a blanket coverage which will guarantee replacement, therefore increased property value will certainly lead to higher premiums. He pointed out that, this year, Travelers had increased the value of property but had not increased the rate per \$100 of value.

Motion made by Councilman Etherington, seconded by Councilman Knowles ,to approve renewal of Property and Causality Insurance with Travelers Indemnity Company for a total premium of \$663,278.12. Motion carried unanimously.

e. Approve/deny Worker's Compensation Insurance (\$228,791.00) BrickStreet Insurance

Mr. Borger stated that the City of Martinsburg did put the Worker's Compensation out to bid, and BrickStreet Insurance was approximately \$25,000 less in cost. He added that switching insurance companies is a more difficult decision than simply evaluating cost, as staff will be required to work with a new program while still maintaining old claims with the old program as well as other added duties.

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve Worker's Compensation with BrickStreet Insurance in the amount of \$228,791. Motion carried unanimously.

f. Approve/deny Right of Way Agreement between the City of Martinsburg and Potomac Edison—John Street Extended

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve the Right of Way Agreement between the City of Martinsburg and Potomac Edison. Motion carried unanimously.

g. Approve/deny Alternate Mainline Extension Agreement (AMEA) between the City of Martinsburg and Weis Markets, Inc.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the AMEA between the City of Martinsburg and Weis Markets, Inc. Motion carried unanimously.

h. Approve/deny request for an agreement per letter from WVDOT, Department of Highways, regarding stormwater drainage improvements at King Street and Church Street.

City Manager Mark Baldwin explained that the City has budgeted, via three years of CDBG funds, approximately \$400,000 of this project, which is expected to cost approximately \$2.4M, with Phase 1 expected to cost approximately \$1.2M. He added that the City of Martinsburg was not successful in obtaining a Green Jobs grant and had asked the DOT for \$350,000 to help make up the difference. The DOT offered \$150,000, calculated on what they believed to be their portion of the impervious surface. This leaves approximately \$700,000 unbudgeted at this time. He explained that approximately \$550,000 of the projected \$1.2M is green infrastructure to meet bid requirements, if that is removed, with engineering the project is projected to cost approximately \$850,000, which leaves a budgetary shortage of \$350,000. He stated that staff will continue to seek grant funds to make up that difference, but recommends that the City of Martinsburg go ahead with the agreement with DOT so the money will be earmarked for this

project, when it commences. He stated that he and staff will continue to look at funding sources, including the unencumbered balance, but the project needs to get underway or the City of Martinsburg can be penalized by HUD for failing to use the CDBG funds promptly. HUD has been patient thus far, but the City of Martinsburg only has until May 2015 to commit the funds.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the request for an agreement per letter from WVDOT, Department of Highways, regarding stormwater drainage improvement project at King Street and Church Street. Motion carried unanimously.

i. Approve/deny request from Trinity Temple Church of God to close a portion of Tuskegee Drive for a community event on Friday, August 8, 2014 from 4-9 PM, pending submission of adequate liability insurance.

Police Chief Kevin Miller stated that this was an annual event and the Police Department had no concerns.

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve the request from Trinity Temple Church of God as requested, contingent upon proof of adequate liability insurance. Motion carried unanimously.

j. Approve/deny date and route for 2014 Apple Harvest Festival Grand Feature Parade—Saturday, October 18, 2014 beginning at 1:00 PM

Councilman Baker pointed out that many activities are planned to occur at the Round House and asked if the Police Department has looked into the logistics. Chief Miller replied that Sergeant Phelps is working on that issue.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the date and route for the 2014 Apple Harvest Grand Feature Parade as requested. Motion carried unanimously.

k. Approve/deny date and route for Saint Joseph Parrish's religious procession for the Virgin of Guadalupe—December 14, 2014 from 2:30-3:30 PM.

Motion made by Councilman Etherington, seconded by Councilman Baker, to approve the request from Saint Joseph Parrish as requested. Motion carried unanimously.

l. Approve/deny bid for eighteen (18) computer controlled proximity reader/card access systems--\$15,000 (\$833.34 each)—RCS Security, Inc. (Police Levy Fund)

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the bid for the computer controlled proximity readers as submitted. Motion carried unanimously.

m. Approve/deny the scheduling of a Public Hearing for August 21, 2014 at the beginning of the Regular Council Meeting for the Cable Franchise Agreement between the City of Martinsburg and Comcast

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the scheduling of a Public Hearing for August 21, 2104. Motion carried unanimously.

n. Approve/deny HRI Inc.'s request for July payment and associated narrative--\$1,305,826.78—WWTP Upgrade Project

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve HRI Inc.'s request for payment as submitted. Motion carried 5-1, Anderson no.

o. Approve/deny findings of fact and conclusions of law regarding St. Joseph's appeal of the HPRC decision to deny a Certificate of Appropriateness to replace retaining wall

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the findings of fact and conclusions of law. Motion carried 5-1, Anderson no.

p. Approve/deny EPA/DEP grant submission for Stormwater Management and Sanitary Sewer Evaluation (discussion item)

Mr. Baldwin explained that not enough information had been received to discuss this item at this time; the state is reviewing how to use the funds.

18. Executive Session

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to go into executive session for personnel matters at 7:13 PM. Motion carried unanimously.

Adjournment

Motion adjourned by unanimous consent at 7:25 PM.



George Karos, Mayor



Gena Long, City Recorder