

**City Of Martinsburg**  
**Regular Council Meeting**  
**June 12, 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, Max Parkinson, Gregg Wachtel, and Kevin Knowles. Not present was Roger Lewis. Also present were: Mark Baldwin, City Manager, Kin Sayre, 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, Patricia McMillan, Community Development Director and Michael Covell, Planning Director/City Engineer

**3. Salute to Flag**

Councilman Knowles led the Salute to the Flag.

**4. Prayer—**

Pastor Mark Mooney, Otterbein United Methodist Church, led the invocation.

**5. Approve May 08, 2014 Regular Meeting Minutes**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the May 08, 2014 Regular Meeting Minutes. Motion carried unanimously.

**6. Approve May 20, 2014 Special Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the May 20, 2014 Special Meeting Minutes. Motion carried unanimously.

**7. Approve June 02, 2014 Special Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the June 02, 2014 Special Meeting Minutes. Motion carried unanimously.

**8. Approve April 2014 Administrative and Financial Report.**

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

**9. Presentations**

**a. Administer Oath of Office to Police Officer Joel Larson**

The City Recorder administered the Oath of Office. Councilman Knowles stated that the City is pleased to have Mr. Larson on the force and Mayor Karos wished him the best of luck.

**b. Resolution of Appreciation—Patricia McMillan**

Ms. McMillan thanked the City for the opportunity and expressed that she has enjoyed her time with the City of Martinsburg. Mayor Karos thanked Ms. McMillan for her service and read the Resolution.

**c. Proclamation—Pride Day—Eastern Panhandle LGBTQ Alliance**

Mayor Karos read the Proclamation.

Mayor Karos indicated that members of the Boy Scouts were present. Members of Boy Scout Troop 164 introduced themselves.

**10. Petitions From Citizens**

Mr. David Anderson, 104 Music Court, stated that he hopes that Council will not overturn the HPRC decision regarding the retaining wall at St. Joe's as the City is losing valuable buildings and that Council should trust the HPRC's judgment. He added that once these structures are gone, they remain only in history books.

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

- a. Letter from Chesapeake Bay Trust regarding the City of Martinsburg's application for Green Streets, Green Jobs, Green Towns grant
- b. Paint the Town Purple Proclamation as read on June 2, 2014 at the Dedication Ceremony
- c. Martinsburg-Berkeley County Convention and Visitor's Bureau April 8, 2014 Meeting Minutes and Financial Statement
- d. Letter from Robert W. Trumble resigning from the position of Alternate Police Court Judge
- e. Martinsburg WWTP Upgrade Construction Plan Monthly Narrative for May 2014

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to receive and file items 11a-11e.

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

There were no reports.

**13. Report of Mayor**

**a. Reappoint A. Stephen Cox to the Airport Authority 7/1/2014-6/30/2017**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to accept the Mayor's recommendation and reappoint Mr. Cox to the Airport Authority through 6/30/2014. Motion carried unanimously.

**b. Reappoint Richard Wachtel to the Airport Authority 7/1/2014-6/30/2017**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to accept the Mayor's recommendation and reappoint Mr. Wachtel to the Airport Authority through 6/30/2014. Motion carried unanimously.

**c. Reappoint Maria Lorenson to the Airport Authority 7/1/2014-6/30/2017**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to accept the Mayor's recommendation and reappoint Ms. Lorenson to the Airport Authority through 6/30/2014. Motion carried unanimously.

**d. Reappoint George Karos to the Eastern Panhandle Regional Planning and Development Council (Region 9) 7/1/2014-6/30/2016**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to accept the Mayor's recommendation and reappoint Mr. Karos to Region 9 through 6/30/2016

**e. Reappoint George Karos to the Eastern Panhandle Regional Planning and Development Council (Region 9) 7/1/2014-6/30/2016**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to accept the Mayor's recommendation and reappoint Mr. Baldwin to Region 9 through 6/30/2016

**f. Appoint Kenda Rogers to the Eastern Panhandle Regional Planning and Development Council (Region 9) 7/1/2014-6/30/2016**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to accept the Mayor's recommendation and appoint Ms. Rogers to Region 9 through 6/30/2016

**g. Fourth of July Update—Fireworks on Friday, July 4, 2014 with a rain date of Saturday, July 5, 2014**

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

- i. **Reminder of Board and Commission vacancies**
- **Parking Authority (2)**
  - **Board of Zoning Appeals (1 alternate)**
  - **Code Appeals Board (1)**

**14. Report of City Attorney**

None

**15. Report of City Manager**

**a. Projects Update**

The City Manager had nothing further to report.

**16. Unfinished Business**

**a. Grant/deny St. Joseph's appeal of the Historic Preservation Review Commission's May 05, 2014 decision**

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.

**17. New Business**

**a. Approve Resolution 2014-05—FY 2013-2014 General Fund Budget Revision #4**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2014-05. Motion carried unanimously.

**b. Approve Resolution 2014-06—FY 2013-2014 Coal Severance Tax Fund Budget Revision #3**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Resolution 2014-06. Motion carried unanimously.

**c. Approve/deny FY 2013-2014 Police Levy Fund Budget Revision #2**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the 2014-2014 Policy Levy Budget Revision #2. Motion carried unanimously.

**d. Approve/deny FY 2013-2014 Fire/EMS Fund Budget Revision #2**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the FY 2013-2014 Fire/EMS Budget Revision #2. Motion carried unanimously.

**e. Approve/deny FY 2013-2014 Water & Sewer Fund Budget Revision #2**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the 2013-2014 Water & Sewer Fund Budget Revision #2. Motion carried unanimously.

**f. Approve/deny FY 2013-2014 Sanitation Fund Budget Revision #2**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the 2013-2014 Sanitation Fund Budget Revision #2. Motion carried unanimously.

**g. Approve/deny FY 2013-2014 Parking Fund Budget Revision #2**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the 2013-2014 Parking Fund Budget Revision #2. Motion carried unanimously.

**h. Approve/deny Health Insurance with HighMark Blue Cross Blue Shield**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Health Insurance with HighMark Blue Cross Blue Shield. Motion carried unanimously.

**i. Approve/deny quote for Harris ERP's "Community Development Software" for Planning Department--\$69,967 plus travel and maintenance (see memo)**

Councilman Anderson pointed out that there were travel and maintenance costs listed on the memo. City Manager Mark Baldwin confirmed this and indicated that those charges were listed on the memo and would be in addition to the cost of the software.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the purchase of Harris ERP's "Community Development Software" for the Planning Department as requested. Motion carried 6-1, Anderson no.

**j. Approve/deny purchase of scooter for Parking Department—approximate cost \$800.00**

Finance Director Mark Spickler explained that the scooter requested would cost approximately \$800 new, but the Parking Attendant had found two used scooters for a total of \$500.

Councilman Anderson asked which department would be using the scooters. Mr. Spickler replied that the Parking Department would be using them for various tasks, including writing parking tickets. Mr. Spickler also added that the Parking Attendant would be responsible for writing tickets for various parking violations, such as misuse of an ADA demarcated space, when new tickets were ordered.

Mr. Baldwin added that the Economic Development Plan had addressed parking matters and that the use of scooters is expected to allow for better patrol of the downtown area.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to purchase two used scooters for \$500. Motion carried 6-1, Knowles no.

**k. Approve/deny issue of a notice of acceptance of filling of Comcast renewal of cable franchise (public hearing and possible approval of cable franchise agreement July 10, 2014 Regular Meeting)**

Councilman Baker asked if the proposed agreement is the same as what we have currently. Mr. Sayre replied that it is a standard cable franchise agreement.

Councilman Baker asked if we had asked for any additional services or benefits. Mr. Baldwin answered that the agreement had been amended several years prior and that many benefits had been added then. He pointed out that Martinsburg is retaining a local office, a ten year term and notification of tree trimmings as well as other standard features and benefits.

Councilman Anderson asked about the cost to the consumer. Mr. Sayre stated that the City has no authority to control the cost of service and that the City benefits with a franchise fee of 5%.

Councilman Knowles asked if Comcast had been asked to provide free downtown WiFi. Mr. Sayre stated that this is not a standard request in a franchise agreement. Councilman Knowles recommended negotiating for that service.

Councilman Wachtel added that Comcast has greatly improved cable service since purchasing the franchise and that this is a non-exclusive agreement; that the City of Martinsburg could sign agreements with other cable companies if it chooses to do so. Mr. Sayre confirmed.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the issuance of a notice of filing of Comcast renewal of cable franchise. Motion carried 6-1, Anderson no.

**I. Approve/deny Eleventh Amendment to the Lease, extending the lease agreement between the City of Martinsburg and Berkeley Post 14, American Legion, Inc.—June 1, 2014-December 31, 2014, contingent upon proof of adequate liability insurance**

Councilman Baker asked how long the American Legion has been occupying the building. Mr. Baldwin replied that it had been 5-6 years. Councilman Baker asked why there had been no rate increase in that time. Mayor Karos explained that for a number of years before the City of Martinsburg purchased the building, the American Legion had allowed City employees to use their parking lot for no charge. Councilman Baker replied that it sends a bad message to discount rents for one entity.

Councilman Wachtel stated that he is not in favor of an increase.

Councilman Knowles asked if the issue should go before the Property Committee. Mr. Sayre stated that it had been before the Property Committee before the original lease was signed, but not for renewals.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the eleventh amendment to the lease, extending the lease agreement between the City of Martinsburg and Berkeley Post 14, American Legion, Inc., through December 31, 2014, contingent upon proof of adequate liability insurance. Motion carried 6-1, Baker no.

**m. Approve/deny grant application for Martinsburg Stormwater Financing Study--\$66,675 (EPA \$50,000, City of Martinsburg \$16,675) (see attached memo and stormwater management information)**

Councilman Baker stated that he had met with several department heads on this matter and feels that the City of Martinsburg already knows the outcome before the study is done. The result will most likely find that a new department and utility is needed along with options to fund it, such as the General Fund or a fee to residents and businesses. He added that he has concerns about using this study to justify a tax. While he feels a study needs to be conducted, he believes the City of Martinsburg Stormwater Management Program needs engineering studies, not a justification of funding sources and that the study is a waste of \$16,675, which could be used for actual projects. He recommended exploring options to conduct the Financing Study in-house.

Councilman Wachtel stated that he has trust in the City Manager to seek the most cost effective options and pointed out that the \$16,675 buys \$66,675 worth of work.

Councilman Knowles asked if the study could be done in-house. Mayor Karos answered that doing such a study in-house would be too overwhelming for the departments, that too much time and money would be required.

City Manager Mark Baldwin explained that some of the \$16.675 could be in-kind, not actual cash. He stated that the study could be done internally in part, but more than just projects are needed. The Stormwater Management Program requires administrative and management functions and the study will be helpful in identifying true resources, such as staffing, funding, fee structures and the like.

He went on to reiterate that nobody wants a new fee or tax but this program is EPA regulated. The required permit stipulates the criteria and that an audit is forthcoming. The EPA and DEP recently completed an on-site visit, which could result in fines if Martinsburg is found to be deficient. He also reiterated that this is a water quality issue affecting more than just the City of Martinsburg, other states are already ahead of us and Winchester is pursuing the same process. Mayor Karos agreed, reminding Council that this is an issue Martinsburg is mandated to take action on.

Councilman Baker again stated that he feels it makes no sense to do this study when the result is a foregone conclusion; that engineering should be done first so the City of Martinsburg has an idea of future projects and costs. Mark Baldwin stated that an engineering and construction RFQ may be on the agenda in the next few months, that he agrees this also needs to be done and the studies should work hand in hand.

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the grant application for Martinsburg Stormwater Financing Study. Motion carried 5-2, Baker and Anderson no.

**n. Approve/deny purchase of Xerox Copier for the Martinsburg Fire Department—Apple Valley Office Products, Inc. (State Contract)--\$6,845.00 (Fire/EMS Fund)**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the purchase of a Xerox Copier for the Fire Department. Motion carried unanimously.

**o. Appointments to the following:**

- **City Recorder**
- **Police Court Judges**
- **City Treasurer**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to reappoint Gena Long as City Recorder through 6-30-15. Motion carried unanimously.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to reappoint Stephen Kershner as Police Court Judge and David Alter as Alternate Police Court Judge through 6-30-15. Motion carried unanimously.

Motion made by Councilman Wachtel, seconded by Councilman Baker, to reappoint Dennis Etherington as City Treasurer. Motion carried unanimously.

**p. Approve/deny bids for street repaving and sidewalks, as recommended by the City Engineer (Bid to be delivered—opening June 10, 2013)**

Councilman Knowles pointed out that this was the same contractor a last year and that he hopes that actions have been taken to avoid issues such as those which occurred on Wilson Street with poor quality work.

City Engineer Michael Covell responded that the job has a summertime deadline, which will prevent cold weather issues, and if this deadline is not met damages will be assessed. He also added that he and the Public Works Director will be conducting inspections before payment is made.

Councilman Baker asked if JAPCO will also be constructing the ADA curbs and aprons. Mr. Covell replied that a subcontractor will be doing the work.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to accept Mr. Covell's recommendation and approve the bids for street repaving and sidewalks going to JAPCO. Motion carried unanimously.

**18. Executive Session**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to go into executive session for legal matters at 7:35 PM. Motion carried unanimously.

**Adjournment**

Motion adjourned by unanimous consent at 7:50 PM.

  
Gena Long, City Recorder

  
George Karos, Mayor