

**City Of Martinsburg
Special City Council Meeting
Tuesday, May 20, 2014
5:00 PM**

With a quorum present, the special session of the Martinsburg City Council was called to order by Mayor George Karos at 5:00 p.m. The following Council Members were present: Don Anderson, Dennis Etherington, Kevin Knowles, Gregg Wachtel, Max Parkinson and Jason W. Baker. Absent was Roger Lewis. Also present were: Mark S. Baldwin, City Manager, Kin Sayre, City Attorney, Gena Long, City Recorder, Police Chief Kevin Miller, Patricia McMillan, Community Development Administrator, Michael Covell, City Engineer/Planning Director and Finance Director Mark Spickler.

3. Presentations

a. Make comment on ABC Zoning Form—Boyd’s Steak House, LLC—109 N. Queen Street (Spring House)

Mayor Karos asked Mr. Boyd for his expected hours of operation. Mr. Boyd replied that he anticipated being open from 11 AM until 10-11 PM and that the establishment is primarily a restaurant.

Police Chief Kevin Miller indicated that he had no concerns with the location.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to forward the Zoning Form without comment. Motion carried unanimously.

4. Petitions from Citizens

There were no petitions from citizens.

5. Receive and File Reports—Minutes—Correspondence Of the Following:

None

6. Reports of Chairpersons of Council Standing Committees

None

7. Report of Mayor

a. Discuss scheduling of Special Council Meeting for WWTP Upgrade Project June 2014 Payment Application—Monday, June 2, 2014 at 5 PM.

City Manager Mark Baldwin explained that, per contract, the City’s monthly payments are due within a specified time frame after the invoice is received, but that the State will not be accepting payment requests in the later part of June, due to computer upgrades and finalizing the fiscal year, therefore, Council must approve the payment prior to the regular June meeting to meet that deadline.

b. Reappoint Mr. John Douglas Miller to the Martinsburg Library Commission—July 1, 2014-June 30, 2019

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to reappoint Mr. John Douglas Miller. Motion carried unanimously.

8. Report of City Attorney

There was no report of the City Attorney.

9. Report of City Manager

There was no report of the City Manager.

10. Unfinished Business

a. Third and final reading of Ordinance 2014-11: *An Ordinance Authorizing The Mayor To Submit A Home Rule Proposal To The Municipal Home Rule Board In Accordance With West Virginia Code §8-1-5a*

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the third and final reading of Ordinance 2014-11, by title only and adopt. Motion carried unanimously.

11. New Business

a. First and second reading of Ordinance 2014-12: *An Ordinance Amending and Reenacting the City of Martinsburg Code, Part 7-Business and Taxation, Article 733, By Amending Section 733.08 to Require All Purchasers Who Engage in the Barter, Trade or Purchase of Any Secondhand Personal Property to Retain Said Personal Property for Ten Days*

Councilman Baker asked if this would apply mainly to pawn shops, or individuals buying and selling items as well.

City Attorney Kin Sayre answered that the Ordinance brings the City into compliance with State Code in terms of days to leave items unaltered and intact. It would not apply to individuals, but only to those engaged in the business of buying and selling secondhand personal property.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to hear the first and second reading of Ordinance 2014-12, by title only. Motion carried unanimously.

b. Approve/deny amendment to CD 13-02, Subrecipient Agreement with C-Cap to provide up to \$250 in rental assistance for low-income Martinsburg residents referred by DHHR. Rental assistance may be provided for eviction prevention or first month's rent.

Motion made by Councilman Knowles, seconded by Councilman Baker, to approve the amendment to CD 13-02, Subrecipient Agreement with C-Cap. Motion carried unanimously.

c. Father Eric Hall on behalf of St. Joseph's Catholic Church, appealing the May 05, 2014 decision of the Historic Preservation Review Commission regarding 225 S. Queen Street.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the purchase of seven patrol rifles for the Police Department. Motion carried unanimously.

City Attorney Kin Sayre explained the process for the appeal, in which the appellant and a representative from the Historic Preservation Review Commission (HPRC) would answer any questions of Council, Mr. Sayre would prepare a Findings of Fact synopsis and Council would make a final decision regarding the appeal at the regular June meeting of Council (within thirty days of the appeal).

Father Hall, St. Joe's Catholic Church, stated that the current brick wall was not built as a retaining wall quality structure and he feels the proposed material will be more appropriate for a retaining wall.

Councilman Baker asked why the Church would not be rebuilding the wall with brick. Father Hall replied that he is concerned that it will fail again.

Councilman Baker pointed out that this is an engineering issue, not an issue with the brick material. He added that brick and mortar with proper engineering and drainage qualities would last longer than the proposed landscaping blocks.

Father Hall added that, while the HPRC had objected to a fourth building element, the current brick wall has no transition to and does not match the existing stone wall which runs along Queen Street. He felt that the landscaping blocks would look nicer.

Councilman Baker pointed out that the building itself is constructed of brick and stone.

Councilman Baker stated that Council has overturned several HPRC decision in recent history and he is a bit wary of continuing that trend when the Commission is looking out for the best interest of the historical building stock in Martinsburg. He recommended that the Church return to the HPRC to discuss further options.

Father Hall objected that the HPRC does not consider financial or engineering aspects when making decisions, that they are purely an aesthetic review board. He added that he is certainly interested in maintaining the historic nature of the Church property.

Mr. Sayre stated that Council is required to make a decision, they may not just refer the appeal back to the HPRC, but that in the meantime, there is no reason that the Church cannot work with the Planning Department or the HPRC to reach an acceptable compromise.

He added that he had attended the HPRC meeting and financial impact had been discussed and it was decided that there was little to no difference in cost between rebuilding a brick wall and constructing a wall of landscaping blocks.

Mr. Covell added that the HPRC is tasked with reviewing requests as presented, but it is not a design board. He stated that the applicant can resubmit the request and the HPRC will decide on the application as presented, but will not make recommendations.

Councilman Knowles agreed with Councilman Baker about the responsibilities of the HPRC and that decisions were too frequently being overturned by Council. He stated that it must be frustrating for the HPRC when Council overturns a decision and also recommended that the Church and HPRC find common ground.

Gary Gimbel, HPRC Chairman, spoke to Council stating that the HPRC is tasked by Article X of the Martinsburg Zoning Ordinance (MZO) to make decisions on structures and set criteria for review. The MZO is very clear, Mr. Gimbel stated, in requiring that the decisions are to be based on harmony and protecting the historic integrity of the neighborhood. He added that the HPRC does not have the power to negotiate, that they are tasked with approving requests as presented.

Mr. Keven Walker, HPRC vice-chair and architectural historian, added that the HPRC is tasked with protecting the historical integrity of the structures in the City and that they serve as volunteers on Council's behalf. He remarked that the recent Economic Development Strategic Plan recommends embracing the historic integrity of a City, that this is a hallmark of successful towns and cities.

Mr. Walker cautioned that the City of Martinsburg is losing its history one board and one brick at a time.

Mr. Sayre reminded Council and the appellant and members of the HPRC of the procedure and that Council would render a written decision at the June 12, 2014 Regular meeting.

d. Confirm WWTP Upgrade Project Contract #1, Payment #2—Infilco Degremont, Inc.--\$1,203,633

Motion made by Councilman Baker, seconded by Councilman Etherington, to confirm the payment to Infilco Degremont, Inc. Motion carried unanimously.

13. Adjournment

Meeting was adjourned by unanimous consent at 5:45 PM.


Geri Long, City Recorder


George Karos, Mayor