

**City Of Martinsburg
Special City Council Meeting
Thursday, May 23, 2013
6:30 PM**

With a quorum present, the special 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, Kevin Knowles, Max Parkinson, Roger Lewis, Gregg Wachtel and Jason W. Baker. Also present were: Mark S. Baldwin, City Manager, Kin Sayre, City Attorney, Gena Long, City Recorder, Steve Knipe, Utilities Director, Police Captain George Swartwood, City Engineer/Planning Director Michael Covell and Finance Director Mark Spickler.

Motion made by Councilman Etherington, seconded by Councilman Baker for Councilman Wachtel to chair the meeting. Motion carried unanimously.

3. Public Hearing --A public hearing to solicit citizen comment on Ordinance 2013-03: *An Ordinance Setting Forth Sewer Rates, Minimum Charge, Disconnect /Reconnect/ Administrative Charges, Service Connection Charge Delayed Payment Penalty And Capital Improvement Fees For The City Of Martinsburg, West Virginia*

Mayor Karos opened the public hearing at 6:31 PM.

City Manager Mark Baldwin read Mayor Karos's comments into the record

As part of the Public Hearing and before receiving comments on Ordinance 2103-03, I would like for an overview to be provided, for the record, the reason for the sewer rate increase.

In November 2011, the City of Martinsburg was issued a Consent Order by the WV Department of Environmental Protection, Division of Water and Waste Management.

I would like to ask the City Manager to read the various parts of the Consent Order.

1. The City of Martinsburg (herein the permittee) owns and operates an existing 3.0 million gallons per day wastewater collection and treatment system that discharges pollutants into the waters of the State.
2. The permittee was issued WV/NPDES Permit No. WV 0023167 on the 27th day of December, 2007 for the operation and maintenance of the existing 3.0 million gallons per day wastewater collection and treatment system and the discharge of treated wastewater from said system.
3. As a headwater partner in the Chesapeake Bay Program, West Virginia, along with the other Bay states had developed a Tributary Strategy to reduce the amount of nutrients (nitrogen and phosphorous) flowing into the Chesapeake Bay. The permittee discharges into Tuscarora Creek of Opequon Creek, which is a tributary to the Potomac River Basin. In accordance with West Virginia's Tributary Strategy, the permittee was prescribed nitrogen and phosphorous annual mass effluent discharge limitations, in the previously issued WV/NPDES Permit, based on concentrations of 5mg/l and .5mg/l respectively.
4. The current issued WV/NPDES permit requires the attainment of compliance with the annual mass effluent discharge limitations for total nitrogen and total phosphorous on, or before, the 26th day of December, 2012.
5. The permittee will not be able to attain compliance with the annual mass effluent discharge limitations for total nitrogen and total phosphorous, in accordance with the previously established requirements.
6. In May 2009, a Federal Executive Order was issued that substantially expanded the federal commitment to the Chesapeake Bay region. Many of the federal actions will directly support restoration efforts by local governments, nonprofit groups and citizens. Integral to the Order was

the decision for the Environmental Protection Agency to proceed with the Chesapeake Bay TMDL. Finally the Order gives the EPA enforcement authority if states miss established goals.

7. The US Environmental Protection Agency (EPA) issued a TMDL on December 29, 2010 for the Chesapeake Bay Watershed to initiate sweeping actions to restore clean water in the Chesapeake Bay and the region's streams, creeks and rivers. EPA's TMDL contains nitrogen and phosphorus limitations for this facility that are the same as WV's Chesapeake Bay Implementation Strategy.

The Order Further States

1. The permittee shall immediately take all measures to initiate compliance with all terms and conditions of WV/NPDES Permit No. WV 0023167.
2. The permittee shall comply with the final WV/NPDES permit effluent discharge limitations for total nitrogen and total phosphorus as soon as possible but no later than the 31st day of December, 2015. During this timeframe, the permittee shall evaluate and take all necessary actions to come into compliance with the limitations for total nitrogen and total phosphorus at Outlet No. 001.
3. Final effluent discharge limitations for total nitrogen shall mean 45, 662 pounds per year and for total phosphorus shall mean 4,566 pounds per year. Interim effluent discharge limitations for total nitrogen and total phosphorus for this outlet means monitor only until the 31st day of December, 2015. The permittee shall comply with the final effluent discharge limitations for total nitrogen and total phosphorus as soon as possible, but no later than the 31st day of December, 2015 at Outlet No. 001. Until that time, the permittee shall comply with the interim monitoring requirements at Outlet No. 0014.
4. The permittee shall adhere to the compliance schedule milestones prescribed in Attachment A to this Consent Order in order to achieve the final permit limitations for total nitrogen and total phosphorus at Outlet No. 001.
5. Upon written demand of the Director the permittee shall pay as a stipulated penalty the sum of **\$200 per day** for failure to comply with any compliance dates as provided in Attachment A of this Consent Order.
6. Stipulated penalties under the provisions of this Consent Order shall be paid within 20 days of receipt of written demand of the Director and shall be made to the WVDEP to be deposited in the Water Quality Management Fund. Payments made pursuant to these provisions are not tax-deductible for the purposes of state or federal law.
7. Copies of all documents required to be provided under this order shall be submitted to the addresses listed in Section C of the permit.

Therefore, based on the Chesapeake Bay program and the WVDEP Consent Order, the City has finalized the design of a wastewater treatment plant upgrade project, estimated to cost approximately \$51M. This includes engineering, administration, construction, taxes, debt service reserve, bond closing, etc.

By completing this project, the City will be meeting the requirements of the Chesapeake Bay program and the WVDEP Consent Order. The project will also provide future water quality enhancements to the Tuscarora and Opequon Creeks, Potomac River and Chesapeake Bay.

In order to pay for the cost of the project, sewer rates need to be increased. The City anticipates borrowing approximately \$35M from the WV DEP Clean Water State Revolving Fund at 2% with a 1% admin. fee. The City also anticipates receiving approximately \$16M in grant funds from Senate Bill 245 passed by the legislature.

I will now receive comments from the public.

As there were no further comments, the public hearing was closed at 6:40 PM.

4. Presentations

There were no presentations.

5. Petitions from Citizens

There were no petitions from citizens.

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

- a. Berkeley County Development Authority April 10, 2013 and May 1, 2013 meeting minutes
- b. Martinsburg/Berkeley County Convention and Visitors Bureau May 8, 2013 meeting minutes and April 2013 Profit and Loss Statement
- c. Martinsburg Historic Preservation Review Commission April 1, 2013 Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Etherington to receive and file item 6a-6c. Motion carried unanimously.

7. Reports of Chairpersons of Council Standing Committees

- a. Engineering Interview Committee for the Pre-Development Project—Church Street Area Stormwater Project (CDBG) May 14-15 Meeting Minutes.

Motion made by Councilman Wachtel, seconded by Councilman Etherington to approve the Engineering Interview Committee May 14-15 Meeting Minutes. Motion carried unanimously.

8. Report of Mayor

- a. Schedule Public Hearing for Thursday, June 13, 2013 (regular meeting) at 6:30 PM for Ordinance 2013-05: *An Ordinance Setting Forth Water Rates, Minimum Charge, Reconnection Charge, Service Connection Charge, Delayed Payment Penalty and Capital Improvement Fees for the City of Martinsburg, West Virginia.*

Mayor Karos scheduled the public hearing.

9. Report of City Attorney

There was no report of the City Attorney.

10. Report of City Manager

There was no report of the City Manager.

11. Unfinished Business

- a. **Third and Final Reading of Ordinance 2013-03: *An Ordinance Setting Forth Sewer Rates, Minimum Charge, Disconnect/Reconnect/Administrative Charges, Service Connection Charge, Delayed Payment Penalty and Capital Improvement Fees for the City of Martinsburg, West Virginia.***

Motion made by Councilman Etherington, seconded by Councilman Parkinson, to hear the third and final reading and approve Ordinance 2013-03. Motion carried 5-2, Baker and Anderson, no.

City Manager Mark Baldwin thanked the departments for their work on this ordinance and the media for providing good coverage of the reasons for and the particulars of the increase.

b. Third and Final Reading of Ordinance 2013-04: *An Ordinance To Amend The City Of Martinsburg Zoning Map To Rezone An Improved Parcel Of Real Estate, Consisting Of Approximately 35.94 Acres, Also Identified On The Berkeley County, West Virginia Tax Map M4E Parcel 1, Postal Address 2500 Hospital Drive, Located In The Martinsburg District, Berkeley County, West Virginia, Owned By City Hospital Foundation From Its Current Zoning Classification Of RUB (Urban Residential Class B) To BC (Community Business)*

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to hear the third and final reading and approve Ordinance 2013-04. Motion carried unanimously.

12. New Business

a. Approve/deny Memorandum of Understanding between the City of Martinsburg and the Berkeley County Public Service Water District

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the Memorandum of Understanding between the City of Martinsburg and the Berkeley County Public Service Water District. Motion carried unanimously.

b. First and Second Reading of Ordinance 2013-05: *An Ordinance Setting Forth Water Rates, Minimum Charge, Reconnection Charge, Service Connection Charge, Delayed Payment Penalty, and Capital Improvement Fees for the City of Martinsburg, West Virginia.*

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the first and second reading of Ordinance 2013-05. Motion carried 5-2, Anderson and Baker, no.

c. Approve/deny Engagement Proposal between the City of Martinsburg and Bowles Rice for the Sewer Plant Upgrade—PSC—not to exceed \$10,000 excluding expenses

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the Engagement Proposal between the City of Martinsburg and Bowles Rice for the Sewer Plant Upgrade—PSC—not to exceed \$10,000, excluding expenses. Motion carried 6-1, Anderson, no.

City Manager Mark Baldwin explained that this contract is for general work and will only be used if needed.

d. Approve/deny purchase of wireless in-car camera download system—Kustom Signals, Inc--\$39,584.50—Police Levy (to be reimbursed fully through Federal Grant)

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the purchase of wireless in-car camera download system. Motion carried unanimously.

e. Approve/deny replacement door hardware, Caperton Train Station—Berkeley-Mountaineer Glass & Door Ltd--\$2,032

Motion made by Councilman Etherington, seconded by Councilman Parkinson, to approve replacement door hardware for the Caperton Train Station. Motion carried unanimously.

f. Approve/deny Change Orders for paving--Kilmer Springs Water Project

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Change Orders for paving—Kilmer Springs Water Project. Motion carried 5-2, Knowles and Anderson, no.

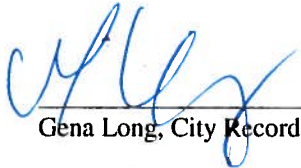
Utilities Director Steve Knipe explained that the cost had been adjusted for materials.

13. Executive Session

Motion made by Councilman Knowles, seconded by Councilman Etherington, to enter Executive Session for legal matters at 6:55 PM.

14. Adjournment

Meeting was adjourned by unanimous consent at 7:10 PM.



Gena Long, City Recorder



George Karos, Mayor