

**City Of Martinsburg  
Regular Council Meeting  
Thursday, July 9, 2015  
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, Gregg Wachtel, Dennis Etherington, Kevin Knowles, Ken Collinson, H.D. Boyd and Jason W. Baker. Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder; Police Captain George Swartwood, Michael Covell, City Engineer/Planning Director, Utilities Director Steve Knipe, Fire Chief Paul Bragg, and Mark Spickler, Finance Director.

**3. Salute to Flag**

Councilman Boyd led the Salute to the Flag.

**4. Prayer—**

Walter Bowers, Retired Pastor, led the invocation.

The mayor added Item 13 A, discussion on Airport Authority membership, under Report of the City Attorney.

**5. Approve June 15, 2015 Special Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the June 15, 2015 Special Meeting Minutes. Motion carried unanimously.

**6. Approve June 15, 2015 Regular Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the June 15, 2015 Regular Meeting Minutes. Motion carried unanimously.

**7. Approve May 2015 Administrative and Financial Report**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the May 2015 Administrative and Financial Report. Motion carried unanimously.

**8. Presentations**

**a. Administer Oath of Office to Fire Captain Allen Talbott**

The City Recorder administered the Oath of Office.

**b. Administer Oath of Office to Fire Lieutenant Christopher Beard**

The City Recorder administered the Oath of Office.

**c. Eastern Panhandle Transit Authority (EPTA)—Transit Development Plan—Cheryl Keyrouze, Eastern Panhandle Transit Authority and Josh Diamond, Foursquare Integrated Transportation Planning**

Cheryl Keyrouze, Executive Director of the EPTA, introduced Josh Diamond of Foursquare, stating that they have been working on the development plan for approximately one year, planning for current and future transit needs.

Josh Diamond, Foursquare Integrated Transportation Planning, addressed Council and presented the proposed redesign of the EPTA system. He stated that, when formulating the plan, they had looked at the socioeconomic and demographics of each area to decide where public transportation was most needed. They looked at the City and surrounding local area and studied future roadway designs to conduct a route analysis. He stated that they had surveyed current passengers, conducted an online survey and spoke with the drivers. Mr. Diamond stated that Foursquare is recommending route design changes by adding routes where they are most needed and taking them away or reducing service in areas with low usage. Mr. Diamond stated that the study has identified needs for increased services, improved infrastructure (bus stops, benches, trash cans, etc.), identified funding sources, created a marketing plan and a monitoring plan as part of the five year recommended plan. He stated that ridership is estimated to increase by 50% and will help reach 1500 more jobs, not including those estimated to be available when Proctor and Gamble is fully operational. He stated that the route redesigns and other recommendations will help to lower unemployment and food and family assistance. He also stated that the need for demand response should decrease, reducing the cost per rider by approximately 2/3.

Councilman Wachtel asked what fundraising efforts are planned. Mr. Diamond stated that no fundraising efforts are planned, however, there are several state and federal government sponsored programs which are not currently being used. He stated that the study had identified 10-15 new funding sources as well as the possibility of public/private partnerships.

Ms. Keyrouze introduced the EPTA staff and Boardmembers who had provided significant assistance to the study.

Nick Diehl, EPTA board president, thank Council for their continued support of the EPTA program.

#### **d. Fairness West Virginia—Andrew Schneider**

Mr. Andrew Schneider, Executive Director of Fairness, WV, spoke about updating the City's current non-discrimination ordinance to include prohibitions against discrimination of individuals on the basis of sexual orientation and gender identity. He stated that the updates to the ordinance would be good for preventing discrimination, but also good for economic development as it would help create an inclusive environment and keep young talent in the local area. He also added that most Fortune 500 companies already have non-discrimination policies including members of the LGBT community, and look to locate in communities with inclusive policies which attract people to live and work within the community. Mr. Schneider pointed out that, with the recent marriage equality decision, members of the LGBT community are more visible, but, also more vulnerable. He encouraged City Council to send a strong message which embraces diversity and inclusion. He stated that the update would be a simple update, and require no further action from the City, but would give victims of discrimination on the basis of sexual orientation and gender identity a course of action via the circuit courts.

Reverend Diane Cooper, TLC Photography and Cooper Captures, agreed with Mr. Schneider, adding that for people to be truly equal, they must be equal under the law. She stated that a law is needed to protect against discrimination on the basis of sexual orientation and gender identity, adding that this is not an issue of gay rights, but human rights.

#### **9. Petitions From Citizens**

After calling for petitions from citizens, upon seeing Mr. Miller approach the podium, Mayor Karos reminded those present that all petitions would be limited to five minutes.

**Mr. Peter Miller**, 417 S. Queen Street, complained about constant noise from the McFarland House and the police response to his frequent calls. Mr. Miller stated that he does not believe that the police were properly responding, but instead, were attempting to use tactics to intimidate Mr. Miller from reporting his problems and observances

in his neighborhood. Mr. Miller asked to whom he should address his complaints, and Mayor Karos recommended he speak with senior staff in the Police Department.

Having reached the five minute time limit, as posted on the doors and announced by Mayor Karos, Mr. Miller was asked to end his petition and step down from the podium.

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

- a. For the Kids, by George Children’s Museum June 4, 2015 Meeting Minutes
- b. Resolution of Accomplishment recognizing Garrett Murphy, Jonathan Genda and Tory Stolipher as the Winners of the ROCS Classic/Norwalk Soap Box Derby, to be Read at the Awards Ceremony on July 16, 2015.
- c. Eastern Panhandle Transit Authority May 18, 2015 Meeting Minutes and June Financial Report

Motion made by Councilman Collinson, seconded by Councilman Wachtel, to receive and file items 10a-10c. Motion carried unanimously.

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

There were no reports of Chairpersons of Council Standing Committees.

**13. Report of Mayor**

- a. **Schedule Special Council Meeting for Wednesday, July 29, 2015 at 5 PM for FY 2015-2016 Budget Amendments, per WV State Code, and other Business as Needed.**
- b. **Schedule Council as a Whole Committee Meeting for Tuesday, August 11, 2015 at 4:30 PM for Purposes of Discussing FY 2015-2016 Budget Recommendations, and Other Business as Needed**
- c. **Reschedule Regular August 13, 2015 Meeting for Tuesday, August 20 at 6:30 PM due to Conflict with WV Municipal League Conference**
- d. **Appoint the Following to the Human Relations Committee:**
  - **Chris Amores**
  - **Rodney Woods**
  - **Christina M. Lundberg**
  - **Pastor Vernon L. Cartwright**
  - **Wilma Roberts**

Motion made by Councilman Etherington, seconded by Councilman Boyd, to accept the Mayor’s recommendation and appoint the above to the Human Relations Committee. Motion carried unanimously.

Mayor Karos reiterated that the purpose of the Human Relations Committee is to act in an advisory capacity to the City in regards to equal employment, affirmative action and related matters. The kick off meeting has been scheduled for July 21, 2015 beginning at 5PM in Council Chambers. He thanked each member for their willingness to serve, adding that he believes the group is very diverse.

**e. Reminder of following vacancies**

- 1. Parking Authority (2)**
- 2. Historic Preservation Review Commission (1)**

Councilman Etherington expressed appreciation to Mayor Karos for his years of service as the owner of Patterson's Drug Store, congratulated him on selling the business, and wished him well in future endeavors.

### **13. Report of City Attorney**

#### **A. Eastern WV Regional Airport Authority Membership**

Mr. Sayre reminded Council that they had, at the June 15 Regular Meeting, agreed to amend the enabling agreement to recognize that each \$5,000 contributed entitles the contributing agency to an additional member or vote. He stated that the bylaws of the Eastern West Virginia Regional Airport Authority are inconsistent with the enabling agreement, in that the bylaws state that each member is entitled to one vote. He stated that currently, in accordance with the amendment, each City members has two votes and that having more votes than members does create some issues.

Councilman Baker asked about the Chairman's votes, as the Chairman, a City appointee, only votes in the case of a tie. Mr. Sayre answered that the bylaws do not restrict the Chairman to voting only in the case of a tie, but it is traditionally done that way. He felt that giving the Chairman's votes to the other City appointed members would create more issues within the Airport Authority.

Mayor Karos felt that three more members should be appointed and asked Council to submit names between now and July 22 to be presented to the Council for confirmation at the July 29, 2015 Special Council Meeting. Councilman Baker agreed that more members were needed.

#### **b. Fairness, WV**

Mr. Sayre stated that Council had heard the presentation from Fairness, WV and that the next step would be for Council to authorize the City Attorney, at the July 29 Special Meeting, to draft an Ordinance to be introduced at the regular August meeting. He stated that there is no action item on this agenda, but the question of whether to move forward with the proposed ordinance would be on the next agenda. Councilman Baker was in favor of moving forward and getting the ordinance passed.

#### **c. Right of Way Agreement with Berkeley County Building Commission**

Mr. Sayre stated that there have been some minor clerical changes to the submitted revised right of way agreement presented for approval.

### **15. Report of City Manager**

#### **a. Projects Update**

The City Manager discussed several on-going projects, as detailed in his Projects Update. The Wastewater Treatment Plant Upgrade is on schedule. Alpha and Associates is working on securing easements and right of way agreements necessary for the Underpass Project. Agreements for the Train Station Corridor project are expected from the State in the next month or two. All easements are secured for the East Burke Street Parking Lot Project, and that project should go out to bid next month, with construction expected to start in mid-August. Mr. Baldwin stated that staff is attempting to work out parking lot rental arrangements for displaced customers, and will present those results to Council. The King/Church Street stormwater project is ready to go out to bid. Some Home Rule ordinances are now in effect, including the sales tax and on-the-spot citations for common code enforcement issues. The apron for the Fire Hall is being studied for specifications. The Brownsfield grant application has been submitted and the EPA will be on-site toward the end of the month to get started.

Councilman Baker asked about the traffic signal at Moler and High Streets. Mr. Baldwin responded that he has no further updates from the State, but will check into it.

#### **16. Unfinished Business**

##### **A. Third and Final Reading of Ordinance 2015-07: *An Ordinance to Amend the Text of the City of Martinsburg Zoning Ordinance at Section 560: Table of Zoning District Uses to Allow Restaurants in the Service Business District, Subject to Special Exception Review***

Motion made by Councilman Etherington, seconded by Councilman Knowles, to proceed with the third and final reading of Ordinance 2015-07, by title only, and adopt. Motion carried unanimously.

#### **15. New Business**

##### **a. Approve/deny Resolution 2015-17: Authorizing George Karos, Mayor of Martinsburg, to Enter into a Contractual Agreement with the West Virginia Development Office and Receive Grant Funds through the Community Participation Grant Program for the City of Martinsburg to Purchase a Stump Grinder and Trailer**

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve Resolution 2015-17. Motion carried unanimously.

Councilman Baker stated that he believed that this had already been passed. Mr. Baldwin explained that a Resolution was passed to apply for the grant, and another was necessary to accept the funds.

##### **b. Approve/deny Resolution 2015-18: A Resolution to Provide for the Adoption, Approval and Implementation of an Intergovernmental Agreement, As Revised, Between the City of Martinsburg, West Virginia and Berkeley County Building Commission, Each a Political Subdivision of the State of West Virginia, With Regard to a Right of Way Easement**

Motion was made by Councilman Baker, seconded by Councilman Collinson, to approve Resolution 2015-18 and the corresponding agreement with further alterations. Motion carried unanimously.

##### **c. Approve/deny loading zone for 1211 Washington Avenue—(see attached letter)**

Councilman Anderson asked why this was necessary. Councilman Baker answered that the current space does not allow for easy loading and unloading of large equipment at the business on Washington Avenue. He stated that the business is at the end of the block, and local traffic should not be heavily impacted. City Manager Mark Baldwin pointed out that Councilman Baker had not requested the loading zone.

Motion was made by Councilman Baker, seconded by Councilman Etherington, to approve the loading zone for 1211 Washington Avenue as requested. Motion carried 6-1, Anderson no.

##### **d. Approve/deny request from Trinity Temple Church of God to close a portion of Tuskegee Drive for purposes of holding a community event on Friday, August 7, 2015 from 4 until 9 PM for a Vacation Bible School party, contingent upon proof of adequate liability insurance**

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the request from Trinity Temple to close a portion of Tuskegee Drive on Friday, August 7, 2015 as submitted, contingent upon proof of liability insurance. Motion carried unanimously.

##### **e. Approve/deny request from Trinity Temple Church of God to close a portion of Tuskegee drive on Saturday, September 19, 2015 from 8AM to 5 PM for a Wellness Fair, contingent upon proof of adequate liability insurance.**

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve the request from Trinity Temple to close a portion of Tuskegee Drive on Saturday, September 19, 2015 as submitted, contingent upon proof of liability insurance. Motion carried unanimously.

**f. Approve/deny request from Otterbein United Methodist Church to repave a portion of the alley to the rear of 549 N. Queen Street, accessible from Pennsylvania Avenue, contingent upon proof of adequate liability insurance**

Councilman Anderson asked who the low bidder is for this project. Mr. Baldwin explained that this is to be undertaken by Otterbein United Methodist Church, at no cost to the City. Reenie Raines, representative for the Church, agreed.

Motion made by Councilman Baker, seconded by Councilman Wachtel, to approve the request from Otterbein United Methodist Church to repave a portion of the alley to the rear of 549 N. Queen Street as submitted, contingent upon proof of adequate liability insurance. Motion carried unanimously.

**g. Approve/deny Property and Causality Insurance Renewal with Travelers Insurance--\$664,857 plus \$3551.37 WV Surcharge—Total--\$668,408.37**

Motion made by Councilman Wachtel, seconded by Councilman Baker, to approve the renewal of the Property and Causality Insurance with Travelers Insurance as submitted. Motion carried 6-1, Anderson no.

**h. Approve/deny Workers' Compensation renewal with BrickStreet Insurance--\$231,272**

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the renewal of Worker's Compensation Insurance with BrickStreet Insurance as submitted. Motion carried unanimously.

**i. Confirm results of telephone poll approving request from for the kids, by George to serve alcohol at two upcoming events: the July 16, 2015 Tour of Museum and Reception for Young Professionals and October 14, 2015 Main Street Mixer**

Councilman Knowles asked if the confirmation was for a consensus to approve the request. Mr. Baldwin replied that it is.

Motion made by Councilman Baker, seconded by Councilman Collinson, to confirm the results of the telephone poll and allow the request. Motion carried 5-2, Etherington and Knowles no.

**j. Approve/deny application for 2015 Martinsburg Police Department JAG Grant--\$14,186 (no City match)—Police Department Equipment—45 body cameras**

Councilman Baker asked if officers will be required to wear the cameras once purchased. Captain Swartwood stated that all 45 purchased cameras will be required to be worn. Mr. Baldwin wanted to ensure that Council is aware that the data storage will cost approximately \$250,000 for a five year agreement. Captain Swartwood added that part of that contract requires that all data be stored for at least two years. Councilman Baker asked if officers will be able to review the footage in order to prepare reports. Captain Swartwood stated that he is not sure, but he believes the video will download to the servers automatically, and it will not be required to be downloaded manually, eliminating the possibility of manipulation. Mr. Sayre stated that he believes the data will be available for viewing by the officers, but those specifics will be adopted by an amendment to the Standard Operating Procedures at a later date, and will determine usage, etc.

Councilman Wachtel asked if the existing cameras, such as dash-cams, will remain in use. Captain Swartwood stated that they will.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the application for the 2015 Martinsburg Police Department JAG Grant, as submitted. Motion carried unanimously.

**k. Approve/deny FY 2015 Blue Ridge Community and Technical College Paramedic Student Agreement with the Martinsburg Fire Department.**

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the FY 2015 Blue Ridge Community and Technical College Paramedic Student Agreement. Motion carried unanimously.

**l. Approve/deny Resolution 2015-16: FY 2015-16 Coal Severance Budget Revision #1**

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve Resolution 2015-16. Motion carried unanimously.

**k. Approve/deny Resolution 2015-15 authorizing HRI Inc.'s Application for July Payment #19 - \$1,288,562.97**

Motion made by Councilman Baker, seconded by Councilman Boyd, to approve Resolution 2015-15. Motion carried 6-1, Anderson no.

**16. Executive Session**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to go into Executive Session at 7:34 PM, for personnel matters. Motion carried unanimously.

**Adjournment**

Motion adjourned by unanimous consent at 7:55 PM.

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George Karos, Mayor

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Gena Long, City Recorder