

**City Of Martinsburg  
Special City Council Meeting  
Wednesday, September 4, 2013  
5:00 PM**

With a quorum present, the special session of the Martinsburg City Council was called to order by Legal Counsel Kin Saye at 5:00 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, and Finance Director Mark Spickler.

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

**3. Presentations**

There were no presentations.

**4. Petitions from Citizens**

There were no petitions from citizens.

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

**a. Convention and Visitors' Bureau May 8, 2013 and June 12, 2013 Meeting Minutes**

**b. Berkeley County Animal Control May, June and July 2013 Incident Rorts**

Motion made by Councilman Knowles, seconded by Councilman Baker to receive and file item 5a-b. Motion carried unanimously.

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

There were no reports of Chairpersons of Council Standing Committees.

**7. Report of Mayor**

**a. Schedule Council as a Whole Committee Meeting for Wednesday, September 18, 2013 at 4:30 PM for parking lot and North Queen Street underpass updates**

Councilman Wachtel scheduled the above Committee Meeting.

**b. Reminder of Special City Council Meeting, Monday, September 23, 2013 at 5:00 PM**

Councilman Wachtel made the above reminder.

**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 2013-13: *An Ordinance to Change and Establish the Name of a Street.***

Motion made by Councilman Etherington, seconded by Councilman Lewis, to hear the third and final reading of Ordinance 2013-13, by title only, and approve. Motion carried unanimously.

#### 11. New Business

**a. First and Second Reading of Ordinance 2013-14: *Ordinance Authorizing The Refunding Of Certain Bonds Of The City Of Martinsburg And The Acquisition And Construction Of Certain Additions, Betterments And Improvements To The Existing Combined Waterworks And Sewerage System Of The City Of Martinsburg And The Financing Of The Cost, Not Otherwise Provided, Thereof Through The Issuance By The City Of Martinsburg Of Not More Than Thirty-Four Million Nine Hundred Forty-Eight Thousand Five Hundred Sixty-Three Dollars (\$34,948,563) In Aggregate Principal Amount Of City Of Martinsburg Combined Waterworks And Sewerage System Revenue Bonds, Series 2013 A (West Virginia SRF Program); Providing For The Rights And Remedies Of And Security For The Registered Owners Of Such Bonds; Authorizing Execution And Delivery Of All Documents Relating To The Issuance Of Such Bonds; Approving, Ratifying And Confirming A Bond Purchase Agreement Or Loan Agreement With The West Virginia Water Development Authority And The West Virginia Department Of Environmental Protection Relating To Such Bonds; Authorizing The Sale And Providing For The Terms And Provisions Of Such Bonds; And Adopting Other Provisions Relating Thereto.***

Councilman Anderson asked, if the bond ordinances pass, how much the citizens will be required to pay. Finance Director answered that, by previous ordinance, the sewer rates will be increased by more than double the current amount, and this change will take place July 2015.

Motion made by Councilman Etherington, seconded by Councilman Baker, to approve the first and second reading of Ordinance 2013-14, by title only. Motion carried 5-1, Anderson, no.

**b. First and Second Reading of Ordinance 2013-15: *Ordinance Authorizing The Acquisition And Construction Of Certain Additions, Betterments And Improvements To The Existing Combined Waterworks And Sewerage System Of The City Of Martinsburg And The Financing Of The Cost, Not Otherwise Provided, Thereof Through The Issuance By The City Of Martinsburg Of Not More Than Twenty-One Million Dollars (\$21,000,000) In Aggregate Principal Amount Of City Of Martinsburg Combined Waterworks And Sewerage System Subordinated Revenue Bonds, Series 2013 B (West Virginia Infrastructure Fund); Providing For The Rights And Remedies Of And Security For The Registered Owners Of Such Bonds; Authorizing Execution And Delivery Of All Documents Relating To The Issuance Of Such Bonds; Approving, Ratifying And Confirming A Loan Agreement With The West Virginia Water Development Authority, Acting On Behalf Of The West Virginia Infrastructure And Jobs Development Council Relating To Such Bonds; Authorizing The Sale And Providing For The Terms And Provisions Of Such Bonds; And Adopting Other Provisions Relating Thereto.***

Councilman Lewis asked why the total bonds equaled more than projected cost of \$51 M. City Manager Mark Baldwin explained that the second bond is only to guarantee funding for the first bond closing, and it is up to \$21 M. Should a bond closing for that be needed, it would only be for the exact amount needed to fund the project. Mr. Sayre added that once the state grand funds are distributed, the 2013B bond will be closed.

Motion made by Councilman Etherington, seconded by Councilman Lewis to hear the first and second reading of Ordinance 2103-15, but title only. Motion carried, 5-1, Anderson, no.

**c. Approve/deny awarding Contract #2 for the Wastewater Treatment Plant Upgrade Project –HRI, Inc.- \$39,134,000 Contingent upon Bond Closing**

Mr. Bill Meinert explained that, if all is approved, construction could begin in October, which would be on track for the new nutrient level requirements to be in place by the mandatory date of December, 2015 with other construction finalized in spring of 2016.

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve Contract # 2, contingent upon bond closing. Motion carried 5-1, Anderson no.

**d. Approve/deny proposed Change Order #1 for Wastewater Treatment Plant (WWTP) Upgrade- Deletion of Concrete Coatings (-\$500,000) Contingent upon Bond Closing**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Change Order # 1, contingent upon bond closing. Motion carried 5-1, Anderson, no.

**e. Approve/deny proposed Change Order #2 WWTP Upgrade- Re-Use of Trickling Filter Rock Media as Caisson Cap Fill (-\$61,500) Contingent upon Bond Closing**

Motion made by Councilman Etherington, seconded by Councilman Parkinson, to approve Change Order # 2, contingent upon bond closing. Motion carried 5-1, Anderson, no.

**f. Approve/deny proposed Change Order #3 for WWTP Upgrade- Re-Use of Trickling Filter Rock Media as Site Non-Structural Fill (-\$79,950) Contingent upon Bond Closing**

Motion made by Councilman Etherington, seconded by Councilman Lewis, to approve Change Order # 3, contingent upon bond closing. Motion carried 5-1, Anderson, no.

**g. Approve/deny proposed Change Order #4 for WWTP Upgrade-Partial Deletion of Mixer Davit Crane Assemblies (-\$32,400) Contingent upon Bond Closing**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Change Order # 4, contingent upon bond closing. Motion carried 5-1, Anderson, no.

**h. Approve/deny proposed Change Order #5 for WWTP Upgrade- Elimination of anodizing on aluminum metals (handrail) (-\$12,500) Contingent upon Bond Closing**

Councilman Baker asked why there would be no anodizing on the hand rails. Mr. Meinert explained that the current handrails are not anodized, and upon examination of the condition of those, it was deemed not necessary.

Motion made by Councilman Etherington, seconded by Councilman Parkinson, to approve Change Order # 5, contingent upon bond closing. Motion carried 5-1, Anderson, no.

**i. Approve/deny proposed Change Order #6 for WWTP Upgrade-Change in Hydraulic Gate Materials of Construction (-\$42,500) Contingent upon Bond Closing**

Motion made by Councilman Knowles, seconded by Councilman Lewis, to approve Change Order # 6, contingent upon bond closing. Motion carried 5-1, Anderson, no.

**j. Approve/deny proposed Change Order #7 for WWTP Upgrade—Deletion of City of Martinsburg Building Permit Fees (-\$161,600) Contingent upon Bond Closing**

Councilman Baker asked if it was normal procedure to not charge building permit fees. Mr. Baldwin and Mr. Spickler explained that it was normal for the City to excuse building permit fees for government entities, including the County, Parks and Rec and the City of Martinsburg.

Motion made by Councilman Etherington, seconded by Councilman Parkinson, to approve Change Order # 7, contingent upon bond closing. Motion carried 4-2, Anderson and Baker, no.

**k. Approve/deny proposed Change Order #8 for WWTP Upgrade-- Change in Clarification Rehabilitation Scope--\$515,744 Contingent upon Bond Closing**

Mr. Meinert explained that this was not actually an increase, but a rescoping of one of the options included in the proposal.

Motion made by Councilman Etherington, seconded by Councilman Parkinson, to approve Change Order # 8, contingent upon bond closing. Motion carried 5-1, Anderson, no.

**l. Authorize Mayor to sign Letter of Endorsement to the ABC Commission for a beer garden at the Martinsburg Mall's "Dread the Undead Zombie Run"—Saturday, October 12, 2013 from 10AM until 4:00 PM.**

A representative from the Martinsburg Mall stated that the mall was no longer requesting to close a portion of Mall Drive, which is private property, but will use other traffic control measures.

Motion made by Councilman Lewis, seconded by Councilman Baker, to approve the Letter of Endorsement for a beer garden at the Dread the Undead Zombie Run on the above date. Motion carried, 5-1, Anderson, no.

**m. Approve/deny request to use the Town Square Pedestrian Plaza for New Life Community Church event, Saturday, September 14, 2013 from 9AM-12PM and Saturday, October 12, 2013 from 6-7:30 PM.**

Motion made by Councilman Lewis, seconded by Councilman Etherington approve the request for the above use from New Life Community Church, Motion carried unanimously.

**n. Approve/deny Mountain State Apple Harvest Festival-Friday Night in the Square, and authorize Mayor to sign letter of endorsement to ABC Commission for beer garden--Main Street Martinsburg/MSAHF Board of Directors—Friday, October 18, 2013 from 7-10 PM.**

Motion made by Councilman Etherington, seconded by Councilman Lewis to approve the use of the square and letter of endorsement for Main Street Martinsburg and MSAHF Board of Director. Motion carried, 5-1, Anderson, no.

**o. Approve/deny request from 365 Church for donation of bicycles considered "unclaimed property," pending approval by the State of West Virginia**

Captain Swartwood explained that this would require the approval of the State Treasurer's Office, but that request would be no more difficult for him than the request to sell them at auction. Councilman Baker asked how much the City usually gets for bicycles at the auction. The City Recorder stated that it varies; it can be \$10-12 per bike, or \$3-10 for an entire lot of 3-4 bikes. Captain Swartwood stated that there are usually between 30-60 bikes per auction.

Councilman Baker asked if any organizations in the City had requested the bikes, Captain Swartood stated that this was his only request.

Councilman Parkinson asked for confirmation that this request was for strictly non-profit uses. Mr. Baldwin indicated that the request stated that it was, and Captain Swartwood stated that the Treasurer's Office would not allow the donation of the bikes to an organization that intends to resell them.

Motion made by Councilman Lewis, seconded by Councilman Parkinson, to approve the request for donation of bicycles, pending approval by the State of West Virginia. Motion carried, 5-1, Baker, no.

**p. Approve/Deny Joint Funding Agreement (JFA) between the Department of the Interior U.S. Geological Survey and the City of Martinsburg for partial operation and maintenance of a stream gaging station on Tuscarora Creek in Martinsburg, October 1, 2013-September 30, 2014--\$3,825.00 (Utilities Department).**

Utilities Director Steve Knipe explained that station is near Rockcliff Drive, is in its 5<sup>th</sup> or 6<sup>th</sup> year and provides valuable real-time information about stream flow.

Motion made by Councilman Lewis, seconded by Councilman Etherington, to approve the Joint Funding Agreement. Motion carried unanimously.

**14. Executive Session**

Motion made by Councilman Parkinson, seconded by Councilman Knowles, to go into executive session for personnel reasons at 5:36 PM. Motion carried unanimously.

**14. Adjournment**

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

  
Gena Long, City Recorder

  
George Karos, Mayor