

**City Of Martinsburg
Regular Council Meeting
May 08, 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, Captain George Swartwood, Martinsburg Police Department, Steve Knipe, Utilities Director and Michael Covell, Planning Director/City Engineer

3. Salute to Flag

Councilman Knowles led the Salute to the Flag.

4. Prayer—

Mayor Karos led the invocation.

5. Approve April 10, 2014 Regular Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the April 10, 2014 Regular Meeting Minutes. Motion carried unanimously.

6. Approve April 15, 2014 Special Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the April 15, 2014 Special Meeting Minutes. Motion carried unanimously.

7. Approve April 29, 2014 Special Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the April 29, 2014 Special Meeting Minutes. Motion carried unanimously.

8. Approve March 2014 Administrative and Financial Report.

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

9. Presentations

None

10. Petitions From Citizens

None

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

- a. Berkeley County Animal Control February and March 2014 Incident Reports
- b. Historic Preservation Review Commission March 3 and March 10, 2014 Meeting Minutes
- c. Board of Zoning Appeals February 4, 2014 Meeting Minutes
- d. Planning Commission January 8, 2014 Meeting Minutes
- e. Martinsburg/Berkeley County Convention and Visitor's Bureau March 12, 2014 Meeting Minutes and Financial Statements
- f. Letter from Comcast dated April 16, 2014 regarding MultiLatino services
- g. Hagerstown Eastern Panhandle Metropolitan Planning Organization (HEPMPO) Interstate Council Meeting January 15, 2014 minutes
- h. HEPMPO FY 2012-2015 Transportation Improvement Program Berkeley County Projects
- i. HEPMPO FY 2014-2014 Summary of Project Changes and FY 2014-2017 Draft Transportation Improvement Program Plan
- j. Heritage Day Proclamation, to be read on Friday May 9, 2014 at Dedication Ceremony
- k. Report on April 30, 2014 Public Hearing to solicit comment on the Five Year Consolidated Plan and the FY 2014 Annual Action Plan for CDBG/HOME

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

12. Reports of Chairpersons of Council Standing Committees

There were no reports.

13. Report of Mayor

a. Reminder of Heritage Day

b. Reminder of Spring Clean Up

c. Schedule Special City Council Meeting for Tuesday, May 20, 2014 at 5:00 PM for purposes of hearing the third and final reading of the Ordinance to Adopt the Home Rule Plan and other business as needed.

14. Report of City Attorney

None

15. Report of City Manager

a. Projects Update

The City Manager stated that the West Virginia Department of Transportation had bid out the Tennessee Avenue bridge replacement, and expected to see some meetings and progress in the next thirty to sixty days.

16. Unfinished Business

a. Third and Final Reading of Ordinance 2014-05: An Ordinance Enacting The City Of Martinsburg Code, Part 5, Article 545, By Adding Section 545.14a To Provide Regulation of Firearms And Weapons In Municipally Owned Recreation Facilities

Motion made by Councilman Baker, seconded by Councilman Etherington, to hear the third and final reading of Ordinance 2014-05, by title only and adopt. Motion carried unanimously.

b. Third and Final Reading of Ordinance 2014-06: An Ordinance Amending And Reenacting The City Of Martinsburg Code, Part 5, Article 545, By Amending Section 545.14 To Provide That Firearms And Weapons Are Prohibited In Municipally Owned Or Operated Building Other Than Municipally Owned Recreation Facility

Motion made by Councilman Knowles, seconded by Councilman Etherington, to her the third and final reading of Ordinance 2014-06, by title only, and adopt. Motion carried unanimously.

Councilman Baker stated, for the record, that he had previously voted against the Ordinance as he is in favor of protection of employees, but not in favor of an all-out prohibition of firearms in municipally owned and operated buildings.

c. Third and Final Reading of Ordinance 2014-07: An Ordinance Amending The City Of Martinsburg Code, Part 5, General Offences, Article 533, Offenses Relating To Property By Adding Article 533 Section 21 Special Litter Prevention Officers

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the third and final reading of Ordinance 2014-07, by title only, and adopt. Motion carried 5-1, Baker no.

d. Third and Final Reading of Ordinance 2014-08: An Ordinance To Provide For The Adoption, Approval And Implementation Of An Intergovernmental Agreement Between The City Of Martinsburg, West Virginia, Larry A. Hess, Assessor Of Berkeley County, West Virginia , And County Council Of Berkeley County, West Virginia To Enter Into A Hold Harmless And Indemnity Agreement

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the third and final reading of Ordinance 2014-08, by title only, and adopt. Motion carried 5-1, Baker no.

e. Third and Final Reading of Ordinance 2014-09: An Ordinance Amending and Reenacting The City Of Martinsburg Code, Part 5, Article 545, By Adding Section 545.14b To Provide Regulate Firearms And Weapons On Municipally Owned Or Operated Property

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the third and final reading of Ordinance 2014-09, by title only, and adopt. Motion carried unanimously.

f. Third and Final Reading of Ordinance 2014-10: An Ordinance Amending and Reenacting The City Of Martinsburg Code, Part 5, Article 545, By Adding Section 545.14c To Provide Regulation Of Firearms And Weapons During Temporary Events Of Limited Duration, Not To Exceed Fourteen Days, Which Are Authorized By The City Council Of The City Of Martinsburg

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the third and final reading of Ordinance 2014-10, by title only and adopt. Motion carried unanimously.

17. New Business

a. First and second 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 Knowles, seconded by Councilman Etherington, to hear the first and second reading of Ordinance 2014-11, by title only. Motion carried unanimously.

b. Approve Resolution 2014-04: *A Resolution Of The Council Of The City Of Martinsburg Approving The FY 2014-2018 Five Year Consolidated Plan, The FY 2014 Annual Action Plan, And The FY 2014 Analysis Of Impediments To Fair Housing Choice*

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2014-04. Motion carried unanimously.

c. Authorize Mayor Karos to sign a letter of endorsement to the ABC Commission regarding Martinsburg Wing Off scheduled for Saturday, August 23, 2014

Motion made by Councilman Knowles, second by Councilman Etherington, to authorize Mayor Karos to sign the letter of endorsement for the Martinsburg Wing Off. Motion carried unanimously.

d. Approve/deny bid for WWTP Upgrade Project, Task "C", Alternate Roadway and Secondary Water/Sewer Line—HRI, Inc.--\$507,476 (City--\$370,876, Dan Ryan Builders--\$136,600—sewer line)

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the bid for the WWTP Upgrade Project, Task C—HRI, Inc.--\$507,476. Motion carried 5-1, Anderson no.

e. Approve/deny Alternate Mainline Extension Agreement (AMEA) between the City of Martinsburg and Cornerstone, LP, LLP

Utilities Director Steve Knipe explained that this is a typical agreement and that, if approved, will be sent to the Public Service Commission for approval.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the AMEA between the City of Martinsburg and Cornerstone, LP, LLP. Motion carried unanimously.

f. Approve/deny recommended 2014 street repaving list

Councilman Baker asked if the City of Martinsburg expects to retain control of the millings.

City Engineer Michael Covell stated that there are two tentative locations for the millings to be used and the remainder is to be stock piled for City use.

Councilman Baker pointed out that the quality of work on Wilson Street was subpar in 2013. He asked if the City would be exercising more control of the conditions this year, relating to weather, etc.

Mr. Covell stated that the City would definitely be avoiding cold weather paving.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the 2014 recommended repaving list. Motion carried unanimously.

g. Confirm agreement between City of Martinsburg and Nancy S. Strine Consultants, LLC. for the position of Community Development Administrator (CDBG and HOME)

City Manager Mark Baldwin stated that Ms. Strine has been working with Patricia McMillan.

Ms. Strine thanked Council and stated that she is looking forward to the position.

Motion made by Councilman Baker, seconded by Councilman Etherington, to confirm the agreement between the City of Martinsburg and Nancy S. Strine Consultants, LLC for the position of Community Development Administrator. Motion carried unanimously.

h. Confirm demolition of 312 Athletic Street—Global Environmental and Remediation--\$10,000

Councilman Baker asked why the City is paying for this clean-up.

City Attorney Kin Sayre stated that, due to the circumstances surrounding the fire, the site is an environmental hazard and clean-up must be immediate. He stated that the City will attempt to get reimbursed if a responsible party can be found.

Councilman Baker asked if the \$10,000 will resolve all issues, clean the lot to government standards, and if it can be used as a green space after clean-up.

City Engineer Michael Covell stated that it will meet regulations.

The City Manager stated the City will place a lien, but that the property will not belong to the City, but the City may be able to get reimbursement from the insurance company.

Captain Swartwood advised that the owner of record is incarcerated and that the property already has a number of liens against it. He said there are possible avenues via the drug seizure process, as the cause of fire was the operation of an illegal meth lab, but the number of liens would make that process more difficult.

Councilman Baker stated that a trailer can be put back in that location within one year and asked when the year began. City Engineer stated, and Legal Counsel agreed, that year started on the date of the fire, when the trailer was destroyed.

Councilman Knowles asked, if approved, if Home Rule legislation would cover these sorts of matters. Legal Counsel replied that if the application is accepted Council could pass an Ordinance allowing properties to be bought in tax sales.

City Manager Mark Baldwin stated that the State no longer has a clean-up fund for homes destroyed in the production of meth.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to confirm the bid for demolition of 312 Athletic Street. Motion carried unanimously. .

i. Approve/deny application for 2014 Martinsburg Police Department JAG Grant--\$15,864 (no City match)—Police Department Equipment

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the application for the 2014 Martinsburg Police Department JAG Grant. Motion carried unanimously.

j. Approve/deny Mutual Aid Agreement between the City of Martinsburg and Berkeley County, WV for fires, emergency medical services, specialized rescues and disasters

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the Mutual Aid Agreement between the City of Martinsburg and Berkeley County, WV. Motion carried unanimously.

k. Approve/deny Mutual Aid Agreement between the City of Martinsburg and Jefferson County, WV for fires, emergency medical services, specialized rescues and disasters

Motion made by Councilman Etherington, seconded by Councilman Anderson, to approve the Mutual Aid Agreement between the City of Martinsburg and Jefferson County, WV. Motion carried unanimously.

l. Approve/deny HRI Inc.'s Application for Payment #5 (\$918,432.32) and summary of project completion status

Utilities Director Steve Knipe gave a brief update of the WTP Upgrade Project, stating that the demolition is all but finished and that the secondary power source has been moved underground. He stated that excavation is underway for the head works facility, including pipe re-routing and the removal of one digester. He also stated that the MBBR facility is 90% excavated.

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve Application for Payment #5 (\$918,432.32). Motion carried 5-1, Anderson no.

18. Executive Session


No Executive Session was needed

Adjournment

Motion made by Councilman Etherington, seconded by Councilman Knowles, to adjourn at 6:58 PM.
Motion carried unanimously.



Gena Long, City Recorder



George Karos, Mayor