

**City Of Martinsburg  
Regular Council Meeting  
Thursday, September 8, 2016  
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: Gregg Wachtel, Harriet Johnson, Dennis Etherington, Kevin Knowles, Ken Collinson, Mark Baker and Jason W. Baker. Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder; Police Chief Maury Richards, Steve Knipe, Utilities Director, Fire Chief Paul Bragg and Finance Director Mark Spickler.

**3. Salute to Flag**

Councilman Knowles led the Salute to the Flag.

**4. Prayer—**

Ujima Tyson, New Beginning Ministry of Help, led the invocation.

**5. Approve August 11, 2016 Regular Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the August 11, 2016 Regular Meeting Minutes. Motion carried unanimously.

**6. Approve July 2016 Administrative and Financial Report**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the July 2016 Administrative and Financial Report. Motion carried unanimously.

With consensus of Council, Mayor Karos added item 15cc for consensus.

**7. Presentations**

**a. Resolution of Appreciation for Retiring Fire Department Captain Donna Harmison**

The Mayor read the resolution and presented it to Captain Harmison.

**b. Resolution of Appreciation for Retiring Fire Department Captain Allen Talbott**

The Mayor read the Resolution and presented it to Captain Talbott.

**c. Proclamation—Constitution Week—Shenandoah Valley Chapter of the National Society Daughters of the American Revolution**

The City Recorder read the Proclamation and presented it to the Daughters of the American Revolution.

**d. Make Comment on ABCA Zoning Form for Class B “Carry Out” License Relating to Caribbean Produce—500 N. High Street**

Ms. Twyla Bunny, Faulkner Avenue, and Ms. Chantella Jones, Longbranch Drive, were present for questions.

Councilman J. Baker asked that the Zoning Form reflect his comment that he was not in favor of liquor sales at this establishment, as it is in a mostly residential neighborhood. Legal Counsel Kin Sayre stated that this request would be for beer and wine sales only, no liquor. Councilman J. Baker amended his comment to state that he was not in favor of beer or wine sales at this location, as it is in a mostly residential neighborhood.

The ABCA Zoning form is to be forwarded to the ABCA, with comment.

**e. Make Comment on ABCA Zoning Form for Class B “Carry Out” License relating to The Phoenix Mill Café—615 W. King Street**

Mr. Larry Wright and Mr. Robert Myers were present. After considerable discussion about the intent of the business owners, it was established that the restaurant intends to sell high-end craft beers and wines in sealed bottles to customers who wish to purchase them. The establishment will not be a package store and the beverages will be priced considerably higher than those brands often sold at package stores. No liquor will be sold as a carry-out beverage. The establishment is already licensed as a private club with on-site consumption.

Councilman Etherington stated that he would like to add the comment that he has received a call in opposition due to the proximity to both the Martinsburg Union Rescue Mission and the 7-11 Liquor Store.

The Zoning Form will be passed to the ABCA with comment.

**f. Make Comment on ABCA Zoning Form for Class B “Carry Out” License relating to Shop ‘n’ Save, East (dba Shop ‘n’ Save 2568-2881)—1713 Old Courthouse Square**

Ms. Amy Roberts was present and explained that this was a simple transfer of an existing license issued to Food Lion to the new owner, Shop ‘n’ Save.

Then Zoning Form will be passed to the ABCA without comment.

**g. Make Comment on ABCA Zoning Form for Class A License Relating to Golden China Le, Inc.—1117 N. Queen Street**

Mr. and Mrs. Shan Lin were present and stated that the hours of operation will be from 11 AM until 9:30 on weekdays and until 10 PM on weekends.

The Zoning form will be passed to the ABCA without comment.

**h. Boston Street Communications Tower**

Mr. Robert Lemanowicz, representing Vertical Bridge, addressed Council regarding a consensus needed for several aspects of the Boston Street Communications Tower. The first issue was whether the Council would prefer a monopole or a stealth model designed to resemble a tree. The stealth model would stand out rather badly, especially in winter when other trees had lost their leaves, so, it was determined that the monopole would be preferred. In response to a question from Councilman M. Baker, Mr. Lemanowicz stated that several antennas would be visible on the tower, but that it would be a single pole. Council also decided that the fence around the base of the tower requires no screening or landscaping and barbed wire should be installed at the top for security purposes. There will be equipment cabinets and a shelter located near the base of the tower.

**8. Petitions from Citizens**

Mayor Karos reminded each petitioner that they were restricted to two (2) minutes.

Mr. Peter Miller, Queen Street, read the following into the record:

Under the "Homeowners Assistance" program, tens-of-thousands of dollars of our tax money has been spent to help the wealthy—many from out of state—to buy a house here.

How about assisting the truly needy, very low-income senior and disabled homeowners, many like me, have lived here for 4 or 5 decades—living at 150% of the Federal Poverty Guideline, by upping the income ceiling necessary to be exempted from the Fire and Garbage Fee.

This program, originated decades ago, under City Manager Marlow. The income ceiling has not been risen—for inflation, etc.—thus leaving no one to qualify. This will give vitally needed help to us—and there are extremely few who would qualify—to save our homes. With the \$319 available, we can use it for medicine, food, heat, etc.

Berkeley County has the 2<sup>nd</sup> highest cost of living in WV. You used our tax dollars to establish a dog park, pay huge amounts for "studies"—which our well-paid City officials should had been able to handle by themselves, etc.

I've took in numerous local homeless couples, including families from inner-City Washington DC through Rev. Stienbruck of the Luther Place Church—into my home. Feed them, dressed them, counseled them, etc. I can no longer financially do this.

I can barely financially keep my home. I don't want to sell it to a wealthy City investor for pennies on the dollar, who will spend a few thousand dollars to spruce it up, then sell it for a net profit of \$40,000 or \$50,000.

Not having to pay the Fire and Garbage fee will help a lot. Exemptions will cost the City, at most, one or two thousand dollars! Make it retro-active if necessary. Do the right thing. Follow Christ's example and help the truly needy.

Citizen Petition: Immediately raise, or make it retroactive for 2016, the income ceiling level necessary to qualify for exemption from paying Fire and Garbage fee for those homeowners who are 62 years or older, and 1 or have been declared "totally and permanently disabled" by the Social Security Administration, living at 150% of the Federal Poverty Guidelines.

Mr. Miller emphasized that not all senior citizens should qualify for the exemptions, only those on very low income. He then asked for Council to vote "yes" or "no" to his proposal. Mayor Karos responded that Council cannot act on those items brought under petitions, as they were not listed on the agenda. He advised that Mr. Miller's suggestion would be taken under advisement, and that he had exceeded the two minute time limit established for petitions for citizens.

Ms. Betty Kreinik read the following statement:

Good evening. I am Betty Kreinik, resident of Hedgesville, WV.

I appeared before you six weeks ago (July 28, 2016) to urge you to initiate oversight of the Library Commission, a body YOU appointed.

Since then, the Commission wisely terminated the Library Director. It's scheduled to hire a replacement using the same fast track process that resulted in the recent turmoil.

But, the damage done to the Library system could take 6 months to a year to correct. I urge you to advise your Library Commission to make no decisions regarding a new director until March 2017. The current qualified interim director should have the power to run the day-to-day activities, to hire and fire and to mend the rift between the library patrons and the current board.

In today's agenda items, 11 a. and b. cover the reviewing and interviewing of applicants for the position of Economic and Community Development Director. I suggest you appoint an oversight group to advise and monitor the Library Commission in the selection of its Director.

If you persist in your hands-off policy, you'll have more of the same library patrons' unrest that we have seen since March 2016. That is a no-win situation.

If we're to live with the current Library Board without meaningful changes, we will have lost the good will of the people we serve. Please allow citizens to feel that they can contribute to helping to build a better library community.

Mr. Vernon Pearson echoed Ms. Kreinik's sentiments, also commending Mr. Porterfield as an interim director of the Library system. Mr. Pearson stated that it is important to choose a director with ties to the community.

Councilman Wachtel wished Mayor Karos a happy birthday, as his birthday is 9/10/16.

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

- a. Letter of Resignation from Ms. Bridget Cohee resigning from the Board of Zoning Appeals, effective September 1, 2016
- b. Comcast correspondence, dated August 15, 2016, regarding a changes to the billing system
- c. Board of Zoning Appeals April 5, May 3 and June 7, 2016 Meeting Minutes
- d. Planning Commission April 6, May 4 and June 1, 2016 Meeting Minutes
- e. Historic Preservation Review Commission April 4, May 2 and June 6, 2016 Meeting Minutes
- f. WV Rte. 45 Traffic Operation and Safety Study
- g. Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) May 18, 2016 Meeting Minutes and Berkeley County Projects Update
- h. For the Kids, by George Children's Museum August 4, 2016 Meeting Minutes and Director's Report

City Manager Mark Baldwin asked the Council to take special not of item 9 f, the WV Rte. 45 Traffic Operation and Safety Study.

Mayor Karos wished to note that the traffic light at Moler and High Streets has been pushed off another year, according to the Projects Update from HEPMPO. Councilman J. Baker recommended that he would like to gather a contingency of Council and administration to travel to Charleston to discuss this issue with the legislature elected in November.

Mr. Baldwin also pointed out that the State has decided to install a roundabout at the 4-way stop at Tavern Road and Rock Cliff Drive.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to receive and file item 9A-9H. Motion carried unanimously.

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

**a. Council as a Whole Committee Meeting Minutes for Tuesday, August 16, 2016**

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve the Council as a Whole Committee Meeting Minutes for August 16, 2016. Motion carried unanimously.

Minutes are as follows:

Council as a Whole Committee Minutes  
Tuesday, August 16, 2016—4:30 PM

**Present:** Mayor George Karos, Kevin Knowles, Jason Baker, Mark C. Baker, Gregg Wachtel, Dennis Etherington, Harriet Johnson and Ken Collinson

**Others in Attendance:** Mark Baldwin, City Manager; Mark Spickler, Finance Director; Kin Sayre, City Attorney

**Unable to Attend:** none

Mayor Karos opened the meeting and the following items were discussed:

**1. FY 2016-2017 General Fund Budget**

**a. General Fund Unassigned Fund Balance (unencumbered balance):** Finance Director Mark Spickler provided an overview of the General Fund Unassigned Balance.

**b. City Manager Recommendations/Committee Discussion:** City Manager Mark S. Baldwin provided an overview of recommendations for the FY 2016-2017 Unassigned Balance.

The consensus of the Committee was to forward to City Council for approval.

**c. FY 2016-2017 Budget—Going Level Overview:** Finance Director Mark B. Spickler provided an overview of the going level report.

**d. Discuss FY 2016-2017 Employee Pay Increase Recommendations:** The City Manager and Finance Director provided an overview of the recommendations for a 1.5% COLA for all eligible City employees, a merit pay scale increase with an average of 3% and increasing the pay grade spreads by 5% for all eligible employees, which would be retroactive to July 1, 2016.

Councilman Jason W. Baker asked if this recommendation would allow for correcting pay grade classifications for employee salary adjustments and new beginning wages. The City Manager stated it did not at this time. Councilman J. Baker stated he felt an adjustment needed to be made to the plan before approving the current recommendations. Councilman Ken Collinson stated he was receptive to the recommendations but would also like to see an adjustment made to the pay plan for all City employees.

After a great deal of discussion, the consensus of the Committee was to recommend the following: Adopt Resolution amending the pay grade plan to reflect a 1.5% COLA and adjusting the pay grade spread by 5% for all eligible City employees, as well as establishing the merit pay scale with the average increase being 3%, retroactive to July 1, 2016. This item will be placed on September 8, 2016 Council agenda.

It was also recommended that the City secure a consultant to undertake a Pay Classification Study in order for recommendations to be reviewed by Council in the near future.

**e. Discuss Parking Fund Budget:** Finance Director Mark B. Spickler gave an overview of the Parking Fund Budget and recommended the fines be increased. Consensus of the Committee was for the Finance Director to provide a recommendation to be approved at the September 8, 2015 City Council Meeting.

**2. City Manager's Report:** City Manager Mark S. Baldwin provided an overview of all current City projects, budgets and other initiatives that are currently on-going or in the planning phase.

**Recommended Projects to Commence:**

City Manager recommended the following for new projects:

**1. Gateway and Wayfinding Project--\$400,000 est. Funded by City. \$400,000 Earmarked GF**

**Recommendations:**

- Additional review needed to determine size, location and amount of wayfinding signs.
- Rights of way/locations to be secured for the gateway entrance signs.
- Committee, as originally structured, (Council and other entities) should meet, review and confirm or recommend changes to the approved design scheme. Consultant (Frazier and Associates) should also be contacted to participate in meetings.

Consensus of the Committee was to move forward with this project.

**2. Police Headquarters/Municipal Court Complex--\$8.5 estimated**

Funded by City--\$6M—Earmarked Police Levy (\$2.0M);  
Earmarked GF (\$2.1M), RA (\$4.4M)

**Recommendations:**

- Current consultant (Silling Architects) should be contacted to continue working with staff on design and cost estimates.
- Invite consultant to a Committee meeting to provide overview of project to date. Approximately \$50,000 has been expended for initial review of new complex and current City Hall, preliminary design layout completed with cost estimates.
- Consider next phase of consultant's previous proposal to finalize design and bid project.

Councilman J. Baker and Councilman M. Baker did not feel that the American Legion Building would be adequate space for future growth for the Police and Municipal Court. Councilman J. Baker suggested to not allocate additional funds to study the site and just begin looking at other sites.

After a great deal of discussion, consensus of the Committee was to recommend to City Council approval of Silling Architects to restudy and revise the space and site analysis for the project. Consultant to present findings at future Committee meeting.

City Manager also reminded Council that the E. Martin Street Parking Lot is in need of renovations, as well as the Market House Building.

Councilman J. Baker also suggested City Council consider evaluating covering Lambert Pool. City Manager suggested a committee of Council be appointed to meet with Steve Catlett to further study this project.

**City Manager Staff Recommendations**

City Manager provided an overview of staff recommendations prioritized by various departments.

Key: General Fund (GF); Sales Tax (ST); Water (W); Sewer (S)

		<b>Wages/Benefits Est.</b>
<b>A. Public Works Department</b>		
1. MS4 Coordinator	GF/ST	\$80,000
2. New SW Employee	GF/ST	\$47,500
<b>B. Planning Department</b>		
1. MS4 Building Inspector/Plan Reviewer	GF/ST	\$65,000
2. Inspector (Fire/Rental Housing/ Code Enf.)	GF/ST	\$65,000
<b>C. City Manager Department</b>		
1. Assistant City Manager/Project Manager ?	GF/ST/W/S	\$100,000
<b>D. City Attorney</b>	GF/ST/W/S	\$0
<p>\$116,000 currently budgeted in GF for City and Planning            Separate Prosecutor would still be needed.</p>		
<b>E. Economic Development</b>	ST	\$305,000
1. Director--\$75,000; Administrative Assistant--\$25,000		\$100,000
2. Benefits and Departmental Operational Expenses		\$205,000
<b>F. IT Manager</b>	GF/ST	\$80,000
	<b>Total</b>	<b>\$742,500/year*</b>
* Staff Recommendations--	\$437,500	
*Economic Development Dept.	\$305,000	
	<b>\$742,500*</b>	

Consensus of the Committee was to forward to Council for approval. City Manager to provide additional information and recommendation for positions at future City Council meetings.

**FY 2016-2017 1% Sales Tax Revenue Budget Recommendations**

City Manager and Finance Director provided an overview of the Sales Tax Revenue for FY 2015-2016. City Manager provided the following recommendation for the FY 2016-2017

Estimated Sales Tax Revenue for FY 2016-2017		\$3,600,000
Sales Tax Utilized to Balance GF Budget	(yearly review)	\$1,000,000
Departmental Staffing Needs	(yearly cost)	\$437,500
Economic Development Director/Department	(yearly cost)	\$305,000
City Retirement Fund (Police Pension Unfunded)	(yearly review)	\$250,000
City Retirement Fund (Fire Pension Unfunded)	(yearly review)	\$250,000
OPEB (Unfunded)	(yearly review)	\$200,000
Employee Pay Increases FY 2017-2018	(yearly review) (reoccurring)	\$220,000
City Projects Fund	(yearly review)	\$500,000
Police Headquarters/Municipal Court Complex/Other future projects		
Reserve Account (10% of the 1% Sales Tax)	(yearly review)	\$360,000
Recommended Expenditures	Total	\$3,522,500
1% Sales Tax Balance available for Emergencies, other projects, staffing Needs, debt service, reserve accounts, etc.		\$77,500 (\$3,600,000-\$3,522,000)

Consensus of the Committee was to recommend to City Council for approval. It was also the consensus of Council to continue to evaluate if additional reductions could be made to the B&O tax over the next year or so.

**3. City of Martinsburg Office of Economic and Community Development (OECD) and City of Martinsburg Economic Development Authority**

City Manager provided an overview of the recommendations outlined in the Economic Development Strategic Plan (Garner Economics). Consensus of the Committee was to forward to City Council for approval the job description for Community and Economic Development Director and budget.

Future meeting to be scheduled to discuss the organizational development of the Municipal Economic Development Authority, per WV State Code.

**11. Report of Mayor**

**a. Appoint the following to the Economic and Community Development Director Application Review Committee:**

- Mayor George Karos

- HR Director Brenda Spaulding
- City Manager Mark Baldwin
- City Attorney Kin Sayre
- Jay Garner, Garner Economics

Mr. Baldwin added that Mr. Jay Garner has volunteered his time to serve on the two committees, asking only for travel reimbursement if necessary. Much of the application review can be done over email and telephone.

Council had no objection to the committee.

**b. Appoint the following to the Economic and Community Development Director Applicant Interview Committee:**

- Mayor George Karos
- HR Director Brenda Spaulding
- City Manager Mark Baldwin
- City Attorney Kin Sayre
- Jay Garner, Garner Economics
- City Council Members (7)

Councilman Knowles asked about the change in the title to "Economic and Community Development". The City Manager responded that was part of Mr. Garner's recommendation that it be titled as such.

Council had no objection to this committee.

**c. Appoint the following to the Gateway/Wayfinding Signage Committee:**

- Mayor George Karos
- City Manager Mark Baldwin
- City Engineer/Planning Director Mike Covell
- Public Works Director Jeff Wilkerson
- Main Street Martinsburg Executive Director Randy Lewis
- Martinsburg/Berkeley County Chamber of Commerce President Tina Combs
- Martinsburg/Berkeley County Convention and Visitor's Bureau Executive Director Laura Gassler
- Councilwoman at Large Harriet Johnson
- Ward 1 Councilman Dennis Etherington
- Frazier Associates--Consultant

Councilman J. Baker stated that he would prefer not to form another Committee, that it is a waste of time, that enough time has been expended on the planning and the signs should be erected as previously planned.

Otherwise, Council had no objection to this committee.

**d. Appoint Doreane Mosser (current alternate) as a regular member of the Board of Zoning Appeals to fill an unexpired term ending December 31, 2016**

Motion made by Councilman M. Baker, seconded by Councilman Collinson, to appoint Ms. Mosser as a regular member of the BZA through December 31, 2016. Motion carried unanimously.

**e. Report the following vacancies:  
Board of Zoning Appeals (1 alternate)**

**Convention and Visitor's Bureau (1 as of December 31)**  
**Parking Authority (2)**  
**Shade Tree Commission (1)**  
**Human Relations Committee (1)**

Councilman M. Baker stated that he understands there have been inquiries from non-City residents about these vacancies, but that the Code generally requires City residency for most vacancies. He stated that the City of Martinsburg has over 17,000 individuals in it, and believes that is sufficient to fill all vacancies with City residents.

## **12. Report of City Attorney**

### **a. Panhandling Ordinance Update**

Mr. Sayre provided a draft ordinance which is also to be presented to the Berkeley County Council. He stated that the ordinance for the City is very similar and synchronistic. Both the County and the City have decided against adding a permitting requirement into the ordinance, but rather, set times, places and methods for panhandling, as well as offering a clear definition of what panhandling is.

He stated that the ordinance cannot provide for incarceration for panhandling, which is problematic in terms of enforcement, as panhandlers generally cannot afford the fines that are included in the ordinance.

Councilman Wachtel stated that he understands that in Morgantown, there have been instances of drug dealers posing as panhandlers and suggested that the State be urged to allow more leeway and stronger enforcement for this activity. Mr. Sayre responded that the United States Constitution protects freedom of speech and those rights come into play when enforcing panhandling. However, if a panhandler is committing another crime for which incarceration is appropriate, then there would be appropriate penalty for those crimes.

Councilwoman Johnson stated that she has, on three occasions, been mistaken for a panhandler while working downtown. She believes there is a perception issue.

Councilman Knowles stated that even having such an ordinance, whether it is enforceable or not, may help with the perception issue.

Chief Richards agreed, stated that the ordinance can be used as a tool. He also hopes to speak to other Chiefs of Police at an upcoming conference about how they handle panhandling in their respective cities.

Mr. Sayre stated that Council can move forward with the first and second reading at the October meeting, which would put us in line with the County's timeframe. The ordinance can be tweaked before the third and final reading, if necessary.

Councilman M. Baker noted that the Ordinance states that panhandling on private property is prohibited without the permission of the property owner and asked if curbs and islands were considered private property. Mr. Sayre stated that those are public property.

### **b. Discuss Draft Events Permit Ordinance**

Mr. Sayre stated that he hopes to have an ordinance for action at the next meeting. Councilman J. Baker stated that he strongly prefers to have that ordinance ready for action at the next meeting, and considerable care should be taken to be sure that it is.

**13. Report of City Manager**

Nothing further to report.

**14. Unfinished Business**

**a. Third and Final Reading of Ordinance 2016-24 to An Ordinance to Add and Amend the Text of The City of Martinsburg Zoning Ordinance At Article IV "General Regulations" Section 400 "Sign" to amend and reenact comprehensive sign regulations (Previously tabled—see attached letter)**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to read Ordinance 2016-24 through the third and final reading, by title only, and approve. Motion carried unanimously.

**15. New Business**

**a. First and Second Reading of Ordinance 2016-25 Amending The City Of Martinsburg Code, Part Three, Article 751- License Taxes, By Adding Sections 751.164 To Provide For A Temporary Special Event Vendor License**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to read Ordinance 2016-25 through the first and second reading, by title only. Motion carried unanimously.

**b. First and Second Reading of Ordinance 2016-26 Repeal Section 709.08 –Projecting Signs-Of The City Of Martinsburg Code, Part 7, Business And Taxation Code, Article 709, Advertising And Signs**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to read Ordinance 2016-26 through the first and second reading, by title only. Motion carried unanimously.

**c. First and Second Reading of Ordinance 2016-27 Amending The City Of Martinsburg Code, Part Three-Traffic Code, Chapter One - Administration - Article 303 – Enforcement, Impounding And Penalty -, By Amending And Reenacting Section 303.075 Immobilization Of Certain Vehicles**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2016-27 through the first and second reading, by title only. Motion carried unanimously.

**d. First and Second Reading of Ordinance 2016-28 Amending The City Of Martinsburg Code, Part Three-Traffic Code, Article 365 – Parking Meters, By Amending And Reenacting Section 365.13 Fines (see Council as a Whole Minutes)**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to read Ordinance 2016-28 through the first and second reading, by title only. Motion carried 6-1, Councilman M. Baker voting no.

If adopted, the Ordinance will become effective January 1, 2017.

**e. First and Second Reading of Ordinance 2016-29 Amending The City Of Martinsburg Code, Part Seventeen-Building And Housing Code, Article 17 – Building Fees, By Amending And Reenacting Section 1761.05—Schedule Of Fees And Charges (see Committee as a Whole Minutes)**

Motion made by Councilman Collinson, seconded by Councilman Wachtel, to read Ordinance 2016-29 through the first and second reading.

Councilman J. Baker stated that he believes the fee should be reduced to \$0, as the money is not being used as it should, currently, and it inhibits residential growth.

Councilman M. Baker stated that in 2013 the City of Martinsburg received over \$150K in community development fees for new residential construction, and in 2015 only \$3,100 was received. He stated that he believes that the perception is that it is too expensive to build in the City of Martinsburg, especially when the cost of water and sewer tap fees is also taken into account. He stated that the City is working on an infill ordinance which will allow for further residential construction in established area of the City of Martinsburg, and the City should take action to stimulate construction.

Motion made by Councilman J. Baker, seconded by Councilman M. Baker, to amend the motion to further reduce the fee to \$0.00. Via roll call vote, the amended motion failed 4-3 as follows:

“No” Councilman Wachtel, Councilwoman Johnson, Councilman Etherington, Councilman Knowles;

“Yes” Councilman Collinson, Councilman M. Baker, Councilman J. Baker.

Vote on the original motion carried unanimously.

**f. First and Second Reading of Ordinance 2016-30 Amending Ordinance 2016-23 Which Established Job Descriptions For Employees Of The City Of Martinsburg, West Virginia (See Council as a Whole Minutes)**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to read Ordinance 2016-30 through the first and second reading, by title only. Motion carried unanimously.

**g. Approve/deny Resolution 2016-23—General Fund Budget Revision #2 for FY 2016-2017 (See Committee as Whole Minutes)**

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve Resolution 2016-23. Motion carried unanimously.

**h. Approve/deny AIA Agreement between the City of Martinsburg and Silling Associates--\$34,180--and proposal for professional design services (see Committee as a Whole Minutes)**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the AIA Agreement with Silling Associates. Motion carried 6-1, Councilman J. Baker voting no.

**i. Approve/deny recommendations for additional staff (see Committee as a Whole Minutes)**

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve the recommendations for additional staff. Motion carried unanimously.

**j. Approve/deny Sales Tax Revenue Budget (see Committee as a Whole Minutes)**

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the sales tax revenue budget. Motion carried unanimously.

**k. Approve/deny Resolution 2016-24 increasing starting wage for pay grade 1 be increased from \$17,982 to \$23,185; the difference between pay grades be adjusted to 3.5% for all pay grades; and the spread for each grade in the pay plan be increased from 55% to 70% from the minimum to the maximum for the fiscal year beginning July 1, 2016.**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve Resolution 2016-24. Motion carried unanimously.

**l. Approve/deny Cost of Living Adjustment (COLA) for full time employees equal to the difference between new/old pay grade minimum, 2.5% COLA or \$2,000, whichever is higher; COLA for part time employees equal to**

**½ the difference between old/new pay grade minimum, 2.5% COLA or \$1,000, whichever is higher; and merit pay increases with an average of 2.5%.**

Motion made by Councilman Wachtel, seconded by Councilman Collinson, to approve the COLA and merit pay increases. Motion carried unanimously.

**m. Resolution 2016-25 authorizing George Karos, Mayor of Martinsburg, to enter into a contractual agreement with the West Virginia Department of Motor Vehicles to receive and administer grant funds in the amount of \$529,113, pursuant to the provisions of the WV Governor's Highway Safety Program**

Motion made by Councilman M. Baker, seconded by Councilman Wachtel, to approve Resolution 2016-25. Motion carried unanimously.

**n. Approve/deny request for an ingress/egress curb cut on W. King Street (see memo)**

Chief Bragg and Chief Richards were concerned about a loading zone in this location due to congestion and traffic issues and interfering with safe travel. The location is not wide enough to allow for a tractor trailer to be parked in the eastbound lane for purposes of unloading.

Mr. Larry Wright, property owner, stated that the gate located on this section of W. King Street was an ingress/egress at one time before, and he would like to remove the shade tree and perform a curb cut to allow for the ingress/egress of small delivery vans and trucks so they are not parked on the street.

Mr. Baldwin asked for confirmation that Mr. Wright was not seeking a loading zone. Mr. Wright confirmed that he was not seeking a loading zone, but an ingress/egress.

Councilman Etherington asked if the existing gate is wide enough to accommodate delivery vehicles. Mr. Wright stated that it is.

Councilman Knowles asked for confirmation that the request is simply to remove the tree and perform a curb cut for ingress/egress. Mr. Robert Myers confirmed, and stated that he has spoken with vendors with large trucks and trailers, which have agreed to park on the westbound side of W. King Street, as they do currently.

Councilman M. Baker asked about the grassy area and if this cut would provide ingress/egress for additional parking. Mr. Myers stated that the cut would be to allow for deliveries only, not parking.

Chief Richards expressed concern about vehicles backing into the gateway. Mr. Wright responded that they will either have to back in or out of the space.

Councilman Wachtel asked why the delivery vehicles could not enter from the Porter Avenue lot. Mr. Myers responded that he cannot take supplies through the dining area, and that the ABCA would like a one way in/one way out traffic pattern, which would get congested by delivery trucks. The ramp that would be opened by the curb cut enters directly into the kitchen.

Motion made by Councilman J. Baker, seconded by Councilman M. Baker, to approve the curb cut and tree removal. Motion carried 6-1, Councilman Wachtel voting no.

**o. Authorize Letter of Endorsement to the ABCA regarding a temporary license to sell beer at the Berkeley 2000 Recreation Center on October 29, 2016 for the Hard Knocks MMA event and February 17th and 18th, 2017 for the 26th Annual Toughman Contest**

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the request for a letter of endorsement for the two events.

Councilman M. Baker asked if there have been beer sales at previous Toughman contests. Mr. Sayre responded that there have not in Martinsburg, but beer is sold at other Toughman contests in other locations.

Councilman Wachtel pointed out that the applicant for the letter of endorsement has been selling beer at such events for over 26 years.

Councilman M. Baker asked who profits from the sales. Mr. Sayre stated that he understands that West Virginia Sports Promotions profits from the sales, and Parks and Recreation profits from the lease of the facility.

Councilman M. Baker stated that it seems that Council is being asked more and more to make exceptions for alcohol sales in city-owned buildings.

Councilman Collinson confirmed that Parks and Rec receives revenue from the lease of the facility and does not receive further revenue that he is aware of. He also added that this request was not discussed at a Parks and Recreation Board meeting.

Chief Richards stated that if the promotor provides his own security, he does not see that there will be significant impact on the Police Department.

Councilman J. Baker suggested that it be allowed for this year and evaluated for future requests, based on results from this request.

Councilman Etherington expressed concern that he does not want to make it a habit to continuously allow sales of alcohol in City-owned buildings, as he has stated when asked to approve sales in other locations, such as the Train Station.

City Manager Mark Baldwin reminded Council that the City did receive correspondence from Mr. Catlett of Parks and Rec that they are aware of this request.

Councilman Collinson suggested approving the October 29 event and revisiting the February request.

Motion was amended by Councilman Wachtel, seconded by Councilman Knowles, to authorize the letter of endorsement for the October 29 event only at this time. Motion carried 6-1, Councilman M. Baker no.

**p. Approve/deny request from Breast Cancer Awareness-Cumberland Valley to tie pink ribbons to parking meters, utility poles and trees along the main thoroughfare(s) in Martinsburg, Monday, October 3-Friday, October 14, 2016**

Motion made by Councilman Knowles, seconded by Councilman Collinson, that the request from BCA-CV be approved as submitted. Motion carried unanimously.

It was confirmed that the requestor is responsible for removing the ribbons.

**q. Approve/deny request from Deliverance Ministry and Healing Center to hold a walk-a-thon along the provided route and use of the Town Square Pedestrian Plaza on Saturday, October 29, 2016, contingent upon proof of adequate liability insurance.**

The applicant's written request left some question as to exactly what services and activities they were requesting.

Council discussed tabling the matter until further information was provided. City Manager Mark Baldwin suggested approving the request contingent upon further review and approval by the Chief of Police.

Motion made by Councilman M. Baker, seconded by Councilman Collinson, to approve the request contingent upon review and approval by the Chief of Police. Motion carried unanimously.

**r. Approve/deny request to hold a small wedding ceremony in the Town Square Pedestrian Plaza on Friday, October 28, 2016 from 6 PM until 8 PM**

Councilman M. Baker asked if there is an insurance contingency. The City Recorder stated that Council could request that, generally insurance is required when an event is taking place that would bring people into the Square that would not normally be present. The wedding is to be very small and is something that could likely be done without notice or approval; however, the wedding party would like to be married in front of the fountain, which could cause some traffic delay as they cross E. King Street, so, a request for approval was prudent.

Councilman J. Baker added that he believes there should be some way to charge for any city services used for these requests, as they are becoming more and more frequent. City Manager Mark Baldwin answered that this will be addressed in the forthcoming special events ordinance.

Motion made by Councilman M. Baker, seconded by Councilman Collinson, to approve the request, contingent upon proof of adequate liability insurance. Motion carried unanimously.

**s. Approve/deny Trick or Treat for children 12 and under in the City of Martinsburg—Monday, October 31, 2016 from 6-8 PM**

Motion made by Councilman Wachtel, seconded by Councilman Collinson, to approve Trick or Treat as submitted. Motion carried unanimously.

**t. Discuss holiday schedule for Christmas and New Year's (see example), take action as necessary**

Motion made by Councilman Wachtel, seconded by Councilman Etherington to approve a half day holiday on Friday, December 23, 2016 and a full day holiday on Tuesday, December 27, 2016. Motion carried unanimously.

Councilman M. Baker asked about additional holidays at New Years. City Manager Mark Baldwin responded that Council generally gives the additional days around Christmas to accommodate travel and family gatherings, whereas New Years is usually not so heavily traveled and is already a 3-day weekend.

**u. Approve/deny flu shots for City employees and elected officials--\$20 each**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the flu shots. Motion carried unanimously.

It was confirmed that the \$20 charge was to the City, that there is no cost to staff or elected officials.

**v. Approve/deny request from the Apollo Civic Theatre to block a portion of E. Martin Street from 7 PM until 10 PM for Apolloween on the following days: October 7, 8, 14, 15, 22, 28, 29 and 30, 2016**

Motion made by Councilman J. Baker, seconded by Councilman Collinson, to approve the closure of E. Martin Street for the requested days and times. Motion carried unanimously.

Councilman M. Baker pointed out that the request is for 27 hours of street closure. It was discussed that this is an annual event, the Apollo's largest fundraiser and it has never caused a significant issue.

**w. Approve/deny bid recommendation for 2017 Freightliner Garbage Truck w/Leach Refuse Packer--\$145,066 (truck) + \$2,895 (container lift bar option)—total \$147,961.00—Total Equipment Supplies**

Motion made by Councilman Collinson, seconded by Councilman Wachtel, to approve the bid recommendation. Motion carried unanimously.

Councilman J. Baker asked why the optional lift arm was being purchased, as there is limited use of those garbage receptacles for which the arm could be used. City Manager Mark Baldwin responded that he understands the lift arm effects the way the truck operates and it is beneficial to have.

**x. Approve/deny bid recommendation for City Hall Replacement Windows--\$9,539—Berkeley Glass**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the bid recommendation for City Hall replacement windows as submitted. Motion carried unanimously.

**y. Approve/deny bid recommendation for forty-five (45) Martinsburg Police Department Body Cameras \$224,452 (five year total) + \$2,037.96 (additional equipment)—Taser International**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the bid recommendation for Body Cameras, as submitted. Motion carried unanimously.

**z. Approve/deny bid recommendation for demolition and related services for 706 W. Martin Street and 634 Winchester Avenue --\$42,090—United Excavators and Wreckers, LLC**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the bid recommendation as submitted. Motion carried 6-1, Councilman J. Baker voting no.

Councilman Knowles asked if the bid included removal of the large tree in the rear of the lot on Winchester Avenue. City Engineer/Planning Director Mike Covell responded that the bid includes all trees.

Councilman M. Baker asked if the bid included the removal of a large rock and if it is possible to commit an additional \$2,000 to attempt to remove the rock. City Manager Mark Baldwin stated that City crews should be able to remove there is a sufficient time window between demolition and site work. Councilman J. Baker recommended that some Saturday time be allocated if possible.

**aa. Approve/deny HRI Inc.'s Application for September 2016 Payment #3 for the Church Street Stormwater Project--\$102,306.15**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Payment #3. Motion carried 6-1; Councilman J. Baker voting no.

**bb. Approve Resolution 2016-26 authorizing HRI Inc.'s Application for September 2016 Payment # 33 for the WWTP Upgrade Project-- \$216,141.22 (application request of \$264,141.22 minus assessed liquidated damages of \$48,000)**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve Resolution 2016-26. Motion carried unanimously.

**cc. Obtain consensus of Council to approve Cornerstone Bible Church to hold the annual National Life Chain vigil at the intersection of Queen and King Streets on Sunday, October 2, 2016 from 2-3 PM, contingent upon proof of adequate liability insurance**

The consensus of Council was to approve this request.

**17. Executive Session**

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to enter Executive Session at 9:27 PM for personnel and legal matters. Motion carried unanimously.

**Adjournment**

Meeting adjourned by unanimous consent at 9:49 PM.

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George Karos, Mayor

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Gena Long, City Recorder