

**City Of Martinsburg
Regular Council Meeting
Thursday, April 14, 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: Don Anderson, H.D. Boyd, Dennis Etherington, Kevin Knowles, Gregg Wachtel, Ken Collinson 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, Community Development Director Nancy Strine, City Engineer/Planning Director Michael Covell and Utilities Director Jeff Wilkerson.

3. Salute to Flag

Councilman Knowles led the Salute to the Flag.

4. Prayer—

Nathanial Wright, Lily of the Valley Evangel Church, led the invocation.

5. Approve March 10, 2016 Regular Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the March 10, 2016 Regular Meeting Minutes. Motion carried unanimously.

6. Approve March 22, 2016 Special Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the March 22, 2016 Special Meeting Minutes. Motion carried unanimously.

7. Approve February 2016 Administrative and Financial Report

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

8. Public Hearing to present the City of Martinsburg's FY 2016 Annual Action Plan for the use of CDBG and HOME Funds

Mayor Karos opened the public hearing at 6:33 PM.

Community Development Administrator Nancy Strine addressed Council with the following:

Good evening and welcome to our second public hearing for the City of Martinsburg's FY 2016 Community Development Block Grant (CDBG) and the HOME Investment fund Program. We have prepared our one year annual plan for the use of these funds and have the plan on display here at City Hall; the Public Library; and the Berkeley County Court House to receive public input.

We held our first public hearing in January 14, 2016 here at the beginning of the Mayor and Council meeting. We had 4 people speak on benefit of their Non Profit organizations such as Glenda Helman, from Community Networks, Inc.; Trina Bartlett, from Catholic Charities; Amy Orndoff from Berkeley Senior Services; and Marie Keegan, from the Faith Community Coalition for the Homeless. Several other

organizations submitted emails for the record from the Shenandoah Women's Center; C-CAP Loaves and Fishes; CASA of the Eastern Panhandle.

The City of Martinsburg has been a CDBG Entitlement community since 2004 and we have received over \$4.7 million of funds. The primary objective of the CDBG program is to provide housing, community and economic development for low and moderate income persons (70 % of the expenditures of the grant) by providing decent housing; a suitable living environment; and expand economic opportunities.

This past year, the city has spent 14.69 for Public Services (15% cap); 65.30% on Public facilities and improvements; and 20% on General Administrative and Planning (20% cap).

As you have been reading in the paper, the city is busy with the Street paving and curb project throughout the city and the Martinsburg - Berkeley County Parks & Recreation is working on the Martin Luther King Park Improvements.

The City plans to spend 41,000 (14.8%) for public services projects to assist low and moderate income residents of our city through the Berkeley County Meals on Wheels; C-CAP Emergency Rental Assistance; CASA of the Eastern Panhandle; CHS- Safe Haven Child Advocacy Center; CNI- Homeless Prevention; Boys & Girls Club scholarships; Berkeley Senior Services In Home Care; Shenandoah Women's Center; and Catholic Charities with their Promise House.

The City plans to finish the Church Street Area Storm Water Project and use the 2016 public improvements funds in the amount of \$180,586 (65% of the funds).

HOME is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. The City of Martinsburg has been participating with the HOME Program since 2007. We have received \$3.9 million for housing assistance for the City of Martinsburg; Berkeley County; Jefferson County; and Morgan County.

The HOME Program has assisted 208 first time homebuyers with gap financing to purchase their first time home in the City of Martinsburg; Berkeley; Jefferson; and Morgan County. The program has assisted 101 first time home buyers in Berkeley County; 29 in the City of Martinsburg; 53 In Jefferson County; and 25 in Morgan County.

With the HOME Program, we are required to set aside 15% of our annual allocation to be used by Community Housing Development Organizations (CHDO). We have been working with the Eastern Panhandle Habitat for Humanity to assist them in building out the Auburndale Subdivision. Currently they are working on a home in hopes to break ground this summer.

I will now open it up to comments if anyone wishes to speak.

Thank you!

As no one else came forward, the public hearing was closed at 6:37 PM.

9. Presentations

a. Administer Oath of Office to Firefighter/EMT Basic Justin Northcraft

The City Recorder administered the Oath.

Councilman Knowles stated that he was friends with Mr. Northcraft's father, who is now deceased, and that he is very proud of him and knew his father would be as well.

b. Introduction of Chelsie Davis, Executive Director of For the Kids, by George Children's Museum

Ms. Davis was introduced by Lisa Dall'Olio who stated that she is a WVU graduate with experience and course work in museum management and grant writing, among other applicable skills.

Ms. Davis stated that she was happy to be selected and that the Children's Museum is a wonderful unique experience for area children. Ms. Davis thanked the City of Martinsburg for their support of the museum and mentioned an upcoming event in conjunction with Heritage Day on May 14, which will feature the heritage of Irish settlers in Martinsburg.

Mayor Karos stated that the City of Martinsburg is proud to have been included in the establishment of the museum and that it has come a long way.

c. Proclamation Designating April 2016 as Fair Housing Month

The City Recorder read the Proclamation.

d. Proclamation Designating May1-May 7, 2106 as Paint the Town Purple Week

The City Recorder read the Proclamation.

10. Petitions from Citizens

Mayor Karos reminded all petitioners that they are to provide their name and address and limit petitions to five minutes.

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

For over five years, I've been highly disrespected by you, saw my rights stripped away. I speak—you look at the ceiling.

Your "Dictatorship of the Dollar" allows violations of the law by business owners.

I am as pro-police as anyone in this Chamber. I have never, in any way, disrespected any law enforcement officer.

I have made legitimate complaints about the McFarland House. Nothing was ever done. Officers threatened me against making any more complaints. One said I need to "hire" a police officer. Another said anyone can be as loud as they want to be until 11 AM.

Yet, when I got a new puppy and tried to train her using a whistle inside my house, numerous police cars drove by, two parked outside for over an hour. Later that night, groups of patrons came to my front gate, one threatened to "kick" my front teeth out for blowing the whistle. Had I called police, I'd probably been arrested.

I was arrested, and while I totally complied, my hands were handcuffed so tight that I still suffer pain. When I was taken to the station, I suffered severe chest pains. One officer made jokes about my condition.

I was arrested on the charge of going up to the fence of the McFarland House during practice for the wedding ceremony and during the ceremony, itself and screaming obscenities and challenges to a large group of Marines to fist fight me. No one called police. Almost everyone there had cameras, including a professional photographer and two people with movie cameras. No one took a picture of me because I never went there. Later that night, after 8 hours of loud racket, I called police because the McFarland House was clearly in violation of the 11 PM 50-foot law. I was arrested for doing so.

Once this year, music was blaring from the House and a large group of drunks were in the back yard at 12:30 AM.

Another time, while the doors and windows, both of my house and the McFarland House, were closed, I suffered over 6 hours of very loud music and thumping inside my front room. My blood pressure, which is always normal, went so high that my nose bled. I am diabetic and the stress caused by blood sugar to go so high I was dizzy. This was a direct threat to my very life.

The McFarland House has a motion sensor spotlight aimed directly into my front room. It was not aimed at the house or the open air bar in the backyard. I know a bit about sniper training, I know what "A.I.M." means. Yet for five nights straight, it was on all night long. I don't sleep nights, I've earned the right to set in my front room in darkness.

After the big 4-foot-plus snow, I shoveled both of my long sidewalks. The McFarland House only shoveled a path from the street to its entrance, for the paying customers. Later we had a foot of snow. I cleared my sidewalk and the neighbor (refused pay). The McFarland House didn't touch their sidewalk.

I criticized Martinsburg officials in a Letter to the Editor. The Building Inspector selectively and vindictively cited me for minor offenses.

In 2008, Kevin Knowles and his wife opened Dana's Tuxedos. In 2010, he as a member of the ZBA. He approved the opening of the McFarland House. Where are tuxes used? At wedding receptions. Where do they hold wedding receptions? At the McFarland House. Ethics? He should have recused himself. Mr. Knowles is supposed to represent me, not only his self-interests.

2 April 2016: started at 1:55 PM, 3:15—3 buses out front. 8 PM to 11:08 PM—very loud thumping inside my house, windows and doors closed, TV and large electric heater on—still very loud.

Building Inspector:

505 S. Queen Street.

231 W. Martin Street—loose vinyl, peeling paint on bricks.

Power, Beck & Matzurela Law Office—308 W. Burke—no gutters

Snyder Bailey Real Estate—404 W. Burke—gutters

Panhandle Printers and Designs—124 N. Maple—gutters

Mid-Atlantic Group Insurance—201 W. Martin

If law doesn't apply to everyone it should not apply to anyone.

Ms. Gena Long, I asked that you send me the minutes of several City Council meetings and a ZBA meeting. Please comply.

City Recorder Gena Long replied that she had not received any clarification on which minutes Mr. Miller was requesting. Mr. Miller replied that he would like the most recent three City Council meetings at which he spoke and the Board of Zoning Appeals minutes from "a couple weeks ago."

Helen Henderson, W. Burke Street, stated that the home next to hers has been vacant for approximately three years. She stated that individuals hang out and camp out on the property. She urged Council to support the ordinances on the agenda for first and second readings. She also stated that she is opposed to the Confederate Flag Parade being requested.

Abigail Benjamin, W. Burke Street, stated that in honor of Earth Day, she would like to discuss the need for clean water. She stated that she was the only Berkeley County Resident to comment on the pending sourcewater protection plan. She urged Council to create easy access to information for citizens and encourage public involvement.

James Boyd, Falling Waters, stated that the City needs a rehab. He stated that he approves of the proposed ordinances. He then reiterated that the City needs a rehab with a detoxification center and that private citizens have been attempting to help addicted individuals by shuttling them to area hospitals and rehabilitation centers. He was frustrated by the discussion of financial impact and location of proposed facilities.

Dee Pierce, Rhinestone Court, stated that she had submitted paperwork to request approval for a poker run, but that it was not on the agenda. She asked for Council's blessing for this event which would raise awareness and funds for a rehabilitation facility. Police Chief Richards stated that staff is still evaluating the request and further information is needed before it is placed on the next regular Council agenda.

Elizabeth Day, Winchester Avenue, stated that she has seen many troubling sights in her neighborhood, such as prostitutes and drug deals. Ms. Day stated that dozens of police calls have been made about a neighboring property, but that the landlord lives in Hedgesville and he does not maintain the property as he should. She stated that proposed ordinances are necessary to help hold landlords accountable for vacant properties, but is concerned that they will not help with occupied properties. She asked that Council consider an "excessive calls for service" ordinance such as what was enacted in Hagerstown, MD, and that she would support any resolve that would allow residents quiet enjoyment of their properties.

Paul Williams, Sons of Confederate Veterans (SCV), asked Council to approve the request to use the streets of the City for a parade in March of 2016 and to gather at the Race Street Park. Mr. Williams gave a brief history of the SCV organization, adding that it is neither discriminatory nor intolerant. He also added that the previous event, held exclusively at the park, was peaceful.

Habib Ali, Eclipse Court, stated that he is firmly in support of the 1st Amendment, but speech should not have the effect of causing memorable hurt and pain. Mr. Ali stated that the Confederate battle flag is a hurtful symbol and challenged the SCV to find something good to do for the community that does not include embracing a symbol of hate. Mr. Ali asked Council to table the request for further consideration. Mr. Ali also mentioned the rehab facility, stated that there may be some positive news on that topic in the next month or so and that the drug problem is not going away. Finally, Mr. Ali stated that the Police Chief represented the City well at the Senior Center earlier in the week and that he is proud to be a member of the Martinsburg community.

Jason Mansfield, Falling Waters, Coalition to End Homelessness, stated that he has been working with the local police department to offer a benefit for area homeless, his organization and the department. Mr. Mansfield stated that the proposed ordinances seem to be a good idea, but that he is concerned that they may cause landlords to be fearful to offer their properties as homes for the homeless. The Coalition to End Homelessness relies on landlords that are willing to take a risk, as individuals re-entering society might slip up, and asked that the Police Department and court system be mindful and explain to landlords how they can continue to help with these ordinances in place.

Richard Bushall, Winchester Avenue, spoke in favor of the request from the SVC. He stated that the Police Department was cooperative and that next year's event will be the same as the March 2016 event, with the exception of adding a march from the Square to Race Street. He stated that the organization is concerned with educating about heritage and history, not spreading hate. The SVC meets currently in the Triple Brick Museum. He pointed out that the Roundhouse is holding an event in celebration of the anniversary of the burning of the Roundhouse, which was also a horrific event. He does not believe that any history, good or bad, should be destroyed or ignored.

Doug Stolipher, landlord, stated that he has owned rental properties in Martinsburg for 47 years. He stated that his houses do not do drugs, but sometimes the tenants do. He does not understand the ordinance and does not believe they should be passed until everyone understands them. Mr. Stolipher asked if all vacant buildings will require a watchman. He also does not believe that the ordinances will stand up in Court, as they are putting the responsibility for the tenants onto the landowners.

Carlos Neiderhouser, landlord, stated that he owns 60 rental properties in Martinsburg. He stated that he would like a formal definition of "vacant." He added that he would like to see the Police Department and Council confer with some landlords to get guidance and clarification for the proposed ordinances. Mr. Neiderhouser has purchased many abandoned properties, repaired them and sold or rented them. If a property is purchased in a tax sale, the owner cannot even enter the property to secure or repair it for 18 months, yet it is still vandalized by others. He stated that he has worked with the Police Department to get problem tenants out of houses, but he also has to work through the court system. He stated that buildings that can be saved should not be torn down, but, should be fixed up and sold to low income buyers or offered as homes for the homeless.

Larry Wright, landlord, stated that there is certainly a drug issue in town and that he takes immediate action when he becomes aware of problems in his rental properties. Mr. Wright is concerned that there was no discussion with landlords about the proposed ordinances and that the requirement to hire a watchman would be a significant financial hardship. Mr. Wright would like more discussion before the ordinances are passed.

Donna Zeck, S. Kentucky Avenue, stated that she is thankful for the police department's support and that she is in favor of all three proposed ordinances. She stated that there were significant issues in her neighborhood with drug houses, including one drug related death. Ms. Zeck stated that her block responded by meeting with Councilman Collinson and the police department with the determination to create the best block in town, and was provided with immediate support. She stated that she also received an immediate response from the Planning and Public Works Departments, and it has made a huge difference in neighborhood pride and sense of ownership.

Robert Myers, Bunker Hill, stated the he is involved in the Interwoven Mill project with Larry Wright. He stated that the owners have spent a considerable amount of money to fix up the property, and that there should be more strict laws for vandalism. He stated that the property owners are present and trying, but willful property destruction makes it very difficult to maintain the properties.

James Reed, Dominion Road, stated that the SCV is only asking for the roads to be closed for two hours next March and that the City has other problems it could be focusing energy on.

Richard Jeffrey, Winchester Avenue, stated there are many prostitutes working on Winchester Avenue, which is not appealing for businesses looking to locate in Martinsburg, such as Proctor and Gamble. He stated that something needs to be done to address this issue.

Barbara Bratina, Tennessee Avenue, stated that she attended the SCV event in March and that it was very peaceful and a celebration of history. She stated that the organization did not spread hatred and that their request is a freedom of speech issue, which is a right for everyone. Ms. Bratina recommended approval of the request for March 2017, but that parking should remain available on Queen Street, as it does for the Easter pet parade. Mrs. Bratina also thanked Chief Richards for his proposed ordinances and she was appalled at how the ordinances were handled when they were first introduced, as they are vital tools to alleviate common nuisance situations. Ms. Bratina added that most property owners are diligent but that the ordinances are meant to deal with the minority of those who are negligent.

Annette Fishel, address unknown, was not in attendance, but provided the following for the record:

I am writing on behalf of today's Council meeting in regard to the three city ordinances that became controversial during the March 10 meeting. I had planned to attend the meeting this evening but something unexpected came up and I am not able to attend.

I am definitely in favor of these ordinances and give my full support to our law enforcement officers. I am aware of all that they do for the community as I have recently been working with them as they reach out to better our community. They definitely have our best interests in mind with the goals they have set and the work they do. I am in support of giving the officers more authority to deal with houses where illegal activities are taking place and the depilated abandoned properties.

I'm also in support of the ordinance that would declare a public nuisance on premises used for prostitution, illegal gambling, illegal possession, storage or delivery or trafficking in controlled substances, or other illegal activity. Why would I NOT support these issues!!!

Also the ordinance that would make it a violation of city code if the landlord "recklessly permits the physical conditions or facilities of the residential real estate to become or remain in any condition which endangers the health or safety of any person."

My husband and I have been homeowners here for 43 years and were so pleased to know that our Chief of Police and Deputy Police of Chief (sic.) are so dedicated to our safety and improving our community in so many ways. We are in hopes that the City Council is also dedicated to the safety and improvements to our community.

City Attorney Kin Sayre addressed those who had expressed concerns about the proposed ordinances. If a landlord fails to correct an issue when notified, that landlord might be penalized, per the drug and gang house ordinance. The ordinance dealing with the requirement of a watchman is not intended to be applied to every building, vacant or not, only to those which are not secured. Basic security means intact doors and windows. Fencing would also be acceptable if it were necessary and sufficient to keep trespassers out.

Chief Richards added that there is a FAQ on the Police Department website along with full text of the proposed ordinances. He also added that the direct extension for both himself and Deputy Chief Swartwood are

listed online, that all calls are answered and not screened. Chief Richards stated that the watchman ordinance is very clear, that a watchman is only required if a building is not secure. He addressed the concerned landlords, asking them to call the police if there is a problem, and it will be dealt with.

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

- a. Human Relations Committee February 22, 2016 Meeting Minutes
- b. Historic Preservation Review Commission March 7, 2016 Meeting Minutes
- c. Planning Commission January 6, 2016 Meeting Minutes
- d. Board of Zoning Appeals January 5, 2016 Meeting Minutes
- e. Communication between the West Virginia Department of Transportation, Division of Highways (February 16, 2016) and the City of Martinsburg (March 31, 2016) regarding the condition and repaving of Queen Street in the City of Martinsburg
- f. For the kids, by George Children’s Museum Board March 10, 2016 board minutes and financial statement
- g. Eastern Panhandle Transit Authority (EPTA) March 2016 Financial Statement

City Manager Mark Baldwin addressed item 11 E, stating that the Mayor has been corresponding with the Department of Transportation regarding the repair or repaving of Queen Street, which is an extensive project as there are underground utilities and curb replacement requirements. Queen Street is a state road, and the approval process for repaving of a state road is a very long process, generally two or three years, and that Queen Street has been put on the list for repair when funds are available. The City Manager’s office had received notice on the day of the meeting that some repairs will be done on the following Sunday evening and that the City will do as much as possible to ensure that the public is notified and to provide traffic control. He was hopeful that it would be a one day event. He advised business owners to take notice and notify upstairs residential tenants as vehicles must be moved off the street.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to receive and file item 11A-11G. Motion carried unanimously.

12. Reports of Chairpersons of Council Standing Committees

a. Council as a Whole Committee April 7, 2016 Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the April 7, 2016 Committee as a Whole Meeting Minutes as follows. Motion carried unanimously.

Council as a Whole Committee Minutes
Tuesday, April 7, 2016—4:30 PM

Present: Mayor George Karos, Councilmembers Kevin Knowles, Jason Baker, Dennis Etherington, Ken Collinson, Gregg Wachtel, H.D. Boyd and Don Anderson.

Others in Attendance: Mark S. Baldwin, City Manager; Fire Chief Paul E. Bragg; Lt. Jamie Weller, Martinsburg Fire Department; Chief of Police Maury Richards; and Deputy Chief of Police George Swartwood

Unable to Attend:

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

- City of Martinsburg Fire Department Overview—Fire Chief Paul Bragg
- City of Martinsburg Fire Department Emergency Drug Overdose Response Strategies—Lt. Jaime Weller, Martinsburg Fire Department
- City of Martinsburg Police Department Overview—Chief of Police Maurice Richards
- City of Martinsburg Police Department, Law Enforcement as First Responders, NARCAN Policy Recommendations—Chief of Police Maurice Richards

After the presentations, several questions were asked by members of the governing body and the public, which were answered by City staff.

At the conclusion of the meeting, Mayor George Karos and City Council thanked the Fire and Police Departments for a job well done in providing information, departmental policies and strategies pertaining to Fire/EMS and Police Department services in particular to overdose responses.

See attached *City of Martinsburg Fire and Police Department Overdose Response Strategies—Past...Present...Future*

Meeting adjourned.

13. Report of Mayor

a. Reappoint David Anderson to the Shade Tree Commission 5/9/2016-5/9/2019

Motion made by Councilman Baker, seconded by Councilman Etherington, to reappoint David Anderson to the Shade Tree Commission through 5/9/2019. Motion carried unanimously.

b. Reappoint Mary Lewis to the Shade Tree Commission 5/9/2016-5/9/2019

Motion made by Councilman Wachtel, seconded by Councilman Collinson, to reappoint Mary Lewis to the Shade Tree Commission through 5/9/2019

c. Appoint Scott Campbell to the Martinsburg/Berkeley County Library Board to fill an unexpired term 7/1/2011-6/30/2016

Motion made by Councilman Etherington, seconded by Councilman Collinson to appoint Scott Campbell to the Martinsburg/Berkeley County Library Board through 6/30/2016. Motion carried unanimously.

d. Appoint members to Brownfields Grant Committee (see attached memo)

Motion made by Councilman Knowles, seconded by Councilman Collinson to appoint the following to the Brownsfield Grant Committee:

Mayor George Karos; City Manager Mark Baldwin; City Engineer/Planning Director Michael Covell; City Planner Tracy Smith; Finance Director Mark Spickler; Ward 4 Councilman H.D. Boyd; Ward 2 Councilman Kevin Knowles; At-

Large Councilman Gregg Wachtel; Patty Hickman, WVDEP Office of Environmental Remediation; Director Patrick Kirby, Northern WV Brownsfield Assistance Center; Executive Director Randy Lewis, Main Street Martinsburg; Director of Community Impact Penny Porter, United Way of the Eastern Panhandle; Executive Director Laura Gassler, M-BC Convention and Visitors Bureau; President Gary Gimbel, Martinsburg Historic Preservation Review Commission; President Jim Rodgers, Martinsburg Planning Commission; Drew Johnson, Touchstone Realty

Motion carried unanimously.

e. Current Board and Commission Vacancies:

- 1. Shade Tree Commission (1)**
- 2. Parking Authority (2)**
- 3. Historic Preservation Review Commission (1)**
- 4. Code Appeals Board (1)**

f. Reminder of Special City Council Meeting for Tuesday, April 19, 2016 at 5 PM to approve levy rates (per State Code)

14. Report of City Attorney

None

15. Report of City Manager

None.

16. Unfinished Business

None

17. New Business

a. First and Second Reading of Ordinance 2016-06 Amending the City of Martinsburg Codified Ordinance, Part 5: General Offences Code, Chapter 5, Administrative by Adding Article 552: Drug and Gang Houses, Houses of Prostitution and other Disorderly Houses, Sections 552.01 to 552.03

Motion made by Councilman Knowles, seconded by Councilman Etherington, that Ordinance 2016-06 be passed through the first and second readings.

Councilman Baker pointed out that the City already has a building and housing code for properties which allows for abatement, including emergency abatement if the condition of the property is a safety issue. He asked why these ordinances are necessary when we have the codes in place and they are just not being enforced by the Planning Department. He also pointed out that if a property is subject to continuous police action, there is a mechanism for a public nuisance hearing. He asked if on-the-spot citations are being issued by Code Enforcement.

City Attorney Kin Sayre replied that the citations are being issued and several are being handled by Municipal Court right now. The new ordinances will allow the City to use Municipal Court for enforcement, rather than a lengthy public hearing and action by the County court system. He added that the Planning Department has the authority deal with property maintenance issues, not tenant issues.

Councilman Baker argued that the ordinance will allow the City to address issues more quickly, but landlords are still at the mercy of Magistrate Court for evictions and other tenant action.

Mr. Sayre agreed that tenants do have due process which can be a lengthy process; however, under the proposed ordinances landlords that are taking reasonable steps to abate issues are not penalized.

Councilman Wachtel called for the question on the motion made by Councilman Knowles and seconded by Councilman Etherington. Motion carried 6-1, Baker voting no.

b. First and Second Reading of Ordinance 2016-07 Amending the City of Martinsburg Codified Ordinance Part 5: General Offenses Code, Chapter 5, Administrative, by adding Article 550: Recklessly Permits the Physical Condition or Facilities of the Residential Real Estate to Become or Remain in any Condition which Endangers the Health or Safety of any Person, Sections 550.01 to 550.02

Motion made by Councilman Knowles, seconded by Councilman Collinson, that Ordinance 2016-07 be passed through the first and second reading.

Councilman Baker stated that ordinance was also already in place in the Planning Department but it was not being enforced.

Chief Richards replied that the ordinances are geared to all property owners, not just landlords, and that drugs, disorder and prostitution are very big problems in the City and that the enforcement of the existing ordinances is way too slow. He went on to say that property owners who take pride in their properties will not be impacted by these ordinances. It does not take much effort to create a mess and it won't take much to fix it and these ordinances are tools to help achieve that goal.

Motion carried 6-1 on the motion made by Councilman Knowles and seconded by Councilman Collinson, with Councilman Baker voting no.

c. First and Second Reading of Ordinance 2016-08 Amending the City of Martinsburg Codified Ordinances, Part 5; General Offenses Code, Chapter 5: Administrative, by adding Article 551: Requirement of Watchman for Vacant or Open Buildings, Sections 551.01 to 551.02

Motion made by Councilman Knowles, seconded by Councilman Etherington, to pass Ordinance 2016-08 through the first and second readings.

Councilman Baker stated that no clear definition of what the City Engineer is going to allow or not allow in terms of property security is outlined in the ordinance. He feels that the ordinance, as proposed, will allow too much interpretation by the City Engineer or Chief of Police to determine what is sufficient, and does not give property owners clear guidelines. He stated that landlords do not want people in their vacant buildings. He was also concerned that this will cause an issue with properties sold in a tax sale as it cannot be enforced on the State of West Virginia as long as they are the lawful owners of the property. Councilman Baker would like a clear definition of required or acceptable methods of securing a building.

Councilman Wachtel recommended that Council look at some of the vacant buildings in town to see for themselves what a mess they are.

Motion carried 6-1 on the motion made by Councilman Knowles and seconded by Councilman Etherington, with Councilman Baker voting no.

d. Approve/deny Request of Sons of Confederate Veterans, West Virginia Division, to Close a Portion of Queen Street, from King Street to Race Street, on Saturday, March 4, 2017 from 10 AM until Noon for the Purposes of holding a "Second Annual Confederate Flag and Southern Heritage Day" Parade, Including Traffic Control and Police Escort, Contingent upon Proof of Adequate Liability Insurance

City Attorney Kin Sayre reminded Council that they had a similar request for 2016 which was denied. He stated that Council has several options: they may approve the request as submitted; deny the request, keeping in mind that it cannot be denied because the speech being made is not personally supported; table the request, as it is a

significant time in the future and the City Recorder has been researching special event processes in other cities for possible adoption, as the City has received an ever increasing number of requests for special events. He went on to explain that such a process would not be designed to prevent special events in the City of Martinsburg, but put forth reasonable requirements of routes, permits, applications, etc. Mr. Sayre stated that such an ordinance should be in effect by Fall of 2016.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to table the request as it would fall under the guidelines of any special events ordinance passed before the scheduled event.

Councilman Etherington asked if the event is tabled, is there a time limit on which action must be taken. Mr. Sayre stated that there is not time requirement, but a vote would be necessary to bring it off the table.

Councilman Collinson asked if all requests for parades would be tabled until the events ordinance is decided upon. Mr. Sayre stated that this particular event is request for March 2017 and that those already approved would have to come into compliance once the ordinance is adopted.

Councilman Baker stated that he is not a fan of this particular parade or celebration, but he does have concerns about postponing the vote when the request for the Apple Harvest Parade will be forthcoming and the Council will not treat that request similarly. He stated that Council cannot treat requests differently based on subject matter. Mr. Sayre stated that if a special events ordinance is adopted and effective in July or August, that Apple Harvest will be required to become compliant. He stated that the main difference is that this particular event will certainly be taking place after adoption of an events ordinance, if one is adopted, and Apple Harvest may not.

Mayor Karos asked if the new Council will be required to maintain the ordinance if one is passed before July 1. Mr. Sayre stated that it could be repealed if desired.

Councilman Boyd stated that he had reviewed the request and it had stated that the SVC had indicated that it only takes ten minutes to walk the route and that it would be acceptable to close only one direction of Queen Street.

The motion to table, made by Councilman Wachtel, and seconded by Councilman Etherington, was passed 4-3, with Councilmen Boyd, Baker and Collinson voting no.

e. Approve/deny request from Burke Street Elementary School Second Grade to Perform in the Town Square in Celebration of Cinco de Mayo, Thursday, May 5, 2016 from 12:30 until 1 PM, Contingent upon Proof of Adequate Liability Insurance

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

f. Approve/deny request from Berkeley County Roundhouse Authority for Public Works Assistance for Several Events (see memo)

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the request as submitted. Motion carried unanimously.

g. Approve/deny Request from Berkeley County Roundhouse Authority for Police Department Assistance for Traffic Control (Police Presence and Signage) on Friday, May 6 through Sunday, May 8, 2016 for the 155th Anniversary of General Stonewall Jackson's Raid (see memo)

Motion made by Councilman Knowles, seconded by Councilman Boyd, to approve the request as submitted. Motion carried unanimously.

h. Approve/deny Request from the Berkeley County Roundhouse Authority to Serve as “Master Vendor” during the Anniversary of General Stonewall Jackson’s Raid and Collect a Flat \$5 B&O Tax for Sub-Vendors for the Event

City Attorney Kin Sayre stated that the City has been struggling to find a way of dealing with vendors at special events, as the licensing is cumbersome and costly and discourages vendors from participating. Relying upon vendors to submit tax reforms, when they may be unfamiliar with the process, is very difficult. He stated that this is one option to consider which would allow the Roundhouse to collect and remit a flat fee per vendor. This can be evaluated to determine if it is fair to City businesses while removing obstacles for special event vendors.

City Manager Mark Baldwin added that the State and City codes require that everyone be treated fairly, and that staff is looking at the codes to be sure that this is allowable without making an ordinance change. Mr. Sayre stated that an ordinance will be needed, but Council will need to decide if they will allow this to occur at this specific event as a trial.

Motion was made by Councilman Baker, seconded by Councilman Knowles and Councilman Boyd to approve the request as submitted. Motion carried unanimously.

Mr. Steadman Howard, Roundhouse Authority, stated that it is increasingly difficult to be a sponsor of collective vendor events because the vendors are reluctant to commit under the current requirements, and that everyone loses money. The City is deprived of the B&O money but the hospitality industry, the restaurant industry and the retail industry are also impacted as fewer vendors bring less traffic to events. He is happy that the City is considering this and is ready to have a discussion on making events such as this more business friendly.

i. Approve/deny Bid Recommendation for a 2016 Street Sweeper—Golden Equipment Company--\$214,800

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

j. Approve/deny Purchase of 2016 Ford Explorer for City Manager—Stephen’s Auto (State Contract)--\$25,940

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

k. Approve/deny bid recommendation for City Hall replacement windows—Berkeley Glass--\$14,989.00

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the recommendation.

City Manager Mark Baldwin stated that this is for the rear windows only.

l. Approve/deny 60 Month Lease with Xerox for a New 3 Tier Colorcube 9303 Color Copier (State Contract)--\$504.04/month

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the lease. Motion carried unanimously.

m. Approve/deny Purchase of Sixty-Eight (68) Replacement Telephone System Handsets for City Hall and Police Department—Innovative, Inc.--\$7,464

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve the purchase. Motion carried unanimously.

n. Approve/deny Martinsburg Fire Department Standard Operating Procedure (SOP) for Emergency Vehicle Response

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the purchase as submitted. Motion carried unanimously.

o. Approve/deny Memorandum of Understanding between the American Red Cross and City of Martinsburg for the Storage of Sixteen (16) Cots to be used by the Martinsburg Fire Department

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the MOU. Motion carried unanimously.

p. Approve/deny Quote for Upgrades to the Central Fire Station Diesel Fume Exhaust System—Air Cleaning Technology (sole provider)--\$14,642

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve the quote. Motion carried unanimously.

q. Approve/deny Purchase of Seven (7) Trijicon MRO Optical Rifle Sights to Replace Eight (8) Defective EOTECH Optical Rifle Sights for the Police Department Special Response Team (SRT)—OpticsPlanet--\$450 each/\$3,150 Total

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

r. Approve/deny authorization for Mayor Karos to sign the Statement of Interest in Region 9 Multi-Jurisdictional Multi-Hazard Mitigation Planning

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the authorization. Motion carried unanimously.

s. Approve/deny Resolution 2016-11 authorizing HRI Inc.'s Application for April 2016 Payment #28 for the WWTP Upgrade Project--\$ 1,131,333.56

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve Resolution 2016-11. Motion carried 6-1, Councilman Anderson voting no.

t. Approve/deny Change Order #17 between the City of Martinsburg, HRI, Inc., and O'Brien and Gere Engineers, Inc., for the WWTP Upgrade Project Construction--\$78,440

Motion made by Councilman Collinson, seconded by Councilman Knowles, to approve Change Order #17. Motion carried 6-1, Councilman Anderson voting no.

16. Executive Session

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to enter Executive Session for legal matters regarding the Animal Control Agreement at 8:40 PM. Motion carried unanimously.

Motion made by Councilman Baker, seconded by Councilman Knowles, to go back into Regular Session at 9:09 PM. Motion carried unanimously.

u. Discuss Resolution 2016-12 Authorizing the Approval of the Animal Control Agreement between the Berkeley County Council and City of Martinsburg, and take action as necessary

Councilman Knowles asked if he should recuse himself from this action, as he is a County employee. Mr. Sayre replied that it is not necessary, as Councilman Knowles's duties at the County do not extend to Animal Control.

Motion made by Councilman Baker, seconded by Councilman Collinson not to approve the extension of the Animal Control Agreement. Motion carried unanimously.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to authorize the City Attorney to draft an ordinance repealing the City dog tax. Motion carried unanimously.

Adjournment

Motion adjourned by unanimous consent at 9:13 PM.

George Karos, Mayor

Gena Long, City Recorder