

**City Of Martinsburg
Regular Council Meeting
Thursday, April 9, 2015
The J. Oakley Seibert Council Chambers**

With a quorum present, the regular session of the Martinsburg City Council was called to order by Mayor George Karos at 6:30 p.m. The following Council Members were present: Don Anderson, Dennis Etherington, Kevin Knowles, Gregg Wachtel, H.D. Boyd and Jason W. Baker. Absent was Ken Collinson. Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder; Chief Paul Bragg, Martinsburg Fire Department; Police Chief Kevin Miller, Steve Knipe, Utilities Director; Jeff Wilkerson, Public Works Director; Michael Covell, City Engineer/Planning Director and Mark Spickler, Finance Director.

3. Salute to Flag

Councilman Etherington led the Salute to the Flag.

4. Prayer—

Rajan Zed, President of the Universal Society of Hinduism led the invocation.

5. Public Hearing To Address Comcast Of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC'S Application For A Non-Exclusive Franchise Agreement Authorizing Comcast To Construct And Operate A Cable System In The Public Ways Within The Franchise Area, And For That Purpose To Erect, Install, Construct, Repair, Replace, Reconstruct, Maintain Or Retain In Any Public Way Any Poles, Wires, Cables, Conductors, Ducts And Other Related Property Or Equipment As May Be Necessary Or Appurtenant To The Cable System, And To Provide Services Over The Cable System As May Be Lawfully Allowed And To Sell Same To The Public Pursuant To WV Code Section 8-31-1

Mayor Karos opened the public hearing at 6:33 PM. As no one came forward for or against the agreement, the public hearing was closed at 6:33 PM.

6. Approve March 12, 2015 Regular Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the March 12, 2015 Regular Meeting Minutes. Motion carried unanimously.

7. Approve March 24, 2015 Special Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Wachtel, to approve the March 24, 2015 Special Meeting Minutes. Motion carried unanimously.

8. Approve February 2015 Administrative and Financial Report

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve the February 2015 Administrative and Financial Report. Motion carried unanimously.

9. Presentations

a. Wastewater Treatment Plant Project Update—Mr. Steve Knipe, Utilities Director

Mr. Knipe stated that there has been a big increase in activity in the past few months. The concrete portion of Phase One of the MBBR has been substantially completed and several pieces of mechanical equipment are in place, some of which have been tested. He also stated that there is activity at other pump stations and at the headworks facility. Several structures are up and will be receiving trusses and roofing soon.

Councilman Knowles commended Mr. Knipe and other staff on the project.

Councilman Anderson asked if he was correct in his understand that this project is costing \$51M. Mayor Karos stated that he believe it is actually \$53M. Mr. Knipe stated that those figures are correct. Councilman Anderson stated that the local papers stated that the increased sewer rates go into effect on July 1 and asked how long the City will be paying for the project. Mr. Knipe stated that he believes the debt service is scheduled for twenty years. Councilman Anderson added that local citizens will be paying the rate and cautioned those seeking election in 2016 that those citizens may not be happy about the increases.

Councilman Wachtel responded that the project is made necessary by a federal mandate and that the City was fortunate to receive a substantial grant from WV lottery revenues to keep the rates as low as possible.

Councilman Anderson replied that grant money comes from the EPA, which he believes to be a “black government agency” and he is concerned that citizens will not appreciate the increase on their bills.

17 L. Approve/deny Resolution 2015-07 authorizing HRI Inc.’s Application for April Payment #16 --\$988,088.90

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve Resolution 2015-07. Motion carried unanimously.

17 M. Approve/deny Change Order #11 between the City of Martinsburg, O’Brien and Gere Engineers, Inc., and HRI, Inc. for the WWTP Upgrade Project--\$109,920.00

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve Change Order #11. Motion carried unanimously.

b. Martinsburg-Berkeley County Convention and Visitor’s Bureau Update—Laura Gassler

Laura Gassler, Executive Director of the CVB, gave an update stating that many old issues had been cleared up in 2014, putting the CVB in a great financial position. She spoke about several programs that the CVB has financed, including a docent program for area museums, various community grants to provide advertising dollars and a geocaching initiative. Ms. Gassler stated that Berkeley County WV is 3rd in the United States in “favorites” points on geocaching.com and that the CVB will kick off a third trail in 2015.

Ms. Gassler spoke about the economic impact of attracting film crews to produce in Berkeley County. She stated that the two films shot in the area last year resulted in 7500 room nights, in addition to the increased business in various restaurants and retail establishments. Ms. Gassler also mentioned the CVB’s new website and mobile application, which will direct visitors to nearby hotels, restaurants and shopping venues.

Coming up in 2015 is the Oddfest, which will showcase various unique foods, items or activities as well as a program in line with the State tourism emphasis, which is “Get out and Play”, encouraging visitors and residents to enjoy outdoor activities at State parks and other locations.

c. ABC Zoning Form—The HUB Co-op, LLC—126 E. Burke Street

Robert Johnson, Welltown School Road, owner of the HUB, was present for the request.

After ensuring the Police Chief had no concerns, Council indicated that the form would be forwarded to the ABC without comment.

8. Petitions From Citizens

Mr. Richard Anderson, 632 Winchester Avenue, and a member of the NAACP addressed Council regarding hiring process in the Police Department. He referenced a quote from the City Recorder stating that the application process is colorblind and stated that he believes that is not the case as 99% of the Police Department is white. He stated that there have been a few recent glimmers of hope, but that the process still needs some attention and tweaking.

Mr. Hubert Smith, 2860 Cherry Run Road, NAACP, agreed, stating that employment practices are not up to par and need to be changed.

Mark Baldwin explained that the hiring of police and firefighters is a bit different from other hiring processes, that there is a Civil Service process which involves an exam, which gives the City a list of individuals it must hire from. He stated that the City and NAACP are attempting to work together to develop a way to get applicants from a diverse community. He stated that applicants do not have to wait until a notice has been posted to apply, applications are accepted at any time and those applicants are contacted via mail when a test has been scheduled. Mr. Baldwin stated that the City makes every effort to ensure that all applicants are notified.

Tom Johnson, 901 Hillcrest Drive, asked about the Tennessee Avenue bridge, which has been closed for approximately six months. He stated that he had seen in a news report that the DOH does not work on nor fund projects in the winter months, yet the bridge was closed in October. He stated that he understands this is a State project and asked if Council had any recommendations of people for him to contact at the State level. City Manager Mark Baldwin replied that he understands Mr. Johnson's frustration and agreed that the timing was unfortunate. He added that the bridge is expected to be completed by the end of May, and should be a very nice amenity when completed.

David Anderson, 104 Music Court, addressed Council about City parks. He thanked Council for offering the money to Parks and Rec to keep the Lambert pool open. He stated that he has been working with Councilman Boyd regarding neighborhood parks, Martin Luther King Jr. Park and Leeland Park in particular, but more needs to be done. He stated that these small neighborhood parks are as important as large parks such as War Memorial and would like to encourage Parks and Rec to pay them more attention.

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

- a. Paint the Town Purple Proclamation—to be read on the Square at noon on May 4, 2015
- b. Martinsburg/Berkeley County CVB February 2015 Financial Report
- c. Eastern Panhandle Regional Planning and Development Council (Region 9) November 2015 Meeting Minutes and 2015 Air Quality Management Plan
- d. Hagerstown/Eastern Panhandle Metropolitan Planning Organization January 2015 Meeting Minutes and FY 2014-2017 Berkeley County Projects
- e. Transportation Alternatives Program Grant Award Certificate for FY 2014
- f. Eastern Panhandle Transit Authority March 2015 Minutes and Financial Report

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

12. Reports of Chairpersons of Council Standing Committees

There were no reports of Chairpersons of Council Standing Committees.

13. Report of Mayor

a. Reminder of Special City Council meeting for Tuesday, April 21, 2015 at 5 PM for purposes of approving FY 2015 levy rates and other business as needed.

Councilman Wachtel and Councilman Knowles both indicated they would be out of town.

b. Reminder of Take Pride in your Community Spring Clean-up Event—May 16, 2015

c. Notification of Public Hearing to present the City of Martinsburg's CDBG and HOME Annual Action Plan—to be conducted by Nancy Strine, CDBG Administrator—Thursday, April 30, 2015 at 4:30 PM, prevailing time.

d. Reappoint Ms. Melody Jones (nee Wise) to the Housing Authority—term 5/4/15-5/4/20

Motion made by Councilman Knowles, seconded by Councilman Etherington, to reappoint Ms. Jones through 5/4/2020. Motion carried unanimously.

e. Reappoint Mr. Roger Engle to the Martinsburg-Berkeley County Parks and Recreation Board—5/9/2015-5/9/2018

Motion made by Councilman Etherington, seconded by Councilman Boyd, to reappoint Mr. Engle through 5/9/2018. Motion carried 5-1, Baker no.

f. Reappoint Ginger Grimes, Mary Boyd Kearse and Walter Bowers to the Shade Tree Commission—term 5/9/2015-5/9/2018

Motion made by Councilman Etherington, seconded by Councilman Knowles, to reappoint the Ms. Grimes, Ms. Kearse and Mr. Bowers to the Shade Tree Commission through 5/9/2018. Motion carried unanimously.

g. Report the following vacancies: Parking Authority (2), Human Relations Committee (5) and Historic Preservation Review Commission (1)

Mayor Karos stated that he would like to have these vacancies filled in June, at the latest, so he would like to have some names to consider by the end of May.

14. Report of City Attorney

None

15. Report of City Manager

a. Projects Update

The City Manager had nothing further to report.

b. Train Station Corridor Grant (Total \$192,500: \$154,000 grant/\$38,500 City Match)

Mr. Baldwin stated that the grant is for decorative lights, banners and crosswalks in the Train Station Corridor. He stated that City had originally requested brick street restoration, but this was deemed ineligible for the grant. For the current year, these items, when considered historical resources, are now eligible, but the grant awarded is from 2014. The City has an application in for 2015 which requests this restoration, so it is still a possibility.

c. Discuss Local Implementation Funding Grant Program for Stormwater Management

Mr. Baldwin received notification from Region 9 for additional grant opportunities for SWM for the MS4 projects. He stated that the City may be eligible for two grant programs; one of which would be a continuation of the existing Feasibility grant which will conclude in June. The second phase outlines methodology and formulas needed to determine how to proceed with funding the MS4 program, such as creation of a new department and utility billing.

The second grant helps to fund GIS mapping of the stormwater system, which is a necessary element to many objectives in the MS4 plan. He stated that it would be expedient to examine and map the stormwater and sanitary sewer systems at the same time, a process which will be very lengthy and complicated and is estimated to cost approximately \$580,000. The grant, if awarded, would provide \$290,000 of this and the City would be responsible for the remaining 50%. This process must take place even if the grant is not awarded.

He stated that there is a third grant which develops operating procedures for the MS4 program, but it is a regional program and will be handled by Region 9 with an in-kind services match from the City.

Mr. Baldwin stated that he is asking for a consensus to move forward with application for the grant funds, as the applications are due by April 15. He added that a consensus does not commit the City financially. The general consensus was to apply for the funding.

16. Unfinished Business

17. New Business

a. Approve/deny Non-exclusive Cable Franchise Agreement between the City of Martinsburg and Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC (see Item 5 for documentation)

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the Non-exclusive Cable Franchise Agreement between the City of Martinsburg and Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC. Motion carried 5-1, Baker no.

b. Approve/deny Resolution 2015-08 Authorizing George Karos, Mayor of Martinsburg, to File an Application and Enter Into a Contractual Agreement with the West Virginia Development Office for the Purpose of Acquiring Funds through the Community Participation Grant Program for an ADA Accessible Restroom on the West End of Ambrose Park

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve Resolution 2015-08. Motion carried unanimously.

c. Approve/deny request from Berkeley Heights Elementary to conduct 5K run/walk along submitted route on Saturday, April 18, 2015 for the purpose of raising funds for playground equipment for special needs children, contingent upon proof of adequate liability insurance

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the request from Berkeley Heights Elementary, contingent upon proof of adequate liability insurance. Motion carried unanimously.

Chief Miller voiced no concerns.

d. Approve/deny request from Berkeley Arts Council to engage in a “Plein Air” painting event in conjunction with Heritage Day on Saturday, May 9, 2015 in various locations downtown, contingent upon proof of adequate liability insurance

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the request from the Berkeley Arts Council, contingent upon proof of adequate liability insurance. Motion carried unanimously.

e. Approve/deny submission of City of Martinsburg Draft Five-Year Stormwater Management Plan to the WVDEP

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the submission of the City of Martinsburg’s draft five-year stormwater management plan. Motion carried unanimously.

f. Approve/deny Acceptable Use Policy for City of Martinsburg owned mobile devices (IPads, etc.)

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the Acceptable Use Policy. Motion carried unanimously.

g. Approve/deny Finance Director vacation leave accrual of 165.75 hours for additional time worked (285 hours) implementing new financial software

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the Finance Director’s vacation leave accrual of 165.75 hours. Motion carried unanimously.

h. Approve/deny bids for street repaving and sidewalks, as recommended by the City Engineer--\$196,957.75—Jefferson Asphalt Products, Co. (JAPCO)—CDBG Funds--\$178,666.00

City Manager Mark Baldwin explained that \$178,666 is available in CDBG funds and the remainder will come from the unencumbered balance in the General Fund.

Councilman Baker asked if the bid specifications are appropriate to ensure quality work. City Engineer Michael Covell replied that the specifications are for typical treatments and the work will be finished early in the year, so there will be no cold weather issues.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the bids as recommended. Motion carried unanimously.

i. Approve/deny Memorandum of Understanding (MOU) between the City of Martinsburg and the Eastern Panhandle Regional Planning and Development Council (Region 9) regarding Sourcewater Protection Plan

Utilities Director Steve Knipe explained that this is an update to the Wellhead Protection Plan already in place and will encompass surface waters. Mark Baldwin stated that the Bureau of Public Health is funding this initiative and there will be no cost to the City. Mr. Knipe added that Berkeley County is doing the same.

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the MOU between the City of Martinsburg and the Eastern Panhandle Regional Planning and Development Council for Sourcewater Protection Planning. Motion carried unanimously.

j. Approve/deny purchase of Forcible Entry Door Training Device--\$6,735—Troxfire Training Solutions, LLC (sole supplier)—Fire/EMS Fund

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the purchase of a Forcible Entry Door Training Device as recommended. Motion carried unanimously.

k. Approve/deny Engagement of Placement Agent or Underwriter and Disclosure Pursuant to MSRB Rule G-17 between the City of Martinsburg and Crews & Associates

Mr. Baldwin explained that this sets an agent on record for the TIF district in the event that the City of Martinsburg must refinance the bonds do to a less than desired outcome for the district. Finance Director Mark Spickler stated that he is almost 100% certain this is likely and has spoken with the current bond holder who has expressed verbal interest in bidding again, should the bonds be refinanced.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the Engagement of Placement Agent as submitted. Motion carried 5-1, Anderson no.

l. Approve/deny Resolution 2015-07 authorizing HRI Inc.'s Application for April Payment #16 --\$988,088.90

See item 9 A.

m. Approve/deny Change Order #11 between the City of Martinsburg, O'Brien and Gere Engineers, Inc., and HRI, Inc. for the WWTP Upgrade Project--\$109,920.00

See item 9 A.

16. Executive Session

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to go into Executive Session for legal matters at 7:25 PM. Motion carried unanimously.

Adjournment

Motion adjourned by unanimous consent at 7:45 PM.

/s/ George Karos, Mayor

/s/ Gena Long, City Recorder