

**City Of Martinsburg  
Regular Council Meeting  
August 21, 2014  
The J. Oakley Seibert Council Chambers**

With a quorum present, the regular session of the Martinsburg City Council was called to order by Mayor George Karos at 6:30 p.m. The following Council Members were present: Don Anderson, Dennis Etherington, Jason Baker, Gregg Wachtel, and Kevin Knowles. Not present was Max Parkinson. Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder; Chief Paul Bragg, Martinsburg Fire Department; Chief Kevin Miller, Martinsburg Police Department, Steve Knipe, Utilities Director; Jeff Wilkerson, Public Works Director; Mark Spickler, Finance Director, Nancy Strine, Community Development Administrator, and; Michael Covell, Planning Director/City Engineer

**3. Salute to Flag**

Councilman Etherington led the Salute to the Flag.

**4. Prayer—**

Pastor Ujima Tyson delivered the invocation.

**5. Approve July 10, 2014 Regular Meeting Minutes**

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

**6. Approve July 29, 2014 Special Meeting Minutes**

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

**7. Approve June 2014 Administrative and Financial Report.**

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

**8. Presentations**

There were no presentations.

**9. Petitions From Citizens**

There were no petitions from citizens.

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

- a. Berkeley County Animal Control May 2014 Incident Report
- b. Historic Preservation Review Commission July 07, 2014 Meeting Minutes.
- c. Letter from Comcast, dated August 05, 2014, regarding upcoming program changes.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to receive and file items 10A-10C. Motion carried unanimously.

### **11. Reports of Chairpersons of Council Standing Committees**

#### **a. Council as a Whole August 11, 2014 Meeting Minutes**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the minute and enter them as part of the record. Motion carried unanimously.

#### **Council as a Whole Committee Minutes**

Monday, August 11, 2014—4:30 PM.

**Present:** Mayor George Karos, Kevin Knowles, Jason Baker, Don Anderson, Dennis Etherington

**Others in attendance:** Mark Baldwin, City Manager, Mark Spickler, Finance Director, The Journal and Herald Mail staff and Bree Myers, Director, *for the kids, by George* Children's Museum

**Unable to Attend:** Gregg Wachtel

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

#### **1. a. General Fund Unassigned Fund Balance (Unencumbered Balance):**

Mark Spickler, Finance Director, provided an overview and explanation of the General Fund Unassigned Fund Balance (Unencumbered Balance).

#### **b. City Manager Recommendations/Committee Discussion**

City Manager Mark S. Baldwin provided an overview of recommendations for the FY 2014-2015 unassigned balance. Consensus of the Committee was to forward the City Manager recommendations to City Council for approval.

#### **c. FY 2014-2015 Budget—Going Level Overview**

Finance Director Mark Spickler provided an overview of the going level report.

**d. FY 2014-2015 Employee Pay Increase Recommendation/Committee Discussion**

City Manager and Finance Director provided an overview of the recommendation for a 1.5% COLA for all eligible City employees, retroactive to July 1, 2014. It was stated, per the going level report, a merit increase for employees would not be recommended for this fiscal year.

Consensus of the Committee was to recommend to City Council the following: Adopt Resolution amending the Pay Grade Plan to reflect a 1.5% COLA for all eligible City employees, retroactive to July 1, 2014 (See attached pay grade plan).

**e. City Employee Wellness Program**

After a great deal of discussion, consensus of the Committee was to offer a wellness program (gym membership) for City employees, which would be paid 50% by the City and 50% by the participating employee. Quotes for the fitness center to be solicited by the City. Those in favor of this action were Councilmen Anderson, Etherington and Parkinson. Councilmen Baker and Knowles recommended that the City pay 100% of the cost for the membership.

**f. Alcohol Policy for City Facilities** (presently prohibited except for Market House restaurant space & American Legion)—Mayor Karos recommended that our current policy prohibiting alcohol at City facilities be maintained as-is and that requests for alcohol at special events be decided on a case-by-case basis. Consensus of the Committee was to concur with the Mayor's recommendation

**12. Report of Mayor**

Mayor Karos had nothing to report.

**13. Report of City Attorney**

**a. Update on Cable Franchise Agreement between the City of Martinsburg and Comcast**

City Attorney Kin Sayre reported that additional language was still expected from Comcast.

**b. Complaint of Chief Kevin Miller concerning the maintenance of a nuisance at 1017 S. Queen Street, Martinsburg, WV 25401 in violation of Martinsburg City Code Section 1101.01, 1101.02, 1101.04, 1101.06, 1101.07, 1101.08 and 1101.09**

Mayor Karos suggested scheduling a special Council meeting for Tuesday, September 16, 2014 at 5:30 PM.

David Hammer, Hammer, Ferretti & Schiavioni Law Firm, representing Dirty Dawg Saloon, requested a continuance, as he felt that he and his client would be unprepared for that date, as his client had not yet been served.

Following some discussion between Mr. Hammer and Mr. Sayre about the different procedures for criminal and civil action, motion was made by Councilman Wachtel, seconded by Councilman Etherington, to schedule a special meeting on Tuesday, September 16, 2014 at 5:30 PM.

Mr. Hammer stated that he would apply to circuit court for an injunction to allow him time for a FOIA and discovery. Mayor Karos stated that Mr. Hammer was free to do so.

#### **14. Report of City Manager**

##### **a. Projects Update**

The City Manager had nothing further to report.

#### **15. Unfinished Business**

There was no unfinished business.

#### **16. New Business**

##### **a. Approve/deny Resolution 2014-11: *General Fund Budget Revision #2 for FY 2014-2015***

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve Resolution 2014-11. Motion carried 4-1, Anderson no.

##### **b. Approve/deny Council as a Whole Committee recommendation for FY 2014-2015 employee pay increase (1.5% COLA for all eligible employees) retroactive to July 1, 2014**

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve the recommendation for a 1.5% COLA for all eligible employees, retroactive to July 1, 2014.

Councilman Baker asked why Council should not approve a merit increase rather than a COLA. City Manager Mark Baldwin explained that he and Finance Director Mark Spickler could only recommend a 1.5 total increase, in order to do merit increases, the average would be 1.5% and some employees may receive a 0-.25%.

Councilman Wachtel called for the question and the motion carried unanimously.

##### **c. Approve/deny Resolution 2014-12: *Resolution Increasing Minimum Ranges for each Paygrade by 1.5% for Fiscal Year Beginning July 1, 2014***

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2014-12. Motion carried unanimously.

**d. Approve/deny Council as a Whole Committee recommendation for employee wellness program for eligible employees (Membership cost 50% City, 50% participating employee)**

Councilman Baker asked if, dependent on cost, if Council may revisit the idea of the City paying 100% of the cost. Mayor Karos stated that it would be revisited.

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

**e. Approve/deny request from Trinity Temple Church of God to close a portion of Tuskegee Drive on Saturday, September 20, 2014 from 8 AM until 5 PM for purposes of a community wellness event, contingent upon proof of adequate liability insurance.**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the request from Trinity Temple Church of God to close a portion of Tuskegee Drive on Saturday, September 20, 2014 from 8 AM until 5 PM for purposes of a community wellness event, contingent upon proof of adequate liability insurance. Motion carried unanimously.

**f. Approve/deny bid for three new ambulances for the Martinsburg Fire Department—FESCO Emergency Sales--\$272,488 each, \$817,464 gross—(\$39,900 trade-in)—total cost \$778,464.**

Councilman Baker asked why the Chief had recommended the highest bid. Chief Bragg explained that FESCO was the only bidder that was able and willing to provide the specifications requested. He stated that he had visited one of the other bidder's locations and had trouble speaking to an engineer to explain the needs of the Martinsburg Fire Department. He pointed out examples, such as that FESCO was the only company to crash the rear portions of the ambulances.

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the purchase of the ambulances from FESCO, as requested. Motion carried unanimously.

**g. Approve/deny Martinsburg First Church of the Nazarene's request to close a portion of Vicky Bullett Street from N. High Street to Albert Street from noon until 4 PM on Saturday, September 13, 2014 for purposes of a community event, contingent upon proof of adequate liability insurance**

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve Martinsburg First Church of the Nazarene's request to close a portion of Vicky Bullett Street from N. High Street to Albert Street from noon until 4 PM on Saturday, September 13, 2014 for purposes of a community event, contingent upon proof of adequate liability insurance. Motion carried unanimously.

**h. Approve/deny request from the Historic McFarland House to close a section of S. Queen Street for purposes of a community/charity event on Monday, September 15, 2014 from 4:30 PM until 10 PM, contingent upon proof of adequate liability insurance.**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve request from the Historic McFarland House to close a section of S. Queen Street for purposes of a community/charity event on Monday, September 15, 2014 from 4:30 PM until 10 PM, contingent upon proof of adequate liability insurance. Motion carried unanimously.

**i. Approve/deny request from *for the kids*, by George Children's Museum to hold a fundraiser on November 1, 2014, including a letter of support to the ABC Commission, Caperton Train Station.**

Councilman Etherington asked for clarification as to whether this approval would allow for alcohol inside the Train Station or in the parking lot. Mayor Karos stated that it was his understanding that it would temporarily allow for alcohol to be served and consumed inside the structure.

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve the request from *for the kids*, by George Children's Museum to hold a fundraiser on November 1, 2014, including a letter of support to the ABC Commission, Caperton Train Station. Motion carried 4-1; Anderson no.

**j. Approve/deny HRI Payment Application #1 for Task C—Alternate Roadway and Secondary Sewer Line--\$218,004.53**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve HRI's Payment Application #1 for Task C. Motion carried 4-1; Anderson no.

**k. Approve/deny HRI August Payment Application #8 for the WWTP Upgrade Project, \$779,73.17**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve HRI's August Payment Application #8. Motion carried 4-1; Anderson no.

**l. Authorize George Karos to sign agreement to reserve FY 2012 CHDO Funds for Habitat for Humanity of the Eastern Panhandle Inc., in the amount of \$35,422 for construction of one new affordable housing unit**

Nancy Strine, Community Development Administrator, informed Council that these funds would assist for the construction of Lot 14 in Auburndale and had been approved by the HOME Consortium.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to authorize George Karos to sign agreement to reserve FY 2012 CHDO Funds for Habitat for Humanity of the Eastern Panhandle Inc., in the amount of \$35,422 for construction of one new affordable housing unit. Motion carried unanimously.

**m. Approve/deny executing Memorandum of Agreement to transfer HOME Match Credit with Habitat for Humanity of the Eastern Panhandle, Inc.**

Motion made by Councilman Knowles, seconded by Councilman Baker, to approve the executing Memorandum of Agreement to transfer HOME Match Credit with Habitat for Humanity of the Eastern Panhandle, Inc. Motion carried unanimously.

**n. Approve/deny Joint Funding Agreement (JFA) between the Department of the Interior U.S. Geological Survey and the City of Martinsburg for partial operation and maintenance of a stream gaging station on Tuscarora Creek in Martinsburg, October 1, 2014-September 30, 2015--\$4,000 (Utilities Department)**

Councilman Baker asked what benefit this station provided to the City. Utilities Director Steve Knipe replied that the station provides considerable data used in various operations. Councilman Baker felt that this was of no real use to taxpayers.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Joint Funding Agreement (JFA) between the Department of the Interior U.S. Geological Survey and the City of Martinsburg for partial operation and maintenance of a stream gaging station on Tuscarora Creek in Martinsburg, October 1, 2014-September 30, 2015--\$4,000 (Utilities Department). Motion carried 4-1, Baker, no.

**o. Confirm Change Order #1 for street repaving contract--\$34,195 (repairs to block of S. Queen Street due to water main break)**

City Manager Mark Baldwin explained that there may be some money left in the General Fund earmarked for repaving, but Council needed to determine where additional fund would come from, if needed. Mark Spickler, Finance Director, recommended paying the entire amount from the General Fund.

Councilman Baker asked why the base course was not being repaired, only the wearing course. City Engineer Mike Covell responded that the estimate was to remove only the top 1 and ½ inches to restore riding surface so the street would be smooth. Councilman Baker recommended milling and replacing the base also, to ensure quality work.

Councilman Knowles asked if restoring only the wearing course would increase probability of future problems. Mr. Covell replied that he could not be sure until he saw the condition of the base, but the reason for the repair was to correct for several utility cuts in the area, and as the

road is a State road, if it needs to be rebuilt entirely, the State should be contacted. He added that the additional cost to replace the base course would be approximately \$30-40K in addition to considerable time in which the road would be closed.

Public Works Director Jeff Wilkerson added that he was comfortable with the condition of the sub-grade in that area.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to confirm Change Order #1 in the amount of \$34,195. Motion carried 4-1, Baker, no.

**18. Executive Session**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to go into executive session for personnel and real estate matters at 7:13 PM. Motion carried unanimously.

**Adjournment**

Motion adjourned by unanimous consent at 7:25 PM.

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George Karos, Mayor

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Gena Long, City Recorder