

**City Of Martinsburg
Regular Council Meeting
Thursday, December 10, 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, 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, and Fire Chief Paul Bragg.

3. Salute to Flag

Councilman Knowles led the Salute to the Flag.

4. Prayer—

Mayor Karos led the invocation.

5. Approve November 12, 2015 Regular Meeting Minutes

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

6. Approve October 2015 Administrative and Financial Report

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the October 2015 Administrative and Financial Report. Motion carried unanimously.

7. Presentations

a. Utilities Director Steve Knipe and Bill Meinert, O'Brien and Gere, update on WWTP Upgrade Project (See Items 15 L-N)

Mr. Knipe gave an update on the construction of the new Wastewater Treatment Plant, which is slightly behind original projected completion schedules. Mr. Knipe stated that the estimated time of substantial construction is March 31 and final completion is expected at the end of July.

Mr. Meinert explained the current change orders.

Motion made by Councilman Wachtel, seconded by Councilman Collinson to move items 15 L-N up on the agenda.

15 l. Approve/deny Resolution 2015-32 Authorizing HRI, Inc.'s Application for December 2015 Payment #24 for the WWTP Upgrade Project--\$1,014,549.85.

Motion made by Councilman Wachtel, seconded by Councilman Boyd, to approve Resolution 2015-32. Motion carried, Anderson no.

15 m. Approve/deny Change Order #14 between the City of Martinsburg, HRI and O'Brien and Gere Engineers for the WWTP Upgrade Project Construction--\$129.048

Motion made by Councilman Knowles, seconded by Councilman Collinson to approve Change Order #14 as presented. Motion carried, Anderson no.

15 n. Approve/deny Change Order #5 between the City of Martinsburg and O'Brien and Gere Engineers for WWTP Upgrade Project Engineering--\$432,274

Motion made by Councilman Knowles, seconded by Councilman Collinson to approve Change Order #5 as presented. Motion carried unanimously.

8. Petitions from Citizens

Berkeley County Council President Doug Copenhaver stated that the County's intent is to install a drug rehabilitation center at 750 Baltimore Street, as they feel it is necessary to help treat the drug epidemic affecting all citizens in WV and the nation. President Copenhaver stated that he notices there is a continuing trend of incarceration for addicts, rather than treatment, and that the majority of the medical community considers addiction an illness as opposed to a criminal act. He estimated that 9 out of 10 heroin users became first addicted to prescribed opiates. President Copenhaver stated that the area does not have sufficient resources for the treatment process for those who have expressed a readiness to get clean and that the County Council is very passionate about changing the way the epidemic is treated. President Copenhaver stated that the County, upon another reading of the Zoning Ordinance, feels that all buildings owned by the County Council are public buildings, and the Martinsburg Zoning Ordinance allows for public buildings to operate in all zoning districts. For this reason, the Berkeley County Council requested to be allowed to withdraw the request for rezoning of 750 Baltimore Street.

City Attorney Kin Sayre stated that the Zoning Ordinance states that Council can allow an application to be withdrawn based on a majority vote. The County would then have to go back to the Planning Commission if they determine another application is needed. If the City Council decides not to allow the withdrawal, they would continue on the decision to approve or deny the reading of the Ordinance.

Motion made by Councilman Wachtel, seconded by Councilman Collinson to move item 15 A up on the agenda. Motion carried unanimously.

Motion made by Councilman Knowles, seconded by Councilman Boyd, to allow the County to withdraw their application for a Map Amendment.

County Council President Copenhaver stated that he understands that there are concerns about what would happen with the property if the County's plans fall through. He replied by stating that the County always follows through with their plans, and referenced the Public Safety Building which is now in a converted grocery store. President Copenhaver stated that allowing the withdrawal would allow the property to stay industrially zoned and the County understands they would be required to work with the Planning Commission and, possibly, the Board of Zoning Appeals for use.

County Attorney Norwood Bentley reiterated that if the application is withdrawn, the property will remain in its current zoning. He stated that the building is intended for public use, and is being used for public use now. He stated that, while the County does intend to use the property as a recovery center, he does not believe a zoning reclassification is necessary.

Councilman Wachtel stated that the County seems to believe that any government owned building is inherently a public building. He asked if they were still required to abide by Zoning laws.

Mr. Sayre stated that the Planning Commission or Board of Zoning Appeals would have to determine if the use is permitted by Special Exception or by right in the General Industrial Zoning District.

Mayor Karos state that Council and the residents may not want that property changed from Industrial Zoning because that zoning classification is so restrictive. He stated that community members are also concerned about the proposed rehab center.

A roll call vote on the motion to allow the County to withdraw the request was as follows: Yes—Anderson, Knowles, Boyd. No—Wachtel, Etherington, Collinson & Baker. Motion failed 4-3.

County Attorney Bentley requested that the smaller parcel originally listed on the application be excluded from the request for zoning reclassification. Councilman Wachtel asked why this was being reduced and Mr. Bentley replied that it is not necessary as they intend to keep the area as green space and including it just adds complications to the matter.

Mayor Karos asked why the original application was not submitted that way. Mr. Bentley replied that they just did not think of it at the time.

Councilman Collinson asked if reducing the area would invalidate the petition signed by more than 20% of the adjacent or nearby property owners which requires a super majority vote of Council to pass the Map Amendment. Mr. Sayre stated that, based on verification of signatures and the location of the property owners, 33% of the affected land owners of the smaller parcel had signed the petition, which is more than the required 20%, therefore the reduction in sized of the proposed Map Amendment would not change the requirement for a $\frac{3}{4}$ vote of Council to pass.

Motion made by Councilman Baker, seconded by Councilman Knowles, to allow the County Council to reduce the requested Map Amendment from the original area to 5.4 acres. A Roll Call Vote was as follows: Yes—Knowles. No—Anderson, Wachtel, Etherington, Collinson, Boyd & Baker.

Pamela Swartwood, 107 S. Georgia Avenue, thanked Council for voting no on the request to withdraw the zoning request and allowing those present to speak regarding the request. Ms. Swartwood stated that she was a long term employee of the County Council, having retired seven years ago. She has spoken several times about the continued misuse of County taxpayers' money, but that the County Council has not listened to the concerns of the citizens. Ms. Swartwood stated that it is projected to cost over \$10M of tax revenue to rehabilitate the building and listed the following issues: public wishes have been ignored; tied votes have been manipulated, the tie at the City Planning Commission meeting having been broken by the County's own banker; no set plan of action has been presented and no debt service information is available. Ms. Swartwood stated that the County is seeking the zoning amendment to further individual Councilmembers' personal gains and asked the City Council to deny the request.

Tiffany Arredondo, N. Maple Avenue, stated that she is a recovering addict. She reported that she had to travel to Clarksburg, WV to find a treatment facility to help her. In July 2015, Ms. Arredondo's sister was court ordered to a treatment facility, but all WV rehab facilities were full and her sister died of an overdose while waiting on a bed. Ms. Arredondo stated that addicts are everywhere, in every neighborhood and that addicts are not bad people. She stated that many addicts are recommended to continue drug use while waiting on a treatment facility so that they do not experience sickness associated with withdrawal. It is difficult to find a recovery center or rehabilitation facility because the WV facilities are often full and insurance will not always cover treatment in an out-of- state facility.

Ms. Mildred Seavers, Eagle School Road, stated that her family has been impacted by drug addiction. She stated that she has worked as a nurse for many years, and with recovering addicts since 1976, both in public and private institutions. Ms. Seavers stated that addicts cannot simply stop using drugs, they must be helped by other recovering addicts. Everyone is affected by drug use, not only the users themselves. She stated that a program is needed now, not years in the future. She stated that she has worked with the Martinsburg Police Department, turning in names of users and dealers, and supports the efforts of Corporal Garcia, who wishes to establish a recover/community center at the Interwoven Mill complex. Ms. Seavers stated that something is needed quickly, but that detox and day recovery do not work in successful treatment programs.

Ms. Dana Knowles, West Virginia Avenue and business owner on N. Queen Street, stated that this is a meeting about zoning. She asked Council not to arrive at a decision without knowing all the facts and that many of those in the audience are basing their decision on fear of the unknown. Ms. Knowles stated that people are aware that there is a problem, but do not personally like the proposed solution. She stated that she would welcome a recovery center, such as the one proposed, in her neighborhood. She is concerned that people have no faith in the County Council or the City Council to make right-minded decisions. She concluded by saying that the right thing to do is not always the easy thing to do.

Mr. James Boyd, Falling Waters, stated that he is 25 years recovered. Mr. Boyd stated that he has a relative who works in drug enforcement and prevention in New Jersey, and that dealers there say they love Martinsburg because they have heard that Council intends to turn down a recovery center. He proposed other solutions such as getting into schools to teach children about the perils of drug use and to show addicts how to recover by refocusing energy. Mr. Boyd stated he was in rehab eight times before he was able to begin to recover. He also stated that much drug use is caused by economic inequality.

Mr. Larry Smith, Duchess Way, stated that he owns two properties within view of the proposed facility, which he has maintained for many years. Mr. Smith is opposed to the proposal, stating that the location is not appropriate. He stated that the County wishes to put a rehab facility in the City of Martinsburg, but did not look outside the City for a more suitable location. He stated that when the center was first discussed, the County stated that it would be for Berkeley County residents only, by the second meeting, other counties were included. He is concerned that the County is unclear or vague about plans and details. He understands they have sought opinions of experts, but experts do not take into consideration the particulars of Martinsburg. He stated that there are facilities that help with rehabilitation. He expressed compassion of the deaths related for drug use and stated that the stories were very hard to listen to, but that Council also has to listen to the people who own property in the area who have worked to build a life there. He asked where residents and property owners would go with problems caused by the facility, as the County Council doesn't want it in their backyards, either.

Dennis Martin, Sycamore Lane, stated that he is opposed to the proposed zoning amendment. He said that he does care that people are dying, but he does not believe that the County Council is expressing care for the residents of the area. He stated that people are using substance abuse and mental illness as excuses for criminal activity and that it is to the point that taxpayers have to pay the cost of needle exchanges in order to prevent even greater epidemics, such as HIV and Hepatitis. Mr. Martin is concerned about trends in the justice system and is concerned that the County will be sending more alcohol and drug users into residential neighborhoods. He stated that the resources in Alexandria, which has a similar facility, far

exceed those of Martinsburg and is concerned that additional stress will be placed on City Police Officers. He accused the County of failing to answer direct questions with direct answers, instead offering contradictory answers each time a question is asked. Mr. Martin stated that, in order to be sustainable, the facility will have to keep the beds full, which may mean offering services to individuals from all over. He stated that the purpose of zoning is to prevent negative impact on communities. The structure is also in a flood plain and has flooded on several occasions, according to Mr. Martin. He asked if the ramifications have been considered if this facility floods with individuals living inside it. He stated that this facility would be better situated near the jail.

Ms. Kathy Butts, Falling Waters, stated that heroin is already a problem near Oatesdale Park, that needles have been found there. Ms. Butts stated that she lost her daughter to a heroin overdose in November of 2014. Prior to that, she had attempted to find help, but none was available. Many individuals are seeking help, but they have not found themselves in the criminal justice system, so they have not been court ordered to rehab. Ms. Butts stated that people are dying while on waiting lists. If the rehab is successful, crime rates and jail costs will decrease significantly, and Ms. Butts commended the Berkeley County Council on the research they have done. She asked what research had been done about crime rates in areas with functional recovery centers by those opposed to the request. Ms. Butts stated that she felt the location on Baltimore Street was perfect; it is not downtown, but is within walking distance. She also stated it is important to note that this is not a methadone clinic, but a facility which will provide the area with functional, productive individuals, rather than attracting drug dealers and users. She summed up her petition by adding that it is going to take everyone to make a difference, and asked the City Council to do their part.

Dee Pierce, Rhinestone Court, stated that she is the grieving parent of a heroin addict. She stated that she cannot find help for her daughter. She added that she believes that, while first time substance abuse is a choice, addiction is neither a choice nor a phase. She stated that if the City wants less drug dealers, it is important to ensure there are no customers for them to serve.

Robert Foster, W. Martin Street, stated that there is certainly a drug problem and that a rehab facility is necessary. He did not agree with the actions of members of Main Street Martinsburg, who he accused of arm-twisting to get petitions signed, and felt this was detrimental to Main Street's mission.

Charlie Spaulding, Spring Mills and owner of Bells and Bows, stated that he is opposed to the zoning change of 750 Baltimore Street, along with many other business owners. He stated that the proposed facility would attract questionable elements and threaten the safety of businesses and community members and be detrimental to the quality of life in Martinsburg. Mr. Spaulding stated that businesses depend on customers who feel at ease while shopping downtown.

Diana Cooper, TLC Photography, stated that she has worked in the behavioral health field and realizes how difficult it can be to locate a rehab facility with open beds. She stated that she is also a business owner in the downtown, but because she does not live in Martinsburg, she gets no vote. She admonished the County Council for trying to do an end run around the City's Zoning Ordinance and stated that their actions were despicable. Ms. Cooper stated that she would not have located her business in Martinsburg if she had known there was a possibility of rehab facilities locating in the downtown. Ms. Cooper suggested placing

the rehab facility near other medical facilities, as people already have a perception of downtown Martinsburg being an unsafe place.

Shelly Ratcliff, W. Race Street, stated that those opposed to the facility are concerned with the cost of the facility and the location in a residential neighborhood. She asked if location or money would be an issue if it were their families involved. Ms. Ratcliff stated that she lives near the 7-11 on the corner of King and Winchester Avenue and that she often sees prostitutes sitting on church steps, and asked if those were preferable to a rehab facility.

Laurie Stewart, 816 W. John Street, stated that she has been hearing many confusing and inaccurate comments. She said her daughter and son are addicts, which makes her hate living in Martinsburg, because there are no resources. She stated that the closest treatment facility is an hour away. She stated that she sought help with her daughter, and she was turned away by Berkeley Medical Center, Bethany House and Eastridge. She stated that this made her daughter feel hopeless and worthless, which is one reason addicts do not seek help and stay clean. She stated that she does not want to live in a town known for its substance abuse, and rather than move away, she has resolved to work toward making Martinsburg a better place. Ms. Stewart added that this is not a political issue, but an issue about helping people and cleaning up the town. The property at 750 Baltimore Street was not zoned at a time when Martinsburg had such substance abuse issues, and that while the building is in a flood plain, there is no request to build another structure. She stated that no one outside the City has offered an alternate location, and that recovery centers do not produce or multiply addicts. She considers the County's offer as a gift to the community.

Ms. Janesa Smith, Hedgesville, stated that she is hearing a lot of fear based responses and that she is personally affected by the addiction of a loved one. She stated that she had to take her loved one to a recovery center some distance away, but while visiting them, they stayed in the motels, ate at the restaurants and shopped in the community. Ms. Smith stated that it is important for the recovering addict to have family support. She also pointed out that Winchester, VA has recovery programs and halfway houses near schools and that the community is very supportive of the recovery efforts. Ms. Smith stated that addicts come from all walks of life, while she has never been an addict, she has attended a great number of meetings and seen the power of recovering addicts helping other recovering addicts.

Millie Mason, Falling Waters, stated that she moved here in 1998 and her son is an addict due to a broken ankle during high school football and developed an addiction to pain pills, and the addiction furthered when he took a job at a nearby pizza parlor and was introduced to other drugs. Ms. Mason stated that her son is a Martinsburg boy, and he needs help from the community of Martinsburg. She stated that her son is a young and handsome man and you could not tell from appearances that he is a drug addict, but she has been woken many times due to sickness from drug use. Ms. Mason stated that there is nothing in Martinsburg that would accept their insurance for him to get help, and she has had to take classes in Maryland to learn to administer counteractive drugs to stop a fatal heroin overdose. She asked that Council cut through the politics and create help for these addicts and their families.

Randall Everhart, High Street, stated that Martinsburg has many drug and alcohol traps for area youth. He stated that Eastridge is too full, often beyond their capacity, and addicts have filled hospital beds and those with

mental or physical health issues cannot get help because of the overcrowding. He stated that he would prefer to see treatment on the streets.

Sherry Rohrbaugh, Bunker Hill, stated that she is 29 years clean and sober. She stated that she had many challenges with the location of support groups, as they were kicked out several times from various locations that needed the space for something else. She is very grateful to Otterbein United Methodist for providing a safe, clean and permanent location. Ms. Rohrbaugh stated that addicts are sick and addiction should be treated as an illness. Not all addicts are criminals, but all addicts require assistance to recover.

Dan Dulyea, County Council, stated that he was representing Berkeley County and the City of Martinsburg. Mr. Dulyea stated that 25% of the jail bill comes from Martinsburg Police Department arrests, and this is paid for by the County. He further stated that all City Zoning Codes allow public buildings in every zoning district. At first, the County thought rezoning was the right thing to do, but that the recovery center and day reporting center will be a public building. He stated that the County Council is not attempting to skate around the rules, but they had made a mistake in the rezoning request. He pointed out that the City Council had voted against allowing the application to be withdrawn, but he felt that was done for political reasons. The community needs the recovery center, and plenty of signatures in support of the facility have been collected on petitions. He stated that it does not matter how the City votes on the zoning change, but that the meeting is giving City elected officials the opportunity to take a political stance. He stated that the City and County Councils can work together or they can be at odds on this issue. He reminded the City Council that 2016 is an election year and that the County Council intends to move forward, regardless of the decisions of City Council.

Martin Bales, 412 Randolph Street, stated that he thought this meeting was about a map amendment until the Berkeley County Council stated that they intended to do what they wished regardless of the wishes of City Council. Mr. Bales stated that, regardless of zoning, the property is in a flood plain and will be for some time. He stated that petitioners have stated that there is a need for this facility, but that this is not an appropriate location. Mr. Bales stated that parents of children who play at Oatesdale Park are concerned and that even experts in the field of addiction and law enforcement have said this is not the best location. He suggested that the County did not do the proper research and that medical and penal facilities are not allowable in flood plains. Mr. Bales added that residents feel disrespected by the County's lack of consideration of their opinions and that County officials will also have to answer to voters.

Joan Roach, N. Rosemont Avenue, stated that she understands that residents are fearful and thanked the City and County Councils for recognizing that there is a problem. She stated that communities with quality recovery facilities have lower crime rates and more peaceful neighborhoods. Users want help, Ms. Roach added, they will not be forced into this facility and they will not be as visible as they are currently.

Ms. Penny [last name unclear], Gerrardstown stated that she is 36 years sober from heroin addiction. She asked if the City Council wants to fight over the building or help the children. She stated that many young people take jobs in the fast food industry, where substance abuse is rampant.

Al Clipp, Alabama Avenue, spoke in favor of the map amendment. Mr. Clipp commended the County Council on their leadership and asked the City Council to hear the cries for help. He hoped that the City Council would respond in a positive way.

Bill Caldwell, N. Tennessee, owner of downtown business, stated that zoning is important for quality of life. He continued by stating that the Berkeley County Council request should be denied for a number of reasons and could open a Pandora's Box for future uses, if approved. He stated that the zoning change would infringe upon recreational development plans and be in direct contradiction to the Economic Development Plan. Chipping away at zoning regulations, Mr. Caldwell stated, is a slippery slope. Elected officials are entrusted to relinquish personal wishes and feelings in favor of integrity of the office and the betterment of the City. Mr. Caldwell added that the current proposal of use of this property is inappropriate and that he felt that the passion of the County officials could be directed in a way that infringes on no one and is better for future clients of the recovery facility.

Mary Lewis, W. Burke Street, owner of downtown commercial property, stated that the goal of downtown residents and business owners is to see the city center thrive and flourish. Ms. Lewis stated that all cities are facing drug epidemics and that, in her experience, recovery facilities are better located in areas removed from downtown. Ms. Lewis went on to say that the Berkeley County Council has stated that they have done no feasibility studies on this location, even though many grant funds depend on these studies before offering awards. She added that Berkeley County has no zoning, while the City of Martinsburg does, because County residents have voted it down several times. This use of this property is not conducive to the City's Comprehensive Plan, Economic Development Plan, Home Rule goals or Zoning Ordinance, Ms. Lewis stated, and the Baltimore Street property could be used for industry; Commercial Business is not a good zoning choice.

Barbara Bratina, 116 N. Tennessee Avenue, asked Council to vote no on the map amendment. Ms. Bratina was concerned that there were too many unanswered questions about the County's proposal, such as who is in charge, where the patients are from, what entities will be involved, the cost of the renovations, what grant money will be available and if the clients are court ordered or voluntary. She was also concerned that the County had conducted no property searches or feasibility studies, nor disclosed how much it will take to bring the property up to FEMA standards. Ms. Bratina stated that the \$10M estimated cost could be used to build a new, state of the art facility in the County where there is no zoning. Citizens and businesses in Martinsburg depend on Zoning Codes to protect properties and order. She referred to the Comprehensive Plan, which calls for a Tuscarora Creek linear park and stated that recreational use and a drug rehab facility are not compatible.

Crystal Long, High Street, commended the County Council for wanting to do something. Ms. Long stated that she would rather have a rehab facility in her backyard than the drug dealers who are there now. She stated that she cannot even allow her grandchildren to go outside and play. Ms. Long voiced concerns that there is no help available now, and that something has to be better than nothing.

Ms. Susan Bales, Randolph Street, stated that the majority of individuals addressing Council are against the proposal. She stated that she feels that the County Council cannot be trusted and that they have already made up their minds and has no intention of listening to the citizens.

Doug Copenhaver, Berkeley County Council, stated that he is here to help save the loved ones of those members of the audience in need of help. He asked if the issue is really about zoning when there are many properties in Martinsburg that are zoned Industrial and have been vacant for some time. He asked the City Council to recall the joint meeting earlier in the year when all of the City Council members vowed to support the

County Council in this endeavor. He stated that there are 52 prostitutes in Martinsburg and all of them are substance abusers. He argued that a solid business plan is more valuable than a feasibility study. He went on to state that everyone is aware that a recovery center is necessary, and asked how putting it far out in the County benefits the 52 addicted prostitutes in Martinsburg. Mr. Copenhaver estimated that 2% of the City's population has spoken against this ordinance and that many of those who are silent are in favor of the amendment.

Eric Gant, Blessing Lane, stated that his family has been in business for three generations and are hard workers. Mr. Gant felt that this facility was a way to give back to the community. He stated that many people complain that young people are leaving the area when the reality is that young people are dying of drug overdoses. Mr. Gant stated that he would think that potential employers would want to improve the employee pool because often current applicants cannot pass drug tests.

15 a. First and Second Reading of Ordinance 2015-10: An Ordinance to Amend the City of Martinsburg Zoning Map to Rezone Two Parcels of Real Estate, the First Parcel, being Improved and Consisting of Approximately 5.49 Acres from its Current Zoning Classification of IG (General Industrial) and the Second Parcel, being Unimproved and Consisting of Approximately 2.95 Acres from its Current Zoning Classification of IG (General Industrial, also Identified on the Berkeley County West Virginia Tax Map M5, Parcels 73 and 95, Postal Address 750 Baltimore Street, Located in the Martinsburg District, Berkeley County, West Virginia, Owned by Four Winds, LLC, from its Current Zoning Classification of IG to BC (Community Business)

Councilman Knowles stated that he is one of "those people" and has been recovered for 19 years. He stated that he has been trying to help people get into recovery centers over the past ten years, and it is very difficult to do. He stated that he realizes that if he does not find them help, they will likely die. Councilman Knowles stated that he is tired of attending meeting after meeting and commends the County for putting themselves on the line and that the City and County need to come together and that this is the best current proposal.

Councilman Wachtel stated that he has done some research and, per the Jefferson County Development Authority, the federal government will supply money to build a brand new building and staff it. He stated that many citizens have walked out of County meetings because they felt they weren't being heard. Councilman Wachtel also wanted to correct an earlier statement and stated that many individuals in the Eastern Regional Jail may have Martinsburg street addressees, but were not Martinsburg corporate residents, which actually are only approximately 9% of those incarcerated.

Mr. Sayre reminded Council that they were to vote on a petition for rezoning, not the use of a recovery center. Mr. Sayre went on to say that the State Code has very specific language regarding map amendments, stating that they are appropriate if they are consistent with the Comprehensive Plan or if there has been major changes of an economic, physical or social nature within the area in question. Mr. Sayre reiterated that Council is not asked to vote for or against a recovery center, but is asked to vote on a Zoning Map Amendment. Because of a submitted petition signed by more than 20% of residents within a specified area of the property, 6 votes of the 7 member Council are required to pass the Ordinance.

Motion made by Councilman Knowles, seconded by Councilman Boyd, to hear the first and second reading of Ordinance 2015-10. The results of the roll call vote are as follows: Yes—Knowles, Boyd & Baker. No—Anderson, Wachtel, Etherington & Collinson. Motion failed by simple and super majority 4-3.

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

a. Historic Preservation Review Commission September 14 and October 5, 2015 Meeting Minutes

- b. Board of Zoning Appeals September 1, 2015 Meeting Minutes
- c. Human Relations Committee September 21, 2015 Meeting Minutes
- d. Berkeley County Animal Control September 2015 Incident Report
- e. Martinsburg-Berkeley County Convention and Visitor's Bureau October 14, 2015 Meeting Minutes
- f. Xfinity correspondence, dated November 10, 2015, notifying of channel changes
- g. Comcast correspondence, dated November 13, 2015, notifying of rate adjustments
- h. Petition from adjacent and nearby property owners of 750 Baltimore Street in opposition to the proposed Map Amendment (See item 15A)
- i. Six (6) letters of concern of residents and business owners in opposition to a zoning change to allow for a substance abuse rehabilitation center at 750 Baltimore Street
- j. Petition signed by 31 business owners in the City of Martinsburg in opposition to a substance abuse rehabilitation center at 750 Baltimore Street
- k. For the kids, by George Children's Museum November 5, 2015 meeting minutes

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

10. Reports of Chairpersons of Council Standing Committees

a. Approve/deny Council as a Whole Committee November 19, 2015 Meeting Minutes

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the November 19, 2015 Council as a Whole Committee Minutes. Motion carried unanimously.

Minutes are recorded below as permanent record the Martinsburg City Council:

Council as a Whole Committee Minutes Thursday, November 19, 2015

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

Others in Attendance: Mark S. Baldwin, City Manager, Mark B. Spickler, Finance Director, Catie Wilkes-Delligatti, Bowles Rice and various news media.

Unable to Attend: Councilman Don Anderson

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

1. City Projects Update: City Manager Mark Baldwin provided an update of various projects and associated costs (E. Burke Street Bridge, N. Queen Street Underpass, Train Station Corridor Grant, Stormwater Grants, Comprehensive Plans and Church & King Street Stormwater Project).

He provided further details on the Church & King Street project and the discussions held with HUD in regards to the possibility of having to reprogram CDBG Funds for this project due to HUD's timeliness check in May 2016. The City Manager stated that he would keep Council informed.

2. FY 2015-2016 Budget(s) Update- Finance Director Mark Spickler stated the current budget year was on track as far as projected revenues and expenses. He further stated that B&O tax collections are ahead of schedule due to construction B&O collections.

3. 1% Sales Tax Update-Finance Director stated that the sales tax revenue was remitted by the State to the City. Collections submitted were for two (2) months only. Mr. Spickler stated he felt the City would collect the projected \$2.7M or more for FY 2015-2016.

4. FY 2016-2017 Budget City Manager stated preparations for the FY 2016-2017 budget would be in January 2016.

5. Discuss 2016 Fireworks- Consensus of the Committee was to continue fireworks within the City of Martinsburg at the same location (Townsend Farm Field)

6. Discuss City of Martinsburg Wine and Liquor License Fee-Councilman Boyd and Finance Director Mark Spickler discussed various license fees the State of WV and the City charge for wine and liquor license. It was stated there is a different cost associated between retail sales and private clubs. The City and Bowles Rice will evaluate the State and City codes to see if any amendments could be made in regard to the City's fee structure for wine and liquor license.

7. M-BC Public Library Funding Request--\$50,000—Pam Coyle, Executive Director M-BC Public Library was in attendance. After a great deal of discussion, consensus of the Committee was to recommend funding to the Library in the amount of \$31,250.

8. M-BC Parks and Recreation Swimming Pool Update-Steve Catlett, Executive Director, was in attendance and provided an overview of revenues and expenses for War Memorial Park and Lambert Park pools. After a great deal of discussion, consensus of the Committee was to further discuss options for Lambert Pool during FY 2016-2017 budget discussions.

9. M-BC Park and Rec Backhoe Funding Request--\$42,000 (Request made to City and Berkeley County to possibly split this cost)—Steve Catlett, Executive Director M-BC Parks and Recreation, informed the Committee that the 20 year old backhoe owned by Parks and Rec was stolen where it was stored at Poorhouse Farm Park. He indicated he would be receiving a check from the insurance carrier in the amount of \$17,700 and was requesting \$42,000 consideration between the City and Berkeley County. He informed the Committee that the Berkeley County Council had rejected the request earlier in the day.

Consensus of the Committee was to discuss this request and alternatives during the FY 2016-2017 budget discussions.

10. Church Street/King Street Stormwater Project Discussed under Project Updates.

11. Report of Mayor

a. Reappoint the Following to the Board of Zoning Appeals 1/16/2016-1/1/2019:

- Michelle Schoppert
- Doreane Mosser (alternate)
- Thomas Johnson (alternate)

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to reappoint Michelle Schoppert, Doreane Mosser and Thomas Johnson to the BZA through 1/1/2019. Motion carried unanimously.

b. Reappoint the Following to the Historic Preservation Review Commission 1/1/2016-1/1/2019

- Gary Gimbel
- Ryan Perks

Motion made by Councilman Etherington, seconded by Councilman Collinson, to reappoint Gary Gimbel and Ryan Perks to the HPRC through 1/1/2019.

c. Reappoint Wayne Rizzo to the Code Appeals Board 1/1/2016-1/1/2019

Motion made by Councilman Etherington, seconded by Councilman Knowles, to reappoint Wayne Rizzo to the Code Appeals Board through 1/1/2019. Motion carried unanimously.

d. Martinsburg/Berkeley County Convention and Visitor's Bureau—2 Vacancies will Occur December 31, 2015—City will Advertise for Volunteers

12. Report of City Attorney

a. 634 Winchester Avenue Update

Mr. Sayre stated a draft is ready to be filed with the Circuit court and that there have been no recent issues at the property.

B. Discuss Section 1106 of the Martinsburg Zoning Ordinance (MZO) and Petition Submitted December 3, 2015 (See Memo and Item 15 A)

See end of petitions from citizens.

13. Report of City Manager

None.

14. Unfinished Business

None.

15. New Business

a. First and Second Reading of Ordinance 2015-10: An Ordinance to Amend the City of Martinsburg Zoning Map to Rezone Two Parcels of Real Estate, the First Parcel, being Improved and Consisting of Approximately 5.49 Acres from its Current Zoning Classification of IG (General Industrial) and the Second Parcel, being Unimproved and Consisting of Approximately 2.95 Acres from its Current Zoning Classification of Ig (General Industrial, also Identified on the Berkeley County West Virginia Tax Map M5, Parcels 73 and 95, Postal Address 750 Baltimore Street, Located in the Martinsburg District, Berkeley County, West Virginia, Owned by Four Winds, LLC, from its Current Zoning Classification of IG to BC (Community Business)

See Item 8

b. Approve/deny Fourteenth Amendment to the Lease; Extending the Lease Agreement between the City of Martinsburg and Berkeley Post 14, American Legion, Inc.—January 1, 2016-June 30, 2016, contingent upon proof of adequate liability insurance

Motion made by Councilman Wachtel, seconded by Councilman Collinson to approve the 14th Amendment to the Lease. Motion carried unanimously.

c. Approve/deny polling places for 2016 City of Martinsburg General Election

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the polling places as listed. Motion carried unanimously.

The City Recorder confirmed that these were the same as previous polling locations and that the locations had yet to be approved by the property owners. She stated she would come back to Council if there were necessary changes.

d. Approve/deny poll worker salary for 2016 City of Martinsburg General Election--\$150 each day worked (Election Day and Early Voting as needed)/\$50 mandatory training/\$35 for messengers/\$15 for alternate party ride-back

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the poll worker salary as requested. Motion carried unanimously.

The City Recorder confirmed that these were the salaries used previously and are based on the salaries paid by Berkeley County.

e. Approve/deny filing fees for candidates for 2016 City of Martinsburg General Election--\$2 for Ward and Council at Large candidate/\$10 for Mayoral candidate

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the filing fees as submitted. Motion carried 6-1, Baker no.

f. Approve/deny request from Main Street Martinsburg to use the Pedestrian Bridge at Caperton Train Station on Thursday, January 28, 2016 from 5-7 PM to hold a membership drive, including authorization from the Mayor to sign a letter of endorsement to the ABC Commission for beer and wine sales (if needed)

Motion made by Councilman Wachtel, seconded by Councilman Anderson, to approve the request as submitted. Motion carried 5-2, Knowles & Boyd, no.

g. Approve/deny Martinsburg Police Department request to purchase twenty (20) X2 Tasers—20 units, holsters and battery packs--\$19,406; four year warranty--\$6,365; total--\$25,771—Taser International (sole provider)—Police Levy Fund

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the purchase of 20 Tasers as requested. Motion carried unanimously.

h. Confirm consensus of Council to allow River's Edge Ministries to conduct the annual Christmas in the Streets event in the Town Square, December 19, 2015 at 6 PM, contingent upon proof of adequate liability insurance

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to confirm the consensus of approval. Motion carried unanimously.

i. Update and action as necessary on the King/Church Street Storm Drainage Improvement Project

City Manager Mark Baldwin stated that there was no action necessary. Since the last meeting, the City has had a conversation with HUD and must approve a substantial amendment by May of 2016. HUD concurred that the project can be active, but some of the dollars must be reallocated and spent to meet timeliness requirements. Future dollars can be reallocated to this project. Mr. Baldwin added that Administration will likely recommend additional street paving with the money that must be spent.

j. Approve/deny Martinsburg/Berkeley County Public Library funding request--\$31,250 (See Item 10 A) (\$50,000/9 months=\$5,555 per month x 6 months=\$33,333 for January-June, 2016

Motion made by Councilman Knowles, seconded by Councilman Boyd, to approve the request for \$31,250. Motion carried unanimously.

Councilman Anderson asked if this would be an ongoing request. Mr. Baldwin stated that it is a one-time request, but the Library can make future requests if needed.

k. Approve/deny agreement between the City of Martinsburg and Environmental Resources and Consulting, LLC for Brownfield Grant--\$392,000

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve the agreement, contingent upon final review. Motion carried unanimously.

l. Approve/deny Resolution 2015-32 authorizing HRI Inc.'s Application for December 2015 Payment #24 for the WWTP Upgrade Project--\$1,014,549.85

See Item 7A

m. Approve/deny Change Order # 14 between the City of Martinsburg, HRI Contractors and O'Brien and Gere Engineers for WWTP Upgrade Project construction--\$129,048

See Item 7A

n. Approve/deny Change Order #5 between the City of Martinsburg and O'Brien and Gere Engineers for WWTP Upgrade project engineering —\$423,274

See Item 7A

16. Executive Session

Motion made by Councilman Knowles, seconded by Councilman Etherington, to enter Executive Session for personnel matters at 9:26 PM. Motion carried unanimously.

Adjournment

Motion adjourned by unanimous consent at 9:35 PM.

George Karos, Mayor

Gena Long, City Recorder