

**City Of Martinsburg
Regular Council Meeting
Thursday, December 11, 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, Kevin Knowles, Gregg Wachtel, and Jason W. Baker. Not present was H.D. Boyd. 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, Nancy Strine, Community Development Administrator and Mark Spickler, Finance Director.

3. Salute to Flag

Councilman Knowles led the Salute to the Flag.

4. Prayer—

Reverend Doctor Rufus Burton, First Presbyterian, delivered the invocation.

5. Approve November 18, 2014 Special Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the November 18, 2014 Special Meeting Minutes. Motion carried unanimously.

6. Approve November 19, 2014 Regular Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the November 19, 2014 Regular Meeting Minutes. Motion carried unanimously.

7. Approve October 2014 Administrative and Financial Report

Motion made by Councilman Baker, seconded by Councilmen Wachtel, to approve the October 2014 Administrative and Financial Report. Motion carried unanimously.

8. Presentations

a. Administer Oath of Office to Police Officers Jose Boursiquot and Christopher Johnson

The City Recorder administered the Oath

b. Presentation of Unknown Burial Flag to the City of Martinsburg in honor of past and present veterans—Michael Wiltshire

Mr. Wiltshire stated that he has preserved over one hundred burial flags and is honored to present this one, belonging to an unknown veteran, to the City of Martinsburg. Mayor Karos thanked him for the flag

and stated the City of Martinsburg would be honored to display it. Mr. Wiltshire presented the flag to Mayor Karos and performed the customary slow salute in honor of the sacrifice and service of veterans.

9. Petitions From Citizens

There were no petitions from citizens.

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

- a. Letter from Frank Bradley, dated November 18, 2014 regarding resignation from the Board of Zoning Appeals
- b. Resolution 2014-18 as presented to the NAACP in support of the Freedom Fund Dinner (held on Sunday, November 23, 2014)
- c. Memorandum from the City Recorder reporting the proceeds from the October 25, 2014 Surplus Auction
- d. Letter from Comcast, dated November 6, 2014, regarding digital network enhancements
- e. Certificate of Appreciation from the American Legion recognizing the service and assistance of the City of Martinsburg
- f. Board of Zoning Appeals October 07, 2014 Meeting Minutes

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

11. Reports of Chairpersons of Council Standing Committees

There were no reports.

12. Report of Mayor

a. Reappoint Steve Knipe, Jr. to the Historic Preservation Review Commission—term 1/1/2105-1/1/2018

Motion made by Councilman Etherington, seconded by Councilman Knowles, to accept the Mayor's recommendation and reappoint Mr. Knipe to the Historic Preservation Review Commission through 1/1/2018. Motion carried unanimously.

b. Reappoint Bill Blackburn to the Board of Zoning Appeals—term 1/1/2015-1/1/2018

Motion made by Councilman Knowles, seconded by Councilman Etherington, to accept the Mayor's recommendation and reappoint Mr. Blackburn to the Board of Zoning Appeals through 1/1/2018. Motion carried unanimously.

c. Reappoint Bill Gain to the Police Civil Service Commission—1/1/2015-12/31/2018

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to accept the Mayor's recommendation and reappoint Mr. Gain to the Police Civil Service Commission through 12/31/2018. Motion carried unanimously.

d. Schedule Special Council Meeting for Thursday, December 18, 2014 at 5 PM for purposes of hearing the third and final reading of Ordinances 2014-20 through 20147-27 and other business as needed.

Mayor Karos scheduled the Special City Council Meeting.

e. Schedule Council as a Whole Committee Meeting for December 18, 2014 at 5:30 PM.

Mayor Karos scheduled the Committee Meeting.

f. Notification of Public Hearing to discuss the City's Community Development Block Grant Program (CDBG) and HOME program funds scheduled for Monday, December 15, 2014 at 5:30 PM in the J. Oakley Seibert Council Chambers

City Manager Mark Baldwin stated that Councilmembers were welcome to attend this public hearing and that he anticipated future hearings to be held during regular Council meetings.

13. Report of City Attorney

a. Comcast Update

City Attorney Kin Sayre stated that Comcast is not agreeable to a commitment to retain a local office for the entire term of the franchise agreement, however, they would commit to retaining the local office for three years before reevaluating the need for the office. Councilman Baker stated that this is a large issue for him, as the office is in his ward and is always very busy. Mr. Sayre replied that, as far as he knows, Comcast has no plans to close the office, but it is difficult to require them to retain a local office as part of a franchise agreement. He added that if the City does not sign the franchise agreement, it would be very difficult to keep Comcast from operating in the City of Martinsburg and the City would not realize a franchise fee or other benefits of the agreement.

Councilman Wachtel added that he has been a Comcast customer for many years, and has previously been in support of Comcast, but that has changed.

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. First and Second Reading of Ordinance 2014-20: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part Seventeen: Building and Housing Code, Article 1717, Sections 1717.01-1717.08, Relating to the Grant of Authority to City Code Enforcement Officials to Immediately Issue Citations for External Sanitation Violations and Common Nuisances*

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the first and second reading of Ordinance 2014-20. Motion carried unanimously.

b. First and Second Reading of Ordinance 2014-21 : *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part Seventeen: Building and Housing Code, Article 1716, Section 1716.01, Relating to the Authority to File Liens on Real Property for Cost Incurred in Abating Exterior Sanitation and Common Nuisance Violations*

Motion made by Councilman Knowles, seconded by Councilman Etherington, to hear the first and second reading of Ordinance 2014-21. Motion carried unanimously.

c. First and Second Reading of Ordinance 2014-22: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part One: Administrative, Chapter Three: Legislative, Sections 114.01-114.04, Relating to the Disposition of City Property Without Auction*

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the first and second reading of Ordinance 2014-22. Motion carried unanimously.

d. First and Second Reading of Ordinance 2014-23: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part One: Administrative, Chapter Three: Legislative, Article 115, Section 115.01, Relating to the Entry into Contracts with other Jurisdictions by Resolution*

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the first and second reading of Ordinance 2014-23. Motion carried unanimously.

e. First and Second Reading of Ordinance 2014-24: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part Seven: Business and Taxation Code, Chapter Three: Taxation and Service Charges, Article 768, Section 768.01 Relating to the Issuance of Liens for Delinquent City Fees*

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to hear the first and second reading of Ordinance 2014-24. Motion carried unanimously.

f. First and Second Reading of Ordinance 2014-25: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part Seven: Business and Taxation Code, Chapter Three: Taxation and Service Charges, Article 756: Municipal Sales Tax, Sections 756.01-756.15, Implementing a Municipal Sales Tax*

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to hear the first and second reading of Ordinance 2014-25. Motion carried unanimously.

g. First and Second Reading of Ordinance 2014-26: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part Seven: Business and Taxation Code, Chapter Three: Taxation and Service Charges, Article 755: Sections 755.02, Reducing the Rate of Taxes Imposed under Said Article*

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the first and second reading of Ordinance 2014-26. Motion carried unanimously.

h. First and Second Reading of Ordinance 2014-27: *An Ordinance to Reenact Part Fifteen of the Codified Ordinance of the City of Martinsburg by Amending and Reenacting Section 1501.04, Relating to the Inspection and Citation Powers of Municipal Deputy Fire Marshals*

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the first and second reading of Ordinance 2014-27. Motion carried unanimously.

i. Approve/deny request from United Way of the Eastern Panhandle to utilize the Town Square Pedestrian Plaza for purposes of holding press conference to kick off the “Warming Hands and Hearts” project, contingent upon proof of adequate liability insurance

Motion made by Councilman Baker, seconded by Councilman Wachtel, to approve the request from the United Way of the Eastern Panhandle contingent upon proof of adequate liability insurance. Motion carried unanimously.

j. Approve/deny process of accepting letters of interest to fill vacancy of Ward 3 Council Seat (see sample advertisement modeled from previous mid-term appointments)

Motion made by Councilman Etherington, seconded by Councilman Baker, to approve the process of accepting letters of interest for to fill the Ward 3 vacancy. Motion carried unanimously.

k. Approve/deny renewal of subrecipient agreement between the City of Martinsburg and Eastern West Virginia Community Action Agency for Home Tenant Assistance Program

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the renewal of the subrecipient agreement between the City of Martinsburg and the Eastern West Virginia Community Action Agency. Motion carried unanimously.

l. Approve/deny Memorandum of Agreement by and between the City of Martinsburg and Partnership for Affordable Housing, Inc.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the Memorandum of Agreement by and between the City of Martinsburg and the Partnership for Affordable Housing, Inc.

m. Approve/deny Assistance to Firefighters Grant (AFG) 2014 to be used to purchase replace all self-contained breathing apparatus (SCBA) and related equipment--\$387,354 (City Match--\$19,367.70)

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the Assistance to Firefighters Grant 2014 as submitted. Motion carried unanimously.

n. Approve/deny request from the Berkeley County Roundhouse Authority for advance of funds approved in the amount of \$35,000 in 2012 in order to fulfill obligation to receive federal grant--(\$4,767.53 drawn down to date)--\$30,232.47 remaining

Councilman Baker explained that approving this request gives the Roundhouse Authority the ability to proceed with the construction of the bathrooms. Because the Roundhouse Authority does not have a large cash capital in the bank, the State has requested that the Authority send the matching funds (1/3 coming from each the City, the County and the Authority) and invoices will be paid directly from the State. Councilman Baker stated that the Berkeley County Commission approved the request earlier in the day.

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve the request from the Berkeley County Roundhouse Authority. Motion carried unanimously.

o. Approve/deny Dedication of Easements and Rights of Way between Dan Ryan Builders, Inc., and the City of Martinsburg for certain streets located in Prentiss Point Subdivision

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve the Dedication of Easements and Rights of Way between Dan Ryan Builders and the City of Martinsburg. Motion carried unanimously.

p. Approve/deny Twelfth Amendment to the Lease, extending the lease agreement between the City of Martinsburg and Berkeley Post 14, American Legion, Inc.—January 1, 2015-June 30, 2015, contingent upon proof of adequate liability insurance

Mr. Brian Tolstyka, American Legion Post 14 Post Commander, stated that he has reviewed the changes in the Amendment and finds them acceptable. Those changes increase the monthly rent from \$500 to \$525, require the Legion to be responsible for property taxes in the event that the County requires them to be paid, and increases maintenance responsibility for the American Legion.

Motion made by Councilman Wachtel, seconded by Councilman Baker, to approve the Twelfth Amendment to the Lease, contingent upon proof of adequate liability insurance. Motion carried unanimously.

q. Approve/deny HRI, Inc.'s December Payment Application #12 for the WWTP Upgrade Project--\$2,973,375.82

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve HRI, Inc.'s December Payment Application #12 for the WWTP Upgrade Project in the amount of \$2,973,375.82. Motion carried 4-1, Anderson no.

r. Approve/deny Mutual Aid Agreement between the City of Martinsburg and Berkeley County Sheriff's Office for multi-jurisdictional police authority

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the Mutual Aid Agreement between the City of Martinsburg and Berkeley County Sheriff's Office for multi-jurisdictional police authority. Motion carried unanimously.

Councilman Baker asked what this agreement does. Police Chief Miller replied that it protects the City of Martinsburg in the event that it is needed to assist the BCSO outside of City limits.

s. Confirm authorization to purchase new boiler for Market House--\$16,900—Rizzo Heating and Air

Motion made Councilman Wachtel, seconded by Councilman Etherington, to confirm the authorization to purchase the new boiler for the Market House. Motion carried unanimously.

16. Executive Session

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to go into Executive Session for legal matters at 7:06 PM. Motion carried unanimously.

Adjournment

Motion adjourned by unanimous consent at 7:30 PM.

George Karos, Mayor

Gena Long, City Recorder