

**City Of Martinsburg  
Regular Council Meeting  
Thursday, January 14, 2016  
The J. Oakley Seibert Council Chambers**

With a quorum present, the regular session of the Martinsburg City Council was called to order by Mayor George Karos at 6:30 p.m. The following Council Members were present: Don Anderson, Gregg Wachtel, Dennis Etherington, Kevin Knowles, Ken Collinson, H.D. Boyd 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, Finance Director Mark Spickler, Community Development Administrator Nancy Strine, Public Works Director Jeff Wilkerson, Planning Director/City Engineer Michael Covell and and Fire Chief Paul Bragg.

**3. Salute to Flag**

Councilman Knowles led the Salute to the Flag.

**4. Prayer-**

Walter Bowers led the invocation.

**5. Approve December 10, 2015 Regular Meeting Minutes**

Motion made by Councilman Etherington seconded by Councilman Boyd, to approve the December 10, 2015 Regular Meeting Minutes. Motion carried unanimously.

**6. Approve November 2015 Administrative and Financial Report**

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

**7. Public Hearing to solicit comment on the City's FY 2016-2017 Community Development Block Grant (CDBG) program and HOME program funds through the Eastern Panhandle HOME Consortium and the housing and community development and economic development needs of the City of Martinsburg.**

Nancy Strine, Community Development Administrator, discussed the eligible uses of CDBG and HOME funds and stated that this public hearing is the beginning of the process for the creation of the 2016 annual CDBG and HOME plan. Ms. Strine stated that it is likely that the City will be submitting a request for funding for a capital improvement project this year. She also discussed the HOME funds, stating that they are used to create affordable housing opportunity for low-moderate income households in the regional area and we had a successful year of assisting 24 first time homebuyers this last fiscal year.

Ms. Strine also entered the following emails into the record:

Pippin McCullough, Executive Director of Shenandoah Women's Center:

I am in Charleston this week at the Coalition against Domestic Violence. I have prepared a very brief statement below to express our gratitude for the continued support. Thank you so much for offering to read it and I am sorry I can't be there in person.

I wish to express our sincere gratitude for your support of the Shenandoah Women's Center. The Shenandoah Women's Center is the only licensed domestic violence center serving the Eastern Panhandle and has experienced a significant increase in the number of services provided over the last 12 months. The support provided through the Community Development Block Grant helps to provide counseling to survivors of domestic violence, sexual assault, stalking and human trafficking. We thank you so much for your continued support.

Phil Steptoe, Incoming President, CCAP Loaves and Fishes Board of Directors:

Thank you for the invitation to Thursday's City Council meeting. We welcome the opportunity to let the Council know what CCAP/Loaves and Fishes has done with the CDBG grant funds in the past and plans to do in 2016, given that our request is approved. Unfortunately, both Pam Wagoner and I have previous commitments made weeks ago that do not allow either of us to be present Thursday evening. Here is what we would tell the Council:

CCAP/Loaves and Fishes is the primary non-governmental organization in Martinsburg and Berkeley County providing emergency rental assistance to City and County residents in need. In 2015, we provided 271 individuals/families over \$110,000 in rental assistance, enabling them to avoid eviction from their current residences or place security deposits on new dwellings. Our funding is such that we must limit our assistance to a maximum of \$500 per client and provide it only once in a lifetime. In 2015, you authorized us \$5,000 in CDBG funding, and we applied it to rental assistance for Martinsburg residents. We were able to add \$100 to each Martinsburg client's rental assistance (to the limit of our CDBG funding) thus serving 50 individuals/families in Martinsburg with supplemental funding. As you know, \$500 does not buy a month's rent in very many places, so any additional help, like from CDBG funding, enables us to do more for our clients. If funded from 2016 CDBG, we will continue to supplement Martinsburg resident clients with a \$100 maximum supplement until these funds are spent.

We very much appreciate the past support from the City of Martinsburg for our rental assistance program and hope that you will continue such support in 2016.

Vicki L. Barnard, Executive Director CASA of the Eastern Panhandle:

Please convey my sincere apologies; I will be unable to represent CASA in the meeting. I would like to thank the City of Martinsburg for their continuing partnership with CASA-EP through the Community Development and Building Grant [sic]. This award has afforded CASA-EP the ability to assist at-risk children subjected to child abuse and neglect in Martinsburg.

Glenda Helman, Community Networks, Inc., thanked Council for offering funds to public service organizations, such as CNI. Ms. Helman stated that this money helps those who cannot meet their own basic human needs and the CDBG funds are used for administration of the Rapid Rehousing fund. She added that CNI may also be requesting assistance with some brick and mortar type of assistance such as the replacement of an obsolete fire alarm system for the Hope Living and Learning Center. Ms. Helman state that the contribute funds also help provide assistance to chronically homeless individuals with disabilities, which requires a 25% match for a HUD grant. Every dollar of CDBG funds leverage 42.6 dollars of other funding for tenant based rental assistance.

Ms. Trina Bartlett, Catholic Charities, stated that her organizations goal is to reduce and eliminate poverty. She stated that there are no religious criteria for those who seek assistance. She stated that funds received benefit Promise House Family Resource Center, which offers a variety of programs to help build people up and move them out of poverty.

Ms. Amy Orndorff, Berkeley Senior Services, stated that CDBG funds are used to provide senior citizens with 10,781 one way trips to doctor's appointments. Senior Services also served over 25,000 meals in 2015 at the center and to home-bound seniors. CDBG funds are also leveraged to help finance in-home care programs until arrangements can be made for permanent care.

Marie Keegan, Faith Community Coalition for the Homeless, stated that the organization is a strictly volunteer organization which provides emergency shelter when no other housing options exist and seeks collaborative solutions with other social service entities. Ms. Keegan stated that requested funds would be used for emergency hotel rooms for families, for which there is a growing need as other organizations tend to serve men and women individually. Last year they provided 247 hotel nights for the homeless. She added that over 60% of those served in 2015 have been helped into permanent housing with help from other organizations.

The public hearing closed at 6:50PM.

## **8. Presentations**

### **a. Administer Oath of Office to Police Officer Teresa Gibbons**

Officer Gibbons was unable to attend.

### **b. Administer Oath of Office to Police Lieutenant Scott Doyle**

The City Recorder administered the Oath of Office.

### **c. Administer Oath of Office to Police Department Deputy Chief George Swartwood**

The City Recorder administered the Oath of Office.

### **d .Proclamation-January 2016 as General Aviation Appreciation Month**

Mayor Karos read the Proclamation which was accepted by Eastern West Virginia Regional Airport Authority Chairman Rick Wachtel.

### **e. Make Comment on ABC Zoning Form for Arkham 21,LLC-1017 S. Queen Street**

Mr. Thomas DeShong, Jr. described the location as the former Dirty Dawg Saloon on S. Queen Street. Councilman Knowles pointed out that the previous owner, George O'Connell, is still the applicant for the ABC license. Mr. DeShong stated that is correct, Mr. O'Connell will serve as the WV resident for terms of licensing and will be the local area manager as the owners, Mr. DeShong and Mr. King, live in Pennsylvania.

Councilman Knowles was concerned because there have been substantial problems at the Dirty Dawg with Mr. O'Connell as the responsible party and asked what is different this time. Mr. DeShong stated that he intends to arrange for additional security and create a more family friendly atmosphere.

Councilman Knowles asked if there have been conversations with the neighbors. Mr. DeShong stated that he is currently working with them on parking arrangements and that Ms. Towers has indicated she is willing as long as garbage is promptly cleaned up and cars are moved after closing.

Councilman Knowles asked if the license is for a private club or a restaurant tavern. Mr. DeShong stated that the licensing will be for a private club, which Councilman Boyd stated was the appropriate license for all bars and taverns.

City Attorney indicated that question I A should be answered on the Zoning form as the City Recorder had noted that the private club described is not consistent with zoning ordinances. City Recorder Gena Long stated that was an error, that the location is suitable and in accordance with the Zoning Ordinance and the correction will be made prior to sending to the ABC.

Councilman Wachtel asked the applicant if he had spoken with the Police Department. Mr. DeShong replied that he had not, but he does intend to have that conversation.

Mr. Sayre asked if the outside area of the bar will remain open with a full bar, serving beer, wine and liquor. Mr. DeShong replied that they do intend to keep that portion operational with a full bar.

Councilman Boyd asked about the theme and the name of the establishment. Mr. DeShong answered that the name signifies a new beginning and that the theme is to be an upscale bar, similar to a Union Jack.

With the consensus of Council, the Zoning form is to be submitted to the WVABCA Licensing Division with the above comments.

## **9. Petitions from Citizens**

Mr. David Haarberg, Winchester Avenue, applauded the City of Martinsburg Police Department for their new interactive web presence and stated he would like to see the rest of the City do the same.

Ms. Barbara Bratina, Tennessee Avenue and downtown business owner, urged Council not to delete paint color from the HPRC review. Paint color is the first thing that people notice about structures and Ms. Bratina pointed out that significant historic buildings, such as Boydville, could be painted bright neon colors. Ms. Bratina stated that other cities with historic overlay districts have lists of approved paint colors and suggested that the HPRC approve such a list so that it was not necessary to review every request for paint color. Ms. Bratina added that most major paint manufacturers have partnered with historic review organizations, such as the National Historic Trust, to establish these paint schemes. Ms. Bratina was concerned that deleting paint color from HPRC review would create a condition in which the exterior of buildings downtown would not be in harmony with the area.

Ms. Barbara Bratina, Tennessee Avenue, asked Council to vote yes to the adoption of the federal definition of "public building." She stated that the current Zoning Ordinance has no definition, yet public buildings are allowed in all districts. Ms. Bratina stated that it could be construed that "public building" is any building which the public may enter into, including strip clubs and adult book stores. Ms. Bratina stated that it only makes sense to adopt the federal definition of "public building," as it has been used previously.

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

- a. Historic Preservation Review Commission November 2, 2015 Meeting Minutes
  
- b. Planning Commission October 7, 2015 Meeting Minutes
  
- c. Berkeley County Animal Control November 2015 Incident Report
  
- d. Martinsburg-Berkeley County Convention and Visitors Bureau November 18, 2015 Meeting Minutes
  
- e. City of Martinsburg audit letter for fiscal year ending June 30, 2015-(complete audit distributed to Mayor and Council and on file in the Finance Department )

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

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

None

**12. Report of Mayor**

Mayor Karos announced that he had spoken with the Berkeley County Council about holding an administrative meeting with the City Council, with no set agenda. He will announce the date when one has been set.

**a. Appoint Kelly Tanksley to the Martinsburg-Berkeley County Convention and Visitor's Bureau Board- 1/1/2016-1/1/2018**

Motion made by Councilman Knowles, seconded by Councilman Etherington to appoint Ms. Tanksley to the M-BCCVB Board through 1/1/2018. Motion carried unanimously.

**b. Schedule Special City Council Meeting for Thursday, January 21, 2016 @ 6:30 PM-First and Second Reading of Ordinance 2016-05: An Ordinance Amending The City Of Martinsburg Code, Part 1, Administrative Code, Chapter 5, Administrative, By Adding Article 154, Nondiscrimination Policy, Section 01 And 02, To Provide For Equal Opportunity In The Areas Of Employment, Public Accommodations The Sale, Lease, Rental And Financing Of Housing Accommodations Is Hereby Declared To Be A Human Right Or Civil Right Of All Persons Without Regard To Race, Religion, Color, National Origin, Ancestry, Sex, Age, Blindness, Handicap, Or Sexual Orientation And Gender Identity (Third and Final Reading to be conducted at the Regular February 11, 2016 Council Meeting)**

**c. Schedule Special City Council Meeting for Tuesday, January 26, 2016 @ 6:30 PM for third and final readings of Ordinances 2016-01 through 2016-04 (various text amendments) and other business as needed (Ordinance 2016-05 dealing with the Nondiscrimination Policy will NOT be read at this meeting)**

Mayor Karos announced the Special meeting for January 21 as stated. He did not schedule the meeting for January 26, as several Council members had other plans, and stated that all ordinances which pass through the first and second readings will be read a third and final time at the Regular meeting of February 11, 2016.

**13. Report of City Attorney**

None

**14. Report of City Manager**

**a. Projects Update**

No further update.

**15. Unfinished Business**

None.

**16. New Business**

**a. First and Second Reading of Ordinance 2016-01: An Ordinance to Add to and/or Amend the Text of the Martinsburg Zoning Ordinance (MZO) at Section 522.3(a) "Design Limitations" contained within Section 522 "Service Business District" to Increase the Maximum Allowed Signage Size**

City Attorney Kin Sayre stated that a public hearing had been held at the Planning Commission meeting and a Resolution had been submitted in favor of increasing the allowable signage to two square-feet.

Motion made by Councilman Knowles, seconded by Councilman Boyd, to hear the first and second reading of Ordinance 2106-01. Motion carried 6-1, Collinson voting no.

**b. First and Second Reading of Ordinance 2016-D2: An Ordinance to Add to and/or Amend the Text of the Martinsburg Zoning Ordinance (MZO) at Article X: Section 1003 "Plan Review Requirements" to Remove Plans for Painting from the Review of the Historic Preservation Review Commission and Remove "Color" from the Definition of "Exterior Architectural Features"**

Mr. Sayre stated that a public hearing had been held by the Planning Commission and the Commission had unanimously voted not to recommend this text amendment. Mr. Sayre added that the final decision was to be made by Council.

Councilman Baker asked who the WV Division of Culture and History is, as this organization had submitted an opinion that paint color was temporary and should not be subject to review. Mr. Sayre replied that it is rather like a State version of the HPRC.

Councilman Wachtel stated that most cities with historic review do include paint color.

Councilman Boyd asked how the City could go about establishing an approved color pallet. Mr. Sayre stated that Council could request that the HPRC and Planning staff put together an approved color pallet and apply for a text amendment, which would go through the Planning Commission to City Council.

Motion made by Councilman Knowles, seconded by KC, to hear the first and second reading of Ordinance 2016-02. Motion denied 6-1, Anderson, Wachtel, Etherington, Knowles, Collinson & Boyd voting no.

**c. First and Second Reading of Ordinance 2016-03: An Ordinance to Add to and/or Amend the Text of the Martinsburg Zoning Ordinance (MZO) at Article VI: "Design Regulations" to Include Clarifying Language and Regulations for Storage Buildings, Storage Shipping-bins, Donation Drop-off Bins, and Temporary Structures**

Councilman Baker asked if this ordinance would allow for the grandfathering of existing structures. Mr. Sayre

stated that existing structures would fall under the statute for non-conforming uses and structures and would remain legally non-conforming if continually used and the use is not abandoned for more than one year.

Councilman Baker stated that he had no issue with this in residential areas but was concerned that businesses depend on this type of temporary storage, particularly growing businesses, and may need them for longer than 90 days. He pointed out large businesses such as Lowe's and Walmart which have storage shipping-bins on site on a regular basis.

Mr. Sayre stated that the Planning Commission has been working on this for over a year, with many different revisions, and this is the amendment they unanimously suggested after the public hearing process.

Councilman Baker asked about structures such as the display gazebos at Lowe's, if those would be considered contrary to this ordinance. Planning Director Mike Covell stated that it would depend on how the ordinance was interpreted, that it was possible, but went on to say that these structures are accepted at different levels in commercial areas already. He stated that some businesses have included pad sites for shipping bin containers in their site plans and this would be honored. He stated that the focus is on getting them out of residential areas as permanent structures.

Councilman Baker asked if the setback requirements are grandfathered. Mr. Covell stated that would be up to staff to manage.

Councilman Wachtel stated that the Planning Commission had discussed all of these concerns at length, and mentioned the example of Winchester Avenue, which had several charitable drop-off bins which tended to collect other debris and furniture. Councilman Baker answered that he was not concerned with the part of the ordinance dealing with charitable drop-off bins, but rather shipping containers as storage.

Councilman Anderson called for the question on the motion made by Councilman Collinson, seconded by Councilman Wachtel, to hear the first and second reading of Ordinance 2016-03.

Motion was made by Councilman Baker, seconded by Councilman Knowles, to table the ordinance. Motion to table was denied, Anderson, Wachtel, Etherington and Collinson voting no.

Motion for first and second reading was approved; Knowles, Baker & Boyd voting no.

**d. First and Second Reading of Ordinance 2016-04: An Ordinance to Add to and/or Amend the Text of the Martinsburg Zoning Ordinance (MZO) at Article II, Section 200 "Definition of Terms" to Include Codification of the Federal Definition of "Public Building"**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to hear the First and Second Reading of Ordinance 2016-04, by title only. Motion carried unanimously.

**e. Approve/deny authorization for Mayor Karos to sign a letter of endorsement to the ABC Commission for the Sunrise Rotary Club's 23rd Annual President Day Dance on Saturday, February 13, 2016 at 411 Auburn Street**

Mr. P.J. Orsini and Mr. Charlie Lowrey stated that this is an annual event to benefit the Boys and Girls Club.

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the request. Motion carried unanimously.

**f. Approve/deny request from Norwalk Soap Box Derby, Inc. to hold the 17th annual ROCS Classic Norwalk Soap Box Derby on Saturday, June 11,2016 (rain date of June 18)**

Motion made by Councilman Wachtel, seconded by Councilman Collinson, to approve the request as submitted. Motion carried unanimously.

**g. Approve/deny Revision to the Martinsburg Police Department Standards, Operational Policies & Procedures Manual to address Emergency Vehicle Operations Pursuits and Non-Pursuits**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the revision to the Martinsburg Police Department Standards, Operational Policies & Procedures Manual to address Emergency Vehicle Operations Pursuits and Non-Pursuits. Motion carried unanimously.

**h. Approve/deny revised Job Descriptions for the following positions in the Martinsburg Police Department:**

- Deputy Chief of Police
- Police Captain

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the revised job descriptions as submitted. Motion carried unanimously.

**i. Approve/deny the following City of Martinsburg Fire Department Standards of Operating Procedures:**

- Personnel Accountability System and Incident Scene Emergency Communication
- Emergency Medical Services Sports Venue Coverage: EMS Guidelines for Medical Time Out
- Performance Improvement Standards
- Emergency Medical Services Quality Assurance Plan

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the Standard Operating Procedures as submitted. Motion carried unanimously.

**j. Approve/deny bid recommendation for pagers for Martinsburg Fire Department-\$14,615**

Motion made by Councilman Wachtel, seconded by Councilman Collinson, to approve the recommendation for Fire Department pagers as submitted. Motion carried unanimously.

**k. Approve/deny bid recommendation for Two (2) new ten (10) foot snow plows-Shade Equipment Company, Inc.-\$13,430 total**

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the bid recommendation for snow plows as submitted. Motion carried unanimously.

**l. Approve/deny bid recommendation for HVAC unit to be installed at the Recycling Center-Shenandoah Air Conditioning and Heating, Inc.-\$3,850**

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve the bid recommendation for HVAC unit as submitted. Motion carried unanimously.

**m. Approve/deny FY 2016-2017 budget request of 2% of total proceeds of previous year's projected tax collection to Berkeley County Assessor for Valuation Fund**

Motion made by Councilman Knowles, seconded by Councilman Collinson to approve the FY 2016-2017 request of 2% of total proceeds for Valuation Fund. Motion carried 6-1, Baker voting no.

**n. Approve/deny agreement between the City of Martinsburg and Berkeley County Board of Education effective July 1, 2015, to provide for a school-based law enforcement officer--\$60,000 reimbursed to the City of Martinsburg**

Motion made by Councilman Knowles, seconded by Councilman Boyd, to approve the agreement for a school-based law enforcement officer. Motion carried unanimously.

**o. Approve/deny Resolution 2016-01 authorizing HRI Inc.'s Application for January 2016 Payment #25 for the WWTP Upgrade Project--\$1,150,527.04**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2016-01. Motion carried unanimously.

**p. Approve/deny Change Order # 15 between the City of Martinsburg, HRI, Inc., and O'Brien and Gere Engineers for \$80,025**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Change Order #15. Motion carried 6-1, Anderson no.

**q. Approve/deny authorization to bid street repaving (CDBG Funds, only-see list)**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve authorization to bid for street repaving. Motion carried 6-1, Anderson voting no.

**r. Approve/deny mosquito control treatments-Erich Pest Control-\$8,840 (three treatments)**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve mosquito treatments. Motion carried unanimously.

**16. Executive Session**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to enter Executive Session for legal matters at 7:58PM. Motion carried unanimously.

Adjournment

Motion adjourned by unanimous consent at 8:15 PM.

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George Karos, Mayor

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Gena Long, City Recorder