

**City Of Martinsburg
Regular Council Meeting
Monday, June 15, 2015
The J. Oakley Seibert Council Chambers**

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

3. Salute to Flag

Councilman Knowles led the Salute to the Flag.

4. Prayer—

Walter Bowers, Retired Pastor, led the invocation.

5. Public Hearing—a public hearing to solicit citizen comment on Ordinance 2015-06: *An Ordinance Authorizing the Issuance by the City of Martinsburg, West Virginia, of not to Exceed \$3,000,000 in Aggregate Principal Amount of Property Tax Increment Refunding Revenue Bonds, Series 2015 (The City of Martinsburg Development District No. 1 – North Martinsburg Access) to Finance the Current Refunding and Redemption of the City’s Outstanding Property Tax Increment Revenue Bonds, Series 2010 (The City of Martinsburg Development District No. 1 – North Martinsburg Access); Authorizing the Execution and Delivery of a Trust Indenture, Bondholder Agreement or Similar Document and a Private Placement Memorandum and Other Documents with Respect to Such Bonds; Authorizing the Sale of Such Bonds to one or More Banks or Other Accredited Investors Arranged by Crews & Associates, Inc., Pursuant to a Placement Agreement or Bond Purchase Agreement Relating Thereto; Authorizing the Execution and Delivery of Such Documents and Agreements and All Other Documents and Agreements Necessary in Connection with Such Bonds; Setting Forth Certain Parameters for the Terms of Such Sale; Designating Such Bonds as Qualified Tax-Exempt Obligations; Delegating to the Mayor of the City of Martinsburg Certain Responsibilities in Connection with the Issuance and Sale of Such Bonds and the Execution and Delivery of Such Documents and Agreements in Connection Therewith; and Taking Other Actions in Connection with the Issuance and Sale of Such Bonds*

Mayor Karos opened the public hearing at 6:33 PM. As no one came forward for or against the ordinance, the public hearing was close at 6:34 PM.

6. Approve May 7, 2015 Special Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman Baker, to approve the May 7, 2015 Special Meeting Minutes. Motion carried unanimously.

7. Approve May 14, 2015 Regular Meeting Minutes

Motion made by Councilman Wachtel, seconded by Councilman Baker, to approve the May 14, 2015 Regular Meeting Minutes. Motion carried unanimously.

8. Approve April 2015 Administrative and Financial Report

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

9. Presentations

a. Proclamation—Pride Day—Eastern Panhandle LGBTQ Alliance—July 11, 2015

Mayor Karos read the Proclamation.

10. Petitions From Citizens

Mr. Peter Miller, 417 S. Queen Street, read the following into the record:

I'm going to make my statement then ask 2 questions: Where are my rights, who do I complain to? Then I'll leave. Please don't interrupt.

[Mr. Miller then read the following letter into the record, indicating that it was intended as a Letter to the Editor, which was not published; had it been published, he would not have been present at the meeting]

To the Editor:

One of the major advancements in the evolution of freedom was the concept of privately owned property, and its inviolability.

In view of my many negative encounters with City Police, I endorse the move to equip officers with body cameras. Also, officers should be polygraphed monthly to ascertain whether they lied, treated citizens differently, neglected obligations, etc., while on duty.

Few reading this are more pro-police than I. In every contact with officers, I've been respectful and polite. My problem started with the re-opening of an "event" business in my neighborhood, which is zoned "residential." My home is situated such that most of the noise comes into my front room and kitchen after it is unbearable.

I am 62, have diabetes and C.O.P.D bronchitis. The noise and stress causes my blood pressure and blood sugar to go sky-high. I now have a stress regulated heart condition. I've lived in this house over 50 years.

During winter, often, I've had to leave the house and walk for several hours. In summer (I have no air-conditioning), in spite of my breathing problems I've had to close all windows and doors. Even with the TV on loud, many times it's drowned out by the noise.

One night, I watched two patrons leave an "event", walk to my fence and urinated on it. One stated that he was interested in breaking into my house. When they saw me, they left in a car. I called police (one of 100 legitimate calls I've made about these problems).

Two officers arrived and with hands on guns and Taser, one, all but screaming, told me I'd be arrested—for making a false police report, if I even made another call about that establishment.

I have to say, due to the abusive and intimidating treatment from several officers, I wonder if "MPD" stands for "Multiple Personality Disorder." I pray for them.

My retaliatory arrest came on 11 April 2015. As I walked out to see what they wanted, one made derogatory comments about me. The charge was (unbelievable!!!) "Disturbing the peace". I am no flight

risk, wouldn't a citation suffice? Everything in the warrant was entirely fabricated. I can and will pass any proper polygraph.

My hands were cuffed behind my back so tight a bicep muscle was injured (it is still painful). At the station, I experienced very intense pain in my chest. While waiting for an ambulance, all by paralyzed with pain, one officer made audible jokes about me.

Is this Russia of the 1930's? the warrant stated that my house was "uninhabitable—send the building inspector." I have upmost respect for Darby Dean—he can stop by—I have nothing to hide!

I faced 30 days incarcerated. I have no money (my "bank account" is in Heaven with our Heavenly Father), lawyers wanted \$5,000 to represent me. Thank God for the Public Defender's Office, they did a wonderful job. The charges were dropped.

Before and after the trial I fear another arrest. I do not feel safe in public or in my house! Even in my house, every semblance of security or serenity has been stolen.

[End of Letter to Editor]

5 ½ years ago, I've never been arrested, harassed by Police, sued, had chest pains, anxiety attacks, been in back of an ambulance or in the ER. Then the Mch [McFarland House] reopened.

Over 35 years ago, I gave my life to our L&SJC [Lord and Savior, Jesus Christ]. Except for J-walking (sic.), I have not broken the laws of man.

The 1st incarnation of the MH was disaster, even tho the McFarlands lived there and tried to keep the lid on things. This is not true of the present owners.

On this matter, I have written often to City officials. The Chief of Police, City Attorney and others did not reply. I can prove I wrote. I finally had to rely on the FOIA to the C of P [Chief of Police] and Mayor. No reply. The mayor did reply to most previous letters, he often stated "as you know, the MH was approved by the ZBA (sic.). At the time, the ZBA's president was a banker, another member owned a business which would financially benefit by the re-opening.

The ZBA, nor any other government agency—have the right to make a man's home of over 50 years all but inhabitable. My neighborhood is residential, and my life is literally endangered by this business.

The configuration of buildings on my block makes it impossible for noise from "events" not to come into my house, especially the front room. Dances, etc. with music and DJs, loud yelling, clapping, etc. are held at the back end of the MH, and an open-air bar is in the backyard. Sound waves are like radar waves, they bounce off buildings and go in one direction—into my house.

Once sound waves hit my house, other incoming waves push it back to my house.

The decibel levels are extremely high. Often, in spite of having my TV on as loud as it can go, I cannot follow what they are saying. I now have a serious breathing problem—I have no AC—but often in the summer I have to close my windows and doors.

Even in winter, with all the doors and windows shut at my house & the MH, often I can hear some music, and all year-round there is a very disturbing thumping sound.

One of the agreements to open the MH was that “neighborhood parking will not be impacted”, patrons would use the Catholic lot and possible Attorney Faircloth’s lot. Since day one, they used Queen and South Streets—constant slamming of doors, horns beeping when cars are locked, talking, etc.

I am diabetic. The hormone cortisol regulates blood sugar. During stress, the body increases blood sugar. My BP is fine, but during loud “events”, BP and blood sugar shoot up. This is very dangerous. My nose bleeds, I have stomach cramp, dizziness and extreme headaches. Many times, even in winter, I have to leave my house and take long walks. Symptoms can last hours after events are over.

This is a “Historic Neighborhood” yet the McFH has signs, bright lights, etc. one sign states that the HMCH was established in 1876. The McFarlands did not buy it until the late 1950’s, did not open as an event business until the late 1950’s.

I’ve made over 100 legitimate police calls about the McFH. On 2 March, 2011, 2 patrons went to a car on S. St. yell “Miller is M.F.” and threw 2 bottles in my yard. 25 Aug. 2011, a young patron went to a car on S. St., as he went back to MH, he jumped my fence, intentionally stomped a tree I just planted, jumped over my front fence. A few minutes later, he came out with 2 females, I went to the front fence to talk to. He denied everything, 1 woman cussed me out and the male said he was coming back with his “posse” to get me. The woman threw a large cup in my yard. They got in a car WV OTP 328 and left. I called PD and waited 20 minutes. Officers Q. Burns (sic.) came, I told him all, he said he’d look into it. Then he wanted to know where I kept my guns. I asked why; he said “in case we want to” then stopped. Nothing was done.

17 Sept. 2011. Called about extreme noise. 6:05 no one came. 8:26 2 patrons—I saw in B yard—came to my side fence, appeared to be very intoxicated. They both urinated on my fence. One said my hose looked abandoned & he wanted to break into it. I went to fence, they ran to cars & took off. I called PD. Fritz came, then Chrisman. Chrisman immediately started yelling at me, both had hands on guns & Taser, then C. said if you make any more calls, I’ll arrest you for filing a false police report. I called the Mayor, left a message—nothing done.

29 Sept. 2012 about 11, I yelled nicely from my veranda “Please keep it down. My neighbors have to sleep” to four loud women. One yelled back “F. you you F’ing Nigger.” I called Police, told dispatchers I had Black neighbors. She said they’d send someone down. No one came.

22 June 2013. Cronin passed out. I called. Then man came and wanted to drive off with her hanging out of car. I went out and asked if everything was Ok. She got out, grabbed my neck, tried to kick me 3 times. The man said “get back in the house or I’ll beat your ass,” I called PD. Cronin fought with Officer Gibson. The man was asked where he came from, he stated “The M.H.” He was given a breath test, he was to intox to drive. At one point, he turned around and yelled at me, “I’m coming back and get you big time.” A threat of violence. All officers looked, not one said anything. I went to court for Gibbons. Years ago, a car went thru a stop sign and hit a PD car with lights and sirens on. Neighbors in houses—said the siren was not on. I was in my yard, I testified that the siren was on.

Now they want to open a restaurant at the McFH on the front first floor. There is no handicap access out front. This will only increase loud parking, etc. on my street.

None of you would tolerate any of this on your block.

Arrest, 15 April 2014, a Saturday, I got up around 1:15 PM. I noticed a large group of US Marines in the backyard McF, many were drinking beer, most were taking pictures. [illegible word] were taking pictures. I noticed a paid photographer, and a woman with a small movie camera. At 5:05, I noticed to Asian males

leave the H with open containers and go across the street. I called PD, left a message—give them the car tag WV2MU510.

I went in my house, came out the front door as Of. Smith was walking down the alleyway of the James Apt. (413 S.Q.). he asked me if I heard anyone yelling, I said no. he said if I did, someone could be arrested for D the P [disturbing the peace]. (What about all the yelling from the McH?). I told him I call about 2 males open container. He said he sent another male O.C. into the McH. No citation? PD must have many un-used citations. He asked me if I was drinking. I said no and offered to take a breath test. He declined, I wished him a blessed afternoon.

What he did not say; that I or anyone else went up to the fence when the Marines were practicing the wed. ceremony, and came back during the ceremony itself and cursed out the Marines and wanted to fist fight them. Both times. Neither did anyone called the police about his! But they did call when someone in the distance was yelling. Not one picture was taken! I have COPD, heart problem & my left arm is nearly useless, my right leg is bad, and I am a Christian of strong faith, and Marines—drinking—would back down from a 61 year old man and not do anything?

Construction and biker type often rent apt. here. Drunks drink in the cemetery. The 3 apt. house across the street is often very loud. Evictions. I take responsibility for what I do—not what someone else does.

At 11:02 PM, I called PD about a large group still in the backyard—in violation of the law. I clearly stated to dispatch “The Back.” Twice previous to that night I explained to Officer A. Griffin—once she was with Funkhouser, Female Gibbons—to her face that the noise problem came from the back end of the MH and especially the back yard. I explained this to many officers. I was in my hose—door and windows closed, due to the noise. I noticed then a 2nd PD car stopped out front. No one shined a light in my yard. Subsequently, G & Chrisman, shining flood lights and with PD radios on loud, went up alleyway to backyard—why didn’t they send a telegram? My front yard is well lit by a bright st. light, 413’s flood light. No officers came to my house.

I was brutally arrested on 11 April 2014. Griffin states that she responded to a loud music complaint coming FROM the MH. It came from me. I said nothing about music to the dispatch—still on tape. She states she could not hear any music from “inside” when she got out of car or until MH opened door. She advised them of complaint. She then spoke to an un-named resident of 413 who said he didn’t have a problem with the music. Then my friend Chrisman arrived. He stated he heard “Mr. Miller screaming outside but could not see me.” Griffin and the mysterious witness did not hear screams. She stated she spoke to a “subject”—actually an employee—at the wedding, James Brown, lived in Hedgesville but still have a VA driver’s license-- no citation who stated—quote from arrest warrant “at around 1615 hours, the neighbor of the MFH started yelling “Fuck you, Motherfuckers” to the Marines practicing for the ceremony. Mr. Miller then proceeded to come to the side fence and challenged the Marines by saying “I’ll beat your ass”. At this time, Mr. B. directed the Marines to deport and not initiate with Mr. Miller. Mr. Miller then yelled “fuck you” several times.” He then stated “Mr. Miller then came out of his residence at 417 S. Q”—when MH sued me in a purely harassment law suit they had my address as 413—I guess G corrected it “to the side fence right before the WC and started disrupting the ceremony.” How did that end, did the Marines retreat. If I could fight like that Mayweather {Illegible words}.

My false arrest x-trem (sic.) traumatized me. Before, I could walk 5-10 miles without running out of breath. After, for months, I needed a cane to walk, often had to stop every block to catch my breath. I aced the real possibility of 30 incarceration for something that did not happen.

15 March 2014. Afternoon, I was walking home from D.T. [Downtown] saw a group outside McFH, so I turned at Stephen and went to the alley way behind MFH. Bradley Spates saw me and very loudly yelled

“Hey.” I ignored him and went to my h. about 10 minutes later, I was going to the library. I planned to walk east on W.S., then Maple Ave to King. As I left my side gate, Griffin drove up to me. I ignored her. She went up the alleyway and parked behind the McFH. As I walked down Maple, she drove up to me and stopped, put her window down, and stared at me. I ignored her. Afraid of another false arrest, I went to PD and talked to Sec. Linda Surgen. I’ve talked to her several times and sent her letters.

Smith—Walmart/Target

This is just some of the harassment I’ve received, and I never disrespect police—or committed any crimes. [Mr. Miller then read a letter addressed to a Mr. Brown, dated 9 February 2015.]

Mr. Brown

First of all, let me stated that I have forgiven you. Our Heavenly Father offers to forgive us.

You swore under oath, that on 5 April 2014 I came to the south fence of the McFarland House, used very vulgar language, and challenged a large group of active-duty U.S. Marines to fist fight me.

You—and our Heavenly Father—know that absolutely none of this happened.

The false arrest, the subsequent police harassment, etc. has cost me dearly—physically, emotionally and monetarily.

I am asking that you issue me a written apology. Absent that, I am very willing to sit down with you and take a polygraph (“lie detector”) test.

I pray for you and your family.

Sincerely,

Peter Miller.

After delivering his statement, Mr. Miller requested an ambulance. Mayor Karos called a recess at 7:06 PM to allow medical transport to attend to Mr. Miller.

Council session resumed at 7:20 PM.

Mr. Chris Amores, for the kids, by George Children’s Museum, requested permission to serve alcohol at two different events at the Train Station; a Main Street Mixer and a Young Professionals event.

Mayor Karos replied that this would be addressed later in the meeting.

Mr. Vernon Cartwright, stated that some names have been submitted for the Human Relations Committee, but he has not heard anything regarding appointments. He asked when those decisions might be made.

Mayor Karos replied that he wishes to have a very diverse committee and that he is awaiting a number of interested individuals to submit their resumes or letters of interest. He stated that there is no time table at this time, but hopes to begin the appointment process in the next month or two.

Mr. Richard Anderson, NAACP Legal Redress Committee, stated that he has been reading about the search for a new Police Chief. He asked Council to “think outside the box” when making that appointment and consider hiring a minority as chief, making history in the City of Martinsburg.

Steve Chapman, 665 Winchester Avenue, requested relief for storm drainage issues on Osbourne Way. He stated that the alley has inadequate stormwater management engineering and it creates lakes on adjoining properties. He asked for resources to help with this issue. He also pointed out that, while there is a drainage gate on Mall Drive, it is located on the highest point of the curb, so no water flows into it.

David Haarberg, 512 Winchester Avenue, asked why the City supports the Airport Authority at all, and was interested in learning who is being subsidized by that support and what benefits the City gets in exchange for the support.

Joe Mercurio spoke in support of an ordinance which would add prohibitions against discrimination against members of the LGBTQ community to the City's policies. Mr. Mercurio stated that he grew up in Martinsburg, and was hesitant to return after serving in the military because the City is not particularly welcoming to members of the LGBT community. He cautioned that the area is losing young talent to other states and that most Fortune 500 companies have such policies in force.

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

- a. Berkeley County Animal Control April 2015 Incident Report
- b. Planning Commission February 4, March 4, April 1 and May 6, 2015 Meeting Minutes
- c. Board of Zoning Appeals March 3 and April 7, 2015 Meeting Minutes
- d. Historic Preservation Review Commission February 2, March 2, and April 6, and May 4 2015 Meeting Minutes
- e. Martinsburg-Berkeley County Convention and Visitor's Bureau April 8, 2015 Meeting Minutes
- f. HEPMPO-Berkeley County Transportation Improvement Program Projects FY2014-2017 Update
- g. Eastern Panhandle Regional Planning & Development Council (Region 9) March 16, 2015 Meeting Minutes
- h. For the Kids, by George Children's Museum May 7, 2015 Meeting Minutes
- i. Eastern Panhandle Transit Authority May 18, 2015 Meeting Minutes and Financial Statement

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

12. Reports of Chairpersons of Council Standing Committees

There were no reports of Chairpersons of Council Standing Committees.

13. Report of Mayor

a. Reappoint Bill Barney to the Code Appeals Board—term 7/12/2015-7/12/2018

Motion made by Councilman Wachtel, seconded by Councilman Boyd, to reappoint Bill Barney through July 12, 2018.

b. Reminder that Municipal Sales Tax (1%) goes into effect July 1, 2015

Mayor Karos stated that the State Tax Department should be notifying businesses of the requirements. City Attorney Kin Sayre stated that the information is available on the State Tax Department's website and will be included with quarterly tax return forms.

c. Reminder that increased sewer rates go into effect July 1, 2015

d. Fireworks update—see attached info

e. Appoint Audit Procurement Committee—Mayor Karos, Mark Spickler, Mark Baldwin and Dennis Etherington

Mayor Karos appointed the above to the Audit Procurement Committee.

f. Reminder of following vacancies

1. Parking Authority (2)

2. Human Relations Committee (5)

3. Historic Preservation Review Commission (1)

14. Report of City Attorney

A. Eastern WV Regional Airport Authority Membership Overview

Mr. Sayre reminded Council that at the May 7 joint meeting with the Berkeley County Council, they had discussed a requested amendment to the 1972 agreement. Kin stated that there were some questions about State Code; whether the City would be required to appoint more members. He stated that his interpretation is that the City would not be required to appoint more members as the statute discusses votes, dependent upon dollar amount contributed. The amendment, if approved, would allow the City to add physical members for every \$5K contributed or allow existing three members six votes total. He recommends allowing requested change to help clarify the agreement and to ensure that the City has equal representation. He recommended against the City adding more physical members, as this can be problematic if funding levels decrease.

Councilman Anderson asked if the Airport Authority has a maximum membership of 21 members. Mr. Sayre confirmed that it does have a maximum of 21 physical members but there is no cap on votes.

Councilman Knowles stated that Council has discussed this issue several times and has determined not to change the existing agreement. He asked why that consensus has changed recently. He also asked if Council is obligated to pay the amount budgeted.

Mr. Sayre replied that each fiscal year, there is opportunity to change the number of votes per entity through the budget process. He stated that when the City and County had the same amount of members and votes, it did not matter, but now that the County is changing the amount of members to be in line with State code, the amendment will help to ensure that the City has equal representation as they budget the same amount of money.

Councilman Baker asked if the Chairman votes. Mr. Sayre stated that the Chairman votes only in the event of a tie. Councilman Baker asked if the City loses those two votes, or if they are given to the remaining two members appointed by the City. Mr. Sayre replied that the bylaws are not clear, but the votes can be assigned to other members.

Councilman Baker asked if the City were to appoint more physical members and later decided not to fund the currently funded amount, if the members could remain on the Authority as non-voting members. Mr. Sayre replied that there are no contingencies per the Authority by-laws or per State code.

Councilman Boyd asked if the County were to contribute large sums of money, is it possible they could purchase all of the votes. Mr. Sayre stated that they could. Mr. Sayre asked if it makes sense for the City to contribute at the same rate as the County if the County can just buy the votes.

Mr. Richard Wachtel, 905 N. Queen Street, stated that the laws regulating Airport Authorities were designed to create regional authorities. The Eastern Panhandle Airport Authority was intended to be represented by appointees from the eastern six counties and contained municipalities. He stated that, other than Berkeley and Jefferson County and the City of Martinsburg, other counties have not taken advantage of the representation in an aggressive manner, if at all. In addition to the three Berkeley County members and three City of Martinsburg members, Jefferson County has one member and intends to appoint another.

Councilman Wachtel asked about property ownership. Mr. R. Wachtel replied that the property belongs to the Airport Authority, as of April 1972. Councilman Knowles asked if the City owns any property at all in the Airport vicinity. Mr. Wachtel replied that it does not, and neither does the County. The Mayor stated that he believed the City and County purchased a great deal of property in the area. Mr. Wachtel stated that they did, and that property contains the infrastructure of the Industrial Park, which created a great many jobs and economic opportunity until the recession. He stated that the Authority currently is dealing with six companies who have

strong interests in locating at the Airport. Mr. Wachtel stated that the Airport Authority has received a good deal of support from the Economic Development Authority, but that the airport itself plays a large part in economic development.

Councilman Boyd asked how the City can benefit from the airport. Mr. Wachtel stated that larger companies looking for a location are pleased with the close proximity of a modern airport for purposes of landing corporate jets to allow executives to conduct business. He stated that the airport was a factor in attracting businesses such as Macy's and Proctor and Gamble, which benefit Martinsburg and Berkeley County.

Councilman Wachtel asked if usage has increased since the casino came to the Charles Town race track. Mr. R. Wachtel stated that there is some frequency of use for horse owners and horses which fly into the airport, but not a large amount.

Councilman Wachtel stated that, as far as he knows, the Airport Authority is the only organization which has given excess funds back to the City of Martinsburg.

15. Report of City Manager

a. Projects Update

The City Manager had nothing further to report.

16. Unfinished Business

A. Third and Final Reading of Ordinance 2015-06: An Ordinance Authorizing The Issuance By The City Of Martinsburg, West Virginia, Of Not To Exceed \$3,000,000 In Aggregate Principal Amount Of Property Tax Increment Refunding Revenue Bonds, Series 2015 (The City Of Martinsburg Development District No. 1 – North Martinsburg Access) To Finance The Current Refunding And Redemption Of The City's Outstanding Property Tax Increment Revenue Bonds, Series 2010 (The City Of Martinsburg Development District No. 1 – North Martinsburg Access); Authorizing The Execution And Delivery Of A Trust Indenture, Bondholder Agreement Or Similar Document And A Private Placement Memorandum And Other Documents With Respect To Such Bonds; Authorizing The Sale Of Such Bonds To One Or More Banks Or Other Accredited Investors Arranged By Crews & Associates, Inc., Pursuant To A Placement Agreement Or Bond Purchase Agreement Relating Thereto; Authorizing The Execution And Delivery Of Such Documents And Agreements And All Other Documents And Agreements Necessary In Connection With Such Bonds; Setting Forth Certain Parameters For The Terms Of Such Sale; Designating Such Bonds As Qualified Tax-Exempt Obligations; Delegating To The Mayor Of The City Of Martinsburg Certain Responsibilities In Connection With The Issuance And Sale Of Such Bonds And The Execution And Delivery Of Such Documents And Agreements In Connection Therewith; And Taking Other Actions In Connection With The Issuance And Sale Of Such Bonds

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the third and final reading of Ordinance 2015-06. Motion carried unanimously.

15. New Business

a. First and Second Reading of Ordinance 2015-07: An Ordinance to Amend the Text of the City of Martinsburg Zoning Ordinance at Section 560: Table of Zoning District Uses to Allow Restaurants in the Service Business District, Subject to Special Exception Review

Motion made by Councilman Etherington, seconded by Councilman Knowles, to pass Ordinance 2015-07 through the first and second reading. Motion carried unanimously.

b. Approve/deny Resolution 2015-12—FY 2014-15 General Fund Budget Revision #4

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2015-12. Motion carried unanimously.

c. Approve/deny Resolution 2015-13: FY 2014-2015 Coal Severance Fund Budget Revision # 4

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2015-13. Motion carried unanimously.

d. Approve/deny FY 2014-2015 Police Levy Budget Revision #2

Motion made by Councilman Wachtel, seconded by Councilman Knowles to approve the FY 2014-2015 Police Levy Budget Revision #2. Motion carried unanimously.

e. Approve/deny FY 2014-2015 Water and Sewer Fund Budget Revision #2

Motion made by Councilman Etherington, seconded by Councilman Wachtel to approve the FY 2014-2015 Water and Sewer Fund Budget Revision #2. Motion carried unanimously.

f. Approve/deny FY 2014-2015 Sanitation Fund Budget Revision #2

Motion made by Councilman Knowles, seconded by Councilman Etherington to approve the FY 2014-2015 Sanitation Fund Budget Revision #2. Motion carried unanimously.

g. Approve/deny FY 2014-2015 Parking Budget Revision #2

Motion made by Councilman Etherington, seconded by Councilman Boyd to approve the FY 2014-2015 Parking Fund Budget Revision #2. Motion carried unanimously.

h. Approve/deny Resolution 2015-14 Regarding Inter-Governmental Agreement between the City of Martinsburg and Berkeley County Commission for stormwater easement for Church and King Streets Stormwater Project.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2015-14. Motion carried unanimously.

i. Approve/deny Habanero Mexican Grill's Request(s) to park mobile food truck on W. Burke Street and associated requests per letter

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve Habanero Mexican Grill's Request(s).

Councilman Anderson asked how long the restaurant planned to operate within the request parking spaces.

Charlie Zawacki, Habanero, replied that they plan to park on Burke Street for loading and unloading the food truck and for overnight storage for an indefinite/permanent period of time.

Councilman Etherington asked if they already own this truck.

Ms. Zawacki replied that they do own a truck which has not yet been converted, and it is currently stored at her home.

Councilman Etherington asked if the truck could not continue to be stored at its current location and brought into town for loading and unloading.

Ms. Zawacki stated that it is very difficult to get the truck into and out of that location.

Councilman Etherington stated that he has an issue with the request because it will take up two spaces on W. Burke Street, and with the upcoming renovations to the E. Burke Street parking lot, those spaces may be needed.

Councilman Baker asked why Ms. Zawacki has to be granted permission, as those spaces are public parking. Mr. Sayre replied it is because she is requesting that the spaces be designated.

Mayor Karos stated that he is afraid that this would open a Pandora's Box, as the restaurant already has a loading zone and now they want 2 permanently designated spaces. He stated that would be unfair to the City and to other downtown businesses. If asked if the restaurant would close if this permission is not granted. Ms. Zawacki stated that she has no intention of closing the business.

Councilman Wachtel asked if they would not be hurting their own business. Ms. Zawacki replied that they would not be parked there during peak times. She stated that the loading zone is currently only active on Wednesdays, which isn't very helpful as they receive deliveries every day.

Mayor Karos asked if she could not simply find another close parking space. Ms. Zawacki stated that they require the safety and security of being parked near the business and the convenience of loading and unloading.

Councilman Anderson called for the question, but the question wasn't clear as there were several options mentioned in the request.

Councilman Baker moved to table this question and recommend it to the Parking Authority. Councilman Knowles seconded the motion, which carried unanimously.

j. Approve/deny Thirteenth Amendment to the Lease, Extending the Lease Agreement between the City of Martinsburg and Berkeley Post 14, American Legion, Inc.—July 1, 2015-December 31, 2015, contingent upon proof of adequate liability insurance.

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve the 13th amendment to the lease. Motion carried unanimously.

k. Approve/deny request from Deliverance Ministry and Healing Center to utilize the Town Sqyare on Saturday, June 20 from 5-9 PM for Purposes of Holding a Community Event, Contingent upon Proof of Adequate Liability Insurance

Motion made by Councilman Baker, seconded by Councilman Anderson, to approve the request from Deliverance Ministry and Healing Center to use the Town Square on June 20 from 5-9, as requested, contingent upon proof of adequate liability insurance. Motion carried unanimously.

l. Approve/deny request from Deliverance Ministry and Healing Center to Conduct a 5K Walk-a-thon in the Downtown Area on September 12 from 9 AM until 1 PM, Contingent upon Proof of Adequate Liability Insurance

Motion made by Councilman Baker, seconded by Councilman Anderson, to approve the request as submitted, contingent upon proof of adequate liability insurance. Motion carried unanimously.

m. Approve/deny Request from Winchester Avenue Christian Church to Block off a Portion of Stephen Street and an Adjacent Alley for Purposes of Conducting a Community Event—Saturday, July 25, 2015 from Noon until 4 PM, Contingent upon Proof of Adequate Liability Insurance

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve the request as submitted, contingent upon proof of adequate liability insurance. Motion carried unanimously.

n. Approve/deny Repair of Permeable Pavers on E. King Street (Town Square Pedestrian Plaza)—Prosperity Landscaping--\$3,200—Street Department Fund.

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the repair of the pavers.

Councilman Knowles asked if this would repair the “humps” on E. King Street. Mark Baldwin stated that it would, the repair are needed in the intersection with Queen St.

Councilman Anderson stated that he does not understand the request. Mayor Karos explained that the area off of Queen Street, on E. King Street, is experiencing a big drop in the brick and the request is to replace those pavers.

Councilman Baker stated that the pavers have been reworked a number of times. City Manager Mark Baldwin stated that was not these ones, some on Queen Street had been repaired previously. Councilman Baker asked what is wrong with the pavers, as this is a fairly new install, and the pavers are not cracking. He asked if this will be an issue every 3-4 years. City Engineer Mike Covell stated that it is possible and is likely related to differential settlement. Councilman Baker asked if Council was aware that these upgrades would require so much maintenance. Mr. Baldwin responded that the project was designed by the State and that the City was aware there would be routine maintenance.

The motion was approved 6-1, Anderson no.

o. Authorize City Manager to Submit US EPA Cooperative Agreement(s) for Brownfields Assessment Grants (2015)--\$400,000 (\$200,000 Hazardous Substances/\$200,000 Petroleum)

Motion made by Councilman Etherington, seconded by Councilman Boyd to authorize the City Manager to submit Cooperative Agreements. Motion carried unanimously.

p. Approve/deny Proposed Amendment to Ordinance in Reference to Eastern West Virginia Regional Airport Authority—See 14 A

Mr. Sayre explained that approval would put into the agreement the parameters defined by State code, that each appointing entity could appoint additional physical members or have additional votes divided among existing member for every \$5K contributed. Approval would amend the Ordinance, Council can decide at a later date on further action in terms of votes or members.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the proposed amendment. Via roll call vote, Etherington, Wachtel and Anderson voted yes; Baker, Boyd and Knowles voted no. Mayor Karos voted yes to break the tie vote. Motion carried. Councilman Baker asked why Mayor Karos began the roll call vote with him, stating that he believes, per Robert’s Rules of Order, the roll call should begin with the At-Large Councilmen and continue in numerical order by ward.

q. East Burke Street Parking Lot Project Update

Kristen Starliper, Gordon and Associates, gave an update on the project. She explained that they were currently working on easements and boundary work and presented a draft plan. She stated that the final plan is expected by

the end of the week, along with an updated cost estimate. She stated that the layout would allow for better circulation, increased impervious area, attractive landscaping and a small area for pedestrians. The design does, she added, include a small decrease in quantity of parking spaces.

r. Approve/deny Ingress/egress and Maintenance Easements with the Following Property Owners (E Burke Street Parking Lot Project):

125 E. King Street, LLC

Trustees of Martinsburg Lodge #778 of the Benevolent Protective Order of Elks

One Valley Bank-East, National Association

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the ingress/egress and maintenance easements with the above property owners.

Councilman Etherington asked if this was related to the E. Burke Street Parking Lot Project and Mr. Baldwin stated that it is.

Councilman Boyd asked if the intent is to close the entrance from Queen Street. Mr. Baldwin replied that entrance will remain open, the access from Spring Street will be closed.

Above motion carried 5-1, Anderson no.

t. Discuss Bridge Replacement Study Final Design Report for Oak Street Bridge

Mr. Baldwin reminded Council that the State has agreed to fund 80% of the bridge replacement cost and the City is to fund 20%. He stated that there are three options presented in the final design report, with the recommended option moving the bridge upstream. He added that this will change the alignment slightly, but will give better flow and takes place entirely on public property. He stated that this project is proposed for FY 2015-2016.

u. Approve/deny Agreement between the City of Martinsburg and Nancy S. Strine Consultants, LLC for CDBG and HOME Administration, through June 30, 2016.

Mr. Baldwin pointed out the slight increase in rate, which is paid for by CDBG and HOME administrative allowance.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the Agreement between the City of Martinsburg and Nancy S. Strine Consultants, LLC through June 30, 2016. Motion carried unanimously.

v. Approve/deny Appointments to the Following:

- **City Recorder**—Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the appointment of Gena Long as City Recorder through June 30, 2016. Motion carried unanimously.
- **Police Court Judge**—Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the appointment of Stephen Kershner as Police Court Judge through June 30, 2016. Motion carried unanimously.
- **Alternate Police Court Judge**—Motion made by Councilman Knowles, seconded by Councilman Wachtel, to appoint Dale Buck as Alternate Police Court Judge through June 30, 2016. Motion carried unanimously.
- **City Treasurer**—Motion made by Councilman Wachtel, seconded by Councilman Anderson, to appoint Dennis Etherington as City Treasurer through June 30, 2016. Motion carried unanimously.

w. Approve/deny Resolution 2015-11, Authorizing HRI Inc.'s Application for June Payment #18--\$1,322,972.65.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2015-11. Motion carried 5-1, Anderson no.

x. Approve/deny Jefferson Asphalt Products Invoice for Street Repaving--\$200,028.09 (CDBG--\$178,666.00—City of Martinsburg General Fund--\$21,632.09).

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve payment of Jefferson Asphalt Products invoice. Motion carried unanimously.

y. Approve/deny Quote for Debris Removal (Fence Line Overgrowth, Weeds, Etc.) from Water Department Properties

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the quote for debris removal. Motion carried unanimously.

16. Executive Session

No executive session was necessary.

Adjournment

Motion adjourned by unanimous consent at 8:26 PM.

George Karos, Mayor

Gena Long, City Recorder