

**City Of Martinsburg  
Regular Council Meeting  
Thursday, May 12, 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, H.D. Boyd, Dennis Etherington, Gregg Wachtel, Ken Collinson and Jason W. Baker. Not present was Councilman Knowles. Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder; Police Chief Maury Richards, Steve Knipe, Utilities Director, Fire Chief Paul Bragg, Community Development Director Nancy Strine, City Engineer/Planning Director Michael Covell and Utilities Director Jeff Wilkerson.

**3. Salute to Flag**

Councilman Etherington led the Salute to the Flag.

**4. Prayer—**

Mayor Karos

**5. Approve April 14, 2016 Regular Meeting Minutes**

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve the April 14, 2016 Regular Meeting Minutes. Motion carried unanimously.

**6. Approve April 19, 2016 Special Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the April 19, 2016 Special Meeting Minutes. Motion carried unanimously.

**7. Approve March 2016 Administrative and Financial Report**

Motion made by Councilman Etherington, seconded by Councilman Boyd, to approve the March 2016 Administrative and Financial Report. Motion carried unanimously.

With the consent of Council, items 16 N and 16 Y are to be moved up on the agenda.

**8. Presentations**

**a. Proclamation—Building Safety Month—May 2016**

The City Recorder read the Proclamation.

City Engineer/Planning Director Michael Covell thanked Council for their support. Building safety helps to keep buildings safe for everyone, including fire and law enforcement who must respond for a variety of reasons. He stated that most people are aware of the importance of smoke detectors, but not other necessary routine maintenance on their homes. The Planning Department offers free deck inspections to City residents and other summer safety information.

**b. Proclamation—National Park Trust “Kids to Parks” Day—Saturday May 21, 2016**

The City Recorder will forward the Proclamation to the National Park Trust.

**c. Richard Lemanowicz, Esq., Regarding Offer to Lease Public Works Property for the Construction and Operation of a Wireless Communication Facility**

Mr. Lemanowicz spoke on behalf of Vertical Bridge Development who is interested in leasing property on Boston Street from the City of Martinsburg, and have addressed the City's consultant's concerns to the best of their ability.

City Manager Mark Baldwin stated that one of the first steps is to send the request to a consultant to review that the tower is needed and other parameters and requirements. The site has been determined to be conducive and a need has been identified. If Council desires, they can move forward with the lease for the site. If the City declines the lease, there are neighboring properties that can be used.

Councilman Baker asked if the proposed location is out of the way and that there will be no issues with the daily operation of Public Works. Public Works Director Jeff Wilkerson stated that it is out of the way and not used.

**16 N. Discuss Request for Wireless Communications Facility at Boston Street Public Works Property and Authorize City Attorney to Finalize Lease Agreement**

Motion made by Councilman Baker, seconded by Councilman Wachtel, to respond to the request favorably and move forward with the process. Motion carried unanimously.

Councilman Boyd asked if the unit is to be a standalone tower. Mr. Lemanowicz replied that it will be a monopole disguised to look like a tree and there will be a small structure at the base, within a fence.

Mr. Baldwin stated that he hopes to have a lease for Council decision at the June meeting.

**9. Petitions from Citizens**

Mayor Karos reminded all petitioners that they are to provide their name and address and limit petitions to five minutes.

Peter Miller, S. Queen Street, read the following into the record (transcribed as presented):

Do you know who Jesus Christ really is? An equalizer—the poor, the rich stand in front of his eyes. We are all the same in His eyes—pathetic little sinners.

Why don't I have any rights before the City Council? What right do you have to take my rights away?

I spoke out against the very negative effects of re-opening the McFarland house. I was selectively and vindictively targeted by the Building Inspectors, subjected to harassment by the MPD (City cops/bell hops) and arrested on glaringly false charges.

Would the Mayor, the owner of the McFarland House, or any of you—tolerate such a loud business on your block? Not for a second! Your neighbors—not for a tenth of a second!

Allow such a business on such a compact block—in a “residential” neighborhood?

I have COPD—a serious and dangerous breathing condition. When the McFH has one of their many loud parties, I have to close my windows and doors. I have no air conditioning. Even in winter—when my house

and the McFh have all windows and doors closed—the music, PA system, the thumping, etc. is so loud that I can't hear my TV.

My life is seriously endangered by all this. Do you care or do you care only for money? The stress is so bad that my blood pressure goes through the roof. I get nose bleeds.

Why do you call yourself "City Council?" You are not here for the City, only your self-interests and those of your friends.

What we really need is an independent "ombudsman/woman" group to represent and speak out for the non-rich citizens. I nominate Hubert Smith and Richard Anderson.

I paid my dues—big time!—for this country and for the community. I have the right to defend my rights.

Two years ago, I was falsely and brutally and brutally arrested for "quote" going up to the fence of the McFh during both the rehearsal of the wedding ceremony and during the ceremony itself and yelling obscenities and threats to the US Marines there and challenging them to a fist fight.

None of this happened. Almost everyone there were taking pictures. No one took a picture of me or called the police.

Later that night, after 11 AM when the "50 foot law" came in effect, I called police because of a loud group in the back yard of the McFh. I very clearly stated the problem was in the backyard. Officer Griffin arrived out front, the Chrisman. Both of the m turned their police radios up loud and walked in the backyard of the apartment building between my and the apartment building, shining their flashlight into the backyard of the McFH.

Griffin well-knew of the problem between me and the McFH. She should have sought out what really happened. Instead in the arrest warrant, she claimed that she spoke out-front to a resident of the apartment building. She never did! Who said he had no problem with any noise. I was out in my front yard yelling be he couldn't see me. My front yard is well lit by a street light. I was in my house.

In the warrant, Griffin stated that she spoke to a "subject" in the backyard of the McFh. No! he was one of the managers of the McFh. He stated, under oath, that I came up to the fence during both the rehearsal and the wedding ceremony itself and screamed obscenities, threats and challenged at least 35 US Marines—all active duty—to a fist fight. Yet no one called the police or took photographs. During the afternoon, they did call PD because someone in the distance was yelling. Griffin, at the very least, should be terminated.

In the warrant, Chrisman stated that my house was inhabitable. Actually it is very sound. I can't live there when the McFH have one of their out of control parties, sometimes several days a week—often for 6-8 hours straight.

After I criticized the City Council and the City Government in a letter to the editor, the building inspector did come and trespassed on my land. He has no right to do so—you have no right to over-ride the US Constitution and take away our rights. He cited me for numerous so-called violations while ignoring the obvious violations at the McFh, and the apartment building at 505 S. Queen. While on my property. One of my new miniature fruit trees was trampled down. It did not regrow.

I want to thank Ms. Gena Long for sending me the minutes of the C.C. and ZBA minutes.

At the Zoning meeting, Michael McCarty, principal owner of the McFh, took an oath to tell the truth. Then, when he was asked to state hi residence, he lied and stated 409 S. Queen. When Mayor Karos still owned Pattersons and if he was asked to state his residence, would he give the Patterson's address?

I brought McCarty's blatant perjury to the committee's attention. No one would even make eye contact with me, let alone comment. There was no mention of this issue in the minutes of the meeting. Why not?

Mildred Seavers, Eagle School Road, stated that the Federal government will by applying money toward rehabilitation facilities in the United States. She asked Council to please follow up and make sure the money is not going toward political needs. She asked when citizens might expect a statement from the Mayor and Council advising of rehab plans for the public.

Rebecca Dunmeyer, Inwood, stated that West Virginia has the highest overdose mortality rate in the United States and that Berkeley County has the highest in the state. She feels that leaders need a plan as every citizen has problems related to drug use. Ms. Dunmeyer went on to say that jails do not help and are very costly from both a monetary and human perspective. The cycle is vicious and education and treatment are necessary to stop the cycle. She stated that addicts need to learn to quit and they need help, not punishment. Selling drug is a lucrative business and we need to get serious about fighting substance abuse.

Cindy Koontz, Berkeley station, spoke about the heroin epidemic and stated that a treatment center is needed on Baltimore Street. Drugs are in everyone's neighborhoods, schools and churches already and the problem is escalating into a public health concern that impacts everyone.

James Boyd, Falling Waters, proposed that citizens get the opportunity to engage with candidates and those in office prior to the election at a forum at the Apollo. Mr. Boyd stated that the neighbors of 750 Baltimore Street are not opposed to the proposed rehab facility, that he had spent time with many of them during a recent vigil. He also stated that he knows from personal experience that addicts do recover and that Martinsburg needs to move into the 21<sup>st</sup> Century and use technology for job creation to help addicts recover and reenter society. He suggested using empty buildings to house treatment facilities.

Emanuel (Last Name Unclear), Rubens Circle, stated that when he bought property in the Gallery Subdivision, he understood that natural gas was to be available shortly, and the builder has not lived up to promises made, and he is still using propane, which is very expensive. He also was concerned that there are no lane markers on Klee Drive which creates a hazard when it is foggy or dark.

Charles Godlove, Ward 5, presented the following (transcribed as presented):

I, Charles Godlove, a resident of Ward 5 hereby call for a vote of no confidence on the part of the City Attorney, Mr. Ken Sayer, and Building Official, Mr. Darby Dean.

This claim is made due to the non performance and adherence of West Virginia State law and City Municipal Code 361.06 (e).

Sayer, attempted to prosecute the petitioner with a 200 dollar fine more than a year ago and has taken no action to provide the city with accurate enforcement for residents and employers with enforceable ADA parking spaces although he has more than likely prosecuted thousands without merit. Currently it is a free form here in the City, as no state law or uniformity may be found regarding this important matter both on public or private property. Making the disable the second-class citizens within

our city. And that being part of his job description. As the city attorney this is part of the employment per the job, to protect and defend.

The City Charter calls for the attorney to act in all legal matters for the City and to protect by law. Untold numbers of persons have been falsely ticketed and thousands of needy persons denied accessible parking as required by law. No signage within the city owned property that being streets and parking lots have enforceable parking restrains (signage) and many fail to provide access to the route. Enclosed are photos of our signage.

Dean, was contacted years ago with a request to force the International Building Code within the city. He has not followed the City ordinance or the building code as a requirement of his position. His failures are more than ADA parking requirements but access to the accessible route in far too many locations within the city. A total disregard for the disabled persons who need access to private and public property these shortcomings maybe found in a new build outs for access and bathroom layouts. Further, Dean has wrongfully assigned the implementation of the building codes allowing liberal code assignments to important projects thus permitting projects with wrongful guidelines as seen in his affidavit (enclosed). Dean has failed to regulate builders and the tasks of his office regarding enforcement and oversight as seen in the documents.

These failures are just causes for this action Sayer and Dean are at fault in concert they have failed miserably in their jobs to provide for our citizens.

The petitioner requests action be taken to remove these persons from City employment and that the City of Martinsburg take immediate action to provide, "access parking" and total adherence to Americans with Disability Act with enforceable parking signage and access to the accessible route for all within the City and to cease and desist all false violations for parking within the ADA parking.

Our City sits on the precipice of a quantum leap, these positions are important to our future. They must be respected for our citizens and visitors as a matter of public safety. The failures addressed herein are not mere oversights but lack of skill and performance, a careless and dangerous perspective.

Debbie Mudge, Falling Waters, International Festival Committee, asked that Council consider making the Kiwanis the main partner for the upcoming International Festival and allow all vendors to operate under them for B&O and licensing purposes.

Elizabeth Day, Winchester Avenue, stated that rental houses can present problems in residential neighborhoods. She stated that she has petitioned the landlord of a rental in her neighborhood to evict problem tenants and has worked with Councilman Knowles and Deputy Chief Swartwood. The landlord was finally awarded possession of his property and damages to his home. She stated that she cannot see why any responsible landlord would find the new ordinances objectionable and that landlords need to put themselves in the shoes of neighboring residents and work to ensure that everyone can have safe enjoyment of their homes. Ms. Day stated that the current system is not working, as the home that was the subject of a recent nuisance hearing, on Winchester Avenue, is still standing and other rentals also need to be cleaned up.

Barbara Bratina, Tennessee Avenue, asked that Council vote to pass the proposed property ordinances as they are imperative for police to correct building issues that create havens for drug users and dealers. She stated that these ordinances will impact a minority of landlords and will protect many law abiding citizens. She stated that the house next door to her has been vacant for over ten years and it is not a problem property because the owners continue to secure and maintain the property.

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

- a. Proclamation regarding National Day of Prayer, May 5, 2016, as read at the Martinsburg Public Library
- b. Proclamation regarding Public Service Week, May 1-May 7, 2016 as presented to the Social Security Administration
- c. For the Kids, by George Children’s Museum April 7, 2016 Board Minutes and April 2016 Director’s Report
- d. Historic Preservation Review Commission April 4, 2016 Meeting Minutes
- e. Board of Zoning Appeals April 5, 2016 Meeting Minutes
- f. Planning Commission April 6, 2016 Meeting Minutes

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

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

None

**12. Report of Mayor**

**a. Reminder of Take Pride in your Community Spring Clean Up Event Scheduled for Saturday, May 21, 2016**

Motion made by Councilman Baker, seconded by Councilman Etherington, to reappoint David Anderson to the Shade Tree Commission through 5/9/2019. Motion carried unanimously.

**b. Reminder of the following Special City Council Meetings: Tuesday, June 21, 2016 @ 5PM (Canvass and declaration of results); Thursday, June 23, 2016 @ 5 PM (certification of result); Thursday, June 30, 2016 @ 5 PM (final meeting of current Council), Thursday, June 30, 2016 following 5 PM (swearing in of newly elected Council and other business as needed)**

**13. Report of City Attorney**

**a. Discuss May 2, 2016 correspondence from Berkeley County Council regarding FY 2016-2017 Animal Control Agreement**

Mr. Sayre stated that the City and County have been meeting to attempt to resolve this issue and hoped to bring something to the next regular Council meeting.

**b. Discuss 706 W. Martin Street property**

Mr. Sayre stated that his property has been issued a demolition order and it is before the Code Appeals Board in the near future.

**c. 634 Winchester Avenue Update**

The publication for the demolition order has been requested as Mr. Nines no longer lives in the area and the property cannot be demolished until a publication has been made allowing any interested parties to come forward. As of now, the nuisance has been abated, the home is secure and there are no longer people living in the house or congregating on the sidewalk or property.

**d. Discuss potential Home Rule Amendment relating to alcoholic beverage sales (restaurant and retail) prior to 1PM on Sundays in the City of Martinsburg**

Mr. Sayre stated that new legislation allows counties to place on a public ballot the ability to allow alcoholic beverage sales as early as 10 AM on Sundays and Berkeley County is expecting referendum on the November general election ballot. The City of Martinsburg can choose to make application to the Home Rule Board to allow the City to move forward and enact the "Brunch Bill" or some version thereof in advance of that, as Shepherdstown has done. The new state law only impacts on-site consumption sales but the Home Rule plan can be adjusted to allow off-site consumption sales (retail) as well if desired. The process will be to prepare an amendment, using the example of Shepherdstown's application as a template, provide notice and hold a public hearing then send it to the Municipal Home Rule Board for consideration. The Board may offer suggestions or approve an amended version, for instance, not allowing off-site consumptions sales or sales of wine and beer only.

The Mayor asked for an anticipated time table. Mr. Sayre stated that there will not be a referendum on the June ballot, but if council moves forward the public hearing can be held in June in order to make the July Home Rule Board meeting, otherwise we will have to wait until the next quarterly meeting.

**e. Discuss reduction in distance requirements between ABCA licensed establishments and schools and churches in the City of Martinsburg**

Mr. Sayre stated that the ability to do this has already been approved in the City's original home rule application, for the downtown district. The ABCA currently requires a 300 foot distance, door to door and using crosswalks, between licensed establishments and schools and churches. Reducing that distance could encourage the location of upscale restaurants in properties not currently in compliance. Mr. Sayre stated that he needed for Council to determine an acceptable between 0 feet and 299 feet, and that there can be different distance requirements for schools and churches. He also stated that Council will retain the ability to make comment to the ABCA on each application for a license and will be able to exercise discretion, for instance, if a location is not appropriate for a night club, but may be appropriate for a restaurant.

**f. Discuss Ordinance relating to fees and taxes for vendors at special events in the City of Martinsburg**

Mr. Sayre stated that there have been various requests for leniency on fees and taxes for vendors at special events as collection of these fees and taxes is cumbersome for the City and for the vendors. He stated that Council should consider factors such as a limit on how many times a vendor can operate in the City without their own license and requirements for a sponsoring agency, such as government or non-profit entities only.

Councilman Baker was opposed to limiting the ability to operate as a master vendor to government and non-profit entities only as that might discourage economic development.

Mr. Sayre stated that this can be accomplished by rolling a small flat fee to the City into the booth fee at an event and that it would be advisable for sponsoring agencies to collect information on the vendors so that the City can ensure that the concession is not being misused, which would create a disadvantage for brick and mortar businesses.

Mayor Karos stated that the number of vendors participating in events is declining each year and it's time for the City to consider options to be more business friendly. The consensus of Council was to draft an ordinance to bring the process and conversation.

**14. Report of City Manager**

None.

**15. Unfinished Business**

**a. Third and Final Reading of Ordinance 2016-06 Amending the City of Martinsburg Codified Ordinance, Part 5: General Offenses Code, Chapter 5, Administrative, by adding Article 552: Drug and Gang Houses, Houses of Prostitution and other Disorderly Houses, Sections 552.01 to 552.03**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to pass Ordinance 2016-06 through the third and final reading, by title only, and adopt. Motion carried 5-1, with Councilman Baker voting no.

**b. Third and Final Reading of Ordinance 2016-07 Amending the City of Martinsburg Codified Ordinance, Part 5: General Offenses Code, Chapter 5, Administrative, by adding Article 550: Recklessly Permits the Physical Condition or Facilities of the Residential Real Estate to Become or Remain in any Condition which Endangers the Health or Safety of any Person, Sections 550.01 to 550.02**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to pass Ordinance 2016-07 through the third and final reading, by title only, and adopt. Motion carried 5-1, with Councilman Baker voting no.

**c. Third and Final Reading of Ordinance 2016-08 Amending the City of Martinsburg Codified Ordinance, Part 5: General Offenses Code, Chapter 5, Administrative, by adding Article 551: Requirement of Watchman for Vacant or Open Buildings, Sections 551.01 to 551.02**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to pass Ordinance 2016-08 through the third and final reading, by title only, and adopt. Motion carried 5-1, with Councilman Baker voting no.

**d. Third and Final Reading of Ordinance 2016-09 to Repeal Section 505.10 of the City of Martinsburg Code, Part 5: General Offenses Code, Article 505: Animals and Fowl**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to pass Ordinance 2016-09 through the third and final reading, by title only, and adopt. Motion carried unanimously.

**16. New Business**

**a. First and Second Reading of Ordinance 2016-10 to Readopt the City of Martinsburg Equal Employment Opportunity Plan/Affirmative Action Plan, Including Updated Utilization Statistics**

Motion made by Councilman Collinson, seconded by Councilman Baker, to pass ordinance 2016-10 through the first and second reading. Motion carried unanimously.

Human Relations Committee Chairman Rodney Woods stated that the HRC has reviewed the policy, made recommended adjustments and the committee is comfortable with the version presented to Council.

**b. First and Second Reading of Ordinance 2016-11 to Repeal Sections 131.04 -Vehicular Pursuit Policy-and 131.05 -Operation of Department Vehicles-of the City of Martinsburg Code, Part 1, Administrative, Article 131 Police Department**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to pass ordinance 2016-11 through the first and second reading. Motion carried unanimously.

Mr. Sayre stated that the current City Code is outdated and inclusion of these policies is not necessary. This ordinance does not invalidate the existing policies, it just cleans up a redundancy in the Code.

**c. First and Second Reading of Ordinance 2016-12 Amending And Reenacting The City Of Martinsburg Code, Part 3, By Amending, Section 333.01--Driving under Influence of Alcohol, Controlled Substances or Drugs; Penalties--to Comply With The Amendments To West Virginia Code §17C-5-2**

Motion made by Councilman Wachtel, seconded by Councilman Baker, to pass ordinance 2016-12 through the first and second reading. Motion carried unanimously.

**d. First and Second Reading of Ordinance 2016-13 Amending and Reenacting the City of Martinsburg Code, Part 3, by Amending Section 333.01a-- Deferral of Further Proceedings for Certain First Offenses upon Condition of Participation in Motor Vehicle Alcohol Test and Lock Program; Procedure on Charge of Violation of Conditions— to Comply with the Amendments to West Virginia Code §17C-5-2b**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to pass ordinance 2016-13 through the first and second reading. Motion carried unanimously.

**e. First and Second Reading of Ordinance 2016-14 Amending And Reenacting The City Of Martinsburg Code, Part 5, Chapter 5, Article 343, By Amending, Section 343.07 To Comply With The Amendments To West Virginia §17c-12-7**

Motion made by Councilman Collinson, seconded by Councilman Etherington, to pass ordinance 2016-14 through the first and second reading. Motion carried unanimously.

**f. First and Second Reading of Ordinance 2016-15 Amending And Reenacting The City Of Martinsburg Code, Part 5, Chapter 5, Article 345, By Amending, Section 345.11 To Comply With The Amendments To West Virginia §17c-15-19**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to pass ordinance 2016-15 through the first and second reading. Motion carried unanimously.

**g. Approve/deny request from the For the Kids, by George Children’s Museum to hold the Martinsburg High School Class of 1981 Reunion on the premises, with funds to benefit the museum on Saturday, September 10, 2016 from 6-10 PM, including authorization to sign a letter of endorsement to the WV ABCA to allow for alcoholic beverage sales on-site, contingent upon proof of adequate liability insurance**

Councilman Etherington expressed concern that the museum is repeatedly come before Council to ask for permission to serve alcohol, and the lease for the building expressly prohibits alcohol in that building. HE stated that, while the museum is a great asset, they may be taking advantage of the situation. This request is for a class reunion and he is concerned that if Council permits this event, the requests will become more and more frequent. He stated that it may be time to review the policy, overall.

Councilman Baker stated that fundraising is crucial for the museum and they cannot keep their doors open or keep the exhibits fresh without it.

Councilman Wachtel asked if there was ample parking and was concerned about safety for the guests.

Mayor Karos agreed with Councilman Etherington, saying that small events where wine is served is fine, but class reunions are large and they can get out of hand.

Motion made by Councilman Baker, seconded by Councilman Boyd, to approve the event as requested. Motion failed with Councilmen Etherington, Wachtel, Collinson and Anderson voting no.

**h. Approve/deny request to allow Main Street Martinsburg to collect and manage a flat rate fee for vendors, in lieu of individual vendor business license and B&O tax reporting, at the Bike Night event in August 2016**

Motion made by Councilman Baker, seconded by Councilman Collinson to approve the request with a flat fee of \$5 per vendor. Motion carried unanimously.

**i. Approve/deny Ballot Commissioner salary for the 2016 City of Martinsburg General Election (see memo)**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the salary for ballot commissioners. Motion carried unanimously.

**j. Confirm consensus of Council to approve temporary change in polling location for Precinct 1 from St. Luke's United Methodist Church to the parsonage located at 719 New York Avenue**

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

**k. Approve/deny Resolution 2016-12 Approving The FY 2016 Annual Action Plan And Authorizing The Filing Of Application With HUD**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve Resolution 2016-12. Motion carried unanimously.

City Manager Mark Baldwin stated that this Resolution included \$1,072 more than expected, which will be divided among the participating cities in the HOME consortium.

**l. Approve/deny Agreement between the City of Martinsburg and Nancy S. Strine Consultants, LLC for CDBG and HOME Administration, July 1, 2016 through June 30, 2017**

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the agreement as presented. Motion carried unanimously.

Council expressed they are pleased with the job that Ms. Strine is doing for the City and other entities which benefit from the funds.

**m. Approve/deny authorization to request exemption from the United States Department of Housing and Urban Development (USHUD) to allow Councilman Jason W. Baker, DBA JWB Contracting, to serve as general contractor for the Habitat for Humanity homes built with Community Housing Development Organization (CHDO) funds, without financial compensation and on a voluntary basis**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Councilman Baker's request to abstain from the vote. Motion carried unanimously.

Mr. Sayre stated that he believes that, as Councilman Baker is working for no compensation, there is no conflict.

Motion made by Councilman Collinson, seconded by Councilman Etherington, to approve the authorization as requested. Motion carried unanimously.

**n. Discuss request for Wireless Communications Facility at Boston Street Public Works property and authorize City Attorney to finalize lease agreement**

See Item 8 C.

**o. Approve/deny Mutual Aid Agreement between the City of Martinsburg and Berkeley County, WV for fires, emergency medical services, specialized rescues and disasters**

Motion made by Councilman Etherington, seconded by Councilman Baker, to approve the mutual aid agreement. Motion carried unanimously.

**p. Approve/deny Mutual Aid Agreement between the City of Martinsburg and Jefferson County, WV for fires, emergency medical services, specialized rescues and disasters**

Motion made by Councilman Etherington, seconded by Councilman Baker, to approve the mutual aid agreement. Motion carried unanimously.

**q. Discuss Church Street Storm Sewer Project and approve/deny additional City funding in the amount of \$360,681 (estimate)**

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

**r. Approve/deny Alpha Architects and Engineers recommendation to award bid to the low bidder, HRI, Inc., for the Church Street Storm Sewer Project**

Motion made by Councilman Etherington, seconded by Councilman Collinson, to approve the recommendation and bid award. Motion carried unanimously.

**s. Approve/deny Resolution 2016-13 Authorizing the Execution of a Supplemental Agreement, to the November 19, 2014 Agreement approved via Ordinance 2014-17, with the West Virginia Department of Transportation, Division of Highways (Division) with Regard to Funding Associated with the "Church Street Storm Sewer Project" in the City of Martinsburg, West Virginia**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve Resolution 2016-13. Motion carried 5-1, with Councilman Anderson voting no.

**t. Approve/deny award of bid for Church Street Storm Sewer Project to HRI, Inc., in the amount of \$1,226,608**

Motion made by Councilman Etherington, seconded by Councilman Baker, to award the bid to HRI, Inc. Motion carried 5-1 with Anderson voting no.

Dick Klein, Alpha Associates, estimated that the contract will be ready in 10-15 days and work should start in the first part of June and be finished in 5-6 months.

**u. Approve/deny amending City of Martinsburg Home Rule Application to allow sales of alcoholic beverages (restaurant and retail) prior to 1 PM on Sundays in the City of Martinsburg (Ordinance and Public Hearing required)**

Motion made by Councilman Baker, seconded by Councilman Boyd, to approve the amendment for on-site consumption only. Motion carried unanimously.

**v. Authorize City Attorney to draft an ordinance to reduce the required distance between ABCA licensed establishments and churches and schools in the City of Martinsburg**

Motion made by Councilman Baker, seconded by Councilman Collinson, to approve the authorization and specify that the distance between ABCA establishments stay at 300 feet for schools and be reduced to 50 feet for churches, city-wide. Motion carried unanimously.

**w. Approve/deny Resolution 2016-14 authorizing HRI Inc.'s Application for May 2016 Payment #29 for the WWTP Upgrade Project--\$1,419,644.67**

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve Resolution 2016-14. Motion carried unanimously.

**x. Approve/deny authorization payment for HRI Inc.'s Pay Application #4 for Task C, Alternate Roadway and Mainline Extension--\$97,857.86 (final payment)**

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the final payment for Task C. Motion carried unanimously.

**y. Approve/deny request from the Berkeley County Ministerial Association to hold a Drug Awareness Walk on Saturday, June 11, 2016 (see memo for route) including police assistance at traffic crossings, contingent upon proof of adequate liability insurance**

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

**16. Executive Session**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to enter Executive Session for legal matters at 8:23 PM. Motion carried unanimously.

Motion made by Councilman Baker, seconded by Councilman Knowles, to go back into Regular Session at 8:40 PM. Motion carried unanimously.

**Adjournment**

Motion adjourned by unanimous consent at 8:40 PM.

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George Karos, Mayor

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Gena Long, City Recorder