

**City Of Martinsburg
Special City Council Meeting
Tuesday, November 18, 2014
6:00 PM**

With a quorum present, the special session of the Martinsburg City Council was called to order by Mayor George Karos at 6:00 p.m. The following Council Members were present: Don Anderson, Dennis Etherington, Kevin Knowles, H.D. Boyd, Jason Baker and Gregg Wachtel (6:05 PM). Also present were: Mark S. Baldwin, City Manager, Kin Sayre, City Attorney, Catie Wilkes-Delligatti, Legal Counsel, Gena Long, City Recorder, Police Chief Kevin Miller, Fire Chief Paul Bragg and City Engineer Michael Covell.

3. Public Hearing to Solicit Comment on Certain Ordinances Outlined in the City of Martinsburg Home Rule Application, as Follows:

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

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

c. Ordinance 2014-22: *An Ordinance to Amend the Codified Ordinances of the City of Martinsburg and Enact Part One: Administrative Code, Chapter Three: Legislative, Article 114, Sections 114.01-114.04, Relating to the Disposition of City Property without Auction*

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

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

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

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

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

Mayor Karos opened the public hearing at 6:00 PM.

City Attorney Kin Sayre stated that, due to some comments from the West Virginia State Tax Department, some technical changes had been made to Ordinance 2014-25 which implements a municipal sales tax.

Mr. Sayre presented one written comment, dated October 21, 2014, from Mr. Hank Walter of HDW, LLC. dba Whale of a Wash as follows:

Dear George:

Thank you for taking some time to talk to me by phone last week regarding the "Home Rule" implications for my business.

As I mentioned, West Virginia is one of only two states that charges sales tax to vending machine companies. The sales tax is calculated by multiplying receipts by 6%, which is paid as an expense to my business. As you can see from the quarterly volumes as shown on my City B&O tax returns (copy attached), the 6½% (6% for the State and ½% for B&O) sales tax expense currently reduces my operating margin by approximately 25% which seems grossly unfair. The proposal to add 1% more will cost an additional \$2,000 per year and further reduce margins. Alternatively, the price of all the washers can be raised by a minimum of 25 cents (a 10% increase). My Martinsburg customers have limited income and I feel that would not receive kindly the news of a price increase with blame squarely on "Home Rule."

In closing, I hereby request an exemption to be written into the Home Rule ordinance for vending equipment receipts. Please call me (304-676-7500) if you have questions on any of the above and thank you for your consideration.

Sincerely,

Hank Walter
Owner/Manager, Whale of a Wash

Mr. Sayre informed Council that WV Code does not allow municipalities to offer exemptions to those not exempted by State Code nor tax any enterprise not taxed by State Code.

As there were no other members of the public present other than news media, Mayor Karos closed the public hearing at 6:08 PM.

Mr. Sayre stated that the Home Rule Board will review the ordinances at a meeting scheduled for December 1, 2014 and approve, amend or return the ordinances to the City. If approved, the City can follow the regular process for approving ordinances, with the first and second readings scheduled for the December 11, 2014 Regular Council Meeting and the third and final reading scheduled for the December 18, 2014 Special Council Meeting.

City Manager Mark Baldwin his appreciation to Mr. Sayre, Ms. Wilkes-Delligatti and City staff for their hard work on preparing the ordinances in a short time frame.

4. Presentations

None.

5. Petitions from Citizens

There were no petitions from citizens.

6. Receive and File Reports—Minutes—Correspondence Of the Following:

None.

7. Reports of Chairpersons of Council Standing Committees

None.

8. Report of Mayor

a. Reminder that the above Ordinances are scheduled to be read for the first and second reading at the Regular December 11, 2014 Meeting at 6:30 PM and the third and final reading at the Special December 18, 2014 Meeting at 5:00 PM.

9. Report of City Attorney

None.

10. Report of City Manager

None.

11. Unfinished Business

None.

11. New Business

a. Approve/deny Resolution 2014-17: *Resolution of the City Council of the City of Martinsburg Authorizing the Mayor to Submit to the West Virginia Home Rule Pilot*

***Ordinances 2014-20, 2014-21, 2014-22, 2014-23, 2014-24, 2014-25, 2014-26 and 2014-27
In Accordance With West Virginia Code §8-1-5a***

Motion made by Councilman Etherington, seconded by Councilman Baker, to approve Resolution 2014-17. Motion carried unanimously.

13. Adjournment

Meeting was adjourned by unanimous consent at 6:15 PM.

George Karos, Mayor

Gena Long, City Recorder