

**City Of Martinsburg  
Regular Council Meeting  
Wednesday, November 19, 2014  
The J. Oakley Seibert Council Chambers**

With a quorum present, the regular session of the Martinsburg City Council was called to order by Mayor George Karos at 6:30 p.m. The following Council Members were present: Don Anderson, Dennis Etherington, Kevin Knowles, H.D. Boyd, Gregg Wachtel, and Jason W. Baker. Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder; Chief Paul Bragg, Martinsburg Fire Department; Police Chief Kevin Miller, Steve Knipe, Utilities Director; Jeff Wilkerson, Public Works Director and Nancy Strine, Community Development Administrator.

**3. Salute to Flag**

Councilman Knowles led the Salute to the Flag.

**4. Prayer—**

Reverend Robert Brennon, Calvary United Methodist Church, delivered the invocation.

Mayor Karos called for a moment of silent prayer with respect to the recent passing of Councilman Max Parkinson.

**5. Approve October 09, 2014 Special Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the October 09, 2014 Special Meeting Minutes. Motion carried unanimously.

**6. Approve October 09, 2014 Regular Meeting Minutes**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the October 09, 2014 Regular Meeting Minutes. Motion carried unanimously.

**7. Approve September 2014 Administrative and Financial Report**

Motion made by Councilman Knowles, seconded by Councilmen Etherington, to approve the September 2014 Administrative and Financial Report. Motion carried unanimously.

Mayor Karos asked that Items 16 D, 16 P & 16 Q be moved under item 8D on the agenda; and that item 16 E be moved under Item 8E on the agenda.

**8. Presentations**

**a. Proclamation—Christian Heritage Week—November 23-29, 2014**

As no one was present to accept the Proclamation, it will be mailed to the requestor.

**b. Proclamation—National Hunger and Homelessness Awareness Week—November 16-22, 2014**

Ms. Glenda Hellman, Community Networks, was present to accept the Proclamation. Ms. Hellman thanked Council for their support of the mission to end hunger and homelessness. She invited Council to the Simple Supper event and noted that Martinsburg has been chosen as a participant City in the mission to end the plights of homeless veterans by the end of 2016.

The City Recorder read the Proclamation.

**c. Proclamation—Small Business Saturday—November 29, 2014**

Mr. Randy Lewis, Main Street Martinsburg, was present to accept the Proclamation. Mr. Lewis thanked Council for the support and briefly described the Small Business Saturday, which is sponsored by American Express this year.

Mayor Karos thanked Mr. Lewis for all of his hard work for the Main Street program.

The City Recorder read the Proclamation.

**d. Wastewater Treatment Plant Upgrade Project Update—Bill Meinert, O'Brien and Gere Engineers**

Mr. Bill Meinert, O'Brien and Gere Engineers, Inc., and Steve Knipe, City of Martinsburg Utilities Director, updated Council on the progress of the Wastewater Treatment Plant (WWTP) Upgrade Project. The project is progressing as planned in terms of construction time and budgetary constraint.

Councilman Anderson stated that this is a \$53M project and asked how it is funded.

Mr. Knipe replied that the project is funded with a \$23M grant and a revolving loan fund.

Councilman Anderson asked about the costs to the individual rate payers. Mr. Knipe stated that the ratepayers would absorb those costs not paid by the grant and that rates have already been determined.

Mayor Karos explained to Councilman Anderson that Council is forced to approve these upgrades by Federal requirements, which will be costly to ratepayers, including those who serve on Council.

Councilman Anderson asked who owns the Potomac River. Mayor Karos stated that he does not know. Councilman Anderson answered that Maryland owns the river, yet Martinsburg residents are forced to fund the upgrades due to requirements of the Environmental Protection Agency (EPA). Councilman Anderson then stated that he believes the EPA is one of many federal departments which should be disbanded and that he has and will continue to vote against action items related to this upgrade.

**16 D. Approve/deny Change Order #9 between the City of Martinsburg, O'Brien and Gere Engineers, Inc., and HRI, Inc. for the WWTP Upgrade Project—(-182,572)—net decrease**

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve Change Order #9. Motion carried unanimously.

**16 P. Approve/deny HRI, Inc.'s November Payment Application #11 for the WWTP Upgrade Project--\$1,636,623.97**

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve HRI Inc.'s payment application #11. Motion carried 5-1, Anderson no.

**16 Q. Approve/deny HRI Inc.'s November Payment Application #4 for the Task C Project**

There was no application.

**e. Brownfield Assessment Grant—Matt Ward, Sustainable Strategies DC (see Item 16E)**

Mr. Matt Ward, Sustainable Strategies DC, addressed Council about a proposal to pursue brownfield assessment grant money available from the Federal government. He stated that Sustainable Strategies has worked with many municipalities across the country, and in West Virginia, to secure these funds which help to determine if and how brownfields, such as the Interwoven Mills, can be used as productive properties. He stated that many investors are wary of brownfield development because of unknown costs to cure contamination and other issues and the assessment can help to determine actual issues and costs associated with abatement. Mr. Ward added that there is no City match to the grants and minimal use of City staff will be needed.

**16 E. Approve/deny proposal from Sustainable Strategies DC to Prepare and Submit a Brownfield Assessment Grant on Behalf of the City of Martinsburg--\$6,000**

Motion made by Councilman Wachtel, seconded by Councilman Baker, to approve the proposal from Sustainable Strategies. Motion carried unanimously.

Councilman Wachtel asked Mr. Ward if he had spoken with the new owners of the Interwoven Mills. Mr. Ward stated that he has, and that the owners are very excited about brownfield assessment.

**9. Petitions From Citizens**

There were no petitions from citizens.

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

- a. Board of Zoning Appeals July 01, 2014 Meeting Minutes
- b. Historic Preservation Review Commission October 06, 2014 Meeting Minutes
- c. Shade Tree Committee October 22, 2014 Meeting Minutes
- d. Martinsburg/Berkeley County Convention and Visitor's Bureau August 13, 2014 Meeting Minute, Financial Report, and October 22, 2014 Meeting Agenda

e. Memorandum from the Chamber of Commerce of Martinsburg and Berkeley County appointing Mr. Andy DiMagno as its representative on the Fire Civil Service Commission to fill an unexpired term ending 12/1/2016

f. Hagerstown/Eastern Panhandle Metropolitan Planning Organization Interstate Council August 27, 2014 Meeting Minutes, October 2014 TIP Amendments and Berkeley County Projects Overview

g. Eastern Panhandle Regional Planning and Development Council—Region 9 September 15, 2014 Meeting Minutes

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

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

There were no reports.

### **12. Report of Mayor**

#### **a. Reappoint Terry Colburn to the Historic Preservation Review Commission—term 1/1/2105-1/1/2018**

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

#### **b. Reappoint Yvonne Jenkins to the Planning Commission—term 1/1/2105-1/1/2018**

Motion made by Councilman Baker, seconded by Councilman Wachtel, to accept the Mayor's recommendation and reappoint Ms. Jenkins to the Planning Commission through 1/1/2018. Motion carried unanimously.

#### **c. Reappoint William Yearout to the Martinsburg-Berkeley County Convention and Visitors Bureau—1/1/2015-1/1/2017**

Motion made by Councilman Knowles, seconded by Councilman Baker, to accept the Mayor's recommendation and reappoint Mr. Yearout to the Martinsburg-Berkeley County Convention and Visitors Bureau through 1/1/2017. Motion carried unanimously.

#### **d. Reappoint Brenda Casabona to the Board of Zoning Appeals—1/1/2015-1/1/2018**

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

#### **e. Appoint Bridget Cohee (current alternate) as a regular member of the Board of Zoning Appeals to fill an unexpired term ending 1/1/2016**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to appoint Ms. Cohee as a regular member of the Board of Zoning Appeals ending 1/1/2016.

**f. Appoint Michelle Schoppert as a regular member of the Board of Zoning Appeals to fill an unexpired term ending 1/1/2016**

Motion made by Councilman Etherington, seconded by Councilman Baker, to appoint Ms. Schoppert as a regular member of the Board of Zoning Appeals ending 1/1/2016.

**g. Appoint Doreane Mosser as an alternate member of the Board of Zoning Appeals to fill an unexpired term ending 1/1/2016**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to appoint Ms. Mosser as an alternate member of the Board of Zoning Appeals ending 1/1/2016.

**h. Appoint Martin Bales as an alternate member of the Board of Zoning Appeals to fill an unexpired term ending 1/1/2016**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to appoint Mr. Bales as an alternate member of the Board of Zoning Appeals ending 1/1/2016.

**~~i. Reminder of Special Council Meeting/Public Hearing scheduled for Tuesday, November 18, 2014 at 6 PM for purposes of soliciting public comment on those Ordinances to be submitted to the Home Rule Board~~**

This item was not needed as the Regular Council meeting had been rescheduled until after the Special meeting due to the death of Councilman Max Parkinson.

**13. Report of City Attorney**

The City Attorney had nothing to report.

**14. Report of City Manager**

**a. Projects Update**

The City Manager had nothing further to report.

**15. Unfinished Business**

**a. Third and Final Reading of Ordinance 2014-15: *An Ordinance to Amend and Re-enact Part Fifteen— Fire Prevention Code, Article 1501, Section 1501.01 of the Codified Ordinances of the City of Martinsburg and Repeal Ordinance Number 2010-12 of the City of Martinsburg, West Virginia***

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the third and final reading of Ordinance 2014-15, by title only, and adopt. Motion carried unanimously.

**b. Third and Final Reading of Ordinance 2014-16: *An Ordinance to Provide for the Adoption, Approval and Implementation of an Intergovernmental Agreement between the City of Martinsburg, West Virginia and the West Virginia Department of Transportation, Division of Highways, Each a Political Subdivision of the State of West Virginia, with Regard to Funding Associated with the "Oak Street Bridge Project"***

Motion made by Councilman Etherington, seconded by Councilman Boyd, to hear the third and final reading of Ordinance 2014-16, by title only, and adopt. Motion carried unanimously.

Mr. Baldwin stated that the City of Martinsburg will be required to issue a check in the amount of \$100,000 to the State of West Virginia to being the design and engineering stage of this project. The amount due for the City's 20% share of costs for construction will be determined later.

**c. Third and Final Reading of Ordinance 2014-17: *An Ordinance to Provide for the Adoption, Approval and Implementation of an Intergovernmental Agreement Between the City of Martinsburg, West Virginia and the West Virginia Department of Transportation, Division of Highways, Each a Political Subdivision of the State of West Virginia, with Regard to Funding Associated with the "Church Street Drainage Project"***

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to hear the third and final reading of Ordinance 2014-17, by title only, and adopt. Motion carried unanimously.

**d. Third and Final Reading of Ordinance 2014-18: *An Ordinance to Provide for the Adoption, Approval and Implementation of an Intergovernmental Agreement between the City of Martinsburg, West Virginia and the West Virginia Water Development Authority Authorizing the Authority to Make a Grant From the Proceeds of Excess Lottery Revenue Bonds, 2014 Series A in an Amount Not to Exceed \$23,798,985.10 for Purposes of Funding the Eligible Portions of the Wastewater Treatment Plant Upgrade Project***

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to hear the third and final reading of Ordinance 2014-18, by title only, and adopt. Motion carried 5-1, Anderson no.

**f. Third and Final Reading of Ordinance 2014-19: *An Ordinance to Amend and Re-enact Part Five "General Offences Code", Article 517, Section 517.01 (b) of the Codified Ordinances of the City of Martinsburg, West Virginia***

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the third and final reading of Ordinance 2014-19, by title only, and adopt. Motion carried unanimously.

**16. New Business**

**a. Approve/deny Resolution 2014-14: *Resolution of the Council of the City of Martinsburg, West Virginia Authorizing the Execution of an Agreement with the West Virginia Department of Transportation, Division of Highways ("Division") with Regard to Funding Associated with the Oak Street Bridge Replacement Project in the City of Martinsburg, West Virginia***

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve Resolution 2014-14. Motion carried unanimously.

**b. Approve/deny Resolution 2014-15: *Resolution of the Council of the City of Martinsburg, West Virginia Authorizing the Execution of an Agreement with the West Virginia Department of Transportation, Division of Highways ("Division") with Regard to the Funding Associated with the Church Street Drainage Project in the City of Martinsburg, West Virginia***

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve Resolution 2014-15. Motion carried unanimously.

**c. Approve/deny Resolution 2014-16: *Resolution of the Council of the City of Martinsburg West Virginia to Participate in the U.S. Securities and Exchange Commission Municipalities Continued Disclosure Cooperative Initiative and Authorizing the Mayor, City Manager, City Recorder and Other Officers to Execute any and all Necessary Documents and Take all Actions Necessary or Convenient in Connection Therewith***

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve Resolution 2014-16. Motion carried unanimously.

**d. Approve/deny Change Order #9 Between the City of Martinsburg, O'Brien and Gere Engineers, Inc. and HRI, Inc. for the WWTP Upgrade Project--\$(-181,572)—net decrease**

See Item 8D.

**e. Approve/deny Proposal from Sustainable Strategies DC to Prepare and Submit a Brownfield Assessment Grant on Behalf of the City of Martinsburg--\$6,000**

See Item 8E.

**f. Approve/deny Engagement Contract for Legal Services between the City of Martinsburg and Kay, Casto & Chaney for the Review of the Stormwater Management Plan--\$5,000**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the engagement contract for legal services with Kay, Casto & Chaney. Motion carried unanimously.

**g. Approve/deny FY 2014 CDBG/HOME Subrecipient Agreement between the City of Martinsburg and Community Networks for HPRP Administrative Services--\$1,200**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the subrecipient agreement. Motion carried unanimously.

**h. Approve/deny Request to Hold Christmas in the Streets Event on Saturday, December 20, 2014 from 6-8 PM in the Town Square, Contingent upon Proof of Adequate Liability Insurance.**

Motion made by Councilman Etherington, seconded by Councilman Boyd, to approve the Christmas in the Streets event. Motion carried 5-1, Anderson no.

**i. Approve/deny Request from New Life Community Church to Utilize the Town Square on November 22, 2014 from 9 AM Until 3 PM for a Youth Service Project, Contingent upon Proof of Adequate Liability Insurance**

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the request from New Life Community Church, contingent upon proof of adequate liability insurance. Motion carried unanimously.

**j. Approve/deny request from Main Street Martinsburg for a contribution of \$500-\$1,000 to purchase Christmas lights for the Town Square holiday decorations**

Motion made by Councilman Etherington, seconded by Councilman Knowles to approve the request with a limit of \$1,000. Motion carried unanimously.

**k. Approve/deny request from SHOP Ministries for donation of bicycles considered “unclaimed property” pending approval by the State of West Virginia**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the request from SHOP Ministries, pending approval by the State of West Virginia. Motion carried unanimously.

**l. Approve/deny snow removal bid with Hemco Snow Removal**

Councilman Baker asked why there was only one bidder when there are generally more. Public Works Director Jeff Wilkerson stated that he was not sure, but that it could possibly be because they have not been called in previous years, as Public Works only requests assistance when the snow volumes cannot be handled by the department.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve snow removal bid as presented. Motion carried unanimously.

**m. Approve/deny Bid for Demolition and Related Services for 316 Oak Street--\$9,100 Plus Cost to be Determined for Necessary Asbestos Abatement and Disposal—Pittsnogle, LLC**

Councilman Etherington asked about the average cost of asbestos abatement and disposal. Councilman Baker stated that there really is no average cost or limit to how high the cost could be, but that he expects asbestos removal to be limited on this particular structure, due to its size and age.

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the demolition bid for 316 Oak Street as presented. Motion carried unanimously.

**n. Approve/deny Bid for Demolition and Related Services for 706 W. Martin Street--\$9,100 Plus Cost to be Determined for Necessary Asbestos Abatement and Disposal—Pittsnogle, LLC**



Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the demolition bid for 706 W. Martin Street, as presented. Motion carried unanimously.

Councilman Anderson asked if the owner of the property can be held liable for the cost. Legal Counsel Kin Sayre responded that the City has attempted for some time to enforce code compliance on these two properties and the owners have not responded. He stated that, after demolition, liens can be placed against the properties and the City could possibly file for creditor's suits to recuperate the cost.

Councilman Knowles asked if some of the proposed Home Rule Ordinances would allow for more expedient collection on these types of situations and Mr. Sayre acknowledged that they could.

**o. Approve/deny Right of Way Agreement between the City of Martinsburg and The Potomac Edison Company to Install 170' of Underground Facilities Along and Across an Existing City Right of Way South of Wilson Street**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the right of way agreement with Potomac Edison. Motion carried unanimously.

Councilman Baker asked if the City would ensure that the patch in the roadway would be placed according to specifications, as he feels that most are not, but Wilson Street was recently paved. Mr. Baldwin replied that he believes that this right of way will be across an undeveloped roadway, but that there will be staff oversight of the project to ensure that any repairs will be to specifications.

**p. Approve/deny HRI, Inc.'s November Payment Application #11 for the WWTP Upgrade Project-- \$1,636,623.97**

See Item 8D.

~~**q. Approved/deny HRI, Inc.'s Payment Application #4 for Task C Project**~~

See Item 8D

**16. Executive Session**

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to go into Executive Session for legal and real estate matters at 7:21 PM. Motion carried unanimously.

**Adjournment**

Motion adjourned by unanimous consent at 7:40 PM.

\_\_\_\_\_  
George Karos, Mayor

\_\_\_\_\_  
Gena Long, City Recorder