

**City Of Martinsburg
Regular Council Meeting
October 09, 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, Gregg Wachtel, and Jason W. Baker. Absent was Max Parkinson. Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder; Chief Paul Bragg, Martinsburg Fire Department; Captain George Swartwood, Martinsburg Police Department, Steve Knipe, Utilities Director; Jeff Wilkerson, Public Works Director; Mark Spickler, Finance Director and; Michael Covell, Planning Director/City Engineer

3. Salute to Flag

Councilman Knowles led the Salute to the Flag.

4. Prayer—

Retired Reverend Al Clipp led the invocation.

5. Administer Oath of Office to Ward 4 Councilperson H.D. Boyd, Jr

The City Recorder administered the Oath of Office and Councilman Boyd took his seat.

6. Approve September 11, 2014 Regular Meeting Minutes

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the September 11, 2014 Regular Meeting Minutes. Motion carried unanimously.

7. Approve August 2014 Administrative and Financial Report

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

8. Presentations

a. Delegate Jason Barrett---Grant Award Update

Delegate Barrett stated that the City had been awarded several grants for Public Works Equipment and an educational robot for the Fire Department.

b. Proclamation—Red Ribbon Week, October 23-31, 2014 Shenandoah Valley Young Marines

Young Marine Lance Corporal Seth Bowers and Young Marine Private Caleb Easterling spoke about the mission of the Young Marines program and the history of Red Ribbon Week.

The City Recorder read the Proclamation.

C. United Way Presentation and Video—Mr. Peter Mulford, CEO, and Ms. Tiffany Lawrence, Director of Resource Development and Marketing

Mr. Mulford and Ms. Lawrence expressed the importance of philanthropic donations to the United Way and played a short video.

D. Proclamation—United Way Month—October 2014—United Way of the Eastern Panhandle

The City Recorder read the Proclamation.

Mayor Karos announced that Item 16 I would be moved up on the agenda.

16 I. Approve/deny allowing United Way of the Eastern Panhandle to Solicit Employees to Consider Contributions to the United Way via Payroll Deduction

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to allow United Way of the Eastern Panhandle to solicit employees to consider contributions to the United Way via payroll deduction. Motion carried unanimously.

9. Petitions From Citizens

Rev. Vernon Cartwright, NAACP, addressed Council with the following letter:

Dear Mayor Karos and City Council Members:

On March 13, 2013, Mr. Wayne Arnold Jones was killed by five Martinsburg police officers. The autopsy report states that Mr. Jones had twenty-three (23) gunshot wounds, twelve (12) to his back and [buttocks]. Since the incident, nothing has been done about the officers involved. No disciplinary or corrective training has taken place and the community is still extremely dissatisfied with this. The NAACP is keenly aware of deeply held concerns about the conduct of some of our police officers and this concern is not only among the minority communities but also among religious congregations and white citizens of Martinsburg at large.

In light of the Jones incident, the Berkeley County branch of the NAACP is in the process of forming a Civilian Review Board to address incidents of this nature. The Review Board will perform its own investigation to ascertain the truth and to foster trust and cooperation between our citizenry and the police force. We welcome the participation

of the City Government, the Mayor and the Chief of Police, to restore trust, establish accountability and insure transparency in our police force and City Officials. Many studies have proven that when law enforcement and communities are actively working together, a strong and trusting relationship develops.

I look forward to hearing from your respective offices soon to work with us to make this a better community for those who live here.

Sincerely,

Vernon L. Cartwright
President
Berkeley County NAACP #3242

Mr. Richard Anderson, Vice President of the NAACP, asked Council if a feasibility study would be possible on this issue as the Police need some sort of oversight.

Mr. David Haarberg, 512 Winchester Avenue, member of the NAACP, stated that he supports the initiatives mentioned by Rev. Cartwright and Mr. Anderson and that he has developed a fear and distrust of the police due to the Jones incident and the lack of information after that incident.

Mayor Karos thanked the speakers and stated that Council will take their concerns under advisement.

Mr. Sam Holdren, Location Manager for the MOTM miniseries, presented the following request:

To the City of Martinsburg,

Our production team for an upcoming historical miniseries seeks the City's blessing for the potential removal of the brush and overgrowth, along with one large tree, in the alley off Norwalk Avenue (which formerly connected with Porter Avenue).

The stretch of alley in question is along the fence line with a large, recently cleared portion of the Interwoven Mills lot, which serves as one of our shooting locations for the production. Our production company's continued collaboration with Mr. Larry Wright, the owner of the property, has resulted in the cleanup of multiple areas of the former mill site.

For our purposes, such clearing allows our production to expand its footprint for both photography and visual effects, as the construction of set pieces used for visual effects sometimes require more space than what currently exists. We are happy to discuss

options and timelines further with the City pending your initial approval, and pending the commitment of our production team to the pursuance of full cleanup.
The following pages include photos from the site. *(See Council file)*

After an on-site inspection with City Engineer Michael Covell, Fire Chief Paul Bragg, [Deputy] Police Chief T.J. Catlett, and the Public Works Supervisor Jeff Wilkerson, we are confident that the removal of this material would be a position endeavor if pursued.

Thank you for your time!

Sincerely
Sam Holdren
Location Manager
MOTM miniseries

After some discussion about who is responsible for the cleanup, the production company stated that they would be responsible. Councilman Baker added that any property belonging to any other owner would be cited for the remaining in the condition of this City-owned alleyway. He stated that the City should take care of its own properties.

Councilman Wachtel added that he believes that the alleyway was closed some time ago to help deter criminal activity in the area, but those problems have since been abated.

After determining that the Police and Fire Departments had no issue with the project, the consensus of Council was to allow the cleanup, provided that the production company provides proof of adequate liability insurance and works with City staff for scheduling and other needs.

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

- a. Historic Preservation Review Commission (HPRC) August 4, 2014 Meeting Minutes
- b. Memo, dated September 25, 2014, relating to April King's resignation from the Board of Zoning Appeals, effective immediately

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

11. Reports of Chairpersons of Council Standing Committees

There were no reports.

12. Report of Mayor

a. Reappoint Gary Fleming to the Fire Civil Service Commission—term 11/13/2014-11/13/2018

Motion made by Councilman Wachtel, seconded by Councilman Anderson, to accept the Mayor's recommendation and reappoint Mr. Fleming to the Fire Civil Service Commission through 11/13/2018. Motion carried unanimously.

b. Home Rule Update

Mayor Karos announced that the City of Martinsburg was selected to participate in Phase II of the Home Rule Pilot Program, which will make possible many positive changes in the City. He thanked Council and staff for their participation in the application process.

c. Board and Commission Vacancies:

- Board of Zoning Appeals (1 alternate and 1 regular)
- Code Appeals Board (2)
- Parking Authority (2)

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 2014-14: *An Ordinance Amending And Reenacting The City Of Martinsburg Code, Part 7, Article 765, By Amending Section 765.02 To Provide For Annual License Fees For Private Clubs In The City Of Martinsburg.*

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the third and final reading of Ordinance 2014-14, by title only, and adopt. Motion carried unanimously.

16. New Business

a. First and Second 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 first and second reading of Ordinance 2014-15, by title only. Motion carried unanimously.

b. First and Second 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"

City Manager Mark Baldwin explained that the state had agreed, several years ago, to fund 80% of this project through their bridge program and the City is obligated to fund 20%. The total estimated cost, as of today, is \$500,000 for preliminary work and \$1.3M for the actual bridge replacement.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the first and second reading of Ordinance 2014-49, by title only. Motion carried unanimously.

c. First and Second 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"

Mr. Baldwin stated that the total estimated cost of this project is estimated at \$994,280 of which the State has agreed to fund 12%, or approximately \$120,000. The City will be responsible for the remainder and can use three years of CDBG funds towards the total cost in addition to other funds.

Motion made by Councilman Etherington, seconded by Councilman Knowles, to hear the first and second reading of Ordinance 2014-17, by title only. Motion carried unanimously.

d. First and Second 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

Mr. Baldwin explained that, while the Ordinance still requires a third and final reading, the agreement is due tomorrow.

Motion made by Councilman Knowles, seconded by Councilman Etherington, to hear the first and second reading of Ordinance 2104-18, by title only. Motion carried 5-1, Anderson no.

e. Approve/deny Grant Agreement # 2011S-1293 between the City of Martinsburg and the West Virginia Water Development Authority to Make a Grant from the Proceeds of Excess Lottery Revenue Bonds, 2014 Series A, in an Amount not to Exceed \$23,798,958.10 for Purposes of Funding the Eligible Portions of the Wastewater Treatment Plant Upgrade.

Mr. Baldwin explained that this grant amount was somewhat more than was expected and budgeted, and he expects the excess to be applied toward the principal balance of the City's bond debt at the end of the project.

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve Grant Agreement #2011S-1293 between the City of Martinsburg and the West Virginia Water Development Authority. Motion carried 5-1, Anderson no.

f. First and Second 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*

Councilman Knowles asked why the first and second offense carried the same incarceration time of thirty days. Legal Counsel Kin Sayre responded that the City cannot sentence an individual to jail for more than thirty days per offense, ninety days total for combined offenses.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to hear the first and second reading of Ordinance 2014-19. Motion carried unanimously.

g. Authorize the Mayor to sign FY 2014 CDBG Subrecipient Agreement between the City of Martinsburg and the following entities:

- C-Cap—Emergency Rental Assistance \$5,000
- CASA—Volunteer Support and Training \$5,000
- CHS—Safe Haven Child Advocacy Center \$5,000
- Berkeley County—Meals on Wheels \$5,000
- Boys and Girls Club—Memberships \$5,000
- Shenandoah Women's Center—Case Management \$5,000
- Berkeley Senior Services—In-home Respite Care \$5,000

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to authorize the Mayor to sign necessary subrecipient agreements. Motion carried unanimously.

h. Approve/deny Amendment #1 to the Engineering Agreement for the Church Street Stormwater Project between the City of Martinsburg and Alpha Associates, Inc., dated July 23, 2013--\$152,350

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the amendment. Motion carried unanimously.

i. Approve/deny allowing United Way of the Eastern Panhandle to Solicit Employees to Consider Contributions to the United Way via Payroll Deduction

See "Presentations"

j. Confirm Council Approval of the Request from *for the kids, by George Children's Museum* to Change the Date of a Fundraiser from November 1, 2014 to November 15, 2014—Approved by Consensus of Council at the September 11, 2014 Regular Council Meeting

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

k. Approve/deny Wellness Proposals (Local Fitness Facility Membership) for Planet Fitness--\$99/Year (\$8.25 Monthly)—50% City of Martinsburg/50% Participating Employee

Motion made by Councilman Knowles, seconded by Councilman Baker, to approve the wellness proposal from Planet Fitness and contribute 50% of the yearly cost for participating employees. Motion carried unanimously.

l. Approve/deny Increasing Applicable City Employee Boot Allowance from \$90/year to \$120/year, Retroactive to July 1, 2014

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the increase for applicable city employees. Motion carried unanimously.

m. Approve/deny Agreement between the City of Martinsburg and Berkeley County Board of Education, Effective July 1, 2014, to Provide for a School-Based Law Enforcement Officer--\$60,000 Reimbursed to the City of Martinsburg

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

n. Approve/deny Purchase of Six (6) New Tasers for the Martinsburg Police Department—Taser International (Sole Supplier)--\$8,644.74 (Total)—Police Levy Fund

Motion made by Councilman Baker, seconded by Councilman Knowles, to approve the purchase of six new Tasers. Motion carried unanimously.

o. Approve/deny Solar-powered “Dangerous Curve” Sign to Replace Damaged Sign at the Intersection of Moler Avenue and Central Avenue—Tapco Traffic Control Products--\$2,975

Motion made by Councilman Baker, seconded by Councilman Anderson, to approve the purchase of a solar-powered “Dangerous Curve” sign for that location. Motion carried unanimously.

p. Approve/deny Exterior Painting of the Kilmer Springs Water Tank—Stephen’s Painting--\$3,686 (Paint to be Supplied by the City of Martinsburg--\$5,000 est.)

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the exterior painting of the Kilmer Springs Water Tank with Stephen’s Painting doing the work and the City of Martinsburg supplying the paint. Motion carried unanimously.

q. Approve/deny HRI, Inc.’s October Payment Application #10 for the WWTP Upgrade Project--\$1,065,050.67

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve HRI, Inc.’s October Payment Application #10 for the WWTP Upgrade. Motion carried 5-1; Anderson no.

n. Approved/deny HRI, Inc.’s Payment Application #3 for Task C Project--\$112,023.20

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve HRI, Inc.’s payment application #3 for Task C Project. Motion carried 5-1; Anderson no.

o. Discuss/take Action as Necessary Authorizing City Attorney to Prepare Ordinance(s) as Listed in the Home Rule Application to Meet the Required Thirty Day Public Notification and Schedule Special Meeting/Public Hearing on the Ordinance(s)

Mr. Sayre stated that time is of the essence as the Home Rule Board meets on December 1 to review ordinances for approval. He suggested that Council begin preparing ordinances as follows:

- Authorize Bowles Rice to prepare ordinances
- Publish Class II legal advertisement for public hearing to run on the 17th and 24th to allow for the 30-day comment period
- Schedule special City Council meeting for Tuesday, November 18, 2014 at 6 PM for purposes of holding a public hearing
- Forward the Ordinances to the Home Rule Board on Wednesday, November 19, 2014

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to follow the recommendations of Legal Counsel and authorize Bowles Rice to prepare the Ordinances, run

the Class II legal advertisement and schedule the Special City Council meeting. Motion carried unanimously.

Councilman Baker asked if the work done by Bowles Rice is included in already budgeted fees. Mr. Sayre stated that it is.

16. Executive Session

Motion made by Councilman Baker, seconded by Councilman Wachtel, to go into Executive Session for legal matters at 7:57 PM. Motion carried unanimously.

Adjournment

Motion adjourned by unanimous consent at 8:20 PM.

George Karos, Mayor

Gena Long, City Recorder