

Martinsburg City Council  
Special City Council Meeting  
October 9, 1986 (October 22, 2013)  
Minute Book 39, P. 1-6

The City Council of Martinsburg met in Regular Session in the Council Chambers at City Hall at 7:30 PM. Present were Mayor Edward W. Dockeney, Jr., Councilmembers Merle Butts, Mark Baker, Michael Lewis, Max Parkinson, C. Michael Butts, Clarence "Bill" Miller, Richard S. Wachtel (7:55), Betty B. Gunnoe, Joseph Corbin, Jr., George Karos and Joseph L. Ross, Jr. Also present were City Manager Janis Hutchins Zachman, City Attorney J. Oakley Seibert, Asst. City Recorder Kellye S. Kidwell, City Recorder Joan Bragg, Fire Chief G. Douglas Fellers, City Engineer Ralph Long, Building Inspector Harry Carter and Police Captain Jack Strobridge.

Roll call was taken and with a quorum present, Mayor Dockeney declared the meeting in order at 7:30 PM.

**Petitions from Citizens**

Dennis Barron of 617 Central Avenue asked to address Council about a matter of concern to the residents located in the Central Avenue and Moler Avenue area. He advised that he has a copy of the petition that was filed with the Berkeley County Planning Commission on October 6, 1986 and has been signed by 143 residents of the Central Avenue and Miler Avenue area. The petition opposes a trailer court planned to be placed on the City/County line adjacent to Central Avenue on a dirt street now known as Cherry Lane. The residents feel that the property value will go down, and that there will be an increase in traffic in the area. There is also a drainage problem on Central Avenue, which will be increased, and such a trailer court will stifle City growth. Mr. Barron advised that the developer will take advantage of the City of Martinsburg by using the water and sewer, by using City streets, while opening up Central Avenue which has been a closed street and will also be utilizing the fire protection, and will not be paying City taxes. He stated that he does not know of any environmental impact study being made as to what effect the trailer court will have on the citizens in the area, and what effect the trailer court will have on the traffic flow on Miler Avenue, especially past the intersection of Moler and Central Avenue, which is prime area for serious traffic accidents. He stated that the residents would like for City Council to take a stand on this issue, and go on record as opposing the trailer court.

Motion made by Councilman Karos, seconded by Councilwoman Gunnoe to draw up a Resolution and that a copy be sent to the Berkeley County Commissioners and the developers stating that the City Council is opposed to the trailer park and that fire service, police protection and all city utilities will not be available. Motion carried, Baker and M. Butts, no.

Melody Gambridge, an Attorney from Charles Town, WV, representing Mike Sperry, who is the developer of the trailer court, stated that Mr. Sperry has not yet had the opportunity to make any type of study as to how the traffic pattern would be affected. She advised that the

developer is concerned and wants to address all of the problems of the residents in the area, in the planning stages. She urged Council to give the developer time to research and hear the opinions of both sides.

Councilman Karos stated that Council represents the citizens of the area and that the duty of Council is to protect the interest of those people and that the concerns have to be responded to by the Council.

Councilwoman Gunnoe stated that a traffic study needs to be done, since there is a large accident history involving the curve on Moler Avenue, and that the people living in the trailer court will be jeopardized as well as the people using Moler Avenue.

Councilman Lewis asked Dennis Barron if the trailer court is negotiable or non-negotiable with the residents. Dennis Barron stated that all the residents are opposed to the trailer court, but if they cannot stop it, they will have to make the best deal possible.

Councilman Michael Butts stated that the Council does not have any real authority to stop the trailer court, and the next best course of action to protect the citizens is to try to get commitments from the developers that he will talk with the residents, so that Council can keep a close watch on this.

Motion was made by Councilman Baker to table the previous motion of Councilman Karos to draw up a Resolution. Motion failed for lack of a second.

Motion was made by Councilman Ross, seconded by Councilman Merle Butts, that a letter be sent or included in the Resolution that Council strongly recommends to the County Court that they look seriously at the zoning in the County. Motion carried.

Motion was made by Councilman Baker, seconded by Councilman Michael Butts, that the statement in Councilman Karos's motion pertaining to service of water and sewer be dropped from the motion. Discussion followed.

Councilman Karos advised that the Resolution simply says that Council is opposed to the trailer park and that he is willing to amend the motion in order to strike out the portion regarding the services available by the City.

Councilman Lewis stated that the motion could be amended to say that the City is unable to provide water and sewer since it is not in the City's district or jurisdiction to serve.

Motion was made by Councilman Baker, seconded by Councilman Michael Butts, to amend the prior motion and state that the City is unable to provide water and sewer service, since it is not in the City's district or jurisdiction to serve. Motion carried.

### **Resolution of the Martinsburg City Council**

**Whereas**, the City Council of Martinsburg has been approached by Martinsburg citizens concerned about plans for a mobile home park in Berkeley County, located adjacent to the City of Martinsburg at Central Avenue; and

**Whereas**, this development will directly affect a number of Martinsburg residents; and

**Whereas**, questions abound relative to traffic congestion on Central and Moler Avenues and adjacent roadways as a result of this proposed park, and the physical condition of such roadways to handle increased traffic flow; and

**Whereas**, there are reservations as to the availability of proper public utilities to serve this development; and

**Whereas**, the close proximity of a mobile home park to a stable City neighborhood is seen by many as detrimental to the neighborhood, property values and quality of life; and

**Whereas**, the Martinsburg City Council wishes to convey these concerns and reservations to the Berkeley County Commission for review and consideration;

**Now, therefore, be it resolved**, that the Martinsburg City Council go on record as being in opposition of the proposed trailer park development adjacent to the City of Martinsburg; and

**Be it further resolved**, that the City of Martinsburg hereby formally recommends to the Berkeley County Commission that immediate and swift study be made of means by which to initiate comprehensive land use planning control for all of Berkeley County; and

**Be it further resolved**, that a copy of the Resolution be forwarded to the President of the Berkeley County Commission for consideration.

**Resolved**, this, the 9<sup>th</sup> day of October, 1986.

*Resolution was signed by Mayor Dockney and attested by Recorder Bragg. It can be located in MB 39, p. 6*

**Presentation of Aronov Realty Company Request for Annexation, Zoning and Other Matters Related to Shopping Center Development.**

Kathy Thompson, representing Aronov Realty from Montgomery Alabama, advised that Aronov Realty would like to put in a shopping center called Old Court House Square. This would be a 202,300 square-foot shopping center at the intersection of Rte. 9 and Rte. 11. This consists of 7.8 acres presently in the County, known as the Lutz property, and 12.73 acres in the City known as the Adamson property. She advised that they would be requesting annexation of the shopping center in August 15, 1987. The leading store in the shopping center is Zayres and would have a grocery store, drug store, four apparel stores and other specialty stores. She advised that her firm would be preparing the annexation and rezoning Ordinances and they are currently working on the site plan and the engineering for water and sewer lines. She stated that there is an October 22, 1986 Planning Commission meeting and public hearing, which will take care of reviewing the concept plan, take a look at the City's zoning and its appropriateness to the site. Council will have the first reading of the ordinances on October 23, 1986 and the final reading of the ordinances will be on November 13, 1986.

Councilman Lewis asked who will provide the water and sewer. Ms. Thompson advised that the engineers have met with Opequon and are discussing the building of a sewer line, but no agreement has been made as to who will pay for the sewer line. The City Manager advised that the property is not within the City of Martinsburg water and sewer department jurisdiction, and that the water and sewer will be provided by one or more of the County's Public Service Districts, unless they would be interested in turning that land over to the City to furnish utilities.

Councilman Miller asked where the sewer will go. The City Manager advised that the Hedgesville sewer treatment plant will be completed by the time the shopping center is finished and it is likely that all the sewer will be pulled off of Martinsburg and sent to that plant.

Councilman Wachtel asked what the purpose for asking for annexation is. Ms. Thompson advised that they are requesting annexation so that the tract will all be within the City limits.

Motion was made by Councilman Wachtel, seconded by Councilwoman Gunnoe, to refer this issue to the Planning Commission. Motion carried.

Councilman Lewis asked to be able to abstain from voting, due to the fact that he is associated with R.E. Lutz.

Councilman Wachtel stated that he stands to gain economically by the location of the additional shopping center, and therefore asked the City Attorney if he is in conflict of interest.

The City Attorney, Oakley Seibert, advised that he does not feel that this is a conflict of interest.

### **Work Session on Housing Ordinance**

Harry Carter, Building Inspector, reviewed the proposed Housing Ordinance with Council, noting areas that may need to be changed to suit Martinsburg. Mr. Carter stated that Council might want to take a look at the area involving fees for inspections and registration of property owners. Councilman Ross stated that he felt a yearly inspection would not be out of line due to the amount of problems with rental housing. The City Manager advised that she is interested in registering a responsible person on behalf of an absentee landlord so that notices may be served. She stated that landlords have suggested that the greatest burden in fees should be on absentee owners since they are harder to locate.

Councilman Wachtel stated that he feels the Ordinance needs to have something added that clarifies that a tenant may not sublet individual rooms.

Councilman Corbin asked if Mr. Charter thought there would be any problems with being able to enforce any part of the building code. Mr. Carter stated that the only problem would be with personnel. He advised that it would take a full-time Housing Inspector for these inspections.

Councilman Corbin asked if there was any news regarding the Larkin property sale.

Mr. Carter stated that all Larkin properties, except his residence and the Cab Stand are being sold, and the new owner will make repairs and build on the vacant lots.

Motion was made by Councilman Ross, seconded by Councilman Baker, to hold a public hearing for the Housing Code at the Regular Council meeting in November. Motion carried.

### **Report from Budget Committee on Changes Proposed to Business and Occupation Tax Ordinance**

Councilman Michael Butts advised that the Budget Committee would like to defer any recommendations until the meeting in November, since they would like to have more time to go over it. He stated that more information could be obtained from the auditors as to the balance, and since only three police officers are being hired at present, there will not be the up-front cost as anticipated. He advised that revenue is about 5% ahead of last year's first quarter and the expenditures are down, therefore the Committee has time to take a better look at the proposed changes.

Mayor Dockeney advised that Councilman Michael Butts has other commitments and will not be able to serve on the Budget Committee. He thanked Councilman Butts for all his time and

effort on the committees on which he served, and will consider a replacement for him by they November meeting.

### **Expenditure Requests**

#### **Formally Authorize Emergency Repairs to the 20" Sewer line at Approximate Cost of \$20,000.**

Motion was made by Councilman Baker, seconded by Councilman Merle Butts, to approve the expenditure of \$20,000 to repair 20" sewer line. Motion carried.

#### **Formally Authorize Use of Redi-Mix Concrete Testing Service for Police Station**

Motion was made by Councilman Merle Butts, seconded by Councilwoman Gunnoe, to approve the use of Redi-Mix Concrete Testing Service for the Police Station. Motion carried.

#### **Approve Salt Supplier for 1986-87 Winter**

Motion made by Councilman Wachtel, seconded by Councilwoman Gunnoe, to approve the bid of International Salt Company at \$33.17/ton. Motion carried.

#### **Review of Berkeley County Public Service Sewer District Request to add Additional Customers onto City System**

The City Manager stated that Berkeley County would like to add 70 customers on for the next year until their wastewater treatment plant is completed in August.

The City Manager stated that she will write Berkeley County advising that there have been problems with Opequon agreeing on the maintenance of the master meter and that we will add on the customers provided they will agree to other conditions.

Motion was made by Councilwoman Gunnoe, seconded by Councilman Ross, to approve the request of Berkeley County Public Service District to add additional customers onto the City system. Motion carried.

#### **Formerly Accept U.S. Environmental Protection Agency**

Motion was made by Councilman Michael Butts, seconded by Councilman Merle Butts, to table this item until later. Motion carried.

#### **Discussion on Transition Plan for Handicapped Accessibility**

The City Manager advised that the City needs to make changes for handicap accessibility. This would involve a program where City staff would go out to homes when an individual is unable

to get into City Hall, and begin to hold Council meetings in an accessible location. She stated that all the regular council meetings are scheduled for the next year at the Martinsburg Public Library.

### **Project Updates**

The City Manager advised that the County Commission and the City have been looking at Self-Insuring the Employee Health Care Plan. The County Commission has put out bids a month ago, and the bids have been received. Interviews will take place with a couple of the companies that can do the kind of thing that the City is proposing and when the best company is chosen, they will speak to Council regarding the services available. The best proposal would save Berkeley County, Morgan County, Martinsburg and the Public Library a lot of money. Bids have been received from Equitable, Blue Cross/Blue Shield and two other companies.

The City Engineer, Ralph Long, advised that the Police Station is basically under construction. He advised that shop drawings are in transit and as soon as they are received, everything will be moving along.

### **Approve Senior Citizens' Exonerations**

Motion was made by Councilman Miller, seconded by Councilwoman Gunnoe, to approve senior citizens' exonerations.

### **Approve Request of VFW Post 896 to have a Poppy Sale Fundraiser on November 7-8**

Motion was made by Councilman Wachtel, seconded by Councilman Parkinson, to approve the Poppy Sale Fundraiser on November 7-8. Motion carried.

### **Approve Plans for Halloween Parade and Christmas Parade per Chamber of Commerce/DMA; Set Hours for Trick-or-Treating**

Motion was made by Councilman Baker, seconded by Councilwoman Gunnoe, to approve the Halloween Parade and trick-or-treating from 6-7 PM on October 31, 1986 and the Christmas Parade, with a date to be decided later. Motion carried.

Motion was made by Councilman Merle Butts, seconded by Councilwoman Gunnoe, to approve \$3,000 for the building of the pump house at Big Springs Pumping Station. Motion carried.

The City Manager stated that Earl Snyder has approached the Building Inspector for plans for development on Western Avenue and the utilities will be underground. He would like to have four street lights on this subdivision and would like permission from the City that those street lights and connections be installed and the street lights be put up at the time that his

development is in place. The cost for the four lights, after installation, would be approximately \$50.00 per month.

Motion was made by Councilwoman Gunnoe, seconded by Councilman Michael Butts to approve the installation of the four street lights in the Western Avenue subdivision. Motion carried.

### **City Attorney's Items**

The City Attorney stated that citizens of the Pikeside area are prepared to begin passing around annexation petitions and have asked for two items in that petition. They want to make it contingent upon ultimately receiving city services. They would like an upper limit on what the tap fee would be and an explanation as to how they can spread out those payments.

The City Manager stated that she proposed that if any of the people would meet the same standards allowed for senior citizen exoneration, then a long-term payment plan could be set up for the tap fee.

Motion was made by Councilman Wachtel, seconded by Councilwoman Gunnoe, to set a tap fee of \$200.00 for those that hook on immediately in the Pikeside area, and that those who choose to hook on later would pay the actual cost of the hook-up. Motion carried.

The City Attorney stated that the people who had presented the public nuisance petition for the properties at 302-310 W. Race Street and 309 Boyd Avenue advised him that the situation has gotten better, and that the basic problems now are the parking, appliances being placed outside on porches and such. He suggested that instead of a nuisance hearing, that the building inspector, with the help of the Police Department, try to enforce those particular issues.

Motion was made by Councilman Merle Butts, seconded by Councilwoman Gunnoe, to set up a public nuisance hearing for a property on Winchester Avenue once the petition is brought in. Motion carried.

Motion was made by Councilman Merle Butts, seconded by Councilman Michael Butts, to mail all unclaimed property formerly sold by the City to the Secretary of State's office C.O.D. Motion carried, Miller, no.

Councilman Parkinson stated that he has had a request to change the name of Dennis Street to Patterson Place as a tribute to Mrs. Patterson. Motion was made by Councilman Parkinson, seconded by Councilman Michael Butts, to change the name of Dennis Street to Patterson Place. Councilman Merle Butts called for a roll call vote.



Merle Butts, Mark Baker, Max Parkinson, Betty Gunnoe, Michael Lewis and Joseph Corbin, Jr.: yes. Clarence Miller, Richard Wachtel, Michael Butts, Joseph Ross, Jr, George Karos: no. Donald Gregory, absent. Motion carried.

Councilman Michael Butts thanked Councilman Parkinson, Councilwoman Gunnoe, City Manager and City Hall staff who provided the Budget Committee with a tremendous amount of information for the Budget. He also thanked Council for the cooperation over the two years he was involved in the Budget Committee.

Councilman Karos stated that he thought that it was a good budget and was such because of the leadership of Councilman Michael Butts.

Councilman Korbin advised that the dog problems are settled in his ward and that the run down property and weeds that needed to be cut have been taken care of. He thanked the City Manager and Harry Carter for their help in these matters.

Motion was made by Councilman Baker, seconded by Councilman Parkinson, to go out for bid for demolition of properties at 906 N. Third Street and 100-106 W. Stephen Street. Motion carried.

Motion made by Councilman Baker, seconded by Councilman Parkinson, to go into Executive Session for legal matters at 10:00 PM. Motion carried.

*Minutes were signed by Mayor Dockeney, Recorder Bragg and Asst. Recorder Kidwell.*