

**City Of Martinsburg  
Regular Council Meeting  
September 11, 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, Jason Baker, Gregg Wachtel, and Kevin Knowles. Not present was Max Parkinson. Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder; Chief Paul Bragg, Martinsburg Fire Department; Chief Kevin Miller, 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—**

Pastor Folk led the invocation.

**5. Approve August 21, 2014 Regular Meeting Minutes**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the July 10, 2014 Regular Meeting Minutes. Motion carried unanimously.

**6. Approve July 2014 Administrative and Financial Report.**

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

**7. Presentations**

**a. Proclamation—Constitution Week September 17-23, 2014**

City Recorder Gena Long read the Proclamation.

**8. Petitions From Citizens**

There were no petitions from citizens.

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

- a. Martinsburg/Berkeley County CVB July 9, 2014 meeting minutes
- b. Hagerstown/Eastern Panhandle Metropolitan Planning Organization June 18, 2014 meeting minutes and TIP Amendments and updates

c. Martinsburg Planning Commission July 02, 2014 Meeting Minutes

Motion made by Councilman Baker, seconded by Councilman Etherington to receive and file items 9A-9C. Motion carried unanimously.

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

There were no reports.

### **11. Report of Mayor**

#### **a. Schedule Special Council Meeting for Tuesday, September 16, 2014 at 5PM for purposes of holding a nuisance hearing regarding 1017 S. Queen Street**

See Item 12 A.

### **12. Report of City Attorney**

#### **a. Update on nuisance hearing for 1017 S. Queen Street**

City Attorney Kin Sayre stated that meeting had been held between the business owner and City officials. Issues and attempts at abatement had been discussed and there have been no recent events involving the Martinsburg Police Department.

David Hammer, Hammer, Ferretti & Schiavioni Law Firm, representing Dirty Dawg Saloon, stated that there have been no calls to the Police Department since June 1, due to the actions taken after communications with the Police Chief. He stated that the Saloon has taken corrective actions such as installing security cameras, training bartenders to recognize and stop serving alcohol to intoxicated customers, discontinuing the allowance of non-drinking individuals under the legal age for consumption into the establishment, prohibiting gang "colors" and symbols, and working toward being good neighbors by cleaning up litter and having cars towed away when improperly parked. Mr. Hammer stated that his client will certainly not hesitate to call the police when necessary, but has not been using the Martinsburg Police Department in a way that puts a burden on the resources of the department.

Councilman Knowles asked if the hours of operation have been curtailed. Mr. Hammer answered that the establishment is closed on Sunday, Monday and Tuesday, but has always held those hours. Otherwise, it is open as allowable by State law. Councilman Knowles also asked if the establishment has had discussions with neighboring businesses, some of whom have complained. Mr. Hammer answered that there has been positive communication with neighboring businesses.

Legal Counsel Kin Sayre advised that, based on observations, there is no longer a need for the hearing on September 16 and recommended that Council consider a continuance as long as it appears that the issues have been or are being abated at the Dirty Dawg Saloon.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to accept Mr. Sayre's recommendation. Motion carried unanimously.

Councilman Knowles added that he is happy to see the positive changes, but it has taken a long time to get to that point. He is hopeful that the relationship with the community will continue to improve.

### **13. Report of City Manager**

#### **a. Projects Update**

The City Manager had nothing further to report.

#### **b. for the kids, by George request**

The City Manager explained that after the agenda had been set, he had received a request from the Children's Museum to change date for the previously approved fund raiser from November 1 to November 15. He stated that the item will be added to the October agenda as an action item, but was seeking a consensus of Council so a revised letter of endorsement could be signed by the letter.

Council voiced no objection to the change.

### **14. Unfinished Business**

There was no unfinished business.

### **15. New Business**

#### **a. First and Second 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 Wachtel, to hear the first and second reading of Ordinance 2014-14. Motion carried unanimously.

#### **b. Approve/deny Resolution 2014-13: *A Resolution of the City Council of the City of Martinsburg Authorizing George Karos, Mayor Of The City Of Martinsburg To Enter Into A Contractual Agreement With The West Virginia Division Of Motor Vehicles To Receive And Administer Grant Funds, In The Amount Of \$596,000, Pursuant To The Provisions Of The West Virginia Governor's Highway Safety Program***

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve Resolution 2014-13. Motion carried unanimously.

Mayor Karos commended Margaret Walker, Traffic Safety Coordinator, on a job well done.

**c. Approve/deny request from Cornerstone Bible Church to utilize the intersection of W. King and N. Queen for the National Life Chain—Sunday, October 5, 2014 from 2-3 PM.**

Councilman Baker asked if the request will interfere with traffic. Chief Miller stated that this is an annual event, and he understands it will take place in the Square and sidewalks as usual.

Councilman Etherington asked if it conflicted with any previously scheduled activities. City Recorder Gena Long stated that it did not.

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve the request from Cornerstone Bible Church. Motion carried unanimously.

**d. Approve/deny scheduling of City of Martinsburg fall surplus auction—Saturday, October 25, 2014**

Councilman Baker asked what time the auction is to begin. Ms. Long answered that has not yet been determined, but will be advertised by Edwards Auction Service as per usual.

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to schedule the fall surplus auction. Motion carried unanimously.

**e. Approve/deny bulk deicing salt bids---\$84.93/ton—Cargill Incorporated—Deicing Technology Business Unit—Public Works Fund**

Councilman Baker asked Public Works Director Jeff Wilkerson if he intended to order salt in advance of winter, or if he had some on-hand. Mr. Wilkerson replied that he has 100-150 tons on-hand, but does expect to order some prior to December 1.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve the bulk deicing salt bid as recommended by Mr. Wilkerson. Motion carried unanimously.

**f. Approve/deny bid for EMS computers for new ambulances--\$16,703—Mountain State Computer and Network Solutions—Fire/EMS Fund**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the bid for the EMS computers are recommended by Chief Bragg. Motion carried unanimously.

**g. Approve/deny bid for EMS cots and load systems for new ambulances--\$130,301.37—Stryker Medical—Fire/EMS Fund**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve the bid for EMS cots and load systems as recommended by Chief Bragg. Motion carried unanimously.

**h. Approve/deny bid for Motorola Radio Equipment for new ambulances--\$34,364.40—Teltronics—Fire/EMS Fund**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve the bid for Motorola Radio Equipment as recommended by Chief Bragg. Motion carried unanimously.

**i. Approve/deny flu shots for City employees—\$15/per participating employee—Date TBD**

City Manager Mark Baldwin stated that the date has been set for October 1, 2014.

Motion made by Councilman Wachtel, seconded by Councilman Etherington, to approve flu shots for City employees. Motion carried unanimously.

**j. Discuss holiday schedule for Christmas and New Year's (see example), take action as necessary**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the same holiday schedule as in 2008, when Christmas and New Year's Day were on Thursday. Motion carried unanimously.

The approved holiday schedule is as follows:

- 1. Wednesday, December 24, 2014**—City offices will be closed.
- 2. Thursday, December 25, 2014**—Regular Christmas Holiday
- 3. Friday, December 26, 2014**--City offices will be closed.
- 4. Wednesday, December 31, 2014**—City offices will close ½ day.
- 5. Thursday, January 1, 2014**—Regular New Year's Holiday
- 6. Friday, January 2, 2014**—City offices will be closed.

**k. Approve Trick or Treat for children 12 and under in the City of Martinsburg—Saturday, November 1, 2014 from 6-8 PM**

Mr. Baldwin explained that there are several home football games in Berkeley County on Friday, October 31, which will consume Berkeley County and Martinsburg police resources. The

County recommended having Trick or Treat on Saturday, November 1, 2014 and Chief Kevin Miller agreed.

Motion made by Councilman Baker, seconded by Councilman Etherington, to approve Trick or Treat in the City of Martinsburg on Saturday, November 1, 2014 from 6-8 PM. Motion carried unanimously.

**I. Approve/deny request from The Apollo Civic Theatre to block E. Martin Street in front of the theatre on the following days: Oct. 3, 4, 10,11, 18 ,24 ,25, 31 and November 1 from 7PM until 11PM for purposes of conducting "Apolloween," contingent upon proof of adequate liability insurance**

Motion made by Councilman Etherington, seconded by Councilman Knowles, to approve the Apollo's request to block a portion of E. Martin Street, contingent upon proof of adequate liability insurance. Motion carried unanimously.

**m. Approve/deny HRI, Inc.'s September Payment Application #9 for the WWTP Upgrade Project--\$1,329,201.17**

Motion made by Councilman Etherington, seconded by Councilman Wachtel, to approve HRI, Inc.'s September Payment Application #9 for the WWTP Upgrade. Motion carried 4-1; Anderson no.

**n. Approved/deny HRI, Inc.'s Payment Application #2 for Task C Project--\$124,671.34**

Motion made by Councilman Knowles, seconded by Councilman Etherington, to approve HRI, Inc's payment application #2 for Task C Project. Motion carried 4-1; Anderson no.

**o. Approve/deny request from Eastern Panhandle Trail Blazers for City of Martinsburg to administer grant**

Councilman Etherington stated that he is willing to approve the agreement, but recommends setting a maximum of \$1,000 that the City is willing to cover should the grant funds not cover the entire scope of work.

Mr. Bill Yearout, Eastern Panhandle Trail Blazers, answered that he expects the grant funds to cover the entire scope of work of the bike trail, but would not be opposed if the City wishes to set a reasonable maximum allowable expenditure. He suggested that cap be \$1,500-2,000.

City Manager Mark Baldwin suggested that, should Council approve this request, that they include the contingency for proper documentation from the State allowing the City of Martinsburg to act as administrator for this grant. Mr. Baldwin also explained that it is unusual

for the City to administer the grant, generally the City acts as a fiscal agent with the non-profit being responsible for administration.

Mr. Yearout stated that, as the City has experience working with the Department of Highways, he felt it would be more expedient and efficient for them to back out and allow the City to administer the grant, including putting the contract out to bid, selecting contractors, signing contracts and paying the contractors. He stated that the Trailblazers have already discussed specs with the DOH and is satisfied that the City will make right decision when administering and selecting options.

Mayor Karos stated that administering a grant is a lot of work, and the members of Trailblazers likely have more time than City staff to do this. Mr. Yearout answered that the grant process for this grant is not challenging, and that the Trailblazers are happy to do what they are able to do to help the City with the administration, as far as paperwork.

Mr. Baldwin stated that the decision was up to Council, and reiterated that outside agencies typically administer their own grants as the administration is good deal of work. His concern is that, if Council agrees, that other non-profits will request or expect the City to administer their grants as well.

Mr. Yearout added that this grant is unique in that the components will require buy-in and meetings from the City and the DOH anyways and so it would be much more efficient if the non-profit steps back.

Mayor Karos stated that the City is glad to work as the fiscal agent, as usual, but he feared that Council would be setting a precedent if the City administers the grant. He also added that this would be rather like getting free labor from the City.

Matthew Grove, Grove & Dall'Olio, added that this grant is also unique as the improvements are to a City and State asset, not the non-profit's asset. In most cases, Community Participation grants are issued to fund an improvement to the non-profit's assets, but a bike trail would be an improvement to State and City streets.

Councilman Wachtel asked if the Trailblazers have discussed this with Parks and Recreation. Mr. Yearout stated that Mr. Steve Catlett is on the Trailblazer's board.

Councilman Anderson asked what the City Manager recommends.

Mr. Baldwin stated that, at this point, the grant money has been earmarked and the City can make the time and effort. He asked that, in the future, the City be on the front end of these grant applications when they are expected to take part in the administration. He added that this is a worthy project for the City.

Councilman Knowles added Mr. Grove made a good point, that this is an asset to the City and the City needs to look toward its future benefits. He did not feel Council would be setting a precedent, as all requests are considered on case by case basis.

Councilman Baker asked if the route had been finalized. Mr. Baldwin said it was not completely final. Mr. Yearout provided a map of the current projected route.

Mr. Yearout stated again that the money has been secured and the application needs to be submitted. Even if the Trailblazers administer the grant, the City and DOH still have to meet to discuss the route, striping and signage.

Motion made by Councilman Knowles, seconded by Councilman Baker, to approve the request from the Eastern Panhandle Trailblazers and administer the grant. Motion carried unanimously.

#### **16. Executive Session**

There was no executive session needed.

#### **Adjournment**

Motion adjourned by unanimous consent at 7:30 PM.

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George Karos, Mayor

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Gena Long, City Recorder