City Of Martinsburg
Regular Council Meeting
Thursday, September 10, 2015
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, H.D. Boyd, Kevin Knowles, Gregg Wachtel, Ken Collinson and Jason W. Baker. Not present was Dennis Etherington. Also present were: Mark Baldwin, City Manager; Kin Sayre, Legal Counsel; Gena Long, City Recorder; Police Chief Kevin Miller, Jeff Wilkerson, Public Works Director; Michael Covell, City Engineer/Planning Director, Fire Chief Paul Bragg, Human Resources Director Brenda Spaulding and Mark Spickler, Finance Director.

3. Salute to Flag

Councilman Knowles led the Salute to the Flag.

4. Prayer—

Ujima Tyson, New Beginnings, delivered the invocation.

5. Approve August 20, 2015 Regular Meeting Minutes

Motion made by Councilman Wachtel seconded by Councilman Knowles, to approve the August 20, 2015 Regular Meeting Minutes. Motion carried unanimously.

6. Approve July 2015 Administrative and Financial Report

Motion made by Councilman Wachtel, seconded by Councilman Collinson, to approve the July 2015 Administrative and Financial Report. Motion carried unanimously.

7. Presentations

a. Resolution of Appreciation—Police Lieutenant Brian Yost

Mayor Karos read the Resolution and presented it to Retired Lt. Yost.

b. Resolution of Appreciation—Police Lieutenant Glenn Macher

Mayor Karos read the Resolution and presented it to Retired Lt. Macher.

c. Proclamation—Constitution Week—September 17-23, 2015

Mayor Karos read the Proclamation and presented it to representatives of the Daughters of the American Revolution.

d. Make Comment on ABCA Application for the Chesapeake Crab and Seafood Company, Inc. d/b/a Chesapeake Crab and Seafood Company—1014 Winchester Avenue, Martinsburg

e. Make Comment on ABCA Application for the Chesapeake Crab and Seafood Company, Inc. d/b/a Chesapeake Bar and Grill—1211 N. Queen Street, Martinsburg, WV

Mr. David Rigotti, was present on behalf of the Chesapeake Crab and Seafood Company. He explained that he wishes to retain the current location on Winchester Avenue as well as open a new location on N. Queen Street (former Fat Tuesday location).

Consensus of Council was to forward the Zoning Letter to the ABCA without comment for both locations, after it was determined that the Chief of Police had no issue with either location.

8. Petitions from Citizens

Peter Miller, 417 S. Queen Street, discussed his multiple calls to the Police Department about the noise and activities related to the Historic McFarland House. Mr. Miller state that the noise continued after the police responded to his multiple calls. He feels the stress from the next-door McFarland House is causing him to experience life threatening health issues, and felt this might be in violation of the Americans with Disabilities Act.

Jeanie Morton, 630 Winchester Avenue, wished to discuss 632 and 634 Winchester Avenue. She stated that she is relieved to hear that many of her complaints are already being addressed with the proposed nuisance hearing, but wishes her comments to be on record. Ms. Morton stated that since the owner of 634 Winchester Avenue bought the property in a tax sale, there is a constant presence of intoxicated individuals, prostitutes and panhandlers in the area. She stated that concerned residents and property owners have met with Councilman Knowles and the Police Department and that many calls have been made to multiple law enforcement agencies regarding the activities of those individuals. She stated that the perpetrators scatter when the police arrive on the scene and return when they have left. She stated that "No Trespassing" signs have been posted, but that is not a deterrent. She stated that the individuals began gathering at 632 Winchester Avenue, and the tenant in residence told the Police that he had granted them permission to gather there. She has received word that particular tenant has been removed from 632 Winchester Avenue recently. Ms. Morton stated that Sergeant Detective Scott Doyle has personally written eleven citations to the individuals gathering at or around 634 Winchester Avenue in the month of August, and other officers have written additional citations at other times. She is concerned with the proximity of these properties to Winchester Avenue Elementary School, as some of them are dealing drugs and threatening passersby. She stated that she is having difficulty renting the spaces at 630 Winchester Avenue due to these individuals. She recommended that Council considering the following: 1) condemn and demolish 634 Winchester Avenue immediately. The owner of the property has requested and been granted the opportunity to mitigate the problems several times in the past; 2)declare 632 Winchester Avenue a nuisance and require the owner to deal with the problem tenants; and 3) create a task force to assess drugs, alcohol and prostitution and make and act upon recommendations. This task force should be comprised of law enforcement, Council members, concerned citizens, church leaders and any other party interested in the future of Martinsburg. She acknowledged that dealing with these properties will make her yard better, but the problem will just migrate to another area in town. She stated that citizens deserve to be free of the problems of addicts but the community does have the obligation to help its own members. She cited what she referred to as successful programs such as the Angel project which has been initiated in larger cities, stating that it is not possible to arrest our way out of a drug situation.

Tyrone Kennedy, Vietnam Veterans of America, Martinsburg Chapter, which is housed in Ms. Morton's building at 630 Winchester Avenue. Mr. Kennedy stated that the center serves all veterans and the entire community. Many of the members who come for assistance have problems for which they have sought help from the VA Hospital, including drug problems. Mr. Kennedy stated that some stay and make their lives in Martinsburg and some return to where they came from. He stated that he has been a resident of Martinsburg for eight years and wants to help the City in any way he can. He asked Council to take a close look at the happenings in this neighborhood as there are many sad situations and many individuals in need of help.

Kenneth Hawthorne, Vietnam Veterans of America, stated that there are several intoxicated individuals in the area daily. He stated the he is concerned with the safety of his wife, who offers counseling services at the facility, as his primary concern is to offer protection to his wife and children. He asked that action be taken soon.

Bill Freeman stated that his father in law owns 632 Winchester Avenue and they have taken steps to remove the tenant who has been inviting those individuals causing trouble at 634 Winchester Avenue onto the property, and they are working on the removal of an unauthorized tenant who is residing in the upstairs section of the house. Mr. Freeman stated that he is also being harmed by the activities happening at 634 Winchester Avenue. He stated that the cellar door is not secured and people are entering and living in the property, especially in cold weather. He stated that he is more than willing to help where he can, as he cannot find a desirable tenant at 632 Winchester Avenue as long as the issues continue at 634 Winchester Avenue.

Marcy Wright, Vietnam Veterans of America, stated that she has spoken with some of the officers responding to 634 Winchester Avenue and feels comfortable that action is imminent on these issues. She stated that her main concern is the veterans, in particular the younger veterans, who are already vulnerable to drug addiction and have enough problems of their own.

Councilman Wachtel thanked all those present who are veterans for their service. He asked if there has been coordination with the Police Department for suggestions. Mr. Sayre replied that the Police are working on this issue.

Councilman Knowles thanked all of the concerned parties for coming out and the veterans for their service. He stated that he has noticed that the situation has cleared up substantially already and thanked the Police Department, City Manager and citizens for their efforts. He encouraged frequent calls to the Police Department for these types of issues so that a case for a nuisance hearing can be documented.

Simone Hawthorne disagreed with Councilman Knowles's comments, stating that the issues are not resolved. She stated that within the week she has been approached for money and cigarettes and that it is a very scary situation as she and others have been threatened when they enter and leave the building.

Mayor Karos assured those present that something will be done about the problems at this address and thanked them for coming forward. He added that these remarks will be used during the public nuisance hearing.

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

a. Historic Preservation Review Commission July 6, 2015 Meeting Minutes
b. Board of Zoning Appeals July 7, 2015 and August 4, 2015 Meeting Minutes
c. Planning Commission June 3 and July 1, 2015 Meeting Minutes
d. Martinsburg-Berkeley County Convention and Visitors Bureau July 15, 2015 Minutes and Profit and Loss Statements
e. Notice of Public Hearing (September 15, 2015 at 11AM) and Display of C.A.P.E.R. for CDBG and HOME
f. Memorandum from City Recorder and Correspondence from County Clerk referencing Precinct 8 Polling Location
g. Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) Interstate Council May 20, 2015 Meeting Minutes, Berkeley County Highway Projects and EPTA Bus Transfer Point Study
h. For the Kids, by George Children's Museum August 13, 2015 Board of Director's Meeting Minutes

Motion made by Councilman Wachtel, seconded by Councilman Boyd, to receive and file item 9A-9H. Motion carried unanimously.

10. Reports of Chairpersons of Council Standing Committees

a. Council as a Whole Committee Minutes—August 24, 25 & 31

Motion made by Councilman Collinson, seconded by Councilman Boyd, to approve the minutes as submitted. Motion carried unanimously.

11. Report of Mayor

a. Reappoint Michael Maphis to the Code Appeals Board—October 1, 2015-October 1, 2018

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to reappoint Mr. Maphis through 10/01/18.

b. Reappoint James Dailey to the Code Appeals Board—October 1, 2015-October 1, 2018

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to reappoint Mr. Dailey through 10/01/18.

12. Report of City Attorney

None.

13. Report of City Manager

None.

14. Unfinished Business

None.

15. New Business

a. Approve/deny Council as a Whole Committee Recommendations for FY 2015-2016 employee pay recommendations (1.5% C.O.L.A. and merit pay scale 0%-5% with an average of 3%), and increasing the spread between paygrades by 5% retroactive to July 1, 2015

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve the Council as a Whole Committee Recommendations for FY 2015-2016 employee pay increases. Motion carried unanimously.

b. Approve/deny Resolution 2015-26: Resolution increasing minimum ranges for each paygrade by 1.5% for fiscal year and increasing the spread for each grade between the minimum and maximum from 50% to 55%, beginning July 1, 2015

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve Resolution 2015-26. Motion carried unanimously.

c. Approve/deny Resolution 2015-27 authorizing George Karos, Mayor of Martinsburg, to enter into a contractual agreement with the West Virginia Department of Motor Vehicles to receive and administer grant funds in the amount of $586,200, pursuant to the provisions of the WV Governor's Highway Safety Program

Motion made by Councilman Wachtel, seconded by Councilman Collinson, to approve Resolution 2015-27. Motion carried unanimously.

d. Approve/deny request from For the Kids, by George Children's Museum to hold a private fundraiser on Saturday, October 24, 2015 from 7-9 PM, including letter of endorsement to the ABC Commission

Councilman Knowles asked how many times in the past year has the museum requested permission to serve alcohol and stated he is concerned that this is becoming more of a constant than an exception. Executive Director Bree Myers stated that this is the fourth request in a one year period.

Motion made by Councilman Wachtel, seconded by Councilman Baker, to approve the request and letter of endorsement. Motion carried unanimously.

e. Approve/deny request from Cornerstone Bible Church and the Martinsburg Chapter of the National Life Chain to hold an annual prayer vigil on Sunday October 4, 2015 from 2-3 PM at the intersection of King and Queen Streets, contingent upon proof of adequate liability insurance

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

f. Approve/deny request from Deliverance Ministries to hold a prayer event in the Town Square, along with food service, beginning on the third Tuesday in September and continuing on the second Tuesday of each month at 7 PM, contingent upon proof of adequate liability insurance.

Councilman Baker asked if the requestor is willing to be flexible, as this is an event that is expected to continue for an indefinite period of time. City Recorder Gena Long stated that they have stated that they are willing to be flexible if others need the square.

Councilman Boyd pointed out that the request included food service and asked if they to feed the homeless on the Square each time. The City Recorder replied that is her understanding.

Motion made by Councilman Wachtel, seconded by Councilman Boyd, to approve the request as submitted. Motion carried 4-2, Councilman Boyd and Councilman Knowles no.

g. Approve Trick or Treat for children 12 and under in the City of Martinsburg—Saturday, October 31, 2015 from 6-8 PM

Motion made by Councilman Wachtel, seconded by Councilman Baker, to approve Trick or Treat for children 12 and under on Saturday, October 31, 2015 from 6-8 PM. Motion carried unanimously.

h. Approve/deny request from the Ward Two Neighborhood Association, in partnership with Main Street Martinsburg, the Martinsburg/Berkeley County Convention and Visitor's Bureau and the Historic McFarland House to close a portion of S. Queen Street, between Stephen Street and South Street, on Saturday, October 31, 2015 from 12-6 PM for purposes of holding a community event, and authorize a letter of endorsement to the ABC Commission for a beer garden, contingent upon proof of adequate liability insurance

The Police Chief expressed concern that this event is on Halloween, for which Trick or Treat was previously approved to begin at 6 PM. He asked if it would be possible to have the streets open by 5 PM. Mr. Haarberg, Ward Two Association, replied that he believed this would be possible.

Motion made by Councilman Knowles, seconded by Councilman Collinson, approve the event as requested with the contingency that the hours be changed to 11 AM until 5 PM to accommodate for Trick or Treat. Motion carried unanimously.

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

City Manager Mark Baldwin explained that in the past when Christmas and New Year's Day occurred on a Friday, Council had approved an entire day off on Christmas Eve and a half day on New Year's Eve, however it was up to Council as to how to proceed in 2015.

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the additional holidays as they had been approved before. Motion carried unanimously.

j. Approve/deny flu shots for City employees--$20 each

Mayor Karos asked where the flu shots will be administered, and it was determined they would be administered at City Hall in the Council Chambers, as they had been previously.

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve the flu shots for City employees at $20 each.

k. Approve/deny EPA/WVDEP Stormwater Financing Revenue Streams Grant--$145,000 with $72,500 from EPA and $72,500 from City of Martinsburg ($20K in kind/$52,500 cash)

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the EPA/WVDEP Stormwater Financing Revenue Streams Grant. Motion carried unanimously.

l. Approve/deny Memorandum of Understanding between the City of Martinsburg and Region 9 Planning and Development Council for EPA/WVDEP Infrastructure Asset Management Grant--$580,000 with $290,000 from EPA/WVDEP and $290,000 from City of Martinsburg (Sewer Fund and General Fund)

Motion made by Councilman Knowles, seconded by Councilman Wachtel, to approve the Memorandum of Understanding between the City of Martinsburg and Region 9 for the EPA/WVDEP Infrastructure Asset Management Grant. Motion carried unanimously.

m. Approve/Deny Joint Funding Agreement (JFA) between the Department of the Interior U.S. Geological Survey and the City of Martinsburg for partial operation and maintenance of a streamgaging station on Tuscarora Creek in Martinsburg, October 1, 2015-September 30, 2016--$4,000.00 (Utilities Department).

Utilities Director Steve Knipe explained that this is used to gather data on the creek and records stream flow and other parameters.

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve the JFA for the partial operation and maintenance of the streamgaging station. Motion carried unanimously.

n. Approve/deny change order(s) for concrete work at E. Burke Street Parking Lot Project

Mark Baldwin explained that this is for a small concrete apron near the HUB. It is not a sidewalk, more of a bumper pad where the meters are set. He stated that once the demolition was finished, it was apparent that the bids were lower than expected and it is a good time to consider replacing this apron so that it matches the improvements.

Councilman Boyd asked if the sidewalk on Burke Street will be replaced as well as it is somewhat uneven. Mr. Covell stated that the sidewalk which fronts the City property will be replaced, but other portions are the responsibility of the adjacent property owners.

Councilman Knowles asked if any decisions have been made about signage. Mr. Baldwin replied that the old signage will be replaced.

Motion made by Councilman Wachtel, seconded by Councilman Boyd, to approve the change order. Motion carried 5-1, Anderson no.

o. Approve/deny bid for painting of Kilmer Springs Water Storage Tank—Stephens Painting--$2,172 for labor only (product being provided by Water Department)

Motion made by Councilman Knowles, seconded by Councilman Collinson, to approve the bid for painting of Kilmer Springs Water Storage Tank. Motion carried unanimously.

p. Approve/deny bid for bulk deicing salt—Cargill Deicing Technology--$90.50/ton

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the bid for bulk deicing salt. Motion carried 5-1, Anderson no.

q. Approve/deny bid for construction of a 80'x50'x4" reinforced concrete pad at firing range—Global Environmental--$14,000 (Police Levy)

Motion made by Councilman Knowles, seconded by Councilman Boyd, to approve the bid for concrete pad. Motion carried unanimously.

r. Approve/deny bid for use of force simulator ($22,350) and additional Taser X2 cartridge, two (2) red SIRT handguns with one additional recoil kit ($6,150)—Ti Training Corp—total of $28,500 ($15,864 JAG Grant/$12,636 Police Levy)

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to approve the bid for the use of force simulator and additional requested items, as submitted. Motion carried 5-1, Anderson no.

s. Approve/deny Resolution 2015-28 authorizing HRI Inc.'s Application for September Payment #21--$846,285.44

Motion made by Councilman Wachtel, seconded by Councilman Boyd, to approve Resolution 2015-28. Motion carried unanimously.

t. Authorize City Attorney to schedule and proceed with a nuisance hearing on 634 Winchester Avenue—property owner Steve Nines

Motion made by Councilman Knowles, seconded by Councilman Boyd, to proceed with a nuisance hearing on 634 Winchester Avenue. Motion carried unanimously.

Mr. Sayre explained that the Chief of Police will sign a petition to declare the property a nuisance and provide CAD sheets for all calls to the property in a reasonable time frame. He anticipated that the hearing could be held at the October regular meeting if Mr. Nines, the property owner, is able to be served in a timely manner. Mr. Sayre stated that Mr. Nines will have the opportunity to defend himself. If the property is declared a nuisance, Council may go to circuit court to force abatement of the nuisance, which may include demolition of the structure. At that point, a lien can be placed against the property to attempt to recuperate the costs of demolition.

u. Approve/deny request from Apollo Civic Center to close a portion of E. Martin Street for the annual Apolloween event October 9, 10, 17, 23, 24 and 30 from 7 AM until 11 PM, contingent upon proof of adequate liability insurance.

Motion made by Councilman Wachtel, seconded by Councilman Baker, to approve the request form the Apollo, as requested. Motion carried unanimously.

16. Executive Session

Motion made by Councilman Wachtel, seconded by Councilman Knowles, to enter Executive Session for legal and personnel matters at 7:35 PM. Motion carried unanimously.

Adjournment

Motion adjourned by unanimous consent at 8:00 PM.

_____
George Karos, Mayor

_____
Gena Long, City Recorder