

**CITY OF MARTINSBURG
REGULAR COUNCIL MEETING
SEPTEMBER 15, 2011
THE J. OAKLEY SEIBERT COUNCIL CHAMBERS**

With a quorum present, the regular session of the Martinsburg City Council was called to order Mayor Geroge Karos at 6:30 p.m. The following Council Members were present: Rodney Woods, Gregg Wachtel, Dennis Etherington, Max Parkinson, Richard Yauger and Betty Gunnoe. Not present was Roger Lewis. Also present were: Mark S. Baldwin, City Manager, Chas Printz, City Attorney, Gena Long, City Recorder, Jeffrey Wilkerson, Public Works Director, Michael Covell, City Engineer/Planning Director, Mark Spickler, Finance Director, Steve Knipe, Utilities Director, Chief Kevin Miller, Police Department and Chief Paul Bragg, Fire Department.

3. Salute to Flag

Councilman Etherington led the Pledge of Allegiance to the flag.

4. Prayer—Rev. Nathaniel Wright—Lilley of the Valley Evangel Church.

The invocation was given by Rev. Wright.

5. Approve August 11, 2011 regular Council meeting minutes.

Motion made by Councilman Wachtel, seconded by Councilman Parkinson to approve the August 11, 2011 regular Council meeting minutes as presented. Motion carried unanimously.

6. Approve July 2011 Administrative and Financial Report

Motion made by Councilman Yauger, seconded by Councilman Etherington to approve the July Administrative and Financial Report as presented. Motion carried unanimously.

7. Public Meeting –A Public Meeting has been scheduled for the purpose of review, public comment and consideration of adoption of the Martinsburg Wastewater Treatment Plant Facility Plan.

A. Open Public Meeting—Mayor George Karos

Mayor Karos opened the Public Meeting at 6:32 PM.

B. General Overview—Steve Knipe, Utilities Director

Mr. Steve Knipe, Utilities Director, explained that while the current treatment facility meets current regulatory requirements, the upgrade is necessary to meet future requirements, which have become more stringent with the Chesapeake Bay initiatives enacted by the DEP. Mr. Knipe stated that the current treatment facility has been in place since 1919 and was last upgraded in 1990-1991. The deadline, he stated, to be in compliance with the nitrogen and phosphorus maximum levels, is December 31, 2015.

C. Facility Plan Presentation—O'Brien and Gere Engineers, Inc. and Chester Engineers

Mr. Bill Meinert, O'Brien and Gere Engineers, Inc, explained that his company had reviewed eight options to decide whether it was more financially feasible to build a new wastewater treatment facility or retrofit and upgrade the existing one. The most feasible

option, Mr. Meinert stated, is to replace the current Trickling Filters with Moving Bed Biofilm Reactors (MBBR), which will meet the requirements of the EPA.

The project is expected to cost an estimated \$45 million, and the City will host a pilot treatment facility to determine performance during various weather and environmental conditions.

D. Estimated Rate Analysis for Proposed Project—City Staff

City Manager Mark Baldwin explained that a preliminary rate analysis and public meeting are required steps in the application process with the West Virginia Infrastructure and Jobs Development Council (WVIJDC).

Mr. Baldwin explained that the current rates are \$3.85/1000 gallons for City residents and \$6.05/1000 gallons for Wheatland customers. With the new rate scale, all customers will be charged the same amount.

If the City secures a bond issuance at a .5% interest rate (IJDC), the projected rate will be \$7.30/1000. Otherwise, the City could secure private bond issuance at a 5% rate, increasing the rates to \$11.18/1000.

Mr. Baldwin also discussed Senate Bill 245 which would allow 40% of the total funds to come from lottery surplus. If this program is approved, the rates will be adjusted accordingly.

Finance Director Mark Spickler explained that rates are tiered based on usage, with higher volumes paying lower rates per thousand gallons. He explained that the estimates, at this time, are very raw and many variables must be considered, but he expects the final rate to be closer to the \$7.30/1000 gallons projected. He reminded the Public and Council that these rates would still be lower than or equal to surrounding areas of Martinsburg, WV.

E. Public Comments

- Mr. Lewis McIntyre asked if a technique known as “Biomag” had been considered.
Mr. Meinert answered, stating that Biomag was considered but will not work with a fixed-film system, which the City uses and the cost to switch would be more costly.

F. Next Steps—O’Brien and Gere Engineers, Inc. and Chester Engineers

Mr. Meinert had no further comment.

Councilman Woods asked about the cost of the project in terms of operational costs.

Mr. Meinert indicated the operational costs are expected to increase by about 20-35% due to chemical and mechanical costs.

Mr. Baldwin explained that, as part of the process, a Rule 42 would be required, which would break down all costs including operational, staffing, etc.

Mr. McIntyre asked about the treatment capability of the plant, to which Mr. Knipe replied the wastewater treatment plant is a 3 million gallon/day facility.

G. Close Public Meeting—Mayor George Karos

Mayor Karos closed the Public Meeting at 7:00 PM.

8. PRESENTATIONS

(a) Administer Oath of Office to Captain Greg Hoover, Martinsburg Fire Department.
City Recorder Gena Long administered the Oath of Office to Fire Captain Greg Hoover.

(b) Norwalk Foundation—expressing thanks to the City of Martinsburg for support.
Mr. Trey Knepper, Soap Box Derby winner, thanked the Council for supporting the Norwalk Foundation and the Soap Box Derby, which teaches kids initiative and determination.
Ms. Emily Butts presented Council with a photograph of the Soap Box Derby contestants.

(c) Proclaim September 17-23, 2011 as Constitution Week—National Society Daughters of the American Revolution

Mayor Karos proclaimed September 17-23, 2011 as Constitution Week.

9. PETITIONS FROM CITIZENS

There were no petitions from citizens.

10. RECEIVE AND FILE REPORTS-MINUTES-CORRESPONDENCE OF THE FOLLOWING:

(a) Convention and Visitor's Bureau meeting minutes—February 16, 2011, March 23, 2011, April 20, 2011, May 25, 2011 June 22, 2011 and July 21, 2011.

(b) Martinsburg—Berkeley County Parks and Recreation Board meeting minutes—July 19, 2011.

(c) Martinsburg Board of Zoning Appeals meeting minutes—August 2, 2011

(d) Martinsburg Planning Commission meeting minutes—May 04, 2011

Motion made by Councilwoman Gunnoe, seconded by Councilmen Etherington and Parkinson to receive and file items 10A-10D. Motion carried unanimously.

11. REPORTS OF CHAIRPERSONS OF COUNCIL STANDING COMMITTEES

There were no reports of chairpersons of council standing committees.

12. REPORT OF MAYOR

(a) Reminder that October 4, 2011 is the Special State Gubernatorial Election—City Hall will remain open for business.

Mayor Karos reminded Council that October 4, 2011 is the Special State Gubernatorial Election and that City Hall will remain open for business.

City Manager Mark Baldwin reminded Council that the decision was made to remain open for business but City employees are to be given eight hours of time to use at their discretion.

(b) Appoint Donald T. Anderson to the Eastern Panhandle Inland Port Coalition Board—term effective immediately.

Motion made by Councilman Wachtel, seconded by Councilman Woods, to appoint Donald T. Anderson to the Eastern Panhandle Inland Port Coalition Board, effective immediately. Motion carried unanimously.

(c) Request authorization for Mayor to form a General Adam Stephen Sculpture Committee—Town Square Pedestrian Plaza Project.

Motion made by Councilman Woods, seconded by Councilman Yauger, to authorize the Mayor to form a General Adam Stephen Sculpture Committee for the Town Square Pedestrian Plaza Project. Motion carried unanimously.

13. REPORT OF CITY ATTORNEY

(a) Redistricting committee update.

Legal Counsel stated that the projected map is currently under view at the State Legislative offices.

14. REPORT OF CITY MANAGER

(a) Projects Update

Mr. Baldwin discussed the TIF project, in which the apparent low bid for Phase 1 C is Panhandle Builders and Excavators, Inc. in the amount of \$1,719,101.00

Mr. Baldwin discussed the Town Square Project, specifically the brick pavers, which are not performing as expected. Concerned parties are looking into the matter and plan to take corrective action, he stated.

Also discussed was the Raleigh Street Extension, which is underway.

15. UNFINISHED BUSINESS

16. NEW BUSINESS

(a) Approve/deny adoption of the Wastewater Treatment Plant Facility Plan to be submitted to WVDEP and WVIJDC.

Motion made by Councilman Wachtel, seconded by Councilwoman Gunnoe, to approve the adoption of the Wastewater Treatment Plant Facility Plan to be submitted to the WVDEP and WVIJDC. Motion carried unanimously.

(b) First and second reading of Ordinance 2011-03, An Ordinance Amending Ordinance 2010-15, which established job descriptions for employees of the City of Martinsburg, WV.

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger, to hear the first and second reading of Ordinance 2011-03: An Ordinance amending Ordinance 2010-15, which established job descriptions for employees of the City of Martinsburg, West Virginia. Motion carried unanimously.

(c) First and Second Reading of Ordinance 2011-04 to amend fire civil service rules and regulations, Rule IX: Grading system for promotions to the rank of Captain and Lieutenant.

Motion made by Councilman Yauger, seconded by Councilman Etherington, to hear the first and second reading of Ordinance 2011-04: An Ordinance to amend Fire Civil Service rules and regulations at Rule IX: Grading System for Promotions to the Rank of Captain and Lieutenant. Motion carried unanimously.

(d) First and Second Reading of Ordinance 2011-05, an ordinance annexing to the City of Martinsburg a parcel of real estate consisting of .35 acres and identified upon Berkeley county, West Virginia tax maps in the Opequon tax district, and providing for the institution of the necessary proceedings before the county commission of Berkeley County, West Virginia, in accordance with West Virginia code § 8-6-4 (annexation without election).

Motion made by Councilman Etherington, seconded by Councilman Wachtel to hear first and second reading of Ordinance 2011-05, and Ordinance annexing to the City of Martinsburg a parcel of real estate consisting of .35 acres and identified on Berkeley County, West Virginia tax maps in the Opequon Tax District, and providing for the institution of the necessary proceedings before the County Council of Berkeley County, West Virginia, in accordance with West Virginia Code § 8-6-4 (annexation without election). Motion carried unanimously.

Mr. Baldwin explained that the parcel being annexed is a portion of the Meridian Parkway, off of Edwin Miller Blvd.

(e) First and Second Reading of Ordinance 2011-06 to amend Ordinance 2009-05, Regulations governing outdoor burning in the Municipal limits of the City of Martinsburg, at Section C. 1. b.

Motion made by Councilman Yauger, seconded by Councilman Etherington, to hear the first and second reading of Ordinance 2011-06: An Ordinance to amend Ordinance 2009-05: Regulations

governing outdoor burning in the Municipal limits of the City of Martinsburg at Section C.1.b. Motion carried unanimously.

Fire Chief Bragg explained that this will bring the City into compliance with State Code, which allows outdoor burning to begin at 5:00 PM instead of 4:00 pm, which is the time in the City's current Ordinance.

(f) First and Second Reading of Ordinance 2011-07, an ordinance to amend the City of Martinsburg zoning map to rezone an improved parcel of real estate, consisting of approximately 32,399 square-feet from its current zoning classification of IG (General Industrial) and approximately 10,371 square-feet from its current zoning classification of RMM (Multiple-family Medium-density Residential), also identified on the Berkeley County, West Virginia tax map M13 parcels 462 and 462.1, postal address 511 Cumberland Valley Place, located in the Martinsburg district, Berkeley County, West Virginia, owned by Martinsburg Holdings, LLC from its current zoning classification of RMM/IG to BC (Community Business)

Motion made by Councilwoman Gunnoe, seconded by Councilman Woods, to hear the first and second reading of Ordinance 2011-07: An Ordinance to amend the City of Martinsburg Zoning Map to rezone two improved parcels of real estate, the first parcel consisting of approximately 32,399 square-feet from its current zoning classification of IG (General Industrial) and the second parcel consisting of approximately 10,371 square-feet from its current zoning classification of RMM (Multiple-family Medium-density residential), also identified on the Berkeley County Tax Map M13 Parcels 462 and 462.1, Postal Address 511 Cumberland Valley Place, located in the Martinsburg District, Berkeley County, West Virginia, owned by Martinsburg Holdings, LLC, from its current zoning classification of RMM and IG to BC (Community Business). Motion carried unanimously.

(g) Adopt Resolution 2011-18 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 \$560,020, pursuant to the provisions of the West Virginia Governor's Highway Safety Program.

Motion made by Councilman Yauger, seconded by Councilman Wood, to adopt Resolution 2011-18 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 \$560,020, pursuant to the provisions of the West Virginia Governor's Highway Safety Program. Motion carried unanimously.

(h) Approve/deny "Trick or Treat" for Monday, October 31, 2011 from 6:00 PM until 8:00 PM for children 12 and under.

Motion made by Councilwoman Gunnoe, seconded by Councilman Etherington, to approve "Trick or Treat" for Monday, October 31, 2011 from 6:00 PM until 8:00 PM for children 12 and under. Motion carried unanimously.

(i) Approve/deny bid for Porter Avenue Sidewalks--\$22,920.00—Allen Plotner.

Motion made by Councilwoman Gunnoe, seconded by Councilman Yauger to approve the bid for Porter Avenue sidewalks in the amount of \$22,920.00 payable to Allen Plotner. Motion carried unanimously.

(j) Approve/deny salt bid for FY 2011-2012--\$69.84/ton, Cargill Deicing Technology

Motion made by Councilman Yauger, seconded by Councilman Wachtel, to approve the salt bid for FY 2011-2012 in the amount of \$69.84 per ton, payable to Cargill Deicing Technology. Motion carried unanimously.

(k) Approve/deny bid for plaques for Town Square Pedestrian Plaza Project--\$7,262—Paul W. Zimmerman Foundries.

Motion made by Councilman Etherington, seconded by Councilman Yauger to approve the bid for plaques for the Town Square Pedestrian Plaza Project in the amount of \$7,262 payable to Paul W. Zimmerman Foundries. Motion carried unanimously.

Mr. Baldwin explained that only one plaque will be ordered at the moment, as the second plaque is in connection with the statue, which is pending approval.

(l) Confirm Firefighter Grant for new Pierce Squad Vehicle—estimated \$851,573 (if approved, 10% City Match—est. \$ 85,157).

Motion made by Councilman Yauger, seconded by Councilwoman Gunnoe, to confirm the Firefighter Grant for a new Pierce Squad Vehicle, estimated cost of \$851,573 with a 10% City match of an estimated \$85,157. Motion carried unanimously.

Chief Bragg stated that the goal is to sell the existing Squad Vehicle to raise the funds to cover the City match.

(m) Confirm purchase of a new Sewer Department truck through state bid contract--\$20,794

Motion made by Councilman Yauger, seconded by Councilman Wachtel, to confirm the purchase of a new Sewer Department truck through a state bid contract in the amount of \$20,794.00. Motion carried unanimously.

(n) Approve/deny flu shots for City employees, September 27, 2011--\$15/employee

Motion made by Councilman Etherington, seconded by Councilman Woods, to approve flu shots for City employees on September 27, 2011 in the amount of \$15 per employee. Motion carried unanimously.

(o) Approve/deny Joint Funding Agreement between the U.S. Geological Survey and the City of Martinsburg for operation and maintenance of a streamgaging station on Tuscarora Creek (City share--\$3,825, USGS share--\$3,825).

Motion made by Councilman Yauger, seconded by Councilman Parkinson to approve the Joint Funding Agreement between the U.S. Geological Survey and the City of Martinsburg for operation and maintenance of a streamgaging station on Tuscarora Creek with a City Share of \$3,825 and a USGS share of \$3,825. Motion carried unanimously.

(p) Approve/deny lease agreement between City of Martinsburg and the Washington Heritage Trail Association.

Motion made by Councilman Wachtel, seconded by Councilman Woods, to approve the lease agreement between the City of Martinsburg and the Washington Heritage Trail Association. Motion carried unanimously.

(q) Authorize Mayor to sign Deed(s) of Dedication of Easements and Rights of Way between the City of Martinsburg and Orchard Development.

Motion made by Councilman Woods, seconded by Councilman Etherington, to authorize the Mayor to sign Deed(s) of Dedication of Easements and Rights of Way between the City of Martinsburg and Orchard Development. Motion carried unanimously.

(r) Approve/deny Right of Way Agreement between the City of Martinsburg and The Potomac Edison Company to install power poles, wires, etc.—City of Martinsburg Police Department firing range.

Motion made by Councilman Etherington, seconded by Councilwoman Gunnoe, to approve the Right of Way Agreement between the City of Martinsburg and The Potomac Edison Company to install power poles, wires, etc. in relation to the City of Martinsburg Police Department firing range. Motion carried unanimously.

(s) Authorize Mayor to sign Community Development Block Grant (CDBG) Subrecipient Funding Agreements between the City of Martinsburg, West Virginia and the following entities:

- 1. Congregational Cooperative Action Project (C-CAP) – \$5,000 for Eviction Prevention Program**
- 2. Court Appointed Special Advocates (CASA) – \$5,000 for Volunteer Support**
- 3. Safe Haven Child Advocacy Center - \$5,000 to provide funds for coordination of support**
- 4. Berkeley County Meals on Wheels – \$3,000 Dine with Dignity Program**
- 5. Boys and Girls Club of the Eastern Panhandle, Inc. – \$ 5,000 for Membership Scholarship Program**
- 6. Shenandoah Women’s Center – \$5,000 for Case Management for victims of domestic violence**
- 7. Berkeley Senior Services – \$5,000 for in-home care services**

8. Community Networks, Inc. – \$1,200 for support of Homeless Prevention and Rapid Re-Housing Program

Motion made by Councilwoman Gunnoe, seconded by Councilman Wachtel to authorize the Mayor to sign Community Development Block Grant (CDBG) Subrecipient Funding Agreements between the City of Martinsburg and the above listed entities. Motion carried unanimously.

(t) Approve/deny request from Martinsburg High School SADD and RAZE Clubs, to tie red ribbons on parking meters and trees, Monday, October 24-Monday, October 31, 2011.

Motion made by Councilman Etherington, seconded by Councilman Yauger, to approve the request from Martinsburg High School SADD and RAZE Clubs to tie red ribbons on parking meters and trees on Monday, October 24, 2011 through Monday October 31, 2011. Motion carried unanimously.

Councilman Woods confirmed the clubs will be responsible for the removal of the ribbons.

(u) Approve/deny 2011 Mountain State Harvest Festival Parade Route—Saturday, October 15, 2011, contingent upon applicant providing proof of adequate liability insurance.

Motion made by Councilman Yauger, seconded by Councilman Etherington, to approve the 2011 Mountain State Heritage Festival Parade Route for Saturday, October 15, 2011, contingent upon applicant providing proof of adequate liability insurance. Motion carried unanimously.

(v) Approve/deny request from Cornerstone Bible Church to utilize the intersection of W. King and N. Queen for the National Life Chain.

Motion made by Councilman Yauger, seconded by Councilman Etherington, to approve a request from Cornerstone Baptist Church to utilize the intersection of W. King and N. Queen Streets for the National Life Chain. Motion carried unanimously.

(w) Approve/deny request from The Apollo Civic Theatre to block E. Martin Street in front of the theatre on the following days: Sept. 30, Oct. 2,7,8,15,21,22,28,29 from 7PM until 11PM for purposes of conducting “Apolloween,” and October 1 from 3PM until 8PM for during the “Chili Cook-off, contingent upon proof of adequate liability insurance.

Police Chief Kevin Miller stated that the applicant is requesting to have a live band for the Chili Cook-off and he recommended denying the request to block off the street for that purpose. Chief Miller also stated that he recommends allowing the Apollo to block off the street for “Apolloween” events only in front of the structure, not the entire block.

Motion made by Councilwoman Gunnoe, seconded by Councilman Wachtel, to approve the request from The Apollo Civic Theatre to block E. Martin Street in front of the theater on the following days: September 30, October 2,7,8,15,21,22,28,29 from 7PM until 11PM for purposes of conducting “Apolloween” events. Motion carried unanimously.

17. **EXECUTIVE SESSION**

- (a) Discuss pending legal matters with Counsel (if necessary)
- (b) Discuss personnel matters (if necessary)
- (c) Discuss real estate matters involving competitive bids (if necessary)

18. **ADJOURNMENT**

Motion made by Councilman Yauger, seconded by Councilman Woods to adjourn at 7:45 PM.
Motion carried unanimously.


Gena Long, City Recorder


George Karos, Mayor