

**City of Harrington**  
**MINUTES**  
**City Council Workshop**  
**February 15, 2012**

A workshop with the Harrington City Council was held on February 15, 2012 and was attended by the following: Vice Mayor Cheryl Lahman; Council Member Duane E. Bivans; Council Member Fonda Coleman; Council Member Wayne Porter; Council Member Jack Stewart; Council Member Kenneth Stubbs; Norman Barlow, Chief of Police; William Pepper, City Solicitor; Teresa Tieman, City Manager; Faye Smith, Finance Director; and Kelly Blanchies, Clerk of Council.

Also in attendance: Chris Fazio, City Engineer; Alan Moore, Public Works Supervisor; Tom Carroll, Interim Code Enforcement Officer; Ruth Peterman, Police Resource Manager; Tony DiBuo, Belair Road Supply; David Linden, RIO Supply; Bill Scott, RIO Supply; Dan Reed, Master Meter; Brian Slattery.

Absent from the workshop was Mayor Robert E. Price, Jr.

Vice Mayor Lahman called the meeting to order.

The Pledge of Allegiance was given.

**Budget and Finance Committee**

**Budget latest estimate review**

Vice Mayor Lahman stated that what is being presented is the midyear budget estimates.

The Finance Director stated that the current year-to-date information is presented for Council to review. The monthly reports will not change at all.

The City Manger stated that the packet includes the latest estimate. It shows the year-to-date, approved budget, what we believe we will come in at on June 30 based on current information, and what the difference is. The pages handed out tonight state a budgeted income in general government of \$909,490, but based on the revenue we have received to date, it is likely to be closer to \$956,000. Total expenses for general government are budgeted around \$909,000 and we expect around \$892,000. We are estimating a carry forward of \$64,000.

Council Member Porter stated that we are not going to move any budget money around yet. The City Manger stated that closer to June, Council will be asked to revise the budget. This is the first budget that the City

Manager and Finance Director have done for the City of Harrington, so they are learning about what is in place. She stated that the departments are doing very well at sticking to the budget and revenues were budgeted conservatively.

Vice Mayor Lahman stated that they were advised by the auditors to let the budget go until the end of the year then revise it.

The City Manager stated that the included narrative helps explain. Most of the savings in City Hall was from salaries of vacant positions. In Police, the additional income is from collection of fines. In Public Works, the savings may want to be reallocated for street work in the spring. Public Works also had a vacancy for a long time. The Library is stable. Trash had been adjusted because rates and costs were lower. Council Member Porter asked how long the trash contract was for. The City Manager responded two years. The Fire Department is over budget because of overtime and that will need to be checked on. In Parks and Recreation the heater at the Price Center had to be replaced and the doors have large gaps around them, so requests will be coming to replace them. Vice Mayor Lahman asked if Council approved the replacement of the heater under capital improvements. The City should pay for it, not Parks and Rec. The City Manager stated that it should be able to be paid for out of the savings from the budget and should not need to come from CIP funds. Vice Mayor Lahman stated that the Parks and Rec budget is different than the other departments because it is 100% funded by its own funds. The City Manager stated that we are not taking anything away from them. The Water budget has an overage from well maintenance. Waste Water has a big increase because of the delay of the force main.

Council Member Stubbs asked about the professional fees under General Government. The City Manager stated that those were things that contractors did to fill in for vacancies.

The City Manager stated that Council had asked for reconciliations of the CIP. A draft is provided because research is still being done and department heads need to look at it.

## **Ordinance Review Committee**

### **Proposed ordinance to amend Chapter 305, Property Maintenance**

Council Member Porter stated that in Section 4 of the Ordinance, he would like to strike the word side from where containers can be placed and just leave the word rear. Vice Mayor Lahman stated that if it is available.

Council Member Porter stated that it defeats the purpose is side is left in the ordinance. The City Manager stated that another thing to consider is

that seniors might not be able to haul the container to the back. Some cities make allowances if they are authorized by the City Manager or Code Enforcement Official. Council Member Stubbs stated the main thing is to get it out of the front yard. Vice Mayor Lahman stated that her trash cans are at the side of her yard and concealed by a fence so no one can see them. The City Engineer suggested making it conditional on the person putting a screen in so it cannot be seen with landscaping or fencing.

The Clerk of Council stated that it was brought up today to add tires to the list of prohibited rubbish under § 305-7. The City Manager stated that there has been some pushback the last couple of weeks about tires not being specifically listed as not allowed. The Interim Code Enforcement Officer stated that some people are using tires as planters in their yard and there is nothing saying that they cannot. Vice Mayor Lahman stated that the main reason for that is because tires are a hazardous material.

The Clerk of Council asked if Council would like appeals to be heard by the City Manager, Council or an Appeals Board. The City Manager stated that appeals currently go to her. Vice Mayor Lahman stated that if it gets to be cumbersome then it can be changed. The City Manager stated that there already is a procedure in place that if someone is not satisfied with her resolution then they can come to Council.

### **Proposed ordinance to amend Chapter 399, Utility Services, Payment for**

The City Manager stated that this is the delinquent bill collection procedure. The bill will become past due after the due date. We are taking out the requirement for certified mail. Vice Mayor Lahman stated that utility companies do not send notices certified. The City Manager stated that people will have 44 days to pay. Council Member Bivans asked about switching to monthly billing after the water meters are installed. The City Manager stated that this will have to be revised again to fit in the monthly billing cycle.

The Clerk of Council stated that the second change is adding a section stating the order in which payments would be applied to the account, if a full payment is not received. The City Manager stated that this takes into account what is more difficult to lien and pays that first. The City Solicitor stated that water service can be turned off when not paid and the property condemned. The City Manager stated that if someone comes into the office and requests money on a certain bill then it would be applied that way.

### **Proposed ordinance to amend Chapter 180, Fees, Municipal**

The City Manager stated that Section 1 is the fees that we would like to remove. The credit card convenience fee is no longer needed because we use a third party for credit card processing service and lawn mowing will be incorporated into abatement of property maintenance violations. We added a 10% admin fee for the work involved in arranging and billing any work that has to be done to abate property maintenance violations. Fines for property maintenance violations that were in Chapter 305 will now be part of the fee schedule.

Council Member Porter stated that we are not in the grass cutting business, and it is not feasible for us as taxpayers to mow people's grass.

### **Proposed ordinance to amend Chapter 350, Source Water Protection**

The City Engineer stated that as part of the Comprehensive Plan adopted by Council a number of years ago, DNREC required a section called Source Water Protection. A large portion of the City is in an area where the aquifers are considered very important, so DNREC is particular about how storm water is handled so that it does not contaminate the aquifer. Developers will not like it because they will have to spend a little extra money if they are in this area. Everyone else in the state has it and you really do not have a choice. It is more unfortunate for Harrington because you have a lot of these areas in town.

### **Proposed ordinance to adopt a new district map**

Vice Mayor Lahman stated that two districts had no changes. Council Member Coleman asked if the map would be posted so that people would be aware of the changes. The City Manager stated that the map is posted in City Hall. The Clerk of Council stated that it was also available on the website as part of the packet that gets posted. Any changes tonight will be incorporated into a map that URS will provide for the next meeting. The City Manager stated that the difference between the biggest district and smallest is six people. The Clerk of Council stated that she made as little changes as possible to make the districts nearly equal.

Council Member Porter stated that some constituents think that this has not been worked on. The City Manager stated that there have been a lot of staffing changes and as soon as we got the staff to do it, we began working on it. We did the best we could under the circumstances. Council Member Porter stated that Council had no influence on the map so far. The City Manager stated that now is their opportunity for input. The map presented does meet the guidelines.

Council Member Bivans stated that his concern is that some parts do not make sense. In District 5 there is a block that looks like it should have

been included in District 2. The Clerk of Council stated that it is to get the population of each district as close to equal as possible. Council Member Bivans stated that since some of Clark Street is in his district then all of Clark Street should be incorporated into his district. Council Member Stubbs stated that the current districts are cut up too. It is about getting the right number of people in each. Council Member Bivans stated the it can be asked if it is demographically correct. On a street such as Reese Avenue where it intersects with Commerce Street, one would think both sides of Reese Avenue would be in the same district.

The Clerk of Council stated that what she looked at was how many people are in each block. Based on a total population of 3,557, the average population of each district would be 593. So blocks that border the existing district lines were looked at to increase or decrease the population of a district to get it as close to 593 as possible. The goal was to change the existing lines as little as possible to get to as close to the average as possible.

Council Member Bivans pointed out that District 1 has the largest portion of land and asked why District 6 would not encompass everything on the south side of Clark Street. The Clerk of Council stated that population in District 1 in the section on the east side of Dupont Highway is not high enough to make the population nearly equal. What the Charter calls for is a nearly equal population. It does not give a percentage as to how close they need to be. Council Member Porter stated that in ten years when redistricting is done again then District 1 should have a larger population because of the proposed developments. The City Manager stated there are other developments in other districts as well. Council Member Porter stated that redistricting now is being done on what the population is now. When the districts are done again, it will change because of growth.

Vice Mayor Lahman stated that the City Solicitor had said that the people who are currently on Council have to stay in their district and that could change things. The City Solicitor stated that was not a goal when the Clerk of Council drew the lines. Vice Mayor Lahman stated that ten years from now if a Council Member is right on the line then they have to stay there. They do not just throw it out like the State or County and say we are redistricting. The City Solicitor stated that Council could do that. We have not in Harrington, but Dover did after the 1990 Census.

Council Member Stubbs stated that he knows there was a lot of work involved, and he had to get used to his current district, and it is just something that you have to work with.

Council Member Bivans stated that he would like to see the map with colors and street names.

Vice Mayor Lahman stated that she will have to leave at 7:45 pm but she may be back. The City Manager will take over while she is gone.

### **Potable Water Meter Project bid review**

The City Engineer stated that on December 30 he reviewed the bid results. Council authorized him to put out to bid Potable Water Meters for the purpose of replacing them in the town to get consistency, better accuracy, the ability to get monthly readings and quick readings by driving by. We received a total of three bids.

The City Engineer stated that the apparent low bidder was Dover Plumbing supply. Their bid was deemed to be administratively incomplete because they submitted parts of it after the deadline. In addition, the information that they did submit was incomplete.

The City Engineer stated that the second apparent low bidder was Belair Road Supply. Their bid was rejected because it was not considered an approved equivalent to the technical specifications.

The City Engineer stated that the third and final bid was then looked at from RIO Supply Company. They were an approved bid meaning they complied with all the requirements of the technical specifications. That was why they were recommended.

The City Engineer stated that it is his opinion and the opinion of his company that a certain type of meter is better than another. The type of meter that we put in the technical specifications is a technology that we believe is the best in the business and it is a nutating disk. The other common meter in the field is the multijet. We believe that the nutating disk is the best meter available on the market for a variety of reasons and that is why that technology was bid out. That being said, when you go purely with our bid specifications, it is very clear that the only bidder that complied with the bid specifications is RIO Supply. The City Engineer distributed a handout to support his opinion of why that technology is better. The City Engineer stated that the accuracy at low flow periods of time is much better. The second reason is that regulations that will happen in 2014 call for very strict tolerances for lead in the meters. The third apparent low bidder, RIO Supply, met those requirements of the technical bid. Based on the information submitted from the second low bidder, we could not find where they meet the specific requirements that are in the technical specifications.

The City Engineer stated that 300 meters were replaced several years ago, so questions came up about keeping those meters in place. That is an option based on how the technical specifications were written. You have the right to reduce quantities as you see fit after you award the project. So you have the flexibility to

keep the 300 meters and replace the rest. Vice Mayor Lahman asked if the City has the means to read the existing meters. The City Engineer stated that they did some investigating and the equipment from RIO Supply is able to read the 300 meters that are in place now. It is not apples to apples, but the technology is available for them to be read. It will take a little longer because these meters are not all in one place, they are all over town. So there is different input devices, but it will still work. Council Member Bivans asked if those 300 are all residential. The Public Works Supervisor stated that a few are commercial.

Council Member Stubbs stated that we set this up with the previous City Engineer in 2007 or 2008 for this reason. We knew we had to go to radio read eventually. That is why we made the investment in any new homes and any replacements that we put the meters we thought we were going to use in the future. To remove them and get rid of them, you would only get scrap metal. Council Member Porter stated that they are still under warranty.

The City Engineer stated that he was unaware of an affection for the current meters, and his company's position is that they want to give them the best technology available and make sure they comply with the 2014 mandate that is coming down.

The City Manager stated that what has been spent with Belair Road Supply since 2007 is \$47,761 and is not all meters. Council Member Stubbs stated that it is also the difference in the bid price, almost \$18,000.

The City Engineer stated that in fairness to the third low bidder, they bid on the product that we asked for in our technical specifications. They could have a lower end model that could be put in cheaper than the one we asked for.

Council Member Stubbs stated that the City Engineer is missing the point. We have already invested this money. Council Member Stubbs stated that he could care less who or what kind of meters we have as long as we are saving the City of Harrington money. The existing meters have warranties left on them. Vice Mayor Lahman stated that we can keep them. The City Engineer stated that the way the bid is structured, Council has the ability to award the contract and add or reduce quantities as they see fit.

Council Member Stubbs asked if there was any State or Federal money involved in this. The City Engineer stated that there is not. Council Member Stubbs asked if Council can pick and choose who they would like. The City Engineer stated that he would defer to the City Solicitor to answer that. The City Solicitor stated that Council has the right to reject all bids and rebid the project. If you accept a bid that has been disqualified because it does not meet the specifications then you are in deep water.

Council Member Stewart asked what specifications we are talking about. Council Member Stubbs stated that we went with specifications that are different than what we were using five years ago. We thought we were putting the right product in then.

The City Manager stated that we have already spent \$14,244 in engineering and time and cost to get to this point in the bidding process. So that should be considered to rejecting bids and starting all over.

Vice Mayor Lahman stated that she is leaving the meeting. The City Engineer has the floor, and there are two people that bid on the project in the audience.

Council Member Porter asked if this started with the City Manager coming to Council and stating that they need new meters by 2014. The City Manager stated that we need new meters period. Council Member Stubbs stated we need meters as soon as we can get them. 2014 is when they have to be zero lead. The City Engineer stated that the urgency is because essentially you are throwing good money away because you are doing quarterly readings and they are a mishmash of six to eight different technologies that are not working right. You are not realizing your potential in terms of collection.

Council Member Porter asked if when the bid went out, did all the companies get the same bid saying that this is what we want for the City of Harrington. The City Manager stated yes. The City Engineer stated that it was a public bid that was public advertised based on municipal contract law. Council Member Porter asked for clarification on why the second bid was rejected. The City Engineer stated that there were several issues including the meter not being lead free. Council Member Porter stated that if all the companies knew what we were asking for, where was the confusion. The City Engineer stated that is a good question. Council Member Stubbs stated that the confusion is from what we were putting in thinking that we were doing the right thing by eventually going to all radio read then there is a different spec than the 300 meters that we already have in.

Council Member Stewart stated that we want to make sure that we are making the right decision if 300 are questionable now when we were told then that that was the thing to do. The City Manager stated that you have to keep in mind that we have a different engineer now, and the technology could have changed. We asked the City Engineer to bid it, and he did based on what his company believes are acceptable standards. He is the engineer and I would consider him the expert. That may have been an acceptable standard in 2007, but a year or so ago the law changed to take effect in 2014. Laws and regulations change on a regular basis and you cannot overlook that. There is financial accountability and there is also political accountability. So when people come to you and ask why they do not have a meter that meets the specifications for 2014 when someone else does, then we need to be prepared to answer that question. Council

Member Stubbs stated that other municipalities will have the same issue and will not be required to take the meters out.

Council Member Bivans stated that he would like to let each company state their position. Tony DiBuo from Belair Road Supply introduced himself along with Dan Reed from Master Meter and Dustin from the Town of Milton who also works as a consultant doing meter installations and technical stuff. David Linden from RIO Supply introduced himself and Bill Scott from RIO Supply, who is in charge of the systems department.

Mr. Linden stated that he saw the bid and read the specifications and bid the product that best met those specifications. The way the standards read, in July 2012 annex F takes place which is about the leach ability of lead. It is tested by filling the meter with water, plugging the ends and letting it sit. The old standard was 15 micrograms per liter, that has dropped to 5 micrograms per liter. Most manufactures are not required to have that standard yet because it does not go into effect until July but Neptune already has that standard. We also already comply to the annex G standard which has to do with total lead weight content, and that is 2.5% total lead weight content. Anyone who complies with those standards gets a stamp, NSF 61, which is on the meter showing that it is approved. Neptune uses its own foundry in Alabama; it is the only manufacturer that has its own foundry in house. Based on that and the register, the encoder that was wanted, we bid this product. We have lead free products available that are a little less than these specifications, but that was not what was asked for in the bid specs, and we bid accordingly.

Council Member Bivans stated that in the letter from Mr. Linden, he refers to his product meeting the standard and in the appendix it says exceeds. He asked if there are other standards that will go into effect in 2014 that they should be concerned about. Mr. Linden stated no, they are a stepping stone going into effect. Anything that is in the system now is fine but as soon as the connection is disturbed then it needs to be replaced with a product that meets those specifications. Council Member Bivans asked if the existing 300 meters meet the lead standard. Mr. Linden stated that they are Master meters and he cannot speak on their lead content. Council Member Bivans asked how we would be able to keep them if they do not meet the standard. Mr. Linden stated that you can keep them because they are in the system already; they are grandfathered in. As long as the connection is not disturbed. Mr. Linden stated that the current meters do not have a NSF stamp on them.

Mr. Linden stated that if Council wants to rebid this and would think about something optional with reading, then we have other products available. All our products meet the lead free standards. Council Member Bivans asked how they are lead free so far ahead of the standard. Mr. Linden stated that in 2000 Neptune decided to turn their foundry into no lead and by 2005 that was complete.

Mr. Reed stated that he is from Master Meter and Belair Road Supply is the local distributor. They have supplied water meters to the City for about three years. We got a hold of the specifications and entered a bid. The meters offered in the bid are no lead, bronze bodied meter. It was documented within the bid documents with a letter from the foundry that states that these are lead free meters and manufactured in the United States. That apparently got overlooked somehow. Within the meter specifications themselves, an engineer will write the specifications around one particular manufacturer and not all manufactures will meet that. They may exceed it in some cases and in some cases it will not. Mr. Reed stated that he put together a comparison between Master Meter and Neptune. He stated that he would like to point out the difference in cost per meter and the low flow accuracy. The specifications that the City Engineer's firm wrote stated that they the meter has to be 95% accurate at ¼ gallon per minute; the meter we propose is 97% and that is an increase in revenue. The low flow accuracy is 1/8 of a gallon per minute for both meters. The new meter accuracy for both meters is five years but again there is 95% accurate and ours is 97% accurate. The rebuilt meter warranty, which means the meter has to be 90% accurate, ours is for 15 years and theirs is for 10. So in essence we are giving you a 20 year guarantee on the accuracy of that meter. The engineer specified 15 years. The specifications called for 96 days of hourly data logging capabilities. We provide you with 166 days. It is almost a third more memory capability. It is also field scalable. Council Member Stewart asked if there was a dispute, that information can be pulled up. Mr. Reed stated that the information can be changed to every minute. There also will have to be an interface between the billing software and the reading software. That is included in our price. We bid the compound meter per the specifications, and we also offered an alternate for a new kind of meter that we have out. It is an ultrasonic meter that has a low flow sensitivity of 1/16 of a gallon per minute. There are no moving parts in it to wear out. It has a single billing register. There is no loss in accuracy when it changes from the high flow side to the low flow side. Mr. DiBuo stated that the towns of Milton, Laurel and Dagsboro are now using these meters. One big advantage is revenue to the town by picking up the low flow. The no lead law is not in effect yet, but if that is what you require then any meter that was replaced, we would gladly supply no lead; its under warranty. We have 450 no lead meters in Laurel, which is probably one of the first installations in Delaware. Council Member Bivans asked what would happen if Council went with either of the companies and a current meter needed to be replaced under warranty. Mr. Reed replied that it would be replaced with a no lead meter.

The City Engineer stated that he understands Mr. Reed has a letter stating that they are lead free but the bid specs called for you to be NSF annex G and annex F. No where in your bid documentation did you say that you meet that. Mr. Reed stated that they do meet that. The weighted lead average is .09%. The City Engineer asked why that was not included in the bid package. Mr. DiBuo replied that the letter from the manufacturer has worked for everyone else, and he did

not think it was a big deal. The City Engineer asked if he was testifying that they are NSF 61, annex G and F. Mr. DiBuo replied yes and the can put that in writing from them or the manufacturer. Mr. Linden showed a letter for NSF about no lead compliance. He stated this is on NSF letterhead, and it states which of the products adhere to the guidelines, which is what the bid specs required. Mr. DiBuo stated that is a technicality. Mr. Reed stated that NSF certification changes on a day to day basis. It is only good for that particular day that letter is written. They do unannounced audits at least twice a year and if you do not have paperwork filed correctly then you can lose that certification. NSF places on their website everyday what is certified. Mr. Linden stated that is correct and Master Meter does not have NSF certification at this time.

Council Member Porter stated that he has been down this road before so from this point on he will not ask questions. He stated that it is strictly up to the City Solicitor to find out this bidding process again. The City Solicitor stated that is up to the City Engineer to determine if the bids comply with the specifications. As he sees it you have two choices, you can accept the City Engineer's opinion an award the contract in accordance with that or you can throw out the bids and rebid the project. Council Member Porter asked what the City Solicitor would favor. The City Solicitor stated that he does not have an opinion between awarding the bid or throwing them out. There are costs involved in throwing out the bid you would have lost the money that was spent and spend some more money creating any new specs. That is a business decision, not a legal decision.

Vice Mayor Lahman rejoined the meeting.

Council Member Stewart asked if the lead certification can change from day to day then does it matter which one it is. Mr. Linden stated that the product would have that stamp of certification on it. If it is not stamped then it does not comply with the lead standards. The City Manager clarified that is the NSF 61.

Mr. DiBuo read a statement from the bid specs about submitting an equivalent product. He stated that there is no other meter that can meet the exact technical specifications, but we can meet the performance requirements and exceed them. If that is the case then you should have just purchased from Neptune and not even had a bid. If the bid was written to Master Meter's specifications then Neptune would not have met them. Mr. Linden said that if they had a positive displacement meter they could. Mr. DiBuo stated that they do. Mr. Linden asked why he did not bid that. Mr. DiBuo replied because there are 300 of the multijets in the town, and it is a better meter.

The City Engineer stated that there is not much more to say from the vendors because they made their claims and their statements. I have made my recommendation, and I stand by it. I would agree with the City Solicitor. You can award based on my recommendation and leave the 300 hundred meters that were installed four or five years ago and replace the rest.

The City Manager asked the City Solicitor to reiterate his opinion for Vice Mayor Lahman. The City Solicitor stated that you can award the bid to the City Engineer's recommended bidder as the only one who has met the specifications or you can reject all the bids and rebid it.

Council Member Bivans asked what the cost would be to be able to read the existing 300 meters. Vice Mayor Lahman asked if we currently have a reader for those meters. The Public Works Supervisor responded that we do not. Council Member Bivans stated that RIO is saying they can read those using infrared. The City Engineer replied that is what he was told. Council Member Bivans stated that then we would not have to go out and get an additional reader. He asked Mr. Linden if new software would have to be created or conversions done. Mr. Linden replied no.

Vice Mayor Lahman stated that she would like to keep the 300 meters. Mr. Linden stated that our costs would come in around \$327,000 then. The City Manager stated that she calculated around \$309,000. Mr. Linden stated that he did not add that right.

Vice Mayor Lahman stated that everyone can think about it, and Council will meet about it at the regular meeting on Tuesday.

There being no further business, the Council Workshop adjourned.

Respectfully Submitted,

Kelly Blanchies  
Clerk of Council