

**City of Harrington**  
**MINUTES**  
**City Council Meeting**  
**March 19, 2012**

A meeting of the Harrington City Council was held on March 19, 2012 and was attended by the following: Mayor Robert E. Price, Jr.; Vice Mayor Cheryl Lahman; Council Member Duane E. Bivans; Council Member Fonda Coleman; Council Member Jack Stewart; Council Member Kenneth Stubbs; Keith Shyers, Deputy Chief of Police; William Pepper, City Solicitor; Teresa Tieman, City Manager; Faye Smith, Finance Director; and Kelly Blanchies, Clerk of Council.

Also in attendance: Thomas Wilkes from Remington, Vernick & Beach; and Bobby Outten.

Absent from the meeting was Council Member Wayne Porter.

Mayor Price called the meeting to order.

The Pledge of Allegiance was given.

**Minutes**

**City Council Meeting March 5, 2012**

A MOTION was made by Council Member Bivans, seconded by Vice Mayor Lahman, to accept the March 5, 2012 City Council Meeting Minutes as presented. The MOTION passed unanimously.

**Correction to City Council Meeting January 17, 2012**

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stubbs, to remove “unanimously” from “MOTION passed unanimously” on page 8, under USDA Sewer Loan Terms Resolution \$1,658,000, second paragraph of the January 17, 2012 City Council Meeting Minutes. The MOTION passed unanimously.

**Police Chief's Report**

Council Member Bivans asked if it had been discussed what information was going to be displayed on the marquee. Deputy Chief of Police Shyers replied that the City meetings have been advertised along with things such as Officer of the Year. Council Member Bivans asked if people in the community could ask to have a message displayed on the sign. The City Manager stated that we have to be careful about which groups we allow to advertise on the sign because if you

allow one then you have to allow all. We try to keep it as something that would benefit the entire community, like a school event.

The City Solicitor stated that in the News Releases, a juvenile was identified by name in one incident then in another incident a juvenile was not identified by name. Deputy Chief of Police Shyers replied that we follow the same guidelines that the Delaware State Police use, and if the incident includes a felony, then we identify them by name.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Bivans, to accept the Police Chief's Report as presented. The MOTION passed unanimously.

### **City Manager's Report**

The City Manager stated the report is a reflection of the new Code Enforcement Officer's first month on the job. He has cleared most items and the volume of his work has been significant; he has worked very hard. We are very happy with his work. The citizen's have been very receptive.

Council Member Stewart asked when a property is bank owned, are they given the same amount of time as residents to reply. The City Manager stated that it is more difficult to get someone to respond, and those properties are more likely to end up with the City doing to the work or a fine. Vice Mayor Lahman asked if the City could clean it up and attach the fee on the taxes. The City Manager replied yes.

Council Member Bivans stated that he would like to see the date the issue was closed on the report.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stewart, to accept the City Manager's Report as presented. The MOTION passed unanimously.

### **Financial Report**

The City Manager stated that the CIP Funds Account Summary has been thoroughly vetted. There are projects that are completed with a total balance of \$19,407.40 that is still allocated that do not need to be. Mayor Price stated that once money is allocated for a project, it should not have to come back to Council unless it is going above what was allocated. The City Manager stated that since these projects are done, the money should be unallocated and made available for use. Vice Mayor Lahman asked what projects are still open. The Finance Director stated that is being worked on now.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stubbs to make available the surplus of \$19,407.40 from the completed Transfer

Tax Allocations. Council Member Bivans asked what the dash means in the Balance of Allocation column. The City Manager stated that the allocation matched the expenditure exactly, and the balance is zero. The MOTION passed unanimously.

A MOTION was made by Council Member Stubbs, seconded by Council Member Stewart, to file the Financial Report for audit. The MOTION passed unanimously.

### **Departmental Reports**

#### **Public Works**

Council Member Bivans asked for an update on Milby Street for the next meeting.

#### **Wastewater Treatment**

There were no questions.

#### **Library**

There were no questions.

#### **Parks and Recreation**

There were no questions.

#### **Fire and Ambulance**

There were no questions.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stubbs, to accept the Departmental Reports as presented. The MOTION passed unanimously.

### **City Planner's Report**

Council Member Stewart asked what was the delay in the Kids Kottage project. The City Manager stated that it is a daycare with a second floor apartment. They were originally told that they had to have a sprinkler system, but Dave Naples from RVB looked at it again and determined that as long as there was an emergency exit door in every room that had children in it, then a sprinkler system would not be required. So the City is waiting for plans to come back from Kids Kottage.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stewart, to accept the City Planner's Report as presented. The MOTION passed unanimously.

### **City Engineer's Report**

Vice Mayor Lahman stated that she got a letter about watering plants downtown. The City Manager stated that Public Works will try to water plants additionally, but they get busy, and the more people keeping an eye on the plants, the better. Council Member Stubbs asked if we got new shrubs. The City Manager stated that the shrubs were replaced, and there is one more issue with a handicapped accessible ramp. Council Member Stubbs asked if the downspouts were fixed. Council Member Stewart stated that they were curved in a little to help prevent a tire catching on them. The City Manager stated that she would check on it.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stewart, to accept the City Engineer's Report as presented. The MOTION passed unanimously.

### **Old Business**

#### **Appointment of Election Board and Election Workers**

Mayor Price stated that he would like to appoint Louisa Howard, Marlene Jarrell, Viva Poore, Joyce Dyer, and Joan Knaub.

A MOTION was made by Council Member Stubbs, seconded by Vice Mayor Lahman to accept and appoint the Election Board and Election Staff. The MOTION passed unanimously.

### **New Business**

#### **Appointment of Planning and Zoning Commissioner**

Mayor Price stated that if anyone knows anyone that might serve on either the Planning and Zoning Commission or the Board of Adjustment, let him know. Some terms are expiring, so it is a good time to find people to serve on different boards and committees. Mayor Price stated that the Appointment of the Planning and Zoning Commissioner is tabled until there is more information available.

#### **Appointment of Board of Adjustment Member**

Mayor Price stated that the Appointment of the Board of Adjustment Member is tabled until there is more information available.

**First Reading of Ordinance 12-06 – Amending Chapter 297, Portable Storage Units**

The City Solicitor stated that he recommends that in Section 2 the word nuisance be changed to violation.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stewart, to accept the first reading of Ordinance 12-06 and set the Public Hearing and Second Reading for April 2, 2012. The MOTION passed unanimously.

**First Reading of Ordinance 12-07 – Amending Chapter 378, Taxation**

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stubbs, to accept the first reading of Ordinance 12-07 and set the Public Hearing and Second Reading for April 2, 2012. The MOTION passed unanimously.

**First Reading of Ordinance 12-08 – Amending Chapter 425, Water**

A MOTION was made by Council Member Stubbs, seconded by Council Member Stewart, to accept the first reading of Ordinance 12-08 and set the Public Hearing and Second Reading for April 2, 2012. The MOTION passed unanimously.

**First Reading of Ordinance 12-09 – Amending Chapter 180, Municipal Fees**

Mayor Price asked if the changes discussed at the workshop were included in these ordinances. The Clerk of Council replied that she did incorporate the discussed changes.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stewart, to accept the first reading of Ordinance 12-09 and set the Public Hearing and Second Reading for April 2, 2012. The MOTION passed unanimously.

**Request for additional payment by City Engineer for costs incurred with Force Main Project**

The City Manager stated that some of these costs are from two change orders for extensions the City had issued and because the City did not have a Finance Director for awhile. Tom Wilkes stated that the project was approved for extensions. Council Member Stubbs asked whose fault it was that the contract went over. Mr. Wilkes stated that would be the contractor for the force main. Council Member Stubbs asked about going back to the contractor to pay some of the items on the invoice. He stated

that some items on the invoice were to resolve issues with Daisy and DelDOT. Mr. Wilkes stated that DelDOT was more involved in this project than anticipated. Mayor Price asked if this invoice would fall within the contingency line. Mr. Wilkes replied that it would be within the contingency. Council Member Stubbs stated that he did not think the City should pay for mileage reimbursement. The City Manager stated that the engineering portion of the project is over budget, but the whole project is under budget and may pay for the closing of the lagoons. Council Member Bivans stated that the City Engineer had said several months ago that there were some construction personnel issues, and the City should not be liable for costs incurred for that. Vice Mayor Lahman stated that Daisy should at least split some of the costs with the City.

A MOTION was made by Council Member Stubbs, seconded by Council Member Stewart, to table the Request for additional payment by City Engineer for costs incurred with Force Main Project until additional research is done by Remington, Vernick & Beach. The MOTION passed unanimously.

### **Resolution 12-R-02**

2012 Municipal Election Date, Rules, Absentee Voting and Election Board

A MOTION was made by Council Member Stubbs, seconded by Vice Mayor Lahman, to accept Resolution 12-R-02. The MOTION passed unanimously.

### **Funding for Potable Water Meter Project**

The City Manager stated that this issue had been discussed but a motion is needed. We were going to pay for the meters out of the water escrow account.

Council Member Stubbs stated that we might be paying for the water meters twice. We might be sued. The City Solicitor stated that it is too late to enjoin us from awarding the contract. Vice Mayor Lahman stated that if there was an issue with the bid specs, then they should have addressed it before they bid. The City Solicitor stated that on the agenda is where to fund the project and not revisiting if it should have been awarded.

A MOTION was made by Vice Mayor Lahman to fund the Potable Water Meter Project from the water escrow account. There was no second. The MOTION failed.

Mayor Price stated that the contract has been awarded, so it has to be funded. He asked where the Council would like to fund the project if not from the water escrow account. Council Member Bivans asked what the

other options are for funding. The Finance Director pointed out the list of accounts for the Council to look at. The City Manager stated that the water escrow account is set up to pay for capital expenditures like water meters. Council Member Bivans asked if this issue could be tabled until the City Solicitor has more information about a potential lawsuit. The City Solicitor stated that the City awarded the bid and now has to pay for it.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stewart, to fund the Potable Water Meter Project from the water escrow account. Roll was called: 2 Yes, 3 No (Lahman – Yes, Bivans – No, Coleman – No, Porter – Absent, Stewart – Yes, Stubbs – No). The MOTION was defeated.

Vice Mayor Lahman stated that the City Manager can decide from what account to fund the project. Council Member Bivans asked what happens to the water escrow account if it is not used for the water meters. The City Solicitor stated that it will continue to sit there, because it can only be used for water related projects.

A MOTION was made by Council Member Bivans, seconded by Council Member Stewart, to reconsider the prior vote. Roll was called: 5 Yes, 0 No (Lahman – Yes, Bivans – Yes, Coleman – Yes, Porter – Absent, Stewart – Yes, Stubbs – Yes). The MOTION passed.

The vote being reconsidered is to fund the Potable Water Meter Project from the water escrow account. Roll was called: 4 Yes, 1 No (Lahman – Yes, Bivans – Yes, Coleman – No, Porter – Absent, Stewart – Yes, Stubbs – Yes). The MOTION passed.

### **Public Comments**

There were no Public Comments.

### **Executive Session**

There was no Executive Session.

There being no further business, a MOTION was made by Council Member Stewart, seconded by Council Member Stubbs, to adjourn the City Council Meeting. The MOTION passed unanimously, and the meeting adjourned.

Respectfully Submitted,

Kelly Branchies  
Clerk of Council