

**City of Harrington**  
**MINUTES**  
**City Council Meeting**  
**February 19, 2013**

**Public Comments**

There were no Public Comments.

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A meeting of the Harrington City Council was held on February 19, 2013 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 Amy Minner; Council Member Wayne Porter; 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 present: Tom Wilkes, Remington, Vernick, & Beach, and Albert Biddle, Kent County.

Mayor Price called the meeting to order at 7:01 p.m.

The Pledge of Allegiance was given.

**Minutes**

**January 22, 2013 City Council Meeting**

Council Member Minner asked if the check to the Hendricks for the tax ditch reimbursement had been issued. The City Manager replied yes.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Minner, to accept the January 22, 2013 City Council Meeting Minutes as presented. The MOTION passed unanimously.

**February 4, 2013 City Council Workshop**

Council Member Bivans asked what the Charter states are the reasons that Council Members can be removed from office besides missing three consecutive meetings. The City Solicitor stated moving out of the Council Member's district and being convicted of a felony or infamous crime. Council Member Bivans asked what if a person has an illness. The City Solicitor stated that the absences can be excused by Council, otherwise the provision is self-executing.

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to accept the February 4, 2013 City Council Workshop Minutes. The MOTION passed unanimously.

### **Police Chief's Report**

Council Member Minner asked what the status of the stage is. The Chief of Police replied that it will probably be done mid-March.

A MOTION was made by Council Member Porter, seconded by Council Member Minner, to accept the Police Chief's Report as presented. The MOTION passed unanimously.

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

Council Member Bivans asked what the issue with Bearing is. Tom Wilkes stated that Bearing is asking for full payment for an item that was not completed. There was some mobilization involved, so there is a disagreement about the amount; RVB is trying to negotiate an equitable agreement with Bearing. The next step would be arbitration.

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

### **Financial Report**

Council Member Minner asked about the audit fees for Harty & Harty. The Financial Director stated that an adjustment will be made because most of those are for the FY2011 audit.

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to file the Financial Report for audit. The MOTION passed unanimously.

### **Departmental Reports**

#### **Public Works**

Council Member Stubbs asked if there were plans to trim the trees on Clark and Commerce Streets. The City Manager stated that she will check with the Public Works Supervisor.

Council Member Bivans asked about what problems there were with reading meters. The City Manager stated that it is a learning process with the equipment and software and that is why the meters are being read monthly and not quarterly. The problems would not prevent billing. Council

Member Bivans asked about the impact on accuracy. The City Manager replied that they are more accurate than what was done previously.

Council Member Bivans asked if there was follow-up with homeowners that are contacted about a leak. The City Manager stated that when a large reading is detected, the City continues to work with the homeowner to help find the leak or determine that the user is just a big consumer of water.

### **Library**

Council Member Bivans asked if the staff helping with resume writing could be included in the Job Center. The City Manager stated that if someone comes in outside of the Job Center hours then the staff will try to accommodate them as much as they can.

Council Member Bivans asked about offering an e-reader class to free up more staff time. The City Manager stated that when the program first started, classes were offered, but it could be good to have another one.

### **Parks and Recreation**

There were no questions.

### **Fire and Ambulance**

There were no questions.

A MOTION was made by Council Member Minner, seconded by Council Member Porter, to accept the Departmental Reports as presented. The MOTION passed unanimously.

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

Council Member Minner asked about the expiration of the final site plan for Harrington Retail Center. The City Manager stated that she will check on that.

Council Member Minner asked if the letter regarding the highway connector streets was resent as recommended in the City Planner's report. The City Manager replied that it was not. Vice Mayor Lahman asked why the letter needs to be mailed again. The City Manager replied that the State has not taken any action on it.

Council Member Minner asked if a reason was stated as to why the developer was not pursuing 101 Cluckey Drive. The City Manager replied no.

Council Member Minner asked if Chapters 4 and 5 of the Comprehensive Plan have been submitted to the City Planner. The City Manager stated that there were no changes to Chapters 4 and 5, and if the City Planner had notified her ahead of time, it would have been cleared up. Council Member Minner asked if the City would meet the March 8, 2013 deadline. The City Manager replied that it would probably be in April. Council Member Minner asked about a contract with URS. The City Manager stated that she is unable to find it, and the City Planner has yet to produce it.

Vice Mayor Lahman asked if the potential business on Cluckey Drive was from Texas. The City Manager replied no, it was Service Today out of Seaford.

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

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

Council Member Porter asked if the City Manager would be addressing how many additional gallons of water went to the County for treatment since the referendum did not pass. The City Manager stated that the amount of the latest invoice was \$45,966.96; this was more than \$8,000 more than the previous highest bill, which was in July. At that rate, it would cost an additional \$100,000 per year to treat the rain water. Council Member Porter asked where the money would come from. The City Manager replied that it would have to be from the rates.

Vice Mayor Lahman asked for clarification that the City is paying Kent County to treat clean water. The City Manager replied yes. Council Member Porter stated that the citizens of Harrington should be aware that they are paying to process clean water and should be reeducated on why the referendum was needed.

Vice Mayor Lahman stated that it is the responsibility of the City Council to take care of as many issues as possible even without the referendum. Two quadrants have been studied for inflow and infiltration (I & I). The City Manager stated that those were the two worst ones, and the others have not been commissioned to be studied yet.

Council Member Minner asked if there was an estimate as to how much money could be saved by correcting the inflow and infiltration problems. The City Manager stated it was significant. Mr. Wilkes stated that it is difficult to accurately calculate, because it is based on rainfall, which can vary. The City Manager stated that the invoices from Kent County for wastewater treatment have been fairly consistent in the \$28,000 to \$36,000 range. It is reasonable to assume that the additional cost is due to the wet weather.

Mayor Price stated that the County costs, the quadrant reports, and the estimated repair list can be discussed at the next Workshop.

Mr. Wilkes stated that using the actual data for the last few years and comparing it to the flow during wet weather can give an estimate for the additional cost of treating the inflow and infiltration water.

Vice Mayor Lahman stated that the City cannot take care of the weather but can fix the problems. The City Manager stated that fixing the inflow and infiltration will prevent the rain water from entering the pipes. If the City does not fix the issues, then it is subject to the whims of the weather, which is difficult to budget for. The problems will not go away. The City needs to become proactive. Council Member Porter stated that the worst part is spending \$8,000 to treat the water when that money could be spent on something else.

Council Member Stubbs stated that this is a normal season, not even a rainy one. The City Manager stated that last year was dry.

Vice Mayor Lahman stated that the monthly savings could add up to a significant amount.

Council Member Bivans asked for the amount of wastewater being treated prior to 2012. The City Manager stated that information will have to be researched.

Council Member Bivans stated that it would be helpful to pinpoint where the concerns are. The City Manager stated that the studies indicated where the concerns are. They identified where the City had the most I & I and what would have to be done to remedy the problems. A lot of manholes leak and fill up with water, and a lot of sewer lines need to be coated, so they do not leak.

Council Member Bivans stated that the information from the studies about what and where the problems are needs to be presented to the public.

Vice Mayor Lahman stated she believes people voted "no" to the referendum, because they did not want their bill to go up. Council Member Bivans stated that he heard people were concerned because of the rates not being set with the meters.

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

## **Old Business**

### **Public Hearing**

#### **Ordinance 13-01 – Amending Chapter 330, Sewers, relating to EDU calculation**

There were no comments.

#### **Ordinance 13-02 – Amending Chapter 425, Water, relating to EDU calculation**

There were no comments.

#### **Ordinance 13-03 – Amending Chapter 314, Rental Properties, relating to crime free leasing addendum**

There were no comments.

#### **Second Reading of Ordinance 13-01 – Amending Chapter 330, Sewers, relating to EDU calculation**

The City Manager stated that this ordinance ties the method to calculate EDUs to the County. The City Solicitor stated that it is more business friendly.

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to accept Ordinance 13-01. Roll was called: 6 Yes, 0 No (Lahman – Yes, Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

#### **Second Reading of Ordinance 13-02 – Amending Chapter 425, Water, relating to EDU calculation**

A MOTION was made by Council Member Porter, seconded by Council Member Minner, to accept Ordinance 13-02. Roll was called: 6 Yes, 0 No (Lahman – Yes, Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

#### **Second Reading of Ordinance 13-03 – Amending Chapter 314, Rental Properties, relating to crime free leasing addendum**

The City Solicitor stated that this ordinance is very similar to one in Dover, and some changes are being made to that one based on feedback from the Chief Magistrate and public hearings. The City Solicitor requested that Ordinance 13-03 be tabled and changes be discussed at the March

Workshop and the revised ordinance presented at the March 18, 2013 meeting for a second reading and possible adoption.

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to table the second reading of Ordinance 13-03 until March 18, 2013. The MOTION passed unanimously.

## **New Business**

### **Council Member pay policy**

The City Manager stated that the Clerk of Council was asked to put in writing the current practice used to compensate Council for formal adoption. Mayor Price stated that the policy can be reviewed at budget time.

Council Member Minner asked when the budget process would start. The City Manager replied that capital projects would be looked at first and the process would continue through March and April.

Council Member Bivans asked if Council is compensated for a meeting when no one speaks at a public hearing. The Clerk of Council stated that the current policy is that Council is paid whether anyone comments at a public hearing or not.

The Clerk of Council stated that she wanted to point out that Council is eligible to participate in the dental and vision plans if they pay 100% of the premium, since that was not discussed at previous workshops. Vice Mayor Lahman stated that she thought that Council was eligible for the health insurance as well. Mayor Price stated that it was that way, but Blue Cross said that employees had to be full time to be eligible.

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to accept the written Mayor and Council Member Compensation Policy. Roll was called: 4 Yes, 2 No (Lahman – Yes, Bivans – No, Coleman – Yes, Minner – No, Porter – Yes, Stubbs – Yes). The MOTION passed by majority.

### **Sale of laboratory equipment**

The City Manager stated that Kent County has offered to purchase several pieces of laboratory equipment from the wastewater treatment plant. The request has been reviewed with Tom Wilkes, and the recommendation is to sell the equipment to Kent County for their high offer.

Vice Mayor Lahman asked where the money from the sale would go. The City Manager stated the capital program.

A MOTION was made by Council Member Minner, seconded by Vice Mayor Lahman, to sell the laboratory equipment for \$3,925 and the proceeds are to go to the capital fund. Roll was called: 6 Yes, 0 No (Lahman – Yes, Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

### **Purchase of police car from DEA funds**

Mayor Price stated that the 2007 Crown Vic will be sold and replaced with a 2012 Dodge Charger.

Council Member Porter asked how much the car would cost the taxpayers. The Chief of Police replied nothing.

A MOTION was made by Council Member Porter, seconded by Council Member Minner, to purchase a 2012 Dodge Charger with DEA funds. The MOTION passed unanimously.

### **45 Clark Street demolition**

The City Manager stated that this is for the asbestos removal and demolition of 45 Clark Street. The staff recommends authorizing the City Manager to proceed with the asbestos removal and demolition of 45 Clark Street and that the necessary funds be taken from the excess fund balance in the general bank account. The asbestos removal is \$19,100, and the estimate for the demolition is about \$25,000. The City has paid \$11,000 for the property in fees. The Finance Director stated that the assessed value of the property is \$63,000. The City Manager stated that this is a dangerous building and needs to come down.

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to authorize the City Manager to proceed with the asbestos removal and demolition of 45 Clark Street with the funds being taken from the excess fund balance.

Council Member Minner stated that she is leery of approving the expenditure of \$50,000 or greater. The City Manager stated that the cost for the asbestos removal is \$19,100, and \$4,300 was spent to have Compliance Environmental examine the building for asbestos, produce the specifications, and bid the job. No one on staff has that kind of environmental experience.

Council Member Minner stated that she is concerned about agreeing to spend the money when Council does not know what the actual bids may be. The City Manager stated the bids will be opened February 28, 2013, and a special Council meeting can be held after the March 4, 2013 Workshop to vote on that amount of money.

A MOTION was made by Council Member Minner, seconded by Council Member Bivans, to amend the previous motion to approve the expenditure of up to \$25,000 for the asbestos removal. Roll was called: 6 Yes, 0 No (Lahman – Yes, Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

The amended MOTION was to authorize the City Manager to proceed with the asbestos removal with the expenditure of up to \$25,000 and the funds being taken from the excess fund balance. Roll was called: 6 Yes, 0 No (Lahman – Yes, Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

#### **DNREC administrative penalty assessment**

The City Manager stated that the estimate for the construction cost of the restoration of the Browns' Branch is \$37,725, contingencies are \$3,772.50, and engineering and inspection costs are \$5,658.75 for a total estimated project cost of \$47,156.25. The action form estimated an expenditure of \$42,724, but since then, Mr. Wilkes walked the site with someone from DNREC and came up with a better estimate. There was an offset of \$100,000 to DNREC's administrative penalty for the water meter installation project.

Vice Mayor Lahman asked about the plan to pay \$20,000 over the next five years. The City Manager stated that was the City's original offer, and it was rejected by DNREC. The City has thirty days from January 28, 2013 to submit a plan.

Council Member Minner asked where the unit prices came from. Mr. Wilkes stated that they are based on past experience and the size of the area.

Council Member Minner asked what the wetlands and DNREC permitting entailed. Mr. Wilkes stated that he contacted DNREC and Kent Conservation District, and those permit prices are exact. The wetlands permit would be through the U.S. Army Corp of Engineers is estimated; they may not even take jurisdiction over the project. Kent Conservation District requires an erosion and sediment control plan review and inspection.

Council Member Minner asked if any agency specified what kind of shrubs had to be planted. Mr. Wilkes stated no, but he recommends native plants. Council Member Minner asked if they would come back to inspect the plants to see if they were still living. Mr. Wilkes stated that he does not believe that DNREC or Kent Conservation District would come back a year later for an additional inspection. Council Member Bivans asked if on a project like this specific shrub heights are required. Mr. Wilkes stated that can be determined by species. Right now the area is cluttered with fallen trees.

A MOTION was made by Council Member Stubbs, seconded by Council Member Bivans, to accept the DNREC offer of settlement and approve the expenditure of \$47,156.25 with funding from the Sewer Escrow Account. Roll was called: 6 Yes, 0 No (Lahman – Yes, Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously. The MOTION passed unanimously.

**Resolution 13-R-02 – Authorizes the Mayor to apply for the Community Development Block Grant to improve the sidewalks along Hanley Street, and authorizes matching funds of 10% of the project**

The City Manager stated that last year a larger Hanley Street project was rejected by the Community Development Block Grant program. This year the suggestion is to replace only the portions of the Hanley Street sidewalks that need to be replaced as identified by the Public Works staff. The construction cost is estimated at \$94,575, the ten percent match would be \$9,500. The project also requires \$14,186 for contingency and \$13,052 for estimated engineering and inspection costs. The total cost to the City would be approximately \$36,738, and the cost funded by CDBG is estimated to be \$85,075. The resolution is for the matching funds to CDBG. The money would be budgeted in next year's capital improvement plan if it is approved by CDBG.

The City Manager stated that a lot of properties were added to the list for housing rehabilitation by the City appearing on WBOC.

Council Member Bivans asked if the safe passage to school program would provide any money for sidewalks. The City Manager stated that she does not believe the programs coincide. Hanley Street is just an area that CDBG will fund because of the income level.

Council Member Bivans asked if the City inquired with State representatives about funding for projects like this. The City Manager stated that the City requests Community Transportation Funds every year based on the needs to replace streets, curbing, and some sidewalks.

Council Member Minner asked what a surface detectable warning system is. Mr. Wilkes stated they are the bumped warning strip that indicates that there is an intersection.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Porter, to accept Resolution 13-R-02 with funds to come from the capital improvement fund. Roll was called: 6 Yes, 0 No (Lahman – Yes, Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

### **Resolution 13-R-03 – 2013 Municipal Election date, rules, absentee voting and Election Board**

Council Member Porter asked if District 3 was up for election again. Council Member Coleman stated that no one ran against her last year. The City Manager stated that Council Member Coleman was appointed, had to run for election to complete the term, and now the regularly scheduled term is up for District 3.

Council Member Minner asked how the hours 12:00 pm to 7:00 pm were arrived at. The City Manager stated that at the last election, the workers tracked how many people voted per hour, and the majority came between those hours. The Election Board thought the hours could be more compact. Those hours worked well for the referendum. The Clerk of Council stated that at the last regular election the polls were open for thirteen hours, and the Charter requires only seven hours.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Porter, to accept Resolution 13-R-03. Roll was called: 6 Yes, 0 No (Lahman – Yes, Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

### **Request for additional funds to complete 2012 CTF projects**

The City Manager stated that in the past when the City has received Community Transportation Funds, the requirement to have ADA ramps was not enforced. About a year ago that changed and funds would not be released without ADA ramps being installed. The cost of the ramps caused the cost of the project to be \$14,102 over budget. State Representatives have been asked twice for funds. The funds will be taken from the Public Works budget or from the Municipal Street Aid Fund. There is \$181,197 in Municipal Street Aid. There is a streets program being developed to maintain the streets, and the Municipal Street Aid money will be used to pay for that.

Vice Mayor Lahman asked if the State provided any additional money to complete the ramps. The City Manager stated that when the State said the ADA ramps had to be completed, she sent a letter requesting funds based on the estimated costs. The State funded that estimated amount, but when the bids came in, they were more than the estimate. The City's Representatives have been very generous.

Vice Mayor Lahman stated that the money received from Municipal Street Aid is usually spent every year. Mayor Price stated that he believes the money to complete the project should come from the Municipal Street Aid Fund.

Council Member Minner asked if the State Representatives wanted specific streets paved. The City Manager stated some of them, and there is also a priority list.

Council Member Minner asked when the work would be complete. The City Manager stated that work on the ramps has begun and must be finished before the paving season begins.

Council Member Minner asked if the portions of Liberty Street being paved would interfere with I & I projects. The City Manager replied no because the portion between Delaware Avenue and Route 13 is not scheduled to be paved.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Porter, to approve \$14,102 from the Municipal Street Aid Fund for street milling and paving. Roll was called: 5 Yes, 1 No (Lahman – Yes, Bivans – No, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed by majority.

### **Report of Outstanding Utility and Tax Receivables**

The City Manager stated that in property tax accounts, \$725,435.04 has been collected, and \$118,023.87 is outstanding. The monition process is being followed to collect past due amounts.

Council Member Porter asked if Messick's Mobile Home Park is the biggest past due amount. The City Solicitor stated that there are many smaller amounts there because of the basically uncollectable trailer taxes.

Mayor Price asked that the monition process be explained. The City Solicitor stated that once the account is delinquent, then some internal work is done at City Hall. The City Solicitor receives the information from the City and files a monition action, the property gets posted, and if the taxes are not paid within twenty days, the City Solicitor can then file a writ

to schedule the sale of the property by the Sheriff's Office. It can be a six to eight month process.

**Usage report**

Council Member Minner stated that the residential amount on the last report is significantly more. The City Manager stated that she will check into that; it was probably the new meters that have been removed from the report.

**Directions to the Clean Water Advisory Council**

The City Manager stated that unfortunately the Clean Water Advisory Council is meeting tomorrow, and because the City's referendum failed, they wanted to know if the City wanted to keep \$500,000 available or return all the money. The money had to be returned because a decision could not be reached prior to Friday.

**Executive Session**

There was no Executive Session.

There being no further business, a MOTION was made by Council Member Minner, seconded by Council Member Stubbs, to adjourn the City Council Meeting. The MOTION passed unanimously, and the meeting adjourned at 8:25 pm.

Respectfully Submitted,

Kelly Blanchies  
Clerk of Council