

City of Harrington
MINUTES
City Council Meeting
November 18, 2013

A meeting of the Harrington City Council was held at Harrington City Hall, 106 Dorman Street, on November 18, 2013 and was attended by the following: Mayor Anthony R. Moyer; Vice Mayor Cheryl Lahman; Council Member Duane E. Bivans; Council Member Fonda Coleman; Council Member Amy Minner; Council Member Charles W. Porter; Council Member Kenneth Stubbs; Norman Barlow, Chief of Police; William Pepper, City Solicitor; Teresa Tieman, City Manager; Dean Gary, Accountant; and Kelly Blanchies, Clerk of Council.

Also present: Alan Moore, Public Works Supervisor; Albert Biddle, Kent County Department of Planning Services; Ronald Pant; Mary Trice; Phillip White; Pastor Johnson, Pilgrim Chapel; and Pastor Kenneth Figgs, Calvary Wesleyan Church.

Public Comments

Ronald Pant stated that he is the Webelos Pack Leader for Webelos Pack 141 from Felton. It is part of the requirement for the citizenship award to attend a government function or meeting.

Phillip White stated that he is the new partner and manager of the Salty Wave. He is working on sign compliance and filed an appeal today. He requested to be placed on the next agenda. The City Manager stated that the appeal would go to the Board of Adjustment rather than the City Council according to the City Solicitor.

Mayor Moyer called the meeting to order at 7:03 p.m.

The Invocation was given by Pastor Johnson.

The Pledge of Allegiance was given.

Roll was called.

The Chief of Police introduced Pastor Kenneth Figgs from Cavalry Wesleyan Church as a new Chaplain for the Police Department. His chaplain badge was pinned on.

Public Hearing on City of Harrington's request to apply for funds under the Community Development Block Grant for 2014

Albert Biddle from the Kent County Department of Planning Services stated that the City is expecting to submit an application for the Community Development Block Grant through the Delaware State Housing Authority; a requirement is to solicit public input for that application. The City of Harrington this year received seventy-two thousand dollars (\$72,000) in funding to rehabilitate owner occupied houses for those with low to moderate incomes. There is about two million dollars (\$2,000,000) available for all of Kent County, except for the City of Dover, and all of Sussex County. The first priority for funding is home rehabilitation, and there is currently a waiting list of about thirty names in Harrington. Other items eligible for funding are the demolition of vacant and condemned buildings and small infrastructure projects such as sidewalks, water and sewer repairs, and street paving.

Mr. Biddle stated that the City has been asking for funding for two years for the sidewalks on Hanley Street. Each application is rated on its merits. The majority of those that benefit have to be of low to moderate income. The sidewalks have a relatively high cost; eighteen of the twenty-two houses that would benefit met the income requirements. The benefit ratio per household is very high. The City Manager stated that even if the City did a fifty percent match, it would still be high. Mr. Biddle stated that some projects like this have been funded before, but funding is competitive. The City Manager stated that the question remains of how to fund the Hanley Street sidewalk project.

Vice Mayor Lahman stated that the biggest benefit of this program is making homes habitable. Council Member Minner asked if people could still sign up. Mr. Biddle stated that home owners are encouraged to sign up for the waiting list to establish the need. Vice Mayor Lahman stated that a high portion of Harrington's residents are in the low to moderate income bracket. Mr. Biddle stated it is fifty-three point five percent.

Minutes

October 7, 2013 City Council Workshop

A MOTION was made by Council Member Minner, seconded by Council Member Coleman, to accept the October 7, 2013 City Council Workshop Minutes as presented. The MOTION passed unanimously.

October 7, 2013 City Council Special Meeting

Vice Mayor Lahman asked if the Code Enforcement Officer has started. The City Manager replied that he started today and will be at the next meeting.

A MOTION was made by Council Member Porter, seconded by Council Member Minner, to accept the October 7, 2013 City Council Special Meeting Minutes as presented. The MOTION passed unanimously.

October 21, 2013 City Council Meeting

The Chief of Police stated that he never received any voicemails from Mr. Collison about truck parking. He has since talked to him, and the issue has been taken care of. The City Manager stated that the City Cat Crew has been notified of the issue, and the Code Enforcement Officer went to the property and found no problems.

A MOTION was made by Council Member Stubbs, seconded by Council Member Porter, to accept the October 21, 2013 City Council Meeting Minutes as presented. The MOTION passed unanimously.

Police Chief's Report

The Chief of Police stated that their annual football game was held and raised a lot of food to donate.

Council Member Porter thanked the Chief of Police for attending the Chief's convention.

Vice Mayor Lahman stated that Ruth Peterman should be recognized for her twenty-five years of service.

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

City Manager's Report

Council Member Stubbs asked about the status of the Delaware State Fair contract. The City Manager stated that Max Walton is the City's attorney. The parties have agreed to nonbinding mediation.

Council Member Porter asked about the tax payments from Wells Fargo Mortgage Company. The City Manager stated that the tax amounts were requested by Wells Fargo around October 25, 2013 and have not been paid. Wells Fargo is aware that there will be penalties. The City Solicitor is working with the City Clerk regarding relevies and past due taxes. Council Member Bivans asked if the City has contacted Wells Fargo. The City Manager stated that Wells Fargo has been in contact with the City and is aware of the bills as well as the property owners.

Mayor Moyer asked if there is a paper trail on the church that is being used as a house. The City Manager stated that people just moved in and started using it as a house. The church owns the property and someone lives there.

Mayor Moyer asked why the City would be concerned about bugs in a house. The City Manager replied that if it is a rental, then it is unhealthy conditions.

Mayor Moyer asked for a definition of a sign. The City Manager read the definition from the City Code, "a sign is any letter, word, model, banner, pennant, insignia, trade flag, device, or representation used as or in the nature of an advertisement, attraction, or directive." Mayor Moyer asked that if having a picture of a fish in front of a fish store is a sign, then is having furniture on a sidewalk in front of a furniture store also a sign. The City Solicitor stated that the case could be made that it is. Mayor Moyer stated that the City needs to take a look at what is decoration and what is a sign. There are businesses not willing to put up with the City's broad definition.

Mayor Moyer asked if a sandwich board is a temporary sign or a sign that is allowed to be put out every day. The City Manager stated that under the Zoning Code, portable signs, including a-frame, t-frame, and sandwich boards, are allowed.

Mayor Moyer stated that he received a complaint from a citizen regarding 113 Wolcott Street. The City Manager stated that it is already being looked into.

Council Member Minner asked if Public Works met with Delmarva Power to discuss one particular light. The City Manager replied that it was several lights.

Council Member Bivans asked about Representative Outten's donation for Fall Clean Up Week. The City Manager stated that each Representative gets a certain amount of dollars from the State to go towards landfill costs. Council Member Bivans stated that he was concerned because the trash rate was increased to cover the cost of the clean up week and now donations are being received for it. The City Manager stated that some of the costs were covered; a donation cannot be counted on.

Council Member Bivans asked for clarification about a violation of dumping in a storm drain. Council Member Bivans stated that many of the violations seem to be occurring inside houses and that there are portable storage units that have been up for quite some time. The City Manager stated that violations can be reported to City Hall to be addressed.

A MOTION was made by Council Member Porter, seconded by Council Member Coleman, to accept the City Manager's Report as presented. The MOTION passed unanimously.

Financial Report

Vice Mayor Lahman asked about the balance of the Municipal Street Aid account. The City Manager stated that some of the money that has been awarded but not yet received has been allocated for additional road work.

Mayor Moyer stated that the vehicles need to get more mileage and reduce idling to reduce the fuel bill. Vice Mayor Lahman stated that reporting may be an issue; the City Manager and Chief of Police should reiterate the necessity for accuracy to the employees using City owned vehicles. Council Member Bivans stated that wear and tear on vehicles is also a concern. Mayor Moyer stated that the vehicles are well maintained by the employees.

Council Member Minner asked if some bills are overlapping like Verizon Wireless. The Accountant stated that they were separate bills.

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

Departmental Reports

Public Works

Mayor Moyer asked if the Public Works Supervisor received any information about the maintenance log for the jet vac. The Public Works Supervisor stated that he will be receiving the contact information for the current owner. Mayor Moyer asked about training. The Public Works Supervisor stated that the seller has agreed to provide training. The City Manager stated that there is no extended warranty. Mayor Moyer asked if the Public Works Supervisor has seen the truck. The Public Works Supervisor replied not yet, but the seller is expecting to have it in a week and a half, and it should be available to view before the next workshop. The fan motor and water pump have been recently replaced.

Council Member Minner thanked the Public Works Supervisor for the storm drain maintenance report.

Council Member Stubbs asked if there were any more problems with well two. The Public Works Supervisor stated that it is back online. There was only one complaint of sand.

Library

Council Member Minner stated that the Library's Halloween event was very nice. There were lines of people there.

Parks and Recreation

There were no questions.

Fire and Ambulance

There were no questions.

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

City Planner's Report

The City Manager stated that the Comprehensive Plan has not been approved by the State yet.

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

City Engineer's Report

Vice Mayor Lahman asked if the lagoon outfall rehabilitation is expected to be completed by the end of the calendar year. The City Manager replied yes, the outfall has been dismantled, and the City Engineer is working on a contract with the contractor. Council Member Minner asked what the effect of heavy snowfall would be. The City Manager stated that the lagoons are only being used to contain the sludge that was present. Snow and rain that collect in the lagoons will evaporate.

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

Old Business

Second Reading of Ordinance 13-04 – Adoption of Comprehensive Land Use Plan

The City Manager stated that it is not ready for approval.

Purchase of jet vac

[See Departmental Reports – Public Works for discussion of this item.]

The City Manager stated that all the information is not yet available.

New Business

Resolution 13-R-13 – Authorizing the Mayor to submit the FY 2013 Community Development Block Grant (CDBG) application and the Levy Court of Kent County to act as the official representatives

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Porter, to accept Resolution 13-R-13. 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-14 – Supporting the goals of the Federal Fair Housing Law

Mayor Moyer read Resolution 13-R-14.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stubbs, to accept Resolution 13-R-14. The MOTION passed unanimously.

Proclamation declaring the month of November as Pancreatic Cancer Awareness Month in the City of Harrington

Vice Mayor Lahman read the proclamation.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Minner, to accept the proclamation declaring the month of November as Pancreatic Cancer Awareness Month in the City of Harrington. The MOTION passed unanimously.

2014 Holiday Schedule

The City Manager stated that it is three thousand seven hundred dollars (\$3,700) for an additional day off.

Council Member Stubbs stated that Harrington has one more day off than the State.

Council Member Minner stated that she agrees that Columbus Day should be struck for next year in order to give the day after Christmas off. The City Manager stated that the employees are ok with that as long as it is for one year only and Columbus Day is a holiday again the following year.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Minner, to approve the holiday schedule as amended to remove Columbus Day and add the day after Christmas to the 2014 holiday schedule and add Columbus Day back to the 2015 holiday schedule. The MOTION passed unanimously.

Park grant funding

The City Manager stated that the park grant has been approved for twenty thousand dollars (\$20,000). We would like to pay the bills and submit them to be reimbursed.

Vice Mayor Lahman asked if it will be a separate line in the budget. The City Manager stated that it will be a grant line and capital project.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Porter, to approve the payment of park related bills then submitting them for reimbursement from the grant. The MOTION passed unanimously.

Report of Outstanding Utility and Tax Receivables

Vice Mayor Lahman asked if the total outstanding amount is two hundred seventy thousand dollars (\$270,000) and what are the collection measures. The City Manager stated that a notice is sent informing them that if they do not pay then they will be turned over for legal action. Taxes must be two years outstanding. Vice Mayor Lahman asked if it would be worth hiring a collection agency. The City Manager stated that these are liens against the property and can be sold at a monitions sale. The City Solicitor stated that two properties were sold last year, and one is scheduled for January.

Mayor Moyer asked how much of the outstanding amount is from Messick's Mobile Home Park. The City Solicitor stated that none and those are almost impossible to collect.

Council Member Porter asked about the past due utility accounts. The City Manager stated that they are liens against the property and will eventually be collected.

Vice Mayor Lahman asked about attaching wages for past due amounts. The City Manager stated that it can be done. The City Solicitor stated that monition sale of the property is more effective. The City Manager stated that past due water and sewer bills are releived onto the taxes and when the taxes are two years past due then the property can be sold. The City

Solicitor stated that there are some property owners that stay a year behind on their taxes and pay interest on that amount.

Mayor Moyer asked if the past due amounts are mostly sewer. The City Manager stated that sewer cannot be disconnected; if the water is not paid then the water is turned off. Harrington does not have the ability to lien properties out of the City limits, but if the bill becomes over one thousand dollars (\$1,000), the City Solicitor seeks a judgment on the property. The City no longer extends new sewer service outside of City limits.

Council Member Minner asked if houses are condemned when the water is turned off. The City Manager replied yes.

Council Member Porter asked about publishing the names of past due property owners. It is not fair to the citizens that pay. Council Member Minner asked about not publishing the names of those with payment agreements.

Usage report

The City Manager stated that this is a metering report. Discussion occurred regarding the classification of properties.

Salary adjustments

The City Manager stated that the City Clerk and two Public Works Technicians are working outside their job descriptions and have taken on additional responsibilities. Employee retention is important, because many hours are spent in recruiting and training new employees. These positions are likely to become reclassified when salary scales are developed. The raises can be funded from savings in salaries and benefits due to vacant positions. The total cost of raises with benefits equals four thousand five hundred forty-six dollars (\$4,546), and the savings from vacancies equals fourteen thousand two hundred thirty-two dollars (\$14,232).

Vice Mayor Lahman asked if these are the only three employees that are currently working outside of their job descriptions. The City Manager stated that she believes so and looked at that when working on salary scales and most everyone else is doing what they should be doing.

Council Member Porter stated that the pay scales should be discussed at the next workshop, and if these employees are given this raise, it should be incorporated in that scale, and they would not receive another raise right away.

Vice Mayor Lahman asked if this would be retroactive back to July 2013. The City Manager stated that is what she is recommending.

The City Manager stated that very few employees have a long tenure; about half of the people that work for the City have worked here less than five years. Not retaining employees costs money.

Council Member Minner asked about certification of the Public Works Technician that handles the maintenance of the sewer system. Mayor Moyer stated that it is not necessary. Vice Mayor Lahman stated that he took over the maintenance when the City's treatment plant was closed, and it should have been addressed at that time.

A MOTION was made by Council Member Porter, seconded by Council Member Coleman, to approve the salary adjustments as presented. The MOTION passed by majority. Council Member Lahman abstained for a personal conflict. Council Member Bivans abstained because all positions should be looked at before giving raises.

[During a discussion later in the meeting, the City Solicitor determined that Council Member Bivans' vote is a no based on the reasons he has given. See City Council Comments.]

Water/sewer rate study

The City Manager stated that the expenses for water and wastewater have been compiled and the usage has been entered for consumption. The rate still needs to be calculated then public outreach done and testing in the billing software. The City Manager stated that she does not feel comfortable having that ready for the December billing. A workshop can be held in January to discuss rate options.

The City Manager stated that there was an increase in debt service of two hundred thousand dollars (\$200,000). There is also a lot of infrastructure work to be done, and there are different ways to pay for that work, which affect the rate differently.

The City Manager stated that money is transferred from the water and wastewater funds to the general fund. Now we have a good estimate as to the cost to run each utility, including accounting and insurance.

Council Member Porter asked about the USDA. The City Manager stated that the City Engineer is working on a revised priority list, and the Council has to decide if they will support a referendum. If so, then the USDA can be approached about financing new work and refinancing old debt.

Improvements need to be done to the infrastructure. There is eight million dollars (\$8,000,000) of fixed assets to be maintained in wastewater.

Public Comments

Mary Trice stated that she enjoyed the meeting.

Phillip White stated that when signs are discussed, the impact on business owners should be considered. Businesses need exposure to be successful.

Appointment of committees and commissions

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Minner, to lift the appointment of committees and commissions from the table. The MOTION passed unanimously.

Mayor Moyer stated that he agrees to keep committees as a whole to save money. Previously each committee had a chairman appointed. The Personnel Committee should be separate, because the personnel handbook has an appeal process. Vice Mayor Lahman asked if the City Manager has the right to appeal in the handbook. Mayor Moyer stated that the reason to have the Personnel Committee is that it keeps to a minimum the number of people that know the private issues of the employees.

A MOTION was made by Council Member Porter to have the City Manager and Chief of Police revise the employee handbook. Mayor Moyer stated that is not the issue being discussed right now. The City Solicitor stated that the motion is not in order.

Mayor Moyer stated that he is asking to keep the Personnel Committee to protect the employees. The City Solicitor stated that if an issue is appealed from the Chief of Police or the City Manager to the Personnel Committee and the Committee rules in favor of the employee, the Chief of Police or the City Manager does not have the ability to appeal to City Council. The City Solicitor stated that is standard in every personnel policy that he is familiar with. Vice Mayor Lahman stated that in the policies that she is familiar with, the managers are the last step.

Mayor Moyer stated that the appointments for the Personnel Committee are Council Members Minner (Chairman), Bivans, and Coleman. A MOTION was made by Council Member Minner, seconded by Council Member Bivans, to approve the appointments to the Personnel Committee as presented. Roll was called: 2 Yes, 4 No (Lahman – No, Bivans – Yes, Coleman – No, Minner – Yes, Porter – No, Stubbs – No). The MOTION failed.

Mayor Moyer stated that the appointment for the Chairman of the Budget and Finance Committee is Vice Mayor Lahman. A MOTION was made by Council

Member Minner, seconded by Council Member Bivans, to approve the appointment of the Budget and Finance Committee Chairman as presented. Roll was called: 2 Yes, 4 No (Lahman – No, Bivans – Yes, Coleman – No, Minner – Yes, Porter – No, Stubbs – No). The MOTION failed.

Mayor Moyer stated that the appointment for the Chairman of the Charter/Ordinance Review Committee is Council Member Bivans. A MOTION was made by Council Member Minner, seconded by Council Member Bivans, to approve the appointment of the Charter/Ordinance Review Committee Chairman as presented. Roll was called: 2 Yes, 4 No (Lahman – No, Bivans – Yes, Coleman – No, Minner – Yes, Porter – No, Stubbs – No). The MOTION failed.

Mayor Moyer stated that the appointment for the Chairman of the Comprehensive Plan Committee is Council Member Porter. A MOTION was made by Council Member Minner, seconded by Council Member Bivans, to approve the appointment of the Comprehensive Plan Committee Chairman as presented. Roll was called: 2 Yes, 4 No (Lahman – No, Bivans – Yes, Coleman – No, Minner – Yes, Porter – No, Stubbs – No). The MOTION failed.

Mayor Moyer stated that Jack Stewart resigned from the Planning and Zoning Commission, so there is a vacancy. The appointment is for Stacey Sizemore. A MOTION was made by Council Member Minner, seconded by Council Member Bivans, to approve the appointment of Stacey Sizemore to the Planning and Zoning Commission. Roll was called: 5 Yes, 1 No (Lahman – Yes, Bivans – Yes, Coleman – No, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed by majority.

Mayor Moyer stated that he would like to appoint Marie Cunningham to the Board of Adjustment. She has a lot of experience with the City and school district. A MOTION was made by Council Member Minner, seconded by Council Member Bivans, to approve the appointment of Marie Cunningham to the Board of Adjustment. Roll was called: 2 Yes, 4 No (Lahman – No, Bivans – Yes, Coleman – No, Minner – Yes, Porter – No, Stubbs – No). The MOTION failed.

Mayor Moyer requested Council to submit names of appointees to the Board of Adjustment.

Mayor Moyer stated that the appointments for the Library Building Committee are Doug Crouse, Council Members Minner, Porter, and Stubbs, Mayor Moyer, Linda Chick, the Library Director, and the City Manager. A MOTION was made by Council Member Minner, seconded by Council Member Bivans, to approve the appointments to the Library Building Committee as presented. Roll was called: 6 Yes, 0 No (Lahman – Yes, Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

City Council Comments

Council Member Bivans stated that the proclamation is good but earlier recognition is needed.

Council Member Bivans stated that a person has the right to vote how he or she desires on anything that comes before Council, and the announcement of the vote should accurately reflect the vote. The Council discussed salary scales before and that was not reflected in the discussion this evening.

Vice Mayor Lahman stated that she was told there has be specific reasons to abstain. The City Solicitor stated that he has taken the position that the only valid abstentions are when there is a conflict of interest or the Council Member did not have sufficient opportunity to prepare. To fulfill the function of representing citizens, the Council Member needs to vote yay or nay. The City Solicitor stated that he was not called upon to rule on the salary adjustments abstention. Mayor Moyer asked the City Solicitor for his opinion on Council Member Bivans abstention from the salary adjustments vote. The City Solicitor stated that based on the reasons Council Member Bivans gave, it would be a no vote. Council Member Bivans stated that approving the salary adjustments was a contradiction to what the Council said they were going to do. Mayor Moyer stated that it should be noted that the vote on the salary adjustments is four yes, one no, one abstain.

Executive Session

There was no Executive Session.

There being no further business, a MOTION was made by Vice Mayor Lahman, seconded by Council Member Coleman, to adjourn the City Council Meeting. The MOTION passed unanimously, and the meeting adjourned at 8:56 p.m.

Respectfully Submitted,

Kelly Blanchies
Clerk of Council