

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

**Public Comments**

Joseph Sepe stated that people are concerned about the vandalism that occurred Saturday night. A curfew may help prevent crimes. A petition has been signed in support of a curfew.

Robert Scott stated that City Council should consider changing Public Comments so that responses can be given to citizens with questions. Vice Mayor Lahman stated that it used to be that way, but people would come before City Council that could be helped by the Chief of Police or City Manager. The City Solicitor stated that discussing something that is not on the posted agenda is a violation of the Freedom of Information Act. Mr. Scott stated that he is not referring to any action being taken but rather replying to people that have questions. The City Solicitor stated that State law prohibits City Council from discussing anything that is not on the agenda.

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A meeting of the Harrington City Council was held on November 19, 2012 and was attended by the following: 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: Stacey Walls; Kelly Hull; Matthew Grabowski, DNREC; Jason Dean; Ed Hallock, Program Administrator for the Office of Drinking Water; Kahnne Jaker; Albert Biddle, Kent County Levy Court Planning Services; Dan McLaughlin; James Boone; Joseph Sepe; and Robert Scott.

Mayor Robert E. Price, Jr. was absent.

Vice Mayor Lahman called the meeting to order at 7:07 p.m.

The Pledge of Allegiance was given.

## **Public Hearing on City of Harrington's request to apply for funds under the Community Development Block Grant for 2013**

Albert Biddle stated that he is here regarding the Community Development Block Grant (CDBG). The Delaware State Housing Authority (DSHA) administers the program in Sussex County and Kent County (except Dover). There is approximately two million dollars available for eligible projects in that area. The City staff has been developing projects for the application. Primarily the projects are home repairs for owner-occupied houses and infrastructure for towns. The amount of available money is limited so effort is made to develop a quality application with a funding level that the DSHA would find acceptable. In the past Harrington has done sidewalks and curbing, drainage, street paving, water meter hook-ups, and housing rehabilitation projects.

The City Manager stated that the City is looking for people interested in the housing repair program. The Code Enforcement Officer has been attempting to contact home owners that may benefit from the program. Mr. Biddle stated that a list of eligible home owners establishes that there is a need.

Mr. Biddle stated that the City of Harrington has been fairly successful in receiving project funding in the past, although the Hanley Street sidewalk replacement project was not funded in FY 2012. A scaled back Hanley Street project may have a better chance of funding this year.

Mr. Biddle stated that housing repairs must be because of substandard conditions or building code issues and income limits must be met. Council Member Minner asked if building handicapped ramps are included in the program. Mr. Biddle stated that handicapped accessibility is done frequently.

Mr. Biddle stated that the State of Delaware has a 3% loan program that has higher income limits and can also be used by landlords.

## **Tax ditch reimbursement for John Wayne Hendricks**

The City Manager stated that Mr. Hendricks and Matthew Grabowski from DNREC are present. The City of Harrington agreed over fifteen years ago to pay for a tax ditch that runs through Mr. Hendricks' property. An error occurred when Kent County changed from a manual to an automated system, Mr. Hendricks' has inadvertently been receiving and paying the City's tax ditch bill. The request is to reimburse Mr. Hendricks for the \$876.96 that he has paid on the City's behalf.

Council Member Porter stated that on the advice of the City Solicitor, the City Council usually only reimburses for three years and not fifteen. The City Solicitor stated that it is entirely up to the City Council.

Matthew Grabowski stated that the City has paid the assessment since the ditch was formed in 1971. The assessment was increased in 1982 based on a request by the City of Harrington to improve drainage. Mr. Grabowski stated that Mr. Hendricks has paid the 2012 assessment, meaning he has paid for sixteen years for a total amount of \$876.96.

Council Member Bivans asked when the annual assessment went from \$31.50 to \$54.81. Mr. Grabowski stated that \$31.50 is the basis for cost distribution per acre; it is the way to arrive at the assessment base. The assessment base is \$1,370.25. The tax ditch assessment is then a percentage of the assessment base, also known as a warrant. Mr. Grabowski stated that he does not know if the warrant was increased between 1982 and 1997 meaning a different assessment was collected but from 1997 to present there has been no change in the warrant. The Kent County PRIDE system lists the amounts of taxes paid back to the mid-1990s.

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to reimburse John Wayne Hendricks for three years of the tax ditch assessment for a total amount of \$164.43.

Council Member Bivans stated that in a situation where there is documentation that the City is responsible for the bill and that Mr. Hendricks has paid it. The City should correct the problem and reimburse Mr. Hendricks in full.

Roll was called on the MOTION to reimburse John Wayne Hendricks for three years of the tax ditch assessment for a total amount of \$164.43: 3 Yes, 2 No (Bivans – No, Coleman – Yes, Minner – No, Porter – Yes, Stubbs – Yes). The MOTION passed by majority.

### **Messick's Manufactured Housing Community update from Office of Drinking Water and Cabbage Brown**

Vice Mayor Lahman stated that Cabbage Brown is not present at the meeting.

Ed Hallock stated that the Office of Drinking Water is responsible for enforcing the Safe Drinking Water Act in Delaware. Messick's Mobile Home Park is a miscellaneous public water system. A complaint was made by a resident, so the Office of Drinking Water did some testing and investigating. There are six wells there, and two were contaminated with e. coli; boil water notices were issued to residents in those parts of the park served by the two wells. The wells have been disinfected once or twice and bacteria are still being found in the water. The Office of Drinking Water will continue to monitor the situation.

Council Member Minner asked if it is known where the contamination came from. Mr. Hallock stated that it is unknown. Since those wells are not routinely

monitored, there is no way to know how long it has been there or the source. Typically sources of e. coli are failing septic systems or agricultural runoff.

The City Manager stated that there are other issues that need to be discussed between the City Solicitor and Cabbage Brown regarding the contract between the City and Messick's Manufactured Housing Community.

Mr. Hallock stated that the system will need to continue to be disinfected until the problem is corrected, that can take five or six times, and until all the bacteria is removed, the Office of Drinking Water will continue to monitor it.

Council Member Bivans asked when an investigation will be conducted into the source of the contamination. Mr. Hallock stated that with bacteria, it is difficult to determine the source. If they are on the City's sewer system, then it is not a septic issue. If the wells are not properly constructed or if the well caps are not on tightly, then contamination can occur.

The City Manager asked how the City can ensure that this does not happen again. Mr. Hallock stated that public water systems are monitored monthly and some of the mobile home parks will be monitored as community water systems. Smaller mobile home parks are only monitored based on complaints.

Council Member Minner asked if Messick's was being cooperative. Mr. Hallock replied yes although they are a little reluctant to continue to disinfect because it costs money each time. The Office of Drinking Water is only concerned with getting residents safe drinking water though.

Council Member Minner asked if there may come a point when the well is shut down. Mr. Hallock stated that they do not go to that level because having no water is worse than water with bacteria in it. The Office of Drinking Water has the authority to mandate that corrective action be taken and issue administrative penalties.

Vice Mayor Lahman stated that she is concerned because those are residents of Harrington but are not on the City's water system. Mr. Hallock stated that ideally they would tie into the City's water system. The City Manager stated that it would be very costly for the owners of the mobile home park but is something that will eventually have to be done. Mr. Hallock stated that the project would be eligible under the State Drinking Water Revolving Fund. It is a loan with principal forgiveness or negative interest.

Council Member Bivans asked what is being monitored. Mr. Hallock stated that in response to a complaint, the Office of Drinking water sampled the wells and found the contamination. Testing will continue until the problem is corrected. The two larger wells that serve the park will be viewed as community water systems.

Council Member Bivans asked what the risks are. Mr. Hallock stated that as long as residents that received the boil water notice take precautions, then there are no risks.

The City Manager asked to receive updates from the Office of Drinking Water since it is an issue involving Harrington residents. Vice Mayor Lahman stated that there is the possibility that the mobile home park may be part of the City's water system in the future. Mr. Hallock stated that the Office of Drinking Water recommendation would be that the City apply for the loan to tie in the mobile home park, because there has to be an entity that will pay back the loan.

The City Solicitor stated that he will try to have Cabbage Brown appear at the City Council Workshop on December 3, 2012.

## **Minutes**

### **October 15, 2012 City Council Meeting**

Council Member Porter stated the Code Enforcement Officer has done 339 inspections while the City Manager previously stated that there were 261 rental parcels. The City Manager stated that each parcel has multiple units. Council Member Porter asked how many rental units there are. The City Manager stated she believes there are over 700 but will check. Council Member Porter stated that he would like to know how many landlords live in town.

Council Member Bivans stated that the pothole that he discussed previously has been taken care of. The City Planner's report does not have an update for each project.

Council Member Stubbs asked if Daisy has completed their punch list. The City Manager stated that they met with the State and were going to close it out after that meeting, but there has not been an update since then. Council Member Stubbs stated that there were saw cuts that have been sealed with tar.

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to accept the October 15, 2012 City Council Meeting Minutes as presented. The MOTION passed unanimously.

### **November 5, 2012 City Council Workshop**

A MOTION was made by Council Member Stubbs, seconded by Council Member Porter, to accept the November 5, 2012 City Council Workshop Minutes. The MOTION passed unanimously.

## **November 5, 2012 City Council Special Meeting**

A MOTION was made by Council Member Minner, seconded by Council Member Porter, to accept the November 5, 2012 City Council Special Meeting Minutes as presented. The MOTION passed unanimously.

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

The Chief of Police stated that some vandalism occurred in the area of Third Street and Center Street; vehicle tires were slashed and property was damaged. A suspect has been arrested and is currently in custody because of another incident that occurred that evening. He was upset about an altercation that happened earlier.

The Chief of Police stated that he is not against a curfew, but the data did not support that crime was being committed by juveniles during the time that a curfew would be in effect. Statistics will be collected again to see if it has changed. In this isolated circumstance, a curfew would not have matter because the suspect is an adult.

The Chief of Police stated that our community has kids that are rowdy and disrespectful just like everywhere. It all starts at home, and unfortunately, some kids are not well disciplined and allowed to roam the streets. Officers patrol the streets heavily but do get busy, and people will hide when they see a marked police car if they are up to no good.

The Chief of Police stated that the victims were notified that the case had been solved. Unfortunately there is money coming out of the victims pockets to correct the damage. Restitution will be requested, but it can be difficult to collect. Victims can also apply for victim's compensation.

Vice Mayor Lahman stated that what bothers her most is that there was nothing to gain from damaging people's property.

The Chief of Police stated that it is important to have a police presence in the City. Officers do get tied up when there is a domestic incident or a defendant to process. That is the reality of police work. Officers have patrol assignments but also have to prioritize when calls come in. The Chief of Police stated that if residents see anything suspicious they should not hesitate to call 911; calls can be anonymous.

Council Member Porter stated that the budget is looked at every year to see if an additional police officer can be hired. If taxes are increased then additional police can be hired.

Council Member Minner stated that the Police Department and Officer Reed should be commended for their swift action. It was surprising that someone was arrested the next day. The Chief of Police stated that it is closure knowing who committed the crime but does not solve the problem that victims are still vandalized.

The Chief of Police stated that it would be good for citizens and the police to work together on crime prevention, including things like a neighborhood watch program. Residents should not hesitate to report anything suspicious.

Council Member Bivans asked who was working on the park. The Chief of Police stated that Mad Clay is the contractor.

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

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

Council Member Porter asked if the Code Enforcement Officer is doing rental inspections now. The City Manager stated that the majority of rental inspections have been conducted; there are problems getting some scheduled. There have been very few things that need to be changed.

Vice Mayor Lahman asked if the inspections are benefiting the landlords as well. The City Manager stated that the City requires smoke detectors in every bedroom, which the County does not, and that has been the biggest infraction and is easily fixed.

Council Member Bivans asked if on the Code Enforcement Officer's report under the Action column, the notices were initial notices. The City Manager stated that if it is closed then it is usually just one notice. Council Member Bivans stated that some lines indicate that the owner was spoken to and asked how the Council is supposed to tell if people are repeat offenders. The City Manager stated that the fact that the item is closed means that it was taken care of and if there was a second notice it would say second notice in the Action column. Council Member Bivans questioned the different initial date and completed date. The City Manager stated that the Code Enforcement Officer would not go back every day to check on the property; he probably gave the homeowner a certain amount of time to complete the work and went back to follow up after that.

Vice Mayor Lahman stated that the reports are for informational purposes to City Council, and it is the City Manager's job to make sure they are followed up on. Council Member Bivans stated that he would like to see more information in case it indicates the Code Enforcement Officer was out of line. Vice Mayor Lahman stated that any complaints would go through the City Manager. The City Manager

stated that she has not received any complaints like that about the Code Enforcement Officer.

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**

Council Member Porter asked if there was anything that sticks out in the Financial Report. The City Manager stated that the City is trending where it should around thirty-three percent; a lot of the revenue is above that and expenses below. She stated that she was a little concerned about the Kent County Sewer bill after the mega-storm Sandy. The last bill was a little higher, but the money spent connecting to Kent County Sewer probably saved the City from breaching the lagoons. The inflow and infiltration needs to be corrected to reduce the sewer bill.

Council Member Porter asked about the Fuelman bills. The City Manager stated that there were two new employees using an existing employees' pin number. The problem has been corrected.

Council Member Minner asked about the Combat Violent Crime line. The Chief of Police stated that it is an assessment that has been added to tickets; municipalities are allowed to use those funds for overtime or equipment. It is a grant that requires a separate nonbearing interest account.

Council Member Minner asked how many cats were caught under the trap, neuter, return program. The City Manager stated that ninety-eight cats have been captured, and trapping is suspended for the holidays. Vice Mayor Lahman asked how many feral cats there are overall. The City Manager replied that estimates are between three hundred and six hundred.

Council Member Bivans asked about a check detail that lists no amount. The Financial Director stated that the check was voided; there is a folder containing all the voided and cancelled checks for the audit.

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

### **Departmental Reports**

#### **Public Works**

Council Member Bivans asked about the project that says there will be paving on Liberty and Smith Streets. The City Manager stated that it

should be only Smith Street. The plans were approved by DeIDOT, and the ADA ramps are out to bid.

Council Member Stubbs asked about the list of black top patching. The City Manager stated that there have been issues in getting the black top to complete the work. Public Works has had to go as far south as Salisbury to get it.

### **Wastewater Treatment**

There was no report.

### **Library**

There were no questions.

### **Parks and Recreation**

There were no questions.

### **Fire and Ambulance**

There were no questions.

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

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

Council Member Porter asked what was happening with the Comprehensive Plan. The City Manager stated that she met with the City Planner and City Solicitor to discuss the problems with the Comprehensive Plan. The City Planner is working on revising it. The City Manager stated that she indicated in an email to the City Planner that there were numerous typographical and grammatical errors. Council Member Porter asked if the deadline would be met. The City Manager stated that she hopes it can be submitted to the State in January or February. The bulk of the work and research was done, but it did not tell the story of where Harrington was and wants to be. Vice Mayor Lahman asked if there will be an additional bill. The City Manager stated that she indicated to the City Planner that it was not a change in scope, it was an issue with the quality of the document, and the City should not be billed.

Council Member Bivans stated that having no updates on the Planning Projects in several months is unacceptable. The City Manager stated that there is no action on them for there to be an update. The plans have been dropped or put on

hold because the developers do not have the resources to move forward with them. Council Member Bivans stated that he would like to see the last date of action.

A MOTION was made by Council Member Porter, seconded by Council Member Coleman, to accept the City Planner's report as presented. The MOTION passed by majority (4 Yes, 1 No).

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

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

### **Old Business**

#### **Public Hearing**

#### **Ordinance 12-24 – Amending Chapter 120, Business Licenses**

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to suspend the full reading of Ordinance 12-24. The MOTION passed unanimously.

Robert Scott asked if the limits on yard sales were only for residents. The City Manager replied yes.

#### **Ordinance 12-25 – Amending Chapter 314, Rental Properties**

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to suspend the full reading of Ordinance 12-25. The MOTION passed unanimously.

There were no comments.

#### **Second Reading of Ordinance 12-24 – Amending Chapter 120, Business Licenses**

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to accept the second reading of Ordinance 12-24. The MOTION passed unanimously.

**Second Reading of Ordinance 12-25 – Amending Chapter 314, Rental Properties**

Council Member Porter asked if there was an update on offering the landlord training class. The Chief of Police stated that he has contacted the Attorney General's Office but has not heard back on when the next class will be. Council Member Porter asked if the ordinance can be later amended to make the landlord training class a requirement. The City Solicitor replied that it could be amended.

A MOTION was made by Council Member Porter, seconded by Council Member Coleman, to accept the second reading of Ordinance 12-25. Roll was called: 3 Yes, 2 No (Bivans – No, Coleman – Yes, Minner – No, Porter – Yes, Stubbs – Yes). The MOTION passed by majority.

**New Business**

**Resolution 12-R-07 – Supporting a turn lane from southbound DuPont Highway onto westbound Clark Street**

The Chief of Police asked that this item be placed on the agenda for the December 17, 2012 City Council Meeting.

**Resolution 12-R-08 – 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 Council Member Stubbs, seconded by Council Member Porter, to adopt Resolution 12-R-08. Roll was called: 5 Yes, 0 No (Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

**Resolution 12-R-09 – Supporting the goals of the Federal Fair Housing Law**

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to adopt Resolution 12-R-09. Roll was called: 5 Yes, 0 No (Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

**Resolution 12-R-10 – Authorizing the issuance of up to \$3,500,000 of general obligation bonds in order to finance costs associated with improvements to the municipal wastewater and water systems and establishing the time and place for a public hearing**

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to adopt Resolution 12-R-10. Roll was called: 5 Yes, 0 No (Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

### **Report of outstanding utility and tax receivables**

Council Member Porter asked if the names of those with delinquent accounts are posted. The City Manager replied that they will be posted on the website.

### **Utility usage report**

The City Manager stated that this report is included because meters are being installed, and it shows the progress. So far there are 1,081 meters installed. In December, all the meters will be read.

Council Member Porter asked what excess usage means. The City Manager stated that right now anyone that uses more than 20,000 gallons during a three month period is billed for excess usage. It does not mean anything for residents because they are billed a flat rate right now. Commercial properties are billed for excess usage, because their meters are read.

### **2013 holiday schedule**

A MOTION was made by Council Member Minner, seconded by Council Member Bivans to adopt the 2013 holiday schedule. Roll was called: 5 Yes, 0 No (Bivans – Yes, Coleman – Yes, Minner – Yes, Porter – Yes, Stubbs – Yes). The MOTION passed unanimously.

### **Executive Session**

There was no Executive Session.

There being no further business, a MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to adjourn the City Council Meeting. The MOTION passed unanimously, and the meeting adjourned at 8:37 pm.

Respectfully Submitted,

Kelly Blanchies  
Clerk of Council