

City of Harrington
MINUTES
City Council Meeting
January 22, 2013

Public Comments

There were no Public Comments.

A meeting of the Harrington City Council was held on January 22, 2013 and was attended by the following: Mayor Robert E. Price, Jr.; Vice Mayor Cheryl Lahman; Council Member Duane E. Bivans; 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; and Kelly Blanchies, Clerk of Council.

Also present: Tom Wilkes, Remington, Vernick, & Beach; Alan Moore, Public Works Supervisor; Christine Hayward, Library Director; Stacey Walls; and Matt Grabowski, DNREC.

Council Member Fonda Coleman was absent.

Mayor Price called the meeting to order at 7:09 p.m.

The Pledge of Allegiance was given.

Minutes

December 17, 2012 City Council Meeting

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Porter, to accept the December 17, 2012 City Council Meeting Minutes as presented. The MOTION passed unanimously.

January 7, 2013 City Council Workshop

Council Member Minner asked if the requested information on how Council Members are currently paid would be presented at the next workshop. The Clerk of Council stated that it will be on the next agenda.

A MOTION was made by Council Member Minner, seconded by Vice Mayor Lahman, to accept the January 7, 2013 City Council Workshop Minutes. The MOTION passed unanimously.

Police Chief's Report

The Chief of Police stated that Kenny Brode does a lot for the Police Department and is a good team player. At this time, we would like to recognize him and promote him to the rank of Lieutenant in the Harrington Police Department. Special order promotion to Lieutenant it is hereby ordered that effective January 22, 2013, Earl K. Brode is promoted to the rank of Lieutenant within the Harrington Police Department. Lt. Brode will inherit all responsibilities that go along with the rank. Mayor Price administered the oath of honor.

Council Member Bivans asked if the stage next to the Police Department would be an enclosed building. The Chief of Police stated that it would be open like a gazebo.

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

City Manager's Report

Council Member Bivans asked about the Delaware State Fair bill. The City Manager stated that the bill has been turned over to the City Solicitor for legal action.

Council Member Bivans asked about the asbestos removal prior to the demolition of 45 Clark Street. The City Manager stated that the demolition was bid knowing that the asbestos removal would be a separate contract because only certain companies are authorized to remove asbestos. Once the costs are known for the asbestos removal, they will be presented to Council, and the demolition rebid. Council Member Bivans asked for clarification on non-friable asbestos. The City Manager stated that the building will not have to be tented because the asbestos is in products that are solid, but it still has to be removed properly so that it does not become airborne. A company has been found at a reasonable price to do the spec work and bid the asbestos removal.

Council Member Minner asked what the outcome of the meeting with Kent County about impact fees was. The City Manager stated that Andy Riggi wanted to go over what the contract meant and specifically about the City collecting impact fees on behalf of the County. The proposed ordinances to reference the County's method of calculating impact fees will make that streamlined.

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

Financial Report

Council Member Bivans stated that a check was issued to Gale and asked if that is a company or individual. Mayor Price stated that is a company name.

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

Departmental Reports

Public Works

Council Member Bivans asked if the list of potholes are ones that have been fixed. The Public Works Supervisor stated that they have been patched.

Council Member Minner asked how many water meters are left to install. The Public Works Supervisor stated that there are three 5/8" meters that need pits and the 2" meters are left to do. The City Manager stated that she asked the Public Works Supervisor to fix any problems with pits so that they will not have to go back later. The Public Works Supervisor stated that there are 2" meters that are in-line without pits or shut-off valves.

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 Bivans, to accept the Departmental Reports as presented. The MOTION passed unanimously.

City Planner's Report

Council Member Stubbs asked about the Comprehensive Plan. The City Manager stated that the report indicates that all chapters have been submitted, but the last chapter was not received until January 15, 2013. She stated that she is reviewing them and asked more questions to the City Planner. The City

Solicitor will also review them. The City Manager stated that she does not want to send something out that does not represent Harrington fairly. It is taking extra time, but it is worth it since it is an important document that determines how the City will proceed. Council Member Minner asked when the goal to have the Comprehensive Plan completed is. The City Manager stated by the end of February so that it is completely done in the spring. She stated that she would like to have another meeting with the Planning Commission, because there have been significant changes. Vice Mayor Lahman stated that she appreciates the attention to detail that the City Manager is giving the Comprehensive Plan.

Council Member Bivans stated that he appreciates the additional dates on the project updates but is concerned about economic growth and the lack of updates; the City Planner may need to contact the managers of the projects. The City Solicitor stated that a lot is driven by the economy, because the owners cannot get the funding to move forward. There is nothing the City has done to prevent or slow down the projects moving forward. Council Member Bivans stated that the City needs to move forward, and the planning projects are stagnant without a detailed explanation. The City Manager stated that the City Planner is not responsible for economic development but rather to manage the growth that comes. The State and County have economic development directors that the City can work with.

Council Member Minner asked if a site plan approval has an expiration. The City Solicitor stated that he believes that there is. Council Member Bivans stated that if nothing is going to happen with the project, then it should be removed and other options explored.

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

City Engineer's Report

Council Member Stubbs asked for the status on Daisy Construction. Tom Wilkes stated that an agreement has been negotiated with Daisy outside of arbitration for a final payment.

Council Member Minner asked what building the HVAC improvement grant covered. The City Manager stated the Parks and Recreation building and City Hall. Council Member Minner stated that it is never warm in the parents' waiting room. The Public Works Supervisor stated that he believes the HVAC system only includes the offices. The City Manager stated that Council approved a heater for the large room but the amount that was budgeted did not include the line that would have to be run from Chesapeake Utilities. That is an additional \$8,000 to the \$6,000 that was budgeted; the salesperson from Chesapeake

Utilities is attempting to have that lowered. The pipe has to be run down the street to get to the building.

Vice Mayor Lahman stated that the cost to heat the big room also should be considered; the budget will be blown.

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

Old Business

Tax ditch reimbursement for John Wayne Hendricks

The City Solicitor stated that this issue came before Council before, and there has been some discussion about revisiting it. That would require a motion to reconsider from either Council Member Coleman, Porter, or Stubbs since they were in the majority. That motion does not commit them to vote a certain way on the matter.

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to reconsider the vote on the tax ditch reimbursement for John Wayne Hendricks. The MOTION passed unanimously.

The City Manager stated that due to a clerical error that occurred when the DNREC Division of Soil and Water switched from manual bill issuing to computer generated. There is a tax ditch that runs along Mr. Hendricks property, and it was assigned to him mistakenly.

Matt Grabowski stated that prior to 1996 manual bills were issued and per the original court order for the Bright Haines Tax Ditch, the City of Harrington is to pay for the area in the City limits. The City does not own any property along the ditch but pays for the ditch on behalf of the citizens in that area. Mr. Hendricks has been paying the tax wrongfully since 1997. The error was corrected this year. The total amount that Mr. Hendricks paid was \$876.96, and City Council previously voted to reimburse him for the last 3 years in the amount of \$164.43. The remaining amount is \$712.53. Mr. Hendricks is in the middle because it was DNREC's mistake and the City's bill; he was just paying the tax bill that he received and is still owed \$712.53. Mr. Grabowski asked that Mr. Hendricks be reimbursed for the full amount.

The City Manager stated that Council asked what the legal responsibility was, but there is an obligation to do the right thing. This was the City's responsibility to pay but did not through no fault of the City. Council needs

to consider if they would like to be refunded the money if they were in that position.

Vice Mayor Lahman thanked Council Member Porter for bringing this issue back for discussion. Mayor Price stated that it is fair to pay the remaining balance.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Bivans, to reimburse John Wayne Hendricks for the full amount of the tax ditch bill and pay the remaining balance of \$712.53. The MOTION passed unanimously.

Messick's Manufactured Housing Community update

The City Solicitor stated that his phone calls to Cubbage Brown have not been returned. He asked how aggressive Council would like to be. The water system update will cost \$500,000 to \$600,000.

The City Manager stated that the Office of Drinking Water met with Messick's and the well driller on January 4, 2012 and found that they are using the proper method to disinfect the wells; the wells were chlorinated again last week and will be sampled again this week. The levels of bacteria have been steadily declining.

The City Solicitor stated that if the City is going to bring suit against Messick's, it would have to be by early November.

The City Manager stated that the mobile home park may be eligible for principal forgiveness or low interest loans from the Office of Drinking Water. Tom Wilkes agreed.

The City Solicitor stated that there seemed to be a consensus from Council to give the mobile home park more time to comply. He asked if they do not do the work and the City has to, then should a lien be placed on the property. A lien would impact their ability to obtain financing to do the work.

Council Member Porter stated that he would like to extend the deadline for Messick's. The City Manager stated that an agreement could be signed to extend the current agreement. The current agreement states that the water system must be brought up to the City's standards once Mr. Messick was no longer the owner. Mayor Price asked if a letter should be sent to Mr. Brown stating that the Council is considering what the next step should be. The City Solicitor stated that he will follow up with Mr. Brown but needs to know how firm of a position to take. The City Manager stated that the City does not want the expense of updating the water

pipes. The City Solicitor stated that the people that live there are citizens of Harrington, and the City should not have annexed them unless the City was willing to extend the water lines to them.

Council Member Bivans asked if the Office of Drinking Water could force the water system upgrades because of the contamination. The City Solicitor stated that it is a small water system. Council Member Bivans asked how many people would be affected once connected to the City. The City Manager stated that the City would not connect to Messick's wells; anyone who is annexed has to pay to connect to the City's system. The Public Works Supervisor stated that water lines run on both sides of the mobile home park, so they would just need to upgrade the lines in the park and connect to the City's mains. To get fire protection in the mobile home park, the lines would need to be upgraded.

Council Member Porter stated that the City Solicitor should follow through with Mr. Brown to see what he plans to do. The City Solicitor asked how much longer they should be given to upgrade their system to City standards. Council Member Porter stated that Mr. Brown should come back to another meeting.

Council Member Minner asked if the name on the property has officially been changed. The City Solicitor stated that it may be an artificial entity that owns the park, but Mr. Messick is no longer the majority shareholder and that started the three year time limit. Vice Mayor Lahman asked if there is money in the estate, can it legally be forced to be spent on the water system. The City Solicitor stated that the City could get a judgment for what the City Engineer and Public Works personnel estimate that it will cost to do the work, but it would be difficult to collect.

Council Member Bivans asked if the six month timeframe for completing the work could be amended. The City Solicitor stated that it could be, but the problem is funding the project. Council Member Bivans stated that Mr. Brown should tell the Council how much time he needs for the project. The City Solicitor stated that he would not extend the six month limit for completing the work, because the time that the mobile home park will torn up from the trenching should be limited. He stated that the work should have been done by now, and the mobile home park should be told to complete the upgrade within a certain time. Completing the construction within six months of beginning it is doable, but they have to have the money before they start the project.

The City Solicitor stated that he would like this item on the March Workshop to give him time to talk to Cabbage Brown. Council Member Minner asked the City Manager to get the loan information to Mr. Brown.

New Business

Library needs assessment

Mayor Price stated that John Phillos from the Delaware Division of Libraries made a presentation at the January 7, 2013 Workshop on the library needs assessment.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Minner, to authorize the City staff to proceed with a library needs assessment. The MOTION passed unanimously.

Appointment of Election Board and Election Workers

Mayor Price stated that he would like to appoint Marlene Jarrell, Joan Knaub, and Jean Miller to the Election Board, Viva Poor to the position of Inspector and Joyce Dyer to the position of Clerk.

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to confirm the appointments of the Election Board and election workers as presented. The MOTION passed unanimously.

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

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to suspend the entire reading of Ordinance 13-01. The MOTION passed unanimously.

The City Manager stated that the ordinance is the same that what the City already has but refers to the County's ordinance for the method of calculating EDUs. The City will not have to update its ordinance if the County changes its ordinance.

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to accept the first reading of Ordinance 13-01. The MOTION passed unanimously.

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

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to suspend the entire reading of Ordinance 13-02. The MOTION passed unanimously.

The City Manager stated that this ordinance refers to the County for water EDU calculations the same way as the sewer EDUs.

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to accept the first reading of Ordinance 13-02. The MOTION passed unanimously.

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

The City Solicitor stated that this ordinance was discussed at the last workshop. The only minor change was that the failure of the property owner to initiate and prosecute with effect eviction proceedings following notification by the City that the terms of the lease addendum have been violated are grounds for revoking the rental license.

Mayor Price asked how the landlord training class was. The Chief of Police stated that it went well; there were sixteen attendees.

Council Member Minner asked about having an incentive for those that attend the class. Council Member Porter stated that Council can look at budget time to see if a discount on the license can be offered for property owners that take the landlord training class.

The Chief of Police asked about another agency offering the class. The City Solicitor stated that the class just has to be approved by the Police Department and can be provided by another agency. The ordinance also includes option of a refresher course, instead of an all-day class.

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to accept the first reading of Ordinance 13-03. The MOTION passed unanimously.

Resolution 13-R-01 – Establishing a 457 Deferred Compensation Plan through ICMA Retirement Corporation

The City Manager stated that the ICMA Retirement Corporation sponsors a 457 deferred compensation plan that is similar to a 401 savings plan. It allows employees to save pretax money up to a certain limit for retirement. It does not cost the City any money, because the fees are paid out of the plan assets. It is a reputable organization that both the City of Dover and Kent County use.

Vice Mayor Lahman asked if there is a minimal contribution. The City Manager stated that she believes it is per pay.

Council Member Minner stated that it looks like a lot of work for the City. The City Manager stated that it is just administered by the City; the City would withhold the money and send it to ICMA. Council Member Minner asked who would be handling reconciling the records. The City Manager stated that it would be the Financial Director or the employee that handles payroll.

Vice Mayor Lahman stated that through the State, the employee is responsible for managing their own account. The City Manager stated that a representative will come to the City, and accounts can be managed online by the employee.

Vice Mayor Lahman stated that ADP should have a report to reconcile with the check that is being sent to ICMA just like life insurance.

A MOTION was made by Council Member Minner, seconded by Vice Mayor Lahman, to adopt Resolution 13-R-01. The MOTION passed unanimously.

Executive Session

Personnel matter

A MOTION was made by Council Member Porter, seconded by Council Member Minner, to recess the City Council Meeting for an Executive Session to discuss a personnel matter. The MOTION passed unanimously.

The City Council Meeting recessed at 8:20 pm.

Mayor Price called the City Council Meeting back to order at 8:37 pm. Those still present: Mayor Robert E. Price, Jr.; Vice Mayor Cheryl Lahman; Council Member Duane E. Bivans; Council Member Amy Minner; Council Member Wayne Porter; Council Member Kenneth Stubbs; William Pepper, City Solicitor; and Teresa Tieman, City Manager.

There being no further business, a MOTION was made by Vice Mayor Lahman, 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