

**City of Harrington**  
**MINUTES**  
**City Council Workshop**  
**February 4, 2013**

A workshop with the Harrington City Council was held on February 4, 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; William Pepper, City Solicitor; Teresa Tieman, City Manager; and Kelly Blanchies, Clerk of Council.

Keith Shyers, Deputy Chief of Police, entered the meeting at 6:52 pm.

Mayor Price called the meeting to order at 6:30 p.m.

The Pledge of Allegiance was given.

**Budget & Finance Committee**

**Council Member pay**

Vice Mayor Lahman stated that in 2005 the Council salaries per meeting were increased to \$50.00 per meeting; the budget line was also increased.

Mayor Price stated that the Council Member pay should be in writing and what constitutes a meeting defined so that it is clear. It can be reviewed with the budget process.

Vice Mayor Lahman asked in what form the policy should be adopted. The City Solicitor stated that it can be adopted formally with an ordinance or as informally as a policy. It should be spelled out how the pay is calculated.

Vice Mayor Lahman asked how the current practice was reached. Council Member Stubbs asked if it was extracted from the minutes of the meeting. The City Manager stated that the issue was discussed at the June 13, 2005 Budget and Finance Committee Meeting, and the recommendation was to increase Council salaries from \$35.00 per meeting to \$50.00 per meeting.

Vice Mayor Lahman asked how it was determined what counts as a meeting. The City Manager stated that was not in the minutes; it was information that was passed from one Clerk of Council to the next.

Council Member Bivans stated that the recommendation from the June 13, 2005 Budget and Finance Committee was to review Council pay annually and that has not been done. The City Manager stated that Council pay was adopted by resolution with the budget. Vice Mayor Lahman stated that every line of the budget is reviewed. The City Manager stated that the budget for Council pay in previous years was more than was being used, so the budgeted amount was reduced with the latest budget.

Council Member Bivans stated that unless there are participants during a public hearing, Council Member should not be paid for the public hearing. Vice Mayor Lahman asked what difference it makes if the public participates or not. Council Member Stubbs stated that Council has to make time for the public hearing. Council Member Minner stated that the City Council is already here. Council Member Bivans stated that the City Council is already here, if no one speaks at the public hearing, then the citizens have not benefited. It is a way for Council to give back.

Vice Mayor Lahman stated that the salary spending has gone down. Mayor Price stated that the meetings have been streamlined. Council Member Bivans stated that it is not streamlined if it is moved to another day; there was a Budget and Finance Committee Meeting last week, typically that would be during a workshop. Mayor Price stated that before there were two meetings a month, sometimes a workshop, and at least four or five other meetings a month. The committee meetings were combined into a workshop to bring the number of meetings a month to three and now there are only two meetings a month.

Vice Mayor Lahman stated that at this point, the policy needs to be in writing, and the budgeted amount for this year is already set. Council Member Porter asked that the recommendation be made for just the Budget and Finance Committee to establish a policy. Vice Mayor Lahman stated that the issue is already in committee. The City Solicitor stated that this is a committee meeting. Council Member Porter stated that he means a separate Budget and Finance Committee meeting. Council Member Bivans stated that means Council Member Porter does not want him at the meeting. Council Member Porter stated that anyone is welcome at any committee meeting. Mayor Price stated that approval has to come from the full Council.

Vice Mayor Lahman asked if anyone wants to make any changes. Council Member Bivans stated that he believes the idea is to have a written policy that people can look at and understand. Vice Mayor Lahman stated that there should be a written policy.

Council Member Bivans asked if frequency of pay would be included since employees are paid every two weeks and Council Members only quarterly.

Vice Mayor Lahman stated that she would like to look at frequency of pay at budget time.

Council Member Minner stated that she believes that City Council should be paid a flat \$50.00 fee per night rather than per meeting. Council Member Stubbs stated that the rate would have to be raised then if that is the case.

Council Member Minner suggested considering at budget time a yearly salary for Council that could be prorated for the percentage of meetings attended. The City Manager stated that the City of Dover has a salary for the Mayor and City Council. The City Solicitor stated that a salary recognizes that Council Members put more time in than just the time spent at the meetings. The Levy Court Commissioners receive a flat salary. There is a safeguard in the Charter that if a Council Member misses three consecutive meetings then they are no longer on Council. Vice Mayor Lahman stated that additional time is spent talking to constituents.

Mayor Price asked what the salaries are for Dover Council Members. The City Manager stated \$8,000.00 to \$9,000.00, but the population is 35,000 people. Council Member Bivans stated that he would not base the salary on population but rather need and commitment. Just because it is a small town, it does not mean that there are not the same concerns. Vice Mayor Lahman stated that there are more employees working to resolve issues in a bigger city.

Council Member Minner stated that Laurel has about the same population as Harrington, and the Council earns \$960.00 per year, and the Mayor earns \$1,920.00 per year. Felton has a maximum of eighteen meetings per year, and Council Members earn \$80.00 per meeting, and the Mayor \$100.00 per meeting.

Vice Mayor Lahman stated that she questions the public hearings, because there can be multiple public hearings in a night. The City Solicitor stated that public hearings used to be before the meeting, but no one would come, and no other municipality has public hearings outside of a regular meeting, because there is no ability to have dialogue.

Keith Shyers, Deputy Chief of Police, entered the meeting.

Mayor Price asked if the municipalities with a base rate pay anything extra like benefits. The City Manager stated that the Mayor in Dover gets \$45,000.00 and a \$5,000.00 expense account and benefits.

Council Member Bivans stated that he would keep the Executive Session as a separate meeting because a lot of energy can go into an Executive Session.

The City Manager stated that the current policy can be presented at the next City Council meeting, and then other ideas can be entertained at the budget workshops. Vice Mayor Lahman asked if Council would have to vote to make it a policy or if just having it in writing would make it policy. The City Solicitor replied that policies need to be voted on.

### **Sale of assets**

The City Manager stated that the items are from the laboratory at the wastewater treatment plant. Remington, Vernick, and Beach met with Hans Medlarz from Kent County and the City Manager to review the future of the wastewater treatment plant. At that meeting, Mr. Medlarz expressed interest in the equipment and made a low and higher offer. Tom Wilkes was in favor of accepting the high offer. The City Manager stated that since the City does not have a policy on the disposal of assets, she wanted to ask Council's permission. The Finance Director researched when the assets were acquired, and the equipment is fairly old but in decent condition. The rest of the treatment plant equipment will probably be sold through GovDeals.com.

The City Manager stated that the City and County are unsure if the equipment works. Council Member Minner asked if the equipment is being sold as is. The City Manager replied yes.

The City Manager stated that the City has an outstanding bill of \$1,000.00 from the County. She would like the County to send a bill for that and then pay for the equipment.

The City Manager stated that Tom Wilkes and the County both said that the disposal of the buffer reagents would be costly. She recommends telling the County that they have to take them as part of the sale of the equipment.

Council Member Minner asked if the money would go back into the CIP. The City Manager replied yes.

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

The Deputy Chief of Police stated that this car would be part of the five year fleet as a 2013 even though the car is a 2012 model. Three bids were received for the striping. The total cost, including deducting the sale of the

2007 Crown Vic, would be \$24,960.00. It would be paid for from the DEA funds.

### **Update on 45 Clark Street**

The City Manager stated that the building does have asbestos in it, and the costs are becoming more than previously discussed. There has been a prebid meeting, and the bid will be awarded on February 12, 2013. The City contracted with Compliance Environmental to write the specs and manage the bidding process. The asbestos removal work will be on February 18, 2013. The bid opening for the demolition of the building will be on February 28, 2013 with work to begin March 15, 2013 and be completed by March 31, 2013. Compliance Environmental estimates the cost to be under \$25,000.00 but a sealed bid was still done. The building is so dangerous that they believe that it will have to be stabilized to remove the asbestos. There is talk about waiting until the demolition is done to take care of the roof shingles.

The City Manager stated that the demolition bid was changed because the Chief of Police indicated that he would assist with traffic control. The low bid last time was rejected because that bidder had coordinated traffic control with the Police Department, and no other bidder was aware of that option. The sealed bids may come in above \$25,000.00 because of the location and situation.

Vice Mayor Lahman asked how much the City paid for the building. The City Solicitor stated that it was essentially the County taxes. Vice Mayor Lahman stated that she would like to know the total cost involved. The City Solicitor stated that the City bought it because of the safety issue.

Council Member Porter asked where the money would come from. The City Manager stated that her recommendation would be to take it from the excess fund balance.

Council Member Minner asked if the building is collapsing inside. The City Manager stated that the floors are not stable. The Deputy Chief of Police stated that there had been squatters there, the police officers had to go inside, and the floors were very bad.

Council Member Bivans asked if the structure is concrete. The City Manager stated that it is frame with stucco. Council Member Bivans asked if it would be more cost effective to remove the asbestos and have the fire department do a controlled burn. The City Solicitor stated that an ordinance was passed four or five years ago prohibiting that in the City.

The City Manager stated that even if the City had not purchased the building, it would still need to be demolished. It would be a long, drawn-out process to try to

have the owners demolish it, and the City would have had to pay for it anyway and try to collect the money.

Council Member Minner asked who deemed the building unsafe and stated that with the referendum coming up, she is concerned about spending unbudgeted money. Vice Mayor Lahman stated that the City has many issues to consider, not only water and sewer related ones. The City Manager stated that the Building Code Inspector stated that the building is unsafe; he can issue a report, but it will cost additional money for that. The City Solicitor stated that Remington, Vernick, and Beach already issued a report about the building several years ago. The City Manager stated that she heard at some planning meetings to consider what needs to be done, and this building needs to come down. There is an obligation to the community to remove an unsafe building. It is a lot of money, but that is why money is placed in reserve funds.

Vice Mayor Lahman asked how much a corner lot would be worth. The City Manager stated that at some point, the City will have it appraised. It is up to the Council if the property will be sold or used as a park. There are more than safety issues with the property because it is the gateway into Harrington, and it is an eyesore. Council Member Minner stated that the City's sign can be moved there so that everyone can see it.

Council Member Minner asked if the City would be covered under the demolition contractor's liability insurance. The City Manager stated that the City has liability insurance on the property, and the contractor also has to show proof of insurance.

### **DNREC administrative penalty assessment**

The City Manager stated that in May of 2010 the City was issued an administrative penalty of \$119,760.00 for violating its wastewater sewage treatment plant's NPDES permit. The amount is now \$137,724.00 with interest penalties. The City was also assessed a penalty for estimated costs in the amount of \$17,964.00, which the City has paid.

The City Manager stated that the City has been working with DNREC to reach a settlement of the fine. In October of 2012, a meeting with DNREC was held, a plan approved by City Council, and a letter sent to DNREC outlining all the things the City has done to make things right. On January 28, 2013, a response was received from DNREC offering to forgive \$100,000.00 of the fine contingent upon Harrington spending \$37,724.00 for remediation of the wastewater treatment facility discharge area at Brown's Branch, exclusive of the costs for engineering and development, and surrendering of the City's NPDES permit. The City has thirty days from January 28, 2013 to submit a plan to DNREC or the entire penalty will become due.

The City Manager stated that she recommends accepting the offer. If the City continues to fight the fine, then more legal and engineering costs will be incurred. It will be a benefit to the environment, and DNREC did issue a credit of \$100,000.00.

Council Member Stubbs stated that this issue goes back to inflow and infiltration. There was an exceptionally wet season in 2010. The City Manager stated that if the City had not connected to the force main, then there would have been another breach and fine after Hurricane Sandy.

Council Member Minner asked about the plan for closing the lagoons. The City Manager stated that it is a separate issue. The fine is because the City did not do what it should have to prevent the lagoon breach. The City also has to submit a plan to properly close the lagoons; DNREC wanted it done one way, but the City wants to submit a plan to close them another way. Some testing is being done now, because the lagoons have never properly been cleaned out.

Vice Mayor Lahman stated that the City paid \$17,964.00 in DNREC personnel costs and feels that should be enough. Council Member Stubbs stated that Millsboro was also fined at the same time as Harrington. To not be fined, they had to go into detail as to how they would prevent it from ever happening again.

Mayor Price stated that DNREC was receptive at the meeting. The City Solicitor stated that he thought so as well until the letter was received.

Vice Mayor Lahman stated that she thinks the City has done everything it can to prevent a breach from happening again. Council Member Stubbs stated that DNREC is trying to make a point. The City Manager stated that the bond referendum is so important to remediate inflow and infiltration.

Council Member Minner asked what work DNREC would like done. The City Manager stated that they would like stone placed around the surface discharge area and the trough returned to its natural state. Vice Mayor Lahman asked if that was County property. The City Manager stated that it is City property as is the force main.

Vice Mayor Lahman stated that the City has spent a lot of money connecting to the County sewer system. Mayor Price stated that DNREC will never eliminate the fine. The City Solicitor stated that the City would spend have to spend money to take care of the outfall anyway. Council Member Stubbs stated that he believes there is no more room for negotiations.

Vice Mayor Lahman asked if there was a time limit on finishing the project. The City Manager stated that DNREC did not put a limit on that as long as the plan is submitted in thirty days. Vice Mayor Lahman suggested taking half of the money from the current fiscal year and half from the next. By this time next year, the

project would be done. Council Member Stubbs stated that it would probably cost more to do it in phases. The City Manager stated that the funds are available in the sewer escrow account, so it would probably be better to get the project done.

Council Member Porter asked what about the status of the litigation with the Delaware State Fair sewer bill. The City Solicitor stated that a lien would be placed. They have not communicated with the City.

Mayor Price stated that all of tonight's agenda items will appear on the agenda for the regular Council meeting for action.

There being no further business, the Council Workshop adjourned at 7:30 p.m.

Respectfully Submitted,

Kelly Blanchies  
Clerk of Council