

City of Harrington
MINUTES
City Council Workshop
March 4, 2013

A workshop with the Harrington City Council was held on March 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; Keith Shyers, Deputy Chief of Police; William Pepper, City Solicitor; Teresa Tieman, City Manager; and Kelly Blanchies, Clerk of Council.

Also in attendance: Tom Wilkes, Remington, Vernick, and Beach, and Anthony Moyer.

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

The Pledge of Allegiance was given.

Messick's Manufactured Housing Community update

The City Solicitor stated that he spoke with Cabbage Brown about two weeks ago; he was going to meet with bankers about financing. It is going to be a difficult situation. They do not have the money to do the water line improvement work and neither does the City. The City would have to front the money, and if the City sued the mobile home park, then it would end up owning it.

Council Member Bivans stated that he believes the Office of Drinking Water should be more aggressive about correcting the bacteria problem. The City Manager stated that she believes the Office of Drinking Water will require the water system to be chlorinated on a regular basis and will require a water treatment plant operator to monitor the wells.

Mayor Price stated that there is a responsibility of the legislatures that cover that area to pressure the Department of Health and Social Services on behalf of those citizens. Senator Gary Simpson may not be aware of the situation because he was having health issues when this problem came up. Mayor Price stated that he recommended to residents in the mobile home park to contact their state representatives.

Vice Mayor Lahman stated that restaurants have strict restrictions. The City Solicitor stated that the Office of Drinking Water does not know how to handle a small operator. Frederica had a similar problem a few years ago and were required to get water buffalos. Dover also had issues, which led to chlorination and the brown water problem for awhile.

Mayor Price stated that he will contact Senator Simpson. Vice Mayor Lahman stated that someone at City Hall should be in constant contact and call the Office of Drinking Water once or twice a week. Council Member Minner stated that the City should put an effort into getting the problem fixed because those residents are citizens. The City Manager stated that a letter can be sent on behalf of the Mayor and Council.

Council Member Minner asked if anything could be done with the County about the sewers there. The City Manager replied that Messick's is part of the City's sewer system.

Water and wastewater projects

The City Manager stated that she wanted to see what Council would like to do with the projects since the referendum failed. The City Manager stated that the feedback that she received was that people did not understand the projects, their importance, and the effect on rates; there was an unknown factor with the rates because of the water meter installation. Mayor Price stated that he heard that there was misinformation that made people not understand the project.

Vice Mayor Lahman asked for an estimate of the total cost to correct the inflow and infiltration (I & I) problems in quadrants one and two. The City Manager stated one million dollars (\$1,000,000). Vice Mayor Lahman stated that the City can borrow up to five hundred thousand dollars (\$500,000). The City Manager stated that the debt service on that would be approximately one hundred eight thousand dollars (\$108,000) per year, because that money has to be paid back within five years. Vice Mayor Lahman stated that she reviewed the cash summary statement, and the City has been good stewards of the City's money. She suggested borrowing what can reasonable be paid back and use some money that has been placed in funds to fix the problems. Council Member Porter stated that the extra savings on the Kent County sewer treatment bill can be used to pay for the debt.

Mayor Price stated that the misinformation did not do the citizens a service, because in the long run tough decisions have to be made. Vice Mayor Lahman stated that the users will have to pay for the I & I either through the increased cost for Kent County to treat clean water or by paying to fix the problems.

The City Manager stated that the City could reeducate people and hold another referendum; the next loans from the State would be due in August. If another referendum is held, it should be after the election, because it is so important for the City that it should not become political fodder as part of the election. Another option is to pay as you go, which is not really good financial sense, because you are asking the people that live in the town now to pay for something in five years that will last the next fifty years. The loans applied for were through the state revolving loan fund. There are loans through the USDA, but they are more

expensive and take longer to get. The City could refinance some of its debt; many of the City's loans are above three percent. Preliminarily, if those debts were refinanced then the City could probably get those projects done for a little more than what is currently being paid in debt service per year. That would still require a referendum which could still fail.

Vice Mayor Lahman stated that the Charter Review Committee met and looked at the section on borrowing. That section was last revised about twenty-five years ago. Five hundred thousand (\$500,000) is really inadequate for these times. The City can only borrow one-sixth of its three million dollar (\$3,000,000) budget. It is costing money every month that the projects go undone, and the Council has been looking at the projects for years. The rates are so low that it is a good time to borrow money. Mayor Price stated that it is a good time to refinance, especially because of the City's good relationship with the USDA. Council Member Porter stated that the City has money saved and can use that to get the projects started while the City Manager arranges a loan.

The City Manager stated that another consideration is closing the lagoons, which was not included in the force main project money. Some testing was done, because the plan is to close the lagoons in place and declare the area a landfill. Tom Wilkes stated that he collected soil samples from the interior berm of the lagoons. There is a clay liner. The sludge is heavy and would be costly to remove, and it has not caused any environmental impact. The plan is to bring material to bind the sludge in stabilizers and cover it over. DNREC is not necessarily opposed to that but would like some environmental controls in place like monitoring ground water. The City Manager stated that even leaving the lagoons in place will cost about eight hundred thousand dollars (\$800,000).

Vice Mayor Lahman stated that there was a sludge removal program in place. Mr. Wilkes stated that there are different kinds of sludge. There was sludge from the digester which was sent a couple times a week to Kent County.

Vice Mayor Lahman asked how long DNREC has given the City to close the lagoons. Mr. Wilkes stated that there are some provisions that those lagoons can be closed over time. It is such a large project that it will take a long time anyway. If the City shows action and improvement, then they will not say it needs to be done in a certain period of time. Vice Mayor Lahman stated that project needs to be done but is not a priority, because it is not costing the City money.

Council Member Porter asked what the State's reaction was to the failed referendum. The City Manager stated that the administrators at the State were concerned, said they would help in any way they could, and asked to be kept informed. Council Member Porter stated that all municipalities have sewer and water issues. The City Manager stated that she was informed that there were only ever three municipalities that had to return money.

Council Member Bivans suggested reeducating people about the need for the projects and using some of the available money for the projects while informing the public of the total cost and how much is being financed for the projects. The City Manager stated that to reeducate people, representatives from the City along with Council Members will have to go to civic organizations and churches to make presentations. Council Member Bivans stated that State representatives should be included as well to offer support. The City Manager stated that public meetings were held regarding the projects with very little turn out. Council Member Bivans stated that those meetings did not list the pros and cons and explain what would happen if the projects are not completed. Vice Mayor Lahman stated that people that rent are not here for the long term and would not want a rate increase.

Mayor Price stated that the City can talk with the USDA, look at cash flow, and come up with the cost of some options. Vice Mayor Lahman stated that the Council should set deadlines for itself, because the City has been talking about these projects for ten years and something always comes up. The City Manager stated that a two inch water main on Route 13 is a safety hazard, and the City really needs to talk to the firemen and civic groups to get them on board. These are not optional projects. Council Member Minner suggested appearing on WBOC to get the word out.

Delaware State Fair wastewater contract

Council Member Porter asked if the Delaware State Fair has paid their bill. The City Manager replied no.

The City Manager stated that three agreements have been drafted with the Delaware State Fair, dated in 1996, 1999, and 2006. Council Member Porter stated that it was a simple agreement. The President of the Fair came to Council and said that there was a contract and that was what they were going to go by when the citizens of Harrington were getting ripped off. The City tried to redo the contract and was told there was a contract in place. Now they have to pay for at least 80,000 gallons of usage. The City Solicitor stated that they had expansion plans in 2005/2006 and wanted to be assured that the City could handle 90,000 gallons a day. The Fair prebought EDUs; the City was in a crunch as to how many EDUs it could handle; they wanted to be able to meet their expansion plans. They guaranteed to use at least 80,000 gallons a day or pay for 80,000 if they do not.

Council Member Porter stated that the Fair has been invited to become part of the City, and he asked if they pay in or out of town rates. The City Manager replied that they pay in city rates. Vice Mayor Lahman stated that no one else would be given this option to hold EDUs. Friendship Village wanted the City to hold EDUs for their expansion, and we would not. The City Manager stated that by holding EDUs, there were other opportunities that were denied.

Council Member Porter stated that they got their EDUs for seven hundred and fifty dollars (\$750) when the rate was two thousand dollars (\$2,000). The City tried to negotiate the price and were refused.

Council Member Minner asked that when they asked for more capacity, did they do the work they said they were going to do. The City Solicitor stated that he does not believe they did all the expansion that was proposed.

Council Member Minner stated that the City does not have a wastewater treatment plant anymore, so the agreement needs to be amended. The City should be charging for what they use. The City Solicitor stated that the ability to do that was outlined in the contract. We met with them in December and explained that option to them, but they have not done that. Vice Mayor Lahman stated that they have that option but then they lose what the money that they prepaid.

Council Member Minner asked if they would be telling the County that they prepaid their EDUs for when they expand. Council Member Porter stated that the City owns the sewer system. They could have opted out after the last bill. Council Member Stubbs stated that the Fair should pay what they owe the City, and then the contract can be negotiated. The City Solicitor stated that the bill increases each day. We have had meetings and discussed their option to opt out; it was addressed in the contract that they drafted. Council Member Porter stated that the only reason they are coming back now is because it does not benefit them. Vice Mayor Lahman stated that it did not benefit the City when it was originally done. The City Solicitor stated that it not, because it tied up the City's EDUs capacity.

Council Member Minner asked when the bill covered. The City Manager replied July 2011 to June 2012. Mayor Price stated that in four months a new bill will be generated. The City Manager stated that the City could consider the fact that they failed to pay the bill as a sign that they want out of the contract.

Council Member Minner stated that the City does not have a wastewater treatment facility anymore. The City Solicitor stated that yes the City does; the City has assigned the treatment function to the County. The City Manager stated that the City is responsible for collecting the wastewater and expansion of the County's treatment plant when necessary.

Mayor Price stated that a letter received from the Fair stated that they would pay until February 2012, which is when the City started using the County for treatment.

Council Member Minner asked for clarification as to what the wastewater treatment system is. The City Manager replied it includes the collection, conveyance, and treatment of wastewater. Council Member Minner asked if the

City was treating the wastewater. The City Manager replied that the City pays the County to treat it. The rate payers will have to pay for the County expansion when that occurs.

The City Manager stated that she can tell the Fair that the Council will agree to meet with them after the bill is paid in full, including the interest and legal expense. She suggested a committee be formed consisting of the City Solicitor, City Engineer, City Manager, and two Council Members to negotiate a draft contract.

Council Member Bivans asked about prorating the bill to cover July 2011 to February 2012 and asked if the City is still performing to the same extent as it did when the contract was written. The City Solicitor stated that the City is, the person treating the wastewater is different, but the City is still paying for it, just as if the City was still paying to operate the plant.

Council Member Minner stated that she believes the City should not hold reserves anymore. Vice Mayor Lahman stated that the City does not have to; the capacity issue seems to be the only thing lingering. The Fair paid to have them held. Council Member Minner stated that the Fair's letter said they do not want to be billed for the reserved capacity anymore. Council Member Stubbs stated the City wanted an increase in the impact fee, and the Fair would not even talk about it. That took away from the citizens of Harrington then.

The City Manager stated that not until the December 17, 2012 meeting with the Fair did they say what they wanted, then they would not put it in writing. We could not get the bill paid, and they said they would get back to us at the beginning of January. When that did not happen, the account was turned over for legal action, and a lien was placed on their property.

Council Member Porter asked if Council Member Minner thinks the Fair should not have to pay their bill. Council Member Minner stated that when the City started using the County, there should not be a reserve anymore. It cost the City more to take it to court and who knows what the judge would say about the agreement. The City Solicitor stated that the City already has a lien against the fairgrounds.

Vice Mayor Lahman stated that the impact fees can only be used for the sewer system, so the money has not been used for anything else. The City Manager stated that impact fees must be used for the expansion of the system to increase capacity. Council Member Stubbs stated that is why impact fees have to be paid with a change of use depending on capacity.

The City Manager stated that this can be placed on the March 18, 2013 City Council Meeting agenda for a vote on what action Council would like to take.

Review of 45 Clark Street demolition bids

The City Manager stated that the sealed bids were opened on February 28, 2013 at 3:00 pm. Love Point Ventures, Inc. was the apparent low bidder, and upon review of the bid documents, it was determined that Love Point Ventures complied with all required documentation and submitted a complete bid. Staff recommends awarding the bid to Love Point Ventures, Inc. of Stevensville, Maryland and authorizing the City Manager to proceed with the demolition of 45 Clark Street and that the necessary funds be taken from the excess fund balance in the general bank account.

Council Member Porter asked why the bids were redone. The City Manager stated that one of the bidders went to the Chief of Police and asked him to do traffic control and based his price on that. That is not a fair bid, so it had to be disqualified. All of the other bids were over twenty-five thousand dollars (\$25,000), so it was in the City's best interest to do a sealed bid. The low bid is now twenty-two thousand dollars (\$22,000).

Council Member Porter asked how much it cost to rebid. The City Manager stated that she did the work herself, so it did not cost anything.

Vice Mayor Lahman asked if this was talked about at the last meeting. The City Manager stated that the asbestos abatement was approved for nineteen thousand one hundred dollars (\$19,100).

Mayor Price stated that there will be a special meeting immediately following the Workshop to vote on the approval of the bid.

The City Manager stated that the bid documents included that the Police and Public Works Departments would assist with traffic control.

Council Member Porter asked if the company was checked-out. The City Manager replied that the Clerk of Council called their references, and all the people they worked for were pleased with the work.

Ordinance Review Committee

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

The City Solicitor stated that at the last meeting there was a Public Hearing, and he requested that the second read and adoption be tabled. The additions are essentially changing "near" to "within 500 feet" and inserting a provision that allows landlords to evict based on a local code.

Council Member Porter asked about offering an incentive to landlords attending the training class. Vice Mayor Lahman stated that it will be discussed at budget time.

Anthony Moyer asked what would happen in his case because he pays the water and trash bills on his rental properties, and what the definition of criminal activity is and does there have to be an arrest. The City Solicitor stated that any crime is criminal activity. Mayor Price stated that Mr. Moyer can talk with the City Solicitor after the meeting.

Vice Mayor Lahman asked if this ordinance is being used in other cities. The City Solicitor stated that it is also being introduced in Dover right now as well. The City Manager stated that this is a HUD regulation and proven to be very effective in evicting people.

There being no further business, the Council Workshop adjourned at 7:35 p.m.

Respectfully Submitted,

Kelly Blanchies
Clerk of Council