

City of Harrington
MINUTES
City Council Meeting
August 19, 2013

A meeting of the Harrington City Council was held at Harrington City Hall, 106 Dorman Street, on August 19, 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; Faye Smith, Finance Director; and Kelly Blanchies, Clerk of Council.

Also present: Tom Wilkes, City Engineer, Remington, Vernick, and Beach; Chaplain Mary Trice; Jim Coudriet; Ron Sutton; Lucille Adamo; and Richard Wheeler.

Public Comments

There were no Public Comments.

Mayor Moyer called the meeting to order at 7:01 p.m.

The Invocation was given by Chaplain Mary Trice.

The Pledge of Allegiance was given.

Roll was called.

Minutes

July 8, 2013 City Council Workshop

A MOTION was made by Council Member Minner, seconded by Vice Mayor Lahman, to accept the July 8, 2013 City Council Workshop Minutes as presented. The MOTION passed unanimously.

July 15, 2013 City Council Meeting

Council Member Bivans asked about the flooding on Franklin and Hanley Streets. The City Manager stated that she will check on it. Council Member Bivans stated that the pothole on Hanley Street was fixed.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Coleman, to accept the July 15, 2013 City Council Meeting Minutes as presented. The MOTION passed unanimously.

July 29, 2013 City Council Workshop

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Minner, to accept the July 29, 2013 City Council Workshop Minutes as presented. The MOTION passed unanimously.

August 5, 2013 City Council Workshop

A MOTION was made by Council Member Porter, seconded by Council Member Coleman, to accept the August 5, 2013 City Council Workshop Minutes as presented. The MOTION passed unanimously.

August 5, 2013 City Council Special Meeting

Council Member Porter stated that Mayor Moyer said at the August 5, 2013 City Council Special Meeting that he did not vote for the motion on the asphalt plant. Council Member Porter distributed page seven of the November 21, 2005 City Council Meeting minutes [attached for reference] and stated that then Council Member Moyer voted on the motion to go ahead with the procedure to make legal representation against us. Mayor Moyer stated that he voted against storing petroleum products above ground. Council Member Porter stated that the motion also included the reasoning that a hot mix asphalt plant is not a permitted use under the 2005 Planning and Zoning Regulations. Mayor Moyer stated that the audio recording from that meeting can confirm that he stated that his reason for denying the site plan was because of the above ground tanks. Vice Mayor Lahman asked if there was an ordinance to go along with this issue. The City Solicitor replied no, the 2005 amendments to the zoning ordinance were enacted after the application for the hot mix plant was filed. Mayor Moyer stated that he stands by what he stated.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Coleman, to accept the August 5, 2013 City Council Special Meeting Minutes as presented. The MOTION passed unanimously.

Police Chief's Report

The Chief of Police presented PFC Baker with a Life Saving Award, a Chief's citation, for assisting with locating and safely taking into custody a suicidal subject.

The Chief of Police thanked everyone for supporting and attending National Night Out.

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 Bivans asked what streets are included in the streets program. The City Engineer replied Dickerson, Simmons, and Peck Streets. Vice Mayor Lahman asked if the priority list is being followed. The City Manager replied yes.

Council Member Bivans asked if the sewer service replacement was on East or West Milby Street. The City Manager stated that she was unsure.

Council Member Minner asked the City Manager to elaborate on the planning meeting regarding 16819 South DuPont Highway. The City Planner stated that there is a possible change of use for a new physical therapy office.

Council Member Minner asked about the difference between the actual revenue and expenditures amounts. The City Manager stated that it is a carry forward and is unaudited.

Council Member Minner asked about the letter and application sent to 14 Commerce Street regarding the Downtown Revitalization Area Tax Incentive Program. The City Manager stated that some improvements were made at that location, so the information was sent to them notifying them of the program if they would like to apply.

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

Financial Report

The Financial Director stated that she distributed a summary sheet to try to explain the changes in the reports. The City Manager stated that it is not unusual to have some invoices for fiscal year 2013 being paid in 2014.

Mayor Moyer asked if the City's commercial insurance is paid twice a year. The Finance Director stated that workers' comp is paid once a year, others are monthly.

Mayor Moyer asked about the Heat and Electric and County Sewer Fee line items under the Waste Water Department. The Financial Director stated that all

the electric bills for the force main pump station was turned over to the County, but there are smaller pump stations throughout the City that were not budgeted for, and the County sewer bill was just received today.

Council Member Minner stated that an updated cash summary page was going to be presented that included the amount spent so far. The City Manager stated that the Council will be getting that.

The Finance Director stated that the City has been awarded seventy-one thousand four hundred twenty-nine dollars (\$71,429) in Municipal Street Aid funds for Fiscal Year 2014.

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

Departmental Reports

Public Works

Council Member Stubbs asked about well number two. The City Manager stated that it has been turned off, because we are trying to determine if sand is getting in it. The City will have to get it inspected, which is not budgeted. Council Member Stubbs asked how many places are having trouble with the sand. The City Manager replied one.

Council Member Stubbs stated that water usage was down by three million gallons this month. The City Manager stated that it was rainy so people have not needed to water their lawns and some water lines and leaks were fixed. Mayor Moyer stated that letters were also sent to homeowners with high usage about potential leaks.

The City Manager stated that Public Works has a list of the worst streets but is working on a complete list of all streets. A street maintenance program was proposed on the capital improvement plan for this year, but funding was not available.

Vice Mayor Lahman stated that blacktopping was done on Liberty Street and two or three leaks happened. The City Manager stated that a line and valve were fixed. Council Member Minner asked why the streets were paved if lines needed to be fixed. The City Manager stated that it was not anticipated that the valve would break. The City is trying to fix the lines.

Council Member Minner asked if the list of cleaned storm drains would be included every month. The City Manager replied yes.

Mayor Moyer asked if any progress has been made in getting the drainage ditches outside of the city limits cleaned. The City Manager stated that she is working on it.

Council Member Bivans asked about checking for leaks at properties. The City Manager stated that homeowners make sure all the water is turned off, and if the meter is still running, then a leak exists. Vice Mayor Lahman stated that is a very good courtesy to residents. The City Manager stated that we do not want anyone surprised when the City starts charging for usage, so it has been a pretty aggressive program about notifying people of potential leaks. The industry average is five to seven thousand gallons of usage a month. Data on usage is being gathered, and rates should be set for January.

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

Vice Mayor Lahman asked if the Comprehensive Plan is on track. The City Planner replied yes.

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

City Engineer's Report

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

Old Business

Appointment of committees and commissions

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to stay under the workshop style of government.

Mayor Moyer stated that he would like to have a chair for each committee. The Personnel Committee should not be in a workshop; it protects the employees; the appeal process in the employee handbook is to the Personnel Committee.

Roll was called on the MOTION to stay under the Workshop style of government: 4 Yes, 2 No (Lahman – Yes, Bivans – No, Coleman – Yes, Minner – No, Porter – Yes, Stubbs – Yes). The MOTION passed by majority.

Mayor Moyer stated that he would like to move Jim Coudriet to the Board of Adjustment and place Stacey Sizemore on the Planning and Zoning Commission. Vice Mayor Lahman stated that there are other members of the Planning and Zoning Commission that have experience and could be moved to the Board of Adjustment.

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to deny the appointment of Jim Coudriet to the Board of Adjustment. Roll was called: 4 Yes, 2 No (Lahman – Yes, Bivans – No, Coleman – Yes, Minner – No, Porter – Yes, Stubbs – Yes).

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to deny the appointment of Stacey Sizemore to the Board of Adjustment. Roll was called: 4 Yes, 2 No (Lahman – Yes, Bivans – No, Coleman – Yes, Minner – No, Porter – Yes, Stubbs – Yes).

Vice Mayor Lahman stated that she would like the Downtown Revitalization Committee reestablished. Mayor Moyer stated that he would like a Harrington Revitalization Committee for the entire town. Vice Mayor Lahman stated that it is more about historic preservation, and Harrington is an affiliate city.

New Business

Request for a waiver of required elevations for The Legacy subdivision

Mayor Moyer read a letter from Lucille Adamo requesting a waiver from the required elevations [letter is attached to the minutes].

The City Solicitor stated that Harrington's Code requires architectural elevations for the next stage of approvals. The City Planner stated that elevations were presented at the July 11, 2013 Planning and Zoning Commission Meeting. The Commission recommended no changes to the single family house, minor changes to the duplex, and redesign of the townhouse.

Council Member Minner asked if the intention of the owners was to do everything on paper then sell. The City Planner stated that the owners said from the beginning that they would not be the builder; however, there are elevation, bonding, and several other requirements. The regulations are there to protect the City. Council Member Minner asked if a requirement for elevations from the builder could be included on the site plan. The City Planner stated that the Code requires elevations as part of the preliminary subdivision. There is a standard for the character and design of the neighborhood that is set by the approved elevations even if it changes when the houses are actually built.

Mayor Moyer stated that the building permit can be withheld if the City does not like what is being built. The City Planner stated that the City does not have design standards and cannot deny a building permit based on design or character. We do not know who the builder will be, and there could be multiple builders.

Ron Sutton stated that the elevations that he submitted for Ashley's Cove were just pulled off of the internet. During the concept phase, he requested to be able to submit a design package rather than elevations and was told that was not acceptable. The review of the elevations is subjective. It is a waste of money, because the houses in the elevations will never be built.

Vice Mayor Lahman asked if the City Council has ever waived the elevations before. The City Solicitor replied no. The City Manager stated that a waiver would set a precedent.

Mr. Sutton stated that The Legacy had two public hearings at the concept level, which had never been done before. The City Planner replied that there are public hearings required for the annexation, zoning change, and plan concept; those were combined into two.

Vice Mayor Lahman asked the City Solicitor for his recommendation. The City Solicitor stated that he recommends that the Council not grant a waiver from the clear standards contained in the Code. The City Planner stated that she agrees.

The City Engineer stated that usually the applicant has to establish some kind of hardship to receive a waiver. Mr. Sutton stated that it is a hardship, because the owners now have to pay to fix the elevations that will never be built.

Vice Mayor Lahman asked if the Code even allows Council to do a waiver. The City Solicitor replied that it is not addressed. Mr. Sutton stated that the City's Code needs to be fixed. Placing a bond before recording a plan is backwards.

Vice Mayor Lahman asked if the City's procedures are different than other towns. The City Planner stated that bonding is a normal part of a subdivision application. Mr. Sutton stated that it usually required after the subdivision is recorded and after a permit but before a preconstruction meeting.

Council Member Minner asked what the issues with the elevations were. The City Planner stated that the single family was approved and the duplex had minor tweaking; in the opinion of the Planning and Zoning Commission, the townhouse unit looked like an apartment building that lacked character and identified separated entrances.

Lucille Adamo stated that she is disappointed, because it never her intention to be the developer. It is logical to request the waiver, because they will not be built. The faster the development is sold, the more quickly revenue can be brought into the City.

Vice Mayor Lahman stated that the annexation and rezoning has been approved, which makes the property worth more.

Council Member Porter stated that if Council approved the waiver, they would be going against the Planning & Zoning Commission, the City Planner, the City Engineer, the City Solicitor, and the City Code.

The City Planner stated that unless there are design standards, it is recommended that the elevation requirement is not removed from the Code. There have been seven other developments that have gone through the process. It is a baseline for the project. The City has discussed that possibility of design standards before, but it was determined that it could be a detriment given the income level and housing needs of the City.

Richard Wheeler stated that the architect usually does not design tract homes but has over forty years of experience. The City Planner stated that discussion could have occurred with the architect regarding the elevations if he was present at the meeting.

Ms. Adamo stated that it was her understanding that the elevations were to code.

A MOTION was made by Council Member Porter, seconded by Council Member Stubbs, to deny the waiver of the required elevations for The Legacy subdivision. Roll was called: 4 Yes, 1 No, 1 Abstain (Lahman – Yes, Bivans – Abstain, Coleman – Yes, Minner – No, Porter – Yes, Stubbs – Yes). Council Member Bivans stated that he abstained because he did not have enough information. The MOTION passed by majority.

Review of sewer master plan

The City Engineer stated that this was an evaluation of the entire City sewer system to see where the sewer may be lacking in capacity based on current conditions and future full development. It also includes recommendations for phases and cost estimates. Every sewer size and type is included along with the inflow and infiltration (I & I) information that is available.

The City Engineer stated that the recommended existing system improvements are along Liberty Street, Gordon Street, and Dixon Street. This is a planning document to consider for future construction.

Mayor Moyer asked about the flow meter data being exactly the same in the morning and evening for one of the meters. The City Engineer stated that he will review the information from the I & I study.

Council Member Minner asked if upcoming projects were considered in the sewer master plan. The City Engineer stated that they are considered as a group for potential build out.

Mayor Moyer asked that the plan clarify which portion of Route 14 is part of the year two proposed improvements.

A MOTION was made by Council Member Minner, seconded by Vice Mayor Lahman, to acknowledge the receipt of the July 2013 Sewer Capacity Study and Master Plan. The MOTION passed unanimously.

Approval of water and sewer impact fee study proposal

The City Manager stated that water and sewer impact fees were established for the equitable distribution of debt service, and the current impact fees have been in place for over five years. To justify the impact fee, there must be a reasonable need for additional facilities, the fee payer must benefit, and the calculation of the fee must be proportionate. Careful engineering analysis is needed to lessen legal issues.

Vice Mayor Lahman stated that this is a controversial issue, so it will be good to be sure the fee is appropriate.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Porter, to approve \$11,600 from the transfer tax account to allow Remington, Vernick, and Beach Engineers to conduct a water and sewer impact fee study. The MOTION passed unanimously.

Award of the 2013 CTF Road Program

The City Manager stated that the low bid was over what was budgeted. Jerry's Paving was the low bid at one hundred sixty-nine thousand three hundred ninety-two dollars and fifty cents (\$169,392.50).

Vice Mayor Lahman asked if these streets are on the City's priority list. The City Manager replied yes at the top.

Vice Mayor Lahman asked if there is line repair work that needs to be done before the road is paved. The City Engineer stated that there is a storm water repair needed on Simmons Street. The City Manager stated that the City has requested from the State that the money allotted for Grant Street be transferred to Simmons Street.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Porter, to award the bid for the 2013 street program (Dickerson, Simmons, and Peck Streets) to Jerry's Paving for one hundred sixty-nine thousand three hundred ninety-two dollars and fifty cents (\$169,392.50) and approve the additional funding of two thousand nine hundred fifty-nine dollars and seventy-nine cents (\$2,959.79) from the Municipal Street Aid fund. The MOTION passed unanimously.

Resolution 13-R-12 – Authorizing signers for Discover Bank accounts

Council Member Minner asked if all the signers are bonded. The Finance Director stated that the Mayor and City Manager are bonded; it is not a requirement for the remaining signers. They do not have the ability to write checks.

A MOTION was made by Council Member Coleman, seconded by Council Member Minner, to accept Resolution 13-R-12. The MOTION passed by majority. Council Member Bivans voted no.

Report of outstanding utility and tax receivables

Mayor Moyer asked why the ninety day past due amount is so high. The City Manager stated that past due utilities are a lien on the property that is collected when the property is sold. Vice Mayor Lahman stated that the City aggressively tries to collect past due amounts.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Coleman, to acknowledge receipt of the report of outstanding utility and tax receivables. The MOTION passed unanimously.

Usage report

Mayor Moyer stated that there are only eight properties being billed as churches, but there are more churches than that in the City.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stubbs, to acknowledge receipt of the usage report. The MOTION passed unanimously.

Public Comments

Ron Sutton stated that his clients are having difficulty with the Code and the bonding and escrow requirements that come next. Most municipalities and DeIDOT require bonds after a plan is recorded and before construction begins. People cannot post a bond when they do not know who will be doing the building.

Chaplain Trice asked about a sign that says Harrington is bad for business. Mayor Moyer stated that it was from an upset individual, and the sign is now gone.

City Council Comments

Council Member Porter stated that Mayor Moyer should state the truth in the newspaper. The lawsuit did not cost the taxpayers any money, except for the lawyer that Mayor Moyer retained. The Charter changes were overwhelmingly approved by the State Legislature. More businesses have come to the City in the last eight years than ever have. Council Member Porter stated that he does not have a political agenda against his opponent from the election. Negativity in the newspaper will get negativity in Harrington.

Mayor Moyer stated that money was spent downtown, and there are half of the businesses there. The Charter change was voted for at ten minutes to midnight surprising some Representatives, because it was the last thing thrown on the agenda. The City told Senator Simpson that the Council adopted the changes

unanimously, which is not true. Three of the people on the Board of Adjustment never sat on another committee.

Council Member Stubbs stated that he spoke to Senator Simpson who informed him that the Charter changes were not stopped by the Mayor-elect's request.

Council Member Minner stated that the Council needs to get rid of the pettiness. The Board of Adjustment is supposed to be unbiased, and it may be a benefit to serve on the Planning and Zoning Commission first, but it is not necessary. In 2010, Mayor Price appointed committee chairs even though workshops were being used. The Personnel Committee is important for appeals provided for in the Personnel Handbook.

Vice Mayor Lahman stated that ad hoc committees can be appointed if needed. The Downtown Revitalization Committee should be reconsidered because of the grants to preserve the downtown area. It could be a subcommittee of an economic development committee. Mayor Moyer stated that the entire City needs economic development, not just downtown, and if it is needed to be part of a program or receive grant money, then there is no problem with having it as a subcommittee. Vice Mayor Lahman stated that there are not historic preservation grants for streets that are not downtown.

Vice Mayor Lahman stated that issues that are against the Code and brought to Council put the City Council in a bad situation. Mayor Moyer stated that the City Council has the authority to change something that it sees is wrong. The City Solicitor stated that the proper way is by amending the Code and not through a waiver. Architectural elevations are not an unusual requirement at this stage. The City Planner stated that this is a major subdivision; there are no mixed use zone or design standards. The development was piece mailed to get the maximum density. Mayor Moyer stated that the person doing the building should be the one required to do the bonding. The City Planner stated that this is a major subdivision, and the character is important. Vice Mayor Lahman asked if the applicant can go to the Board of Adjustment. The City Solicitor stated that it is not part of the Zoning Code, so they cannot seek a variance from the Board of Adjustment.

Council Member Minner stated that she was only on the Comprehensive Plan Committee, and Council Member Bivans was only on one committee, so not all districts have been represented on the key committees in the past. Vice Mayor Lahman stated that she is glad that people volunteer for committees and that workshops mean that all of Council is included and no one excluded. Council Member Minner stated that there have been occasions when the Budget and Finance Committee meet separately.

Executive Session

There was no Executive Session.

There being no further business, a MOTION was made by Council Member Coleman, seconded by Vice Mayor Lahman, to adjourn the City Council Meeting. The MOTION passed unanimously, and the meeting adjourned at 9:19 p.m.

Respectfully Submitted,

Kelly Blanchies
Clerk of Council