

City of Harrington
MINUTES
Swearing In Ceremony and City Council Organizational Meeting
June 2, 2014

A swearing in ceremony for the newly elected Council Members of the Harrington City Council was held on June 2, 2014 and was attended by the following: Mayor Anthony R. Moyer; Council Member Elect Duane E. Bivans; Council Member Fonda Coleman; Council Member Cheryl J. Lahman; Council Member Amy L. Minner; Council Member Charles W. Porter; Council Member Elect Kenneth W. Stubbs; Keith Shyers, Deputy Chief of Police; William Pepper, City Solicitor; Teresa Tieman, City Manager; Kelly Blanchies, Clerk of Council; Pastor Guy Simpson, Independent Bible Fellowship Church; and several members of the general public.

Mayor Moyer opened the Swearing In Ceremony at 6:03 p.m.

Mayor Moyer welcomed everyone to the Swearing In Ceremony. Mayor Moyer stated that this is the one hundred and forty-fifth time this ceremony has been performed since the City's incorporation in 1869. Since the founding of the City, there have been very few people who have accepted the responsibility of guiding the City through its nearly one hundred fifty years. Mayor Moyer thanked those that have served the City in this capacity and those currently serving on Council.

Pastor Simpson said a prayer for the City, State, and Country.

The City Solicitor swore in Council Member Elect Kenneth W. Stubbs and Council Member Elect Duane E. Bivans.

Refreshments were served.

Following the Swearing In Ceremony, the Organizational Meeting of the Harrington City Council was held and was attended by the following: Mayor Anthony R. Moyer; Council Member Duane E. Bivans; Council Member Fonda Coleman; Council Member Cheryl J. Lahman; Council Member Amy L. Minner; Council Member Charles W. Porter; Council Member Kenneth W. Stubbs; Keith Shyers, Deputy Chief of Police; William Pepper, City Solicitor; Teresa Tieman, City Manager; and Kelly Blanchies, Clerk of Council.

Also present: Christine Hayward, Library Director; Charles Carr; Barbara Bullock; and several members of the general public.

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

The Pledge of Allegiance was given.

Roll was called.

Annual Report to the Electors of the City

Mayor Moyer stated the following:

It is my honor to give the first state of the city address as Mayor. I would like to welcome the return of Mr. Duane E. Bivans and Mr. Kenneth Stubbs, as they were both sworn in this evening for another term on Council. I would also like to thank the rest of Council for their dedication and often difficult task in operating the City of Harrington. Although there is a great deal of reward in the position, there are also a lot of hard decisions made. In addition to Council, I would also like to thank all the individuals that serve on the various committees, their time and dedication in serving this community does not and should never go unrecognized.

A lot has happened in the City this past last year on economic development. I certainly hope that I do not miss any or anyone. I would like to welcome Agri-Lab, the new owner of the Super 8, Baymont Inn & Suites, The Bowers Group, Mattlind Square, A2B Auto Group, Amber Kaye's Thrift Store, Hoagie Time, OMG Collage, Weeks Services, Salty Wave, Pizza King, Verizon, ATI Physical Therapy, and OA Newton. There has also been the relocation of the Clutter Box, Subway, and Wonder Years. Also, the expansion of Harrington Florist and Cakery, and a new residential development approved for Richelle Homes. I welcome each every one of you and wish you continued success in the future.

There are no words that I can say, except thank you to our outstanding Police Department along with the LESO program. Chief Norman Barlow and Deputy Chief Keith Shyers have procured in excess of one hundred thousand dollars (\$100,000) in equipment and vehicles at no cost to the City. They have also replaced aging police vehicles through grants and sold equipment to purchase items the Department needed, again with no cost to the taxpayers. Chief Barlow and Deputy Chief Shyers, along with the rest of the Police Department, should be commended for all of their effort and time.

Another staple in the City is Freedom Park, which was once a dream and has now become a reality to the Police Department and the citizens of this wonderful City. We hope this will help bring our community together with the possibility of live bands, movie nights, and other functions within the City.

We are privileged to have a Public Library and Parks and Recreation Department. Our City's quality of life is enhanced by these departments at very little cost to the citizens. We are just completing a needs assessment study for the library that was funded through State monies. This needs assessment will

establish a path forward for our Library's future. Parks and Recreation, headed by Mr. Falasco and his staff, are seeking grant funding for improvements and enhancements for the building.

The Police Department and the Council have partnered with the Lake Forest School District to provide a school resource officer at W.T. Chipman and also South Elementary School. During the school year, the SRO will provide a safer environment for our children along with important knowledge to the teachers in cases of emergency. During the summer months, he will be helping patrol our City streets.

The City Manager, Ms. Terry Tieman, and the staff have initiated many changes to the financials of the City by purchasing new accounting software. This has improved our cost tracking, helps with checks and balances, and provides more documentation than what we have seen in the past. This has helped identify areas for savings and in doing so, has helped in creating a balanced budget. While most costs to the City have risen, as they have in all of our own lives, Council has created a budget with a modest 2% increase. This makes our budget for the Fiscal Year 2015 four million seventy thousand dollars (\$4,070,000). With this comes stability in a time when many jurisdictions do not share the same outcome. The citizens should be proud to hear this news especially when many towns and cities are running into deficits.

A new contract for the upcoming year has been signed regarding trash pickup with no increase to the citizens. This year the City added a Saturday Spring clean up day, and since it was such a success, we will be looking into offering more Saturday Spring and Fall cleanup days in the future.

We have purchased a large jetvac truck to help maintain our drain lines, which has helped in reducing storm water flooding, and also purchased the SCADA system to alert the City of any issues that many arise at our pump stations.

Starting July 1, 2014, a milestone will be reached. With the complete replacement of all the water meters and the necessary data gathered, the City will be charging a usage rate for water and sewer. This will be making the system fair and equitable to all the citizens. As of July 1, 2014, the City's record-keeping will also be separated, in that water will pay for water and sewer will pay for sewer. In the past, we all paid the same amount for water and sewer then monies were transferred to the General Fund. This will cease and bring more transparency to the budget process. There will also be a tax increase of 35 cents. This tax money will pay for all the other expenses of the City not related to water and sewer, which is how a City should run.

Our Comprehensive Plan was signed by Governor Jack Markel on December 16, 2013, which leads the way to a much anticipated Zoning Code Rewrite. This rewrite will be taking place during the upcoming fiscal year. Our City Codes are

extremely outdated and are in dire need of change. This rewrite will shape the future of how we deal with not only commercial properties but also residential properties.

The City is aggressively tackling the brown water issues many of you face, as well as the issues with our inflow and infiltration (I & I). The steps we will be taking to correct these issues will generate more saving and help to stabilize future cost increases.

As a Mayor I am proud of the City of Harrington and the progress we are making. We owe this progress to our Council and our dedicated employees. It is my hope that for the future we all work together as a team and continue to make progress in the right direction for all who live and work in the City and surrounding areas.

In closing, I believe we are making the right decisions, and in doing so, we are better off today than we were in the past. Sometimes change is difficult but the future of this City is dependent upon it. We have a community of caring and hardworking people, and I believe it is our duty to make it a better place when we leave than when we came.

May God bless the City of Harrington and all those who live here.

Minutes

April 16, 2014 Proposed Water and Sewer Rate Public Meeting

A MOTION was made by Council Member Lahman, seconded by Council Member Porter, to accept the April 16, 2014 Proposed Water and Sewer Rate Public Meeting Minutes as presented. The MOTION passed unanimously.

May 5, 2014 City Council Workshop

A MOTION was made by Council Member Lahman, seconded by Council Member Coleman, to accept the May 5, 2014 City Council Workshop Minutes as amended. The MOTION passed unanimously.

Election of Vice Mayor and appointment of Committees and Commissions

A nomination was made by Council Member Porter to elect Council Member Lahman as Vice Mayor. The nomination was accepted unanimously.

Mayor Moyer stated that he would like to continue the Planning and Zoning Commission and the Board of Adjustment with the same members and in order to stagger the terms, re-appoint William Rogers and Jeff Rettig to the Planning and Zoning Commission and Frank Tolson to the Board of Adjustment.

A MOTION was made by Council Member Porter, seconded by Council Member Minner, to accept the appointments to the Planning and Zoning Commission and the Board of Adjustment as presented. The MOTION passed unanimously.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Coleman, to accept the appointments to the Harrington Parks and Recreation Advisory Committee, Harrington Parks and Recreation Board of Trustees, Board of Library Trustees, Library Needs Assessment Review Committee, Library Building Committee, and Library Site Selection Committee as presented. The MOTION passed unanimously.

Mayor Moyer stated that he would like to continue the current members of the Delaware State Fair Contract Committee until the completion of the contract negotiations.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Coleman, to accept the appointments to the Delaware State Fair Contract Committee as presented. The MOTION passed unanimously.

[A list of committee appointments is attached to these minutes.]

Old Business

First Reading of Ordinance 14-05 – Amending Chapter 108, Vacant Buildings, to update requirements

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to suspend with the full reading of Ordinance 14-05. The MOTION passed unanimously.

Mayor Moyer read the synopsis:

This Ordinance amends Chapter 108 to delete definitions, charge the Code Enforcement Officer with inspections, change the annual registration to one time registration, delete exemptions, require a designated person to have charge of the vacant building, and adding a fine for violating the chapter.

Council Member Minner stated that she disagrees with having a yearly inspection. Vice Mayor Lahman asked about having an inspection just when there is an issue. Council Member Minner stated that an inspection can be done when the building is registered and if there is a problem on the outside then an interior inspection can be requested. Council Member Stubbs stated that inspections are time consuming and cost the City money.

The City Manager stated that the intent of the original vacant building ordinance was to encourage the buildings not to be vacant for long. Council Member Porter asked why the ordinance is being amended. The City Manager stated that the staff wanted to change the fee structure and make it easier to administer; the fees would be less expensive.

Council Member Porter stated that taxpayers should not pay to check vacant buildings.

Council Member Minner asked about the City's liability if the building catches fire or has another issue after the City has inspected it.

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to accept the first reading of Ordinance 14-05.

Mayor Moyer asked about increasing the mileage from the City that the property manager must be located within.

Roll was called on the MOTION to accept the first reading of Ordinance 14-05: 3 Yes, 4 No (Lahman – Yes, Bivans – No, Coleman – No, Minner – No, Porter – Yes, Stubbs – Yes, Moyer – No). Mayor Moyer voted due to a tie vote. The MOTION failed.

A MOTION was made by Council Member Coleman, seconded by Council Member Bivans, to table the first reading of Ordinance 14-05. Roll was called: 2 Yes, 4 No (Lahman – No, Bivans – Yes, Coleman – Yes, Minner – No, Porter – No, Stubbs – No). The MOTION failed.

A MOTION was made by Council Member Coleman, seconded by Council Member Porter, to amend all references from "25 miles" to "50 miles" in Section 9 of Ordinance 14-05 and accept the first reading of Ordinance 14-05. The MOTION passed unanimously.

New Business

Public Hearing

Ordinance 14-09 – Amending Chapter 440, Zoning, to increase the time of the extension that can be granted on site plan approvals

The Clerk of Council read Ordinance 14-09.

There were no comments.

Ordinance 14-10 – Amending Chapter 120, Business Licenses, to add a fine for operating a business without a license

The Clerk of Council read Ordinance 14-10.

There were no comments.

Ordinance 14-11 – Amending Chapter 314, Rental Properties, to add a fine for operating a rental property without a license

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Minner, to suspend the reading of Ordinance 14-11. The MOTION passed unanimously.

Mayor Moyer read the synopsis:

This Ordinance amends Chapter 314 to change the penalty for a late payment to a penalty for failure to obtain a license and clarifies the requirement for a rental unit inspection.

There were no comments.

Second Reading of Ordinance 14-09 – Amending Chapter 440, Zoning, to increase the time of the extension that can be granted on site plan approvals

A MOTION was made by Council Member Porter, seconded by Vice Mayor Lahman, to suspend the reading of Ordinance 14-09. The MOTION passed unanimously.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Porter, to adopt Ordinance 14-09. The MOTION passed unanimously.

Second Reading of Ordinance 14-10 – Amending Chapter 120, Business Licenses, to add a fine for operating a business without a license

A MOTION was made by Council Member Porter, seconded by Council Member Minner, to suspend the reading of Ordinance 14-10. The MOTION passed unanimously.

A MOTION was made by Vice Mayor Lahman, seconded by Council Member Stubbs, to adopt Ordinance 14-10. The MOTION passed unanimously.

Second Reading of Ordinance 14-11 – Amending Chapter 314, Rental Properties, to add a fine for operating a rental property without a license

A MOTION was made by Council Member Porter, seconded by Council Member Minner, to suspend the reading of Ordinance 14-11. The MOTION passed unanimously.

A MOTION was made by Council Member Minner, seconded by Council Member Porter, to adopt Ordinance 14-11. The MOTION passed unanimously.

New Business

Letter and Resolution 14-R-04 – Opposing HB 333

Mayor Moyer read the attached letter and asked for the support of all the Council Members in signing the letter.

[No resolution was introduced]

Executive Session

There was no Executive Session.

City Council Comments

Council Member Porter asked about the Historical Society. The City Manager stated that the City proposed housing some artifacts in the Library. Council Member Porter stated that is a valuable part of Harrington's history. The Library Director stated that the church was designated a historic site to make funding available.

Vice Mayor Lahman suggested asking Viva Poore to attend a meeting to discuss anything the Historical Society needs. Mayor Moyer asked about taking a tour of the museum.

Council Member Bivans stated that Council should consider each ordinance before suspending the reading.

There being no further business, a MOTION was made by Council Member Porter, seconded by Council Member Minner, to adjourn the City Council Meeting. The MOTION passed unanimously, and the meeting adjourned at 7:29 p.m.

Respectfully Submitted,

Kelly Blanchies
Clerk of Council

Attachments: Committee Appointments 2014-2015 and Letter to Members of the
147th General Assembly regarding Concerns over House Bill 333

Committee Appointments 2014-2015

Planning & Zoning Commission

Reappointments for 3 year term:

Jeff Rettig
William Rogers

Current members:

Elizabeth Brode – 2013-2016
James Coudriet – 2013-2016
Stacey Sizemore – 2013-2016

HPR Advisory Committee

Charles Clegg
Scott Fleming
William Hudran
Andrea Miller
Darryl Minner
Nichole Moxley
Gwen Scott

Board of Library Trustees

Linda Braswell
Barry Breeding
Doug Crouse
Marie Cunningham
Linda Tjaden
Betty Ann VanVessen

Library Needs Assessment Review Committee

Linda Chick
Doug Crouse
Christine Hayward, Library Director
John Phillos, Advisor from the Delaware Division of Libraries
Gene Price
Teresa Tieman, City Manager

Board of Adjustment

Reappointment for 3 year term:

Frank Tolson

Current members:

Marie Cunningham – 2014 -2017
Dan McLaughlin – 2013-2016
Walter H. Perdue – 2012-2015
Dan Tarrt – 2013-2016

HPR Board of Trustees

(Friends of HPR)

Doug Poore, President
Rob Taylor, Vice President
Dana Taylor, Treasurer
Amanda Outten, Secretary

Library Building Committee

Linda Chick
Doug Crouse
Christine Hayward, Library Director
Council Member Amy L. Minner
Mayor Anthony R. Moyer
Council Member Charles W. Porter
Council Member Kenneth W. Stubbs
Teresa Tieman, City Manager

Library Site Selection Committee

James Coudriet
Doug Crouse
Christine Hayward, Library Director
Council Member Amy L. Minner
Council Member Charles W. Porter
Marie Cunningham (alternate)

Delaware State Fair Contract Committee

Alan Moore, Public Works Supervisor
William Pepper, City Solicitor
Council Member Charles W. Porter
Council Member Kenneth W. Stubbs
Teresa Tieman, City Manager
Tom Wilkes, City Engineer, Remington, Vernick, & Beach

~ City of Harrington ~

Members of the
147th General Assembly

Re: Concerns over House Bill 333

Dear Members of the 147th General Assembly:

As the Mayor and Council of one of Delaware's 57 municipalities, we write to express our reservations and concerns with House Bill No. 333, which would amend municipal charters in the State by removing their power to enact new taxes under the "all powers" clause set forth in many municipal charters. We fear many potential unintended consequences flowing from the bill, and while we understand that a "compromise" amendment is going to be introduced, we do not believe that the "compromise" goes far enough in protecting taxes and fees already on the books and relied upon by many municipalities.

By way of background, the proposed legislation arises from a recent Chancery Court case in which a business owner in Dewey Beach sued the Town claiming that the license fees for his businesses were higher than the costs incurred by the Town in administering the license program. He sought a refund for the excess charges going back to 2007. Historically, the law has been that license and permit fees charged by a municipality should be roughly proportionate to the costs incurred in administering the program; but, if the fees exceeded the administrative costs, the fees would nevertheless be upheld under the municipality's taxing power (a power which is often conferred by the "all powers" clause in a municipal charter). That was the result reached in the recent Chancery Court case involving Dewey Beach, which is now on appeal to the Supreme Court and scheduled for oral argument in September.

In reliance on this legal principle, many municipalities, including Harrington, charge permit and license fees which not only cover administrative costs, but also provide revenue for the municipality. For example, building permit fees are a percentage of the total cost of construction of the building, and building permit fees are a source of revenue for Harrington. Similarly, Harrington, like many municipalities, raises some revenue for general City purposes through charges for sewer. Other municipalities have implemented certain taxes (such as an accommodations tax) without specific authority for the tax in their charter. All of this is put at risk by House Bill 333.

During its last Charter revision, Harrington relied on the "all powers" clause in its Charter by deleting a large number of specific grants of power. The passage of House Bill 333 would lead Harrington to propose another Charter change to add all those specific grants of power back into the Charter.

We understand that a “compromise” has been suggested that would “grandfather” existing taxes, but we do not believe this compromise goes far enough. For example, although existing taxes might be grandfathered, what about increases to those taxes? What about existing permit and license fees, and future increases to those fees?

House Bill 333 would require municipalities to come to the General Assembly not only for any new taxes, but presumably for increases to those taxes, as well as changes to permit and license fees.

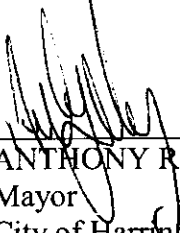
Moreover, in the absence of stronger language in the bill, disgruntled businesses may sue municipalities over past permit and license fees, putting municipalities at risk for having to refund years’ worth of past charges at a time when many budgets are already under stress. If the bill is to be passed, we believe stronger language is needed to avoid the cost and uncertainty of such potential litigation.

Ideally, we believe that this matter is best left to the courts. “All powers” language has been in municipal charters for decades and we are not aware of any abuse that calls out for any change. Let municipalities handle their own tax policy. Let municipal voters decide. As the old saying goes, “if it ain’t broke, don’t fix it.”


If the General Assembly is unhappy with the manner in which Dewey Beach has conducted its municipal business, the General Assembly should revise Dewey Beach’s charter. It should not overwrite the Charter of the City of Harrington or the other 55 municipalities when there have been no complaints about the actions of these municipalities.

If, however, the General Assembly is inclined to do something with state-wide reach, then language needs to be added to the bill that specifically approves and authorizes all license and permit fees currently in effect, and makes clear that existing fees cannot be challenged. If municipalities are going to be asked to give up the protection afforded by the “all powers” language, then they need to know that they are not going to be immediately sued and face the prospect of refunding excessive amounts of past revenue. We therefore attach a proposed amendment to the bill, although our preference would remain that the bill not be passed at all and the matter left to the courts and the municipalities.

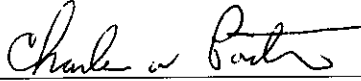
Very truly yours.



ANTHONY R. MOYER
Mayor
City of Harrington




CHERYL LAHMAN
Vice Mayor, Council Member District 4
City of Harrington



CHARLES W. PORTER
Council Member, District 1
City of Harrington



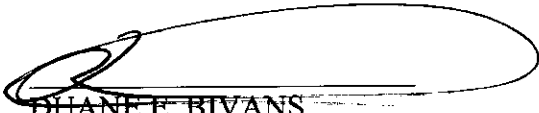
AMY L. MINNER
Council Member, District 2
City of Harrington



FONDA COLEMAN
Council Member, District 3
City of Harrington



KENNETH W. STUBBS
Council Member, District 5
City of Harrington



DUANE E. BIVANS
Council Member, District 6
City of Harrington