

MILFORD CITY COUNCIL

MINUTES OF MEETING

February 13, 2006

The Regular Monthly Meeting of Milford City Council was held in Council Chambers of Milford City Hall on Monday, February 13, 2006.

PRESIDING: Honorable Mayor Joseph R. Rogers

IN ATTENDANCE: Councilpersons Irvin Ambrose, Martin Uffner, Abraham Ellison, Clifford Crouch, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

ALSO: City Manager Richard Carmean, Police Chief Keith Hudson and City Clerk/Recorder

Terri Hudson

Mayor Rogers called the meeting to order at 7:33 p.m. Following the Pledge of Allegiance, Councilman Ellison gave the invocation.

APPROVAL OF MINUTES

Mr. Brooks moved to approve the minutes of the January 9, January 23 and January 30, 2006 Council and Committee Meetings as submitted with Mr. Morrow seconding. Motion carried.

RECOGNITION

Miss Milford Organization

Executive Director Dulcena Kemmerlin stated it is a privilege to come before Mayor and Council each year to introduce the newly crowned young women representing Milford.

Junior Miss Milford Harley Rickards, Pre-Teen Miss Milford Madison Dodge and Miss Milford Stephanie Janes followed, each performing their talent for Mayor and Council.

Miss Milford Stephanie Janes advised she will be representing Milford at the Miss Delaware Pageant to be held at Dover Downs this year. Her platform involves a program she developed called Fit for Life designed for children through adults.

Mayor Rogers thanked Ms. Kemmerlin for the work she puts into this program and the scholarship money raised each year. He also wished each girl much success in the upcoming year.

MONTHLY POLICE REPORT

Mr. Morrow made a motion to accept the monthly police report submitted by Chief Hudson, seconded by Mr. Brooks. Motion carried.

Mr. Brooks noted the police officers who recently saved thirteen people from a burning house in the middle of the night. Plans are to recognize them at an upcoming meeting.

CITY MANAGER'S REPORT

No written report was submitted this month.

Mr. Carmean advised that though he was out of town during the snowstorm this weekend, he kept in contact with the street superintendent.

He has also been in contact with the architect over the past few weeks who plans to begin the process of waterproofing the basement.

Referring to a recent newspaper article, Mr. Morrow stated that over two years ago, the City considered budget billing and asked its status. Mr. Carmean explained we have gone through two billing conversations the past few years. The newest program went into effect approximately eighteen months ago. Budget billing requires a year of billing history before it can be implemented with this month marking the twelfth month.

There are a number of concerns that have been considered including the changes in the electric market since budget billing was initially discussed. As power costs continue to rise, a tremendous imbalance would have occurred. Had it been in place prior to the most recent rise in purchase costs, it would have been predicated on the previous twelve months. Customers would need to pay double their bills for the next eight or nine months in order to keep up. Otherwise, the last two months of the years would result in bills that the majority of our customers could never handle. There is a great deal more research needed before it is put in place.

Another issue involves budget billing and tenants. Because they have no ties to the property, tenants can easily abandon their home leaving a large unpaid bill. When budget billing is implemented, it will most likely only be available to property owners.

Our software product will allow it as has been discussed in the past.

Mr. Brooks pointed out that oil companies offer budget billing but have two months for customers to catch up when oil is not purchased. In the case of electricity, it is used twelve months a year.

Mr. Carmean pointed out that with electric bills, summers are high and winters are high. It would be hard to determine the time of reconciliation because it involves year round usage.

Mr. Carmean said the City has and will continue to examine budget billing. As of this month, we have the needed history and could implement the program July 1st if these other issues were worked out.

When asked the status of the recycling program for solid waste, Mr. Carmean said he spoke with the Delaware Solid Waste representative who advised a nearby smaller community is willing to offer the recycling program to their citizens. This would justify DSWA purchasing another truck.

Mr. Ambrose feels it is a program Milford should continue to pursue. Mr. Carmean agrees adding that sooner or later it will be mandated by the State of Delaware.

A private hauler recently distributed flyers offering once a week residential trash collection for \$21 a month and \$19.50 for senior citizens. If the City reduced to once a week pickup, our costs would be below their fees. It was proven over the past few months that most residents in Milford want twice a week pickup. For a dollar more a month, our residents receive four additional pickups a month. The other option is to add recycling for \$24 a month which results in \$2 more a month per customer though it would not be mandated at this time.

In running the numbers, DSWA feels they could offer the program to Milford for \$2 a customer instead of \$4 originally proposed, but in conjunction with service to the other community.

If recycling works the way it should, our tonnage should be reduced and our overall costs lower as a result.

Mr. Ambrose agreed stating that once customers begin to recycle, they may learn they will only need once a week pickup.

Mr. Brooks again pointed out the City should offer a reduced fee to senior citizens.

On the water tower cleaning project, Mark Mallamo had informed the City Manager the RFP's would be available February 14th. Mr. Carmean feels the project will come in below \$10,000 which will not require a formal bidding process. He hopes to have the project done prior to summer.

There is still a question about the moss-related problem on the Tenth Street tower which he hopes can be answered by some of these contractors once the tower is evaluated.

Mr. Crouch still believes the city should still adopt the new plan with the \$2 increase while continuing to run twice a week pickup. However, once the residents grow accustomed to recycling, they may learn the twice-a-week pickup is no longer necessary.

Mr. Carmean will continue to work on the program and its alternatives. It was suggested a formula determined by age and income level be developed, similar to the senior citizen tax discount.

COMMITTEE REPORTS

Annexation Committee Reports:

Milford Housing Development Corporation

Wilson Contracting, Incorporated & Richard K. Wilson, Sr.

Forest Family Properties LLC

Written reports were submitted by the Annexation Committee Members Abraham Ellison, Katrina Wilson, Clifford Crouch and Planning Chairman Randy Marvel. The reports reviewed the three petitions submitted with the location, comprehensive plan, streets, drainage, zoning, electric, sewer and water, easements and taxes reviewed.

Chairman Ellison reviewed the reports and advised the recommendation was to proceed with each annexation with the Forest property and Milford Housing coming in under the R-3 zone, but the Wilson Contracting/Richard Wilson property being reduced to R-2.

Ms. Wilson moved to proceed with the Milford Housing application with an R-3 zone, seconded by Mr. Crouch. Motion carried.

Concerns were expressed that most of the applications are coming in with an R-3 zone. Planning Chairman Randy Marvel was in attendance and stated the applicants are trying to maximize density. The R-2 allows four units per acre and R-3 permits up to 16 units. Most do not ask for the maximum and are in the 7 or 8 number. He is concerned because the zones jump from 4 to 16 units per acre. He suggests the code be reviewed and a zone between R-2 and R-3 be considered.

Mr. Crouch pointed out that both annexation petitions with the recommended R-3 zone involve affordable housing.

Mayor Rogers agrees a review of the density requirements is needed and will appoint a committee to consider other options.

Though Mr. Carmean likes the PUD's, a product with 16 units to an acre is something he does not want in the City. He agrees that 8 should be the maximum considered. Presently the most dense area involves 7.62 units per acre.

A number of suggestions were discussed including eliminating the R-3 completely or reducing it to a maximum of 8 units.

The developments already approved for R-3 would need to be grandfathered. Any new applicants would fall under the new criteria.

Mr. Crouch moved to proceed with the Wilson Contracting parcel with an amended R-2 zone, seconded by Ms. Wilson. Motion carried.

Any problem with the change in zone requested by the Annexation Committee would have to be addressed at the public hearing.

Ms. Wilson moved to proceed with the Forest Family application with an R-3 zone, seconded by Mr. Morrow. Motion carried.

Public hearings will be scheduled at a later date.

No other reports were given.

There was another discussion regarding yellow lines being painted on Southeast Second Street to separate traffic and reduce confusion and why it has not been done. Mr. Carmean said we have a number of state-maintained streets in the City including this street. He will have Mr. Webb contact the state engineer for follow up.

Ms. Wilson acknowledged the recent death of Coretta Scott King, the human rights advocate who worked to carry on her husband, Martin Luther King's, message throughout the world.

COMMUNICATIONS

The following events are scheduled this month:

Felton Bank Ribbon Cutting Ceremony February 15, 2006 11:00 a.m.

Chamber of Commerce Power Breakfast February 21, 2006 7:30 a.m.

League of Local Governments Monthly Meeting February 23, 2006 6:00 p.m.

Mayor Rogers, Councilmen Brooks and Morrow will be attending the Delaware League Dinner.

Mr. Carmean advised that Ward Halsted will address Chamber members at their Power Breakfast with regard to Tax Tips.

Mr. Ellison reported that he and Mr. Ambrose plan to participate in the Delaware League visit to meet with our Congressional Delegation on March 15, 2006.

Mr. Morrow noted he has attended the event in the past and found it to be a very informative day. He encouraged other Council Members to attend.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

Approval of Kent County/Agreement for Wastewater Transmission & Treatment Services

Mr. Carmean advised the Agreement for Wastewater Transmission and Treat Services expires this year. There were some minor amendments as noted and explained in the letter from County Engineer Hans Medlarz.

One change reflected the maintenance of the county's transmission system. Past agreements have not differentiated between the user and the county as each party is responsible for maintaining their

respective system. Another article established the link between the treatability of wastewater and the responsibility of the user to bring it to code.

No other changes were addressed in the discussion.

Mr. Ellison moved to ratify the Agreement for Services between the City of Milford and Kent County Levy Court for and on behalf of Kent County Sewage Disposal District Number 1. Mr. Ambrose seconded motion. Motion carried with no one opposed.

City of Milford Planning Commission Vacancy

Commissioner Verna Walls submitted her resignation from the Planning Commission due to health reasons. The resignation was effective immediately.

Mayor Rogers prefers another person from the second ward because he wants to maintain balance to insure proper representation on the commission. He asked Mr. Ellison and Mr. Crouch for recommendations.

Introduction of Ordinance 2006-1/Contractors Chapter 107

The amendment to the Contractors Ordinance is being introduced this evening. The changes were necessary as a result of some problems in our contractors licensing procedures including not having a penalty for no license. A late fee has also been added when a contractor is not in possession of a license after notification.

It is also proposed that the fee be prorated quarterly instead of requiring the entire yearly fee be paid regardless of the time of year the application is submitted.

The City Manager asked Council to review the proposed changes.

Though the City receives periodic complaints from new homeowners, it was noted the City is unable to act on a complaint when a person is unsatisfied with the work performed by a contractor. Such cases need to be handled civilly. Our building and code employees do examine the properties to ensure the buildings are built to code. Anything beyond that must be handled by the property owner.

Contractors need to be licensed through the State of Delaware which must be provided before a City Contractor Permit is issued.

Adoption of Resolution Authorizing Copying & Related Fees

The City Manager advised we are receiving an increased number of requests for information which often involves a substantial amount of time. This resolution covers our costs while ensuring that all persons requesting information are handled in an equal, fair manner.

Ms. Hudson added that the goal is to develop a formal FOIA (Freedom of Information Act) policy with this being the first step.

Mr. Ellison moved to adopt the following resolution, seconded by Mr. Starling:

A RESOLUTION OF THE CITY OF MILFORD, DELAWARE AUTHORIZING CHARGES FOR COPYING AND RELATED SERVICES BY THE CITY OF MILFORD

WHEREAS, requests are made of the City of Milford for copies of public records, certain documents, correspondence and reports by person(s); and

WHEREAS, the City Council of the City of Milford authorizes the Office of the City Clerk and other City departments (hereafter referred to as "The City") to assess and collect a reasonable fee by an interested person pursuant to the Freedom of Information Act or other applicable law; and

WHEREAS, the City shall make every reasonable effort to respond to a request within ten (10) business days; and

WHEREAS, the City is not required to create records that do not exist at the time the request is made; and

WHEREAS, the City may authorize certain exemptions from such fees and charges, as deemed appropriate; and

WHEREAS, all requests for Law Enforcement Records fall under the jurisdiction and policies and procedures of the Milford Police Department and shall be immediately forwarded to the Chief of Police or made directly at the Milford Police Department.

NOW THEREFORE, IT IS HEREBY RESOLVED that the Mayor and Council authorize the following fees be charged for complying with a request under the FOIA, as applicable:

Duplicating/Copying Fees

The following are duplicating/copying charges for providing public records:

(1) Standard Sized, Black and White Copies

Cost for duplication or publication, including labor, for standard sized, black and white public records shall be \$0.25 per page, for 8.5" x 11", 8.5" x 14", and 11" x 17" sized paper.

(2) Computer/Electronically Generated

Charges for copying records maintained in an electronic format will be calculated by the material costs involved in generating the copies (including, but not limited to: cassette tapes, video tapes, computer disk costs) and administrative costs. Actual costs shall be assessed for copying computer generated records and providing other materials such as video tapes, computer disks, etc.

Administrative Fees

The following are administrative fees for providing public records:

(1) Actual Labor Costs

In calculating the cost of labor incurred, the City may not charge more than the hourly wage of the lowest paid City employee capable of retrieving the information necessary to comply with the request. Labor charges will be billed to the requestor per quarter hour. Labor charges will be in addition to any duplicating/copying charges. Charges for actual labor costs include:

- * Staff time associated with processing FOIA requests;
- * Locating and reviewing files;
- * Monitoring file reviews;
- * Generating computer records (electronic or printout); and
- * Any other time rendered by the employee in researching, examining, developing, duplicating, reviewing, and separating exempt from nonexempt information that has been requested.

(2) Other Costs

Any other actual costs associated with fulfilling a request for information, such as postage, shall be at the expense of the requestor.

If the City does not have the resources or equipment to duplicate requested records, the City, at its discretion, may arrange to have records duplicated by an outside contractor. In this instance, the requestor will be liable for payment of these costs.

Motion carried.

Adoption of Resolution Authorizing Sale of Business Park Land Per Acre

Though this resolution addresses the increased price of land in our Business Park, some additional policies need to be added. At one time, the entire park was zoned Business Park (BP) with a number of regulations and restrictions spelled out in that ordinance. The north side of the park was rezoned to Office Complex District (OC) at the request of the Veterans Home. That ordinance does not contain the provisions needed including stormwater management, commencement of construction and repurchase of land, etc. Such items must be specified before any additional land is sold in that area.

Mr. Carmean has since reconsidered the \$50,000 price and may propose a higher price. Therefore, he is suggesting the adoption of this resolution be postponed until some further information can be obtained.

He is aware of one person who has expressed an interest in three acres though the costs of stormwater management, roads and infrastructure costs had not been determined. A letter was submitted though the final contract was not executed because of these issues.

The Boys and Girls Club have put their project out to bid. Mr. Carmean added he was involved in the capital program by way of a luncheon he sponsored. It resulted in almost \$200,000 being raised.

FINANCE REPORT

Through December of 2005 with 50% of the fiscal year having passed, 63.90% of revenues have been received and 65.97% of the operating budget expended.

It was noted the power purchase costs have exceeded 100% which has affected the total expenditures for the year. By removing the power cost line item, the overall expenditures total 49% .

The Water and Sewer Division debt service are both more than 50% because of large payments made in December. Mr. Ambrose emphasized that line item will never go above 100%.

Mr. Ambrose recalled the Solid Waste Division was expected to have a deficit but instead shows 48.38%. This is because half of the solid waste carryover account was transferred into that budget. Additionally, the initial solid waste revenue account was budgeted at \$753,000; it has since been increased to \$853,000. This is the result of the residential and commercial increase put into effect January 1st which will generate an additional \$100,000. Both increases should generate \$200,000 over a complete budget year. The solid waste reserve fund should contain approximately \$100,000 at the end of the budget year.

As a result, the Solid Waste Division should end with a balanced budget.

Following a review of the report, Mr. Ambrose moved to accept the December 2005 Finance Report, seconded by Ms. Wilson. Motion carried.

Fiscal Year 2004-2005 Audit

The final FY 2004-2005 Audit was distributed for Council review. It has been scheduled for approval at the March meeting.

EXECUTIVE SESSION

Motion made by Ms. Wilson and seconded by Mr. Starling to go into Executive Session reference a Legal Matter. Motion carried.

Mayor Rogers recessed the Council Meeting at 9:06 p.m. to go into Executive Session to conduct a discussion regarding some potential legal action.

Return to Open Session

City Council returned to the Monthly Meeting at 9:46 p.m.

ADJOURN

With no further business, Mr. Morrow moved to adjourn, seconded by Mr. Starling. Motion carried.

The Monthly Meeting adjourned at 9:46 p.m.

Respectfully submitted,

Terri K. Hudson, CMC

Recorder