

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 13, 2012

The Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Tuesday, November 13, 2012.

PRESIDING: Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr.
Douglas Morrow, Sr., James Starling, Sr. and Katrina Wilson

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

City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Rogers called the Monthly Meeting to order at 7:04 p.m.

INVOCATION AND PLEDGE

The Pledge of Allegiance followed the invocation given by Councilman Starling.

APPROVAL OF MINUTES

Motion made by Mr. Brooks, seconded by Mr. Morrow to approve the minutes of the October 8, October 18 and October 22, 2012 Council and Committee Meetings as presented. Motion carried.

RECOGNITION

No special guests were present to be recognized.

MONTHLY POLICE REPORT

After Mr. Morrow presented the monthly police report on behalf of Chief Hudson, Mr. Pikus moved to accept the police report as submitted, seconded by Mr. Brooks. Motion carried.

Ms. Wilson arrived at this time.

CITY MANAGER REPORT

Mr. Carmean then read into record the following report:

ADMINISTRATION

We are continuing to move forward on our mailing outsource program for utility billing and taxes. I am waiting for a draft of what the new billing form will look like. We have made changes that will give us a larger area for messages. In addition, the return portion will be at the bottom of the bill instead of the top. This will give us the ability to use bar code readers in the future. I am also planning not to discontinue the late notice mailings. This will cut down on customer complaints and will not be a staff workload problem because it will be handled by BillTrust.

We have upgraded the audio system in the council chambers. This will enhance the ability of the audience to hear the discussion by council and presenters. Mrs. Hudson will also experience an improvement in the clarity of the recordings, which will make her task of transcribing the minutes somewhat easier.

ELECTRIC

The scheduled tree trimming over the past year paid dividends during our recent storm. I may be recommending an even more extensive trimming program for our next budget year. In the past, the city has contracted outside businesses to do the maintenance as extensive trimming and removal is needed. Our people were able to trim enough tree growth in and around our wires to make a difference in the level of outages created by the rain and wind generated by Sandy. After the soaking rain had the wind not changed direction and sustained winds would have continued during the night, we most likely would have experienced major loss of power to customers.

The Fordmill Substation is once again moving forward. Many of our problems and concerns with our connection to the grid have been addressed and solved. It will not be completed as was expected by the end of 2012, but should be energized by spring 2013. The solar field has to be on-line by the end of the year and would not have happened if our Electric Superintendent had not diligently pursued a solution by allowing them a temporary connection to our system. The solar project, due to the financing method, would have been impossible if we had not made the effort to give them the ability to put generated energy on the system by the December 31st date.

SEWER AND WATER

The test well will be drilled at the Wickersham location this week. As I have reported before, all indications seem to be positive for a successful well at the site.

I am starting the process of getting the treatment facility at Washington Street demolished. Some approvals will be needed by city council at your next meeting. As soon as the Washington Street Bridge is opened, I intend to immediately move forward with the project. The sewer pump station at that location is also due for a complete rebuild. This will occur at approximately the same time.

I had scheduled a preconstruction meeting for the S.E. Water Extension with the engineers and construction people. Due to the storm and election this has been postponed. However, the change will not impact our start date. Everyone involved recognizes the importance of getting the bore and pipe under Route 1 prior to work beginning on the overpass.

STREETS AND SOLID WASTE

We have made every effort to keep up with our collections of yard debris, household trash, recycling and anything else tossed our way. We have asked our employees to work in all areas of our operations regardless of their assignments. I received compliments for the manner in which the preparations for the storm were handled by electric employees and police, as well as public works. Many comments were also made as to how all our employees did a great job during the storm.

Mr. Carmean pointed out we were getting calls from a few unreasonable customers who were complaining that the city had not picked up their trash on the day of the hurricane. Overall, most of the residents were very pleased. In order to catch up, he had the public works director and street superintendent riding the trucks this past Friday to pick up debris.

When asked when the leaves will be picked up, Mr. Carmean said they were collecting them Friday though the rain may have impacted that service today. We will continue with leaf collection though a lot of our residents were unaware of the deadline for yard waste and the dates for leaf collection. He is hoping our residents are better informed once the containers are delivered.

Mr. Brooks expressed his appreciation for the assistance and emphasized the number of phone calls he received during the storm and the following days.

The city manager advised that though the sandbags were not needed, he feels it was appropriate the city provide them to the downtown businesses.

Mayor Rogers commended city staff and police department employees who worked throughout the storm. He said Milford was very fortunate to have dodged the bullet, but also believes we are much more prepared for these type emergencies than in the past.

Mr. Brooks noted that during last year's hurricane, the high school's retention pond behind his home flooded. At that time, the electric box was locked out and school officials were unavailable. Public Works Director Brad Dennehy and City Manager Dave Baird had the box unlocked to ensure access to the pump. This year it was about three-quarters full when the wind picked up. He was concerned that if the electricity went out and the pumps stopped, the pond would fill in a short period of time. Fortunately, that did not occur and he very much appreciates the work that was done to prevent that from reoccurring.

Ms. Wilson reported that recently, she met some people that relocated here from New Jersey. They felt very fortunate to have moved here and become Delawareans.

COMMITTEE & COUNCIL REPORTS

Mr. Starling thanked Chief Hudson for taking the time to meet with a group of ministers which included his wife Rev. Dr. Jeanel D. Starling.

COMMUNICATIONS

Included in packet.

UNFINISHED BUSINESS

Planning Commissioner Appointment

No name has yet to be submitted for consideration. The item will remain on the agenda as unfinished business until the vacancy is filled.

Board of Adjustment Vacancy and Appointment

Mayor Rogers reported that due to health reasons, BOA Member Samuel Johnson resigned effective October 31, 2012. He noted that Mr. Johnson served on both the planning commission and board of adjustment for many years. He wishes him well and prays that his health improves.

He plans to fill this position at the next meeting.

NEW BUSINESS

Adoption of Resolution 2012-16/Authorizes Application for Funding/DLWCTF/Can-Do Playground At Milford

Mr. Pikus moved to adopt the following resolution, seconded by Mr. Gleysteen:

WHEREAS, the Mayor and Council of the City of Milford have initiated action to bring a public playground accessible to children and families of all abilities by expanding the existing facility at Silicato Memorial Park; and

WHEREAS, the City of Milford Parks and Recreation Department has filed an application to the Delaware Land and Water Conservation Trust Fund; and

WHEREAS, the City of Milford Parks and Recreation Department will oversee the implementation of the project and authorizes Director Gary Emory as the project manager; and

WHEREAS, the Delaware Land and Water Conservation Trust Fund requires that Silicato Memorial Park remain open to the public for outdoor recreation purposes.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the Mayor and Council of the City of Milford authorizes an application for funding to the Delaware Land and Water Conservation Trust Fund be submitted and that the City of Milford agrees to place in use and maintain in perpetuity the Can-Do Playground at Milford for the enjoyment of all.

Motion carried by unanimous roll call vote.

Adoption of Resolution 2012-17/Amendment to City's Health Flexible Spending Arrangement

It was noted that the city has a program that allows its employees to deposit a portion of their income into accounts maintained for certain health care expenses. That money can then be withdrawn and used for eligible out-of-pocket medical, dental, vision, and similar expenses on a pre-tax basis, with deductions taken directly from the employee's salary. The maximum that can be deducted fluctuates annually and is determined by the federal government. This year's limitation is \$2,500 per employee.

Mr. Grier moved to adopt Resolution 2012-17, seconded by Mr. Morrow:

WHEREAS, The City of Milford maintains The City of Milford Health Flexible Spending Arrangement (the "Plan"); and

WHEREAS, the Plan was amended and restated effective January 1, 2011; and

WHEREAS, the City of Milford now desires to amend the Plan to reflect certain provisions of the Affordable Care Act of 2010 (the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act) and IRS Notice 2012-40l; and

WHEREAS, the City of Milford intends this Amendment as good faith compliance with the requirements of these provisions; it is

RESOLVED that, effective January 1, 2013, the City of Milford Health Flexible Spending Arrangement is hereby amended, as follows:

FIRST: Paragraph A. of Article IV of the Plan shall be deleted and replaced with the following new Paragraph A.: "A. A Participant may elect to receive up to \$2,500, or such lesser amount as determined from time to time by the City, of medical expense reimbursement under this Plan by filing an election and Compensation Reduction Agreement, if applicable, in accordance with the procedures established under the Plan. The \$2,500 limitation will be adjusted for increases in the cost of living in accordance with Code Section 125(i)(2). The dollar increase in effect on January 1 of any calendar year shall be effective for the Plan Year beginning with or within such calendar year. For any short Plan Year, the limit shall be an amount equal to the limit for the calendar year in which the Plan Year begins multiplied by the ratio obtained by dividing the number of full months in the short Plan Year by twelve (12). An election to receive medical expense reimbursement and the corresponding Compensation Reduction Agreement shall be irrevocable during the Plan Year, subject to a change in family status, as provided in the Cafeteria Plan."

Motion carried by unanimous roll call vote.

Adoption of City of Milford Investment Policy Statement

Mr. Pikus advised the finance committee met last Thursday, along with Finance Director Jeff Portmann and City Manager Carmean. Though Mr. Pikus thought this policy was already in place, Mr. Portmann presented a new policy which will guide any investments the city has. It also directs the finance director on how to invest our funds. He emphasized it does not specify which company or firm the city invests with.

The finance committee recommended adoption of the policy.

Mr. Pikus moved that city council adopt the City of Milford Investment Policy Statement as presented, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

Acceptance of Fiscal Year 2011-2012 City of Milford Annual Audit

Mr. Pikus noted that Finance Director Portmann and City Manager Carmean also presented this document to the finance committee at their latest meeting. He reported that the audit covering the fiscal year ending on June 30, 2012, was completed by Beck, Villata and Company, P.C.

He moved city council accept the Fiscal Year 2011-2012 City of Milford Audit as completed, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

MONTHLY FINANCE REPORT

Chairman Pikus reported that through the third month of Fiscal Year 2012-2013 with 25% of the fiscal year having passed, 35.56% of revenues have been received and 24.86% of the operating budget expended.

Mr. Pikus then explained that under real estate tax, \$3,508,380 was budgeted though \$3,612,075 was billed, or 2.96% more than was budgeted. He noted that this does not mean we have collected \$3 million. He said that money has not been received yet because we only billed in September. In addition, taxes were not due until the end of October. This only shows an increase in billing. We will know more once we begin to receive the tax payments.

He advised it is difficult to place a figure every month on what should come in because a lot of taxes are paid through mortgages and other third parties.

Mr. Grier asked why property taxes are shown on the report as being billed versus what is received; Mr. Carmean answered by stating in actuality we have not received them. Mr. Grier said he would expect the taxes received to be reported versus what is being billed. Mr. Carmean said it is the only way to predicate our anticipated revenues. Mr. Grier understands the anticipated revenues, but does not understand why the taxes collected year to date are not included.

Mr. Pikus agreed noting that several people in the community had the same question. When he suggested to Mr. Portmann that he include the taxes collected each month be included in the report, Mr. Portmann explained that it fluctuates a great deal each month. As a result, it is difficult to calculate the bottom line until the end of the year which is when we actually see how much has been received. He said we hope to receive the majority of taxes in October and November though some businesses and corporations pay taxes in relation to their fiscal year. However, the difficulty in determining what to anticipate in taxes basically throws off our entire budget.

Mr. Pikus said Mr. Portmann has offered to send a supplement to the finance report showing how much is received each month. However, that will not provide an accurate figure of what is received at the end of the year because we have so many other accounts with revenues coming in.

Mr. Grier asked if the amount of taxes received is entered into the computer as a paid account each day it is received. He feels that with software programs, there should be an easy way of calculating the plus and minus on a daily or monthly basis.

Mr. Carmean explained that in the more than forty years he has been here, there are very few years the city takes in much of a shortfall in property taxes. There maybe an occasional problem with an estate, but eventually the city receives those taxes.

Mr. Pikus said Mr. Portmann has the ability to add another line item showing how much has been received every month in lieu of the figure showing how much has been billed out.

Mr. Morrow feels we should defer the matter to Mr. Portmann and allow him to decide how to address this. He can then report back to city council at the next council meeting. He agrees with Mr. Grier that this should be able to be done in a much simpler manner considering today's computer programs.

Mr. Grier noted that every other item is actually based on what has been received year to date—building permits, water revenues, electric revenues. The only line item that is not actual year-to-date is real estate taxes.

Mr. Pikus also pointed out the finance report is two months behind and what is presented today is as of September. Property taxes were not due until October 31st.

Mr. Brooks asked what the negative \$438 month-to-date means. Mr. Carmean explained that is uncollected taxes and said in September a lot of people had still not paid their taxes.

Mr. Carmean said he does not know why the real estate tax account was set up like that. All other accounts show what has been received each month, year to date, etc. However, it was always done like that. He agrees with Mr. Grier that this should be a simple process. A tax check is received and the tax account is credited.

Mr. Pikus said if Mr. Portmann changes it, it will show a negative every month until the entire amount has been collected.

Mr. Brooks again asked what the \$438 means; Ms. Hudson explained it is a credit or reduction that occurred in September. It is \$438 less than what was billed in August. Mr. Pikus said it might be a credit but Mr. Portmann will need to confirm.

Mr. Pikus will follow up with the city manager and finance director.

Mr. Pikus then reported that revenues are up which is mainly due to the increase in building permits. Presently, we are 12% over the anticipated building permits. That is the result of the construction that is occurring around town in addition to the economic development that is taking place. Overall, revenues are up by about 10% which is a good sign for the city.

Mr. Gleysteen recalled that in late spring, we let the broadbase impact fee waiver expire; he asked the city manager for a review of the last fifteen months or so and specifically how the expiration of the impact fees compares against the same period a year ago.

He would like to see the number of building permits, compared to those periods when we were not charging impact fees and whether there was an adverse or positive effect. He wants to determine whether the expiration created a slowdown, the difference in the revenue that has collected and how many permits were issued compared to the period when the impact fees were waived.

Mr. Pikus moved to accept the September 2012 Finance Report, seconded by Mr. Grier. Motion carried.

EXECUTIVE SESSION

Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation

Mr. Pikus moved to go into Executive Session reference a discussion on a legal matter, seconded by Mr. Gleysteen. Motion carried.

Mayor Rogers recessed the Council Meeting at 7:34 p.m. for the purpose of an Executive Session as is permitted by Delaware's Freedom of Information Act.

Return to Open Session

City Council returned to Open Session at 7:49 p.m.

Executive Session Matter

City Solicitor Rutt announced that no action was needed as a result of the discussion in Executive Session.

ADJOURN

With no further business, Mr. Pikus moved to adjourn the Council Meeting, seconded by Ms. Wilson. Motion carried.

The Council Meeting adjourned at 7:50 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Terri K. Hudson". The signature is written in a cursive style with a large, stylized "H".

Terri K. Hudson, MMC
City Clerk/Recorder