

MILFORD CITY COUNCIL
MINUTES OF MEETING
October 10, 2011

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 Monday, October 10, 2011

PRESIDING: Mayor Joseph Ronnie Rogers

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

City Manager David Baird, 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 7:03 p.m.

APPROVAL OF MINUTES

Motion made by Mr. Pikus, seconded by Mr. Brooks to approve the minutes of the September 12, 2011 and September 26, 2011 meetings as presented. Motion carried.

RECOGNITION

There were no special guests in attendance.

POLICE REPORT

Police Committee Report-Police K9 Grant

Chairman Morrow reported that a police committee meeting was held on September 26th and thanked Vice Chair Wilson for presiding in his absence. He advised that Chief Hudson reported on a grant for an additional police dog.

Chief Hudson advised that the department has always needed a second dog. The current dog follows a shift schedule which benefits the same shifts; the other two shifts are without a dog. The current K-9 Unit is on call round the clock; an additional dog would provide relief and benefit the department by having a K-9 available essentially every night. He noted the funding is available from Homeland Security specifically for the costs of an explosive-trained dog. The current dog is trained for drugs and patrol.

Mr. Morrow reported the police committee voted unanimously to recommend proceeding with the grant for the second dog.

New Police Facility

Mr. Brooks asked the status of the new police facility. Mr. Morrow said they met with Senator Simpson though there is no funding available this year though they are on record for funding next year. They also went to Washington DC to meet with our federal legislators.

Mr. Morrow noted there is a possibility another entity may be interested in the building.

Chief Hudson confirmed they are in the funding phase and are presently working on a grant through the USDA.

Mr. Brooks noted the importance of proceeding with the plans, considering the number of employees currently housed at the department is far greater than what the building was planned for.

Mr. Pikus added that their trip to Washington DC was a few weeks late for any consideration of the current federal budget, though it will be considered next year.

Mr. Morrow moved for approval of the canine dog, pending the award of the Homeland Security grant, seconded by Mr. Pikus. Motion carried.

Mr. Morrow moved to accept the Monthly Police Report, seconded by Mr. Pikus. Motion carried.

Public Works Committee

Mr. Pikus advised that one of the business owners downtown asked for a reduction in the two-hour parking signs to one-hour on Walnut Street. He asked it be investigated by the Public Works Committee.

Mr. Brooks suggested the decision be a joint effort of the Police and Public Works Committee.

CITY MANAGER REPORT

Mr. Baird then referenced the following report:

Solid Waste & Recycling

In 2010, SB234 was signed into law and part of the legislation establishes diversion rates of 50% by January 1, 2015 for Municipal Solid Waste being disposed of at the landfill. The tables below compare the City's diversion rate by month with the same period of the previous year as well as year to date and annual totals.

	Solid Waste	Curbside Recycling	Igloo Recycling	Yard Waste	Total	Diversion Rate
Aug 2010	428.12	31.95	41.40	0	501.47	14.6%
Aug 2011	379.05	35.99	31.98	43.30	520.93	21.4%

	Solid Waste	Curbside Recycling	Igloo Recycling	Yard Waste	Total	Diversion Rate
2009	4,684.38	442.44	545.68	-	5,672.50	17.4%
2010	4,630.47	450.12	505.82	37.49	5,632.39	17.6%
2011(YTD)	2,775.22	307.80	304.19	232.67	3,619.88	23.3%

Impact Fee Waivers

Since the waiver of impact fees was implemented in June 2010, the City has waived \$324,725 in fees. This waiver has allowed property owners in Milford to retain this money and has helped to support a total investment of \$16,867,747 (based on building permit values) during the months of June 2010 through September 2011.

I&I Construction Work

Construction work has started on the I&I project and crews from Teal Construction are proceeding with the open cut repair and replacement portion of the contract. Most of the work to date has centered in the area of SE Front Street and many of the side streets off of it. The Public Works staff is also evaluating options presented to it for the permanent repairs to the sewer line break on S. Walnut Street and how it may be incorporated into the I&I project.

201-207 NW Front Street

The City is meeting with both property owners on Tuesday, October 11 in a final attempt to bring resolution to this matter. I am optimistic a resolution will come from this meeting, however, if one does not, the City will be in a position to issue condemnation and demolition orders on 205 and 207 NW Front Street.

Board of Adjustment—Outdoor Woodburning Furnaces

The Board of Adjustment will be meeting on Thursday, October 13 at 10:00 a.m. in City Council Chambers to consider applications for variances to the City's outdoor woodburning furnace prohibition as contained in the City's zoning code.

Milford Ponds Conditional Use Hearing

After further discussions with the applicant and a detailed review of the City's Zoning Code, the City has an obligation to hold a public hearing and consider the applicant's request. Section 230-47C of the City Code states "The Council shall then act within 60 days of the receipt of the Commission's recommendation to either approve with conditions or deny such use after holding a public hearing. The Council's decision shall be based on the determination that the location of the use if appropriate, it is not in conflict with the Comprehensive Plan and it is consistent with the purpose and intent of this chapter." With this said, the Public Hearing has been scheduled for Monday, October 24, 2011 at 7:00 p.m.

Electric Rate Comparison

See attached rate comparison chart for both summer and winter rates as prepared by DEMEC as of Oct 3, 2011.

Mr. Baird added that moving from summer months (September 30th) into the winter months, places Milford in fourth place (from sixth). He is considering a number of other options to decrease rates as well.

Mr. Johnson asked what percentage of the citywide assessment has been completed; Mr. Baird said he is unsure and will provide that information at the next meeting. Mr. Johnson asked what areas of the city they are working in; Mr. Baird said all over town. They have not been able to provide a schedule because there are a number of their staff handling various segments of the city.

Mr. Pikus advised that one of our property owners had some questions. The assessor who spoke with him was extremely helpful and gave a good explanation to Mr. Pikus and two other business people. He actually went out with one of our business owners who offered to sit down and explain the overall process and the difference since the last reevaluating.

Mr. Baird said a similar situation occurred with another property owner who was very pleased with the explanation.

Mr. Pikus recalled the annual contract with Tyler to take over the day to day maintenance. He asked if they have started that work. Mr. Baird stated they have not started the work though he is presently scheduling a meeting to review that. He said a lot of that work is being integrated into the revaluation process. They are immediately informed when a new permit is issued.

Mr. Pikus also verified that if five new houses are built, they receive that information. Mr. Baird stated yes, that is correct. There is some improvement needed because there is a gray area due to working on two different assessment bases (2002 and 2012).

Mr. Brooks asked how many property owners that have taken advantage of the impact fee waivers. Mr. Baird said he will obtain that information and provide it through an e-mail.

Mr. Morrow asked if all city trash customers have received their recycling containers. Mr. Baird said there is an order that was placed; upon receipt they will be delivered which he expects to be within the month.

Mr. Morrow then asked the status of commercial recycling. Mr. Baird advised we do not offer recycling to commercial customers not signed up for trash collection. He was asked to review the possibility of adding commercial recycling in consideration of the 50% diversion from the landfill. It was pointed out there is a great deal of commercial waste, including office materials and cardboard and packaging, which would increase the recycling number.

Mr. Brooks said he is surprised that Delaware Solid Waste was not more helpful with the containers considering their assistance when the program began. Mr. Baird said they were offering grants that municipalities could use to purchase recycling containers. However, the city did not apply because we would have been restricted in adjusting rates and therefore, he did not feel it was in the best interest of the city in consideration of any unexpected costs we may incur.

The city manager said we may offer the recycling service to commercial entities even though they are not trash customers.

He also noted that the meeting with the property owners of 201-205 Northwest Front Street scheduled for October 11th has been postponed due to the absence of one owner. However, he will be following up with City Solicitor Rutt and Building Inspector Williams and will proceed as was discussed at the last council meeting.

Mr. Pikus added that time is of the essence.

Mr. Pikus moved to accept the city manager's report, seconded by Mr. Brooks. Motion carried.

COMMITTEE REPORTS

Public Works Committee

Mr. Brooks reported that he has spoken to the city manager about some crosswalk issues who ensured him it is being taken care of.

COMMUNICATIONS

Communications included in packet.

UNFINISHED BUSINESS

Update/Public Hearing Rescheduled-Morris and Ritchie Associates, Incorporated on behalf of Griffin Realty, LLC/Modification of Conditional Use/PUD

City Solicitor Rutt advised that the Planning Commission considered the above application. They recommended it be sent to city council for consideration of the modification fo the conditional use/PUD. Because of a number of questions, he and the city manager pulled the item from a previous agenda. He has since reviewed the city code and Delaware code; Milford's code requires a hearing within sixty days of the planning commission recommendation. As a result, it has been placed on the October 24, 2011 agenda.

In the meantime, Mr. Rutt will send a letter to both attorneys involved and pose some areas he wants addressed in their presentations. He asked council to contact him with any questions or concerns they wish included.

Mr. Pikus is concerned they may be asking city council to solve their legal problem which he feels is not his responsibility. Mr. Rutt said council has the right to vote yes, no or abstain. When asked if there are ongoing problems, Mr. Rutt said they have some legitimate issues which they plan to bring before council though they need to be handled elsewhere.

Mr. Rutt said he will guide council on those issues they have jurisdiction over.

NEW BUSINESS

MS&B Contract/Feasibility Study for Small Business Accelerator

Mr. Baird advised the city received a \$35,000 grant award from the USDA as part of their Rural Business Enterprise Grant program. An application was submitted to conduct a feasibility study for the Small Business Accelerator. He said this was discussed at the same time the city kicked off its economic development strategy plan. He then asked John Rhodes to prepare a proposal for completing that work.

The city manager recommends approval.

Mr. Grier moved for approval of the Moran, Stahl and Boyer proposal for the feasibility study in the amount of \$35,000, seconded by Mr. Pikus. Motion carried.

Adoption of Resolution 2011-11/Scheduling Public Hearing/Washington Street Water Plant & Offices Borrowing

The following resolution was presented for consideration:

RESOLUTION 2011-11

RESOLUTION PROPOSING THE ISSUANCE OF UP TO \$4,000,000 MAXIMUM PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF THE CITY OF MILFORD TO FINANCE OR RE-FINANCE CERTAIN IMPROVEMENTS TO THE CITY'S DRINKING WATER FACILITIES AND ESTABLISHING THE TIME AND PLACE FOR A PUBLIC HEARING THEREON

WHEREAS, the City of Milford (the "City"), a municipal corporation of the State of Delaware, pursuant to Chapter 148, Volume 72, Laws of Delaware (as amended, the "City Charter") proposes to borrow up to \$4,000,000 maximum principal amount and issue its general obligation bonds (the "Bonds") in order to finance or re-finance (i) certain improvements to the City's drinking water facilities including, but not limited to, demolition and reconstruction of the Washington Street Water Plant and Office Building and (ii) certain costs of issuance of the Bonds (the "Project");

WHEREAS, the City has received a preliminary commitment from the Delaware Drinking Water State Revolving Fund, acting by and through Delaware Health and Social Services, Division of Public Health ("Drinking Water") to loan the City \$4,000,000 for the Project;

WHEREAS, to authorize the borrowing of up to \$4,000,000 through the issuance of general obligation bonds for the Project and in order to comply with Section 8 of the City Charter, the Milford City Council ("City Council") through the adoption of this Resolution hereby gives notice to the electors of the City that the City Council proposes to borrow an amount of money not to exceed \$4,000,000 to fund the Project and hereby establishes that a public hearing be held on October 17, 2011 at 7:00 p.m. at City Hall located at 201 South Walnut Street, Milford, DE.

NOW, THEREFORE, THE MILFORD CITY COUNCIL RESOLVES, as follows:

Section 1. Pursuant to Section 8 of the City Charter, City Council hereby gives notice that the City proposes to borrow an amount of money, not to exceed \$4,000,000 to fund the Project.

Section 2. Pursuant to Section 8 of the City Charter:

Amount of Borrowing for the Project: Not to exceed \$4,000,000.

Stated Municipal Purpose: To provide funds to finance the Project described herein.

Manner of Securing the Bonds: Full faith and credit of the City shall be pledged to secure up to \$4,000,000 of bonds for the Project.

Other Facts Deemed Pertinent by the City and in the Possession at the Time of this Resolution: The loan will be used by the City to finance or reimburse the City for (i) certain improvements to the City's drinking water facilities including, but not limited to, demolition and reconstruction of the Washington Street Water Plant and Office Building.; and (ii) certain costs of issuance of the Bonds (the "Project")

It is anticipated that during construction of the Project, accrued interest on loan disbursements will be due and payable in semi-annual payments; it is also anticipated that full amortization of principal and interest shall begin on the date which is the earlier of (i) one year from the date of loan closing or (ii) upon the Project completion date. Interest will be payable over a twenty (20) year term at a rate of up to two percent (2%) per annum although it is anticipated that it will be one percent (1%) per annum pursuant to the preliminary commitment letter from Drinking Water. In addition, at a minimum, 30% of the principal of the loan shall be forgiven although

pursuant to the preliminary commitment letter it is anticipated that 35% of the principal of the loan shall be forgiven upon the Project completion date.

Section 3. The City hereby finds that the Project constitutes a proper municipal purpose under Section 8 of the City Charter.

Section 4. The City Council hereby establish that a Public Hearing on this Resolution and the proposed borrowing described herein shall be held at a special meeting of Council on October 17, 2011, 7:00 p.m. at the City Hall located at 201 South Walnut Street, Milford, Delaware and hereby directs that notice of such Public Hearing be published and posted as required by the City Charter.

I, THE UNDERSIGNED, Clerk of the City of Milford, do hereby certify that the above Resolution was passed at a regular meeting of the City Council, duly called and convened, held on the 10th day of October, 2011, at which a quorum was present and voting throughout and that same is still in full force and effect.

CITY OF MILFORD, DELAWARE
/s/Teresa K. Hudson, City Clerk

Mr. Baird reminded council that this resolution was initially adopted in August for the borrowing of \$3.7 million. The resolution was amended with the \$4 million number that is needed to finance the improvements to the city's drinking water facilities, not limited to demolition and reconstruction of the Washington Street Water Plant and Office Building, as well as the associated costs of issuing the bonds.

He explained that immediately upon closing, 35% of the \$4 million will be forgiven; the remaining balance would be a low interest loan to the city at a term of 1% for 20 years.

Pertinent areas of the resolution were then highlighted. He reported that the interest rate is up to 2% though it is anticipated to be 1%. He said this was added in case there is a change in the interest rate. The same applies to the percentage of the loan being forgiven whose minimum will be 30% but is expected to be 35%.

He said the final section schedules the public hearing on Monday, October 17, 2011 at 7:00 p.m.

Mr. Brooks asked if the public will be informed on how this will be paid back; Mr. Baird confirmed there will be a presentation at the beginning of the public hearing which should answer those questions.

Mr. Pikus moved to adopt Resolution 2011-11 scheduling the public hearing on Monday, October 17, 2011, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

Mr. Brooks stated that as chairman of the Public Works Committee, he understands the needs for the improvements to the Washington Street Water Plant and votes yes.

Bid Award/Road Improvements 2011-2012

City Engineer Mark Mallamo advised that previously the city had bid street paving with each street as a separate line/bid item. This year, the three streets were combined into a total bid price. He explained the quantities in the bid price for the \$130,000 reflect the minimum expected to spend. He feels additional monies may be needed for other streets in the future. In addition, Church Street has the potential for some overruns due to some foundation issues.

Five sealed bids were received, publicly opened and read on October 5, 2011 for the Road Improvements Project 2011-2012. Bids ranged from \$130,606.80 to \$188,380.00. Mr. Mallamo is recommending the bid be awarded to Jerry's Paving in the amount of \$130,606.80 and the unit prices accepted through December 31, 2012. Unknown subgrade conditions on Church street may result in costs exceeding the contract award amount of \$130,606.80.

However the street renovation budget is based on Community Transportation Funds and Municipal Street Aid which have sufficient funds to cover additional work if required.

He explained there is a liquid asphalt adjustment which is a published price by DeIDOT. It states that as those prices go up and down with oil prices, we will pay an adjustment of the tonnage for hot mix asphalt based on that market index. It protects both the contractor and the city as prices fluctuate.

Mr. Mallamo stated that has been included in previous bids; the only real change was the total lump sum prices with unit prices that can carry over to other work.

Mr. Baird noted the most competitive bids were Jerry's Paving and Delmarva Paving.

Mr. Gleysteen confirmed that prevailing wages will be paid on this job; Mr. Mallamo explained the exact cost differential will vary depending on the bid and what the particular contractor pays their employees. However, there could be an approximate 5% savings and noted that anytime state funds or federal money is used, prevailing wages are required. If city money was used, the contractor could pay their regular salaries.

Mr. Mallamo confirmed the prevailing wage law applies to any construction work in the city using state and federal funds. In addition, those projects include any handicapped or ADA work. He emphasized the wage rates vary depending on the type of work being done.

Mr. Baird provided the following budget:

REVENUES

Municipal Street Aid (MSA)	
FY11-12 Cap. Budget \$	125,000
Additional FY11-12 Allocation \$	85,000
Community Transp. Funds (CTF)	
Simpson \$	100,000
Kenton \$	100,000
Peterman \$	25,000
Wilson \$	25,000
Outten \$	-
Scott \$	15,000
Remaining funds from CTF 11-P-PROG-23 \$	126,000
TOTAL \$	601,000

EXPENSES

N. Church Street Completion \$	300,000
Columbia (SE Front to Mispillion St.) \$	35,000
S.E. Third St. (S. Washington to Montgomery) \$	35,000
S.E. Fourth (Columbia to end of street) \$	50,000
Bridgeham Ave. (SE 3rd to SE 5th) \$	145,000
Masten Circle \$	16,000
Wilkerson Terrace \$	20,000
TOTAL \$	601,000

Mr. Pikus reported that he was informed by an engineering firm out of Baltimore this week that the degree of incline on the ADA ramps in the downtown area are one (1) degree off. He asked if that means those sidewalks will need to be cut out again. Mr. Mallamo said that was a state job under the jurisdiction of DeIDOT and that is a possibility.

Mr. Brooks moved the base bid be awarded to Jerry's Paving in the amount of \$130,606.80 and the unit prices be awarded through December 31, 2012, utilizing \$125,000 in Municipal Street Aid and Community Transfer Funds received from legislators, seconded by Mr. Gleysteen. Motion carried by unanimous roll call vote.

Introduction of Ordinance 2011-27/Chapter 21/Article I Absentee Voting in Municipal Elections

Mr. Baird introduced and reviewed the following ordinance, noting this will only impact referendum or special elections and not the general elections:

AN ORDINANCE TO AMEND Chapter 21 Election of the Code of the City of Milford by deleting and repealing Article I, Absentee Voting in Municipal Elections and replacing it with a new Article I, to be entitled Absentee Voting-Referenda and Annexation Elections.

WHEREAS, Signed into law on June 30, 2006, Title 15, Chapter 75 of the Delaware Code governs municipal elections in the State of Delaware; and

WHEREAS, Title 15, Chapter 75 of the Delaware Code provides rules for absentee voting for General Elections in municipalities within the State of Delaware; and

WHEREAS, Title 15, Chapter 75 of the Delaware Code states that Subchapter IV and Subchapter V shall not apply to referenda or annexation elections; and

WHEREAS, the Charter of the City of Milford provides rules of procedure, including specific timelines, for referenda and annexation elections; and

WHEREAS, there is a need to complete the absentee election process in a referenda and annexation election in a more timely manner in comparison to a general election; and

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 21 of the Code of the City of Milford is hereby amended by deleting and repealing Article I (Absentee Voting) in its entirety.

Section 2. Chapter 21 of the Code of the City of Milford is hereby amended by adding thereto a new chapter, to replace Article I, hereinabove repealed, to be Article I, entitled Absentee Voting-Referenda and Annexation Elections, to read as follows:

21-1. Absentee voting in referenda and annexation elections will be in accordance with 15 Del. C. 75 with the following exceptions:

A. Availability and return of affidavits; Availability of absentee ballots; Requests for absentee ballots.

(1) Affidavits will be made available to absentee voters during business hours at the city clerk's office no sooner than five days following the adoption of the resolution ordering the referenda or annexation election by city council. Completed affidavits must be received by the city clerk's office no later than noon two days preceding the referenda or annexation election.

(2) Official absentee ballots will be made available to absentee voters during business hours at the city clerk's office no sooner than five days after the resolution ordering the referenda or annexation election is adopted by city council and will end at the close of business two days preceding the referenda or annexation election.

B. Distribution of ballots, envelopes, and instructions.

(1) Not less than five days prior to a referenda or annexation election, and within five days after the absentee ballots, envelopes, and instructions therefore become available, the municipality shall mail, to each elector who requests and qualifies for an absentee ballot.

C. Delivery of absentee ballots.

(1) In order for an absentee ballot to be counted, it must be received by the election board before the closing of the polls on election day.

Section 3. Dates

Introduction to City Council 10/10/11

Adoption by City Council 10/17/11

Effective Date 10/27/11

Mr. Baird explained the time line for special elections (referendums and annexation elections) is much shorter than the General Elections. Therefore, the deadlines established in the state code are inappropriate when taking the shorter time line into consideration.

Dan Marabello of 1 Windy Drive, Meadows at Shawnee, confirmed that the process will stay the same except in the cases of annexation elections and referendum. He confirmed the ordinance repeals the entire Article 21. He said that Article 21 gives specifications where the absentee ballots can be obtained and provides rules of how to return the absentee ballots. He said the city manager just stated those rules will remain for general elections but this only impacts annexation and referendum elections. He questioned why Article 21 was being repealed in its entirety.

The city clerk explained that by law, the city is required to follow the state election code in regard to the absentee process in the general election. We will follow that same procedures/law in annexations and referendums, with the exception of the deadlines. This ordinance simply provides a shorter time frame for the process. Currently, Milford's Code (Chapter 21) is superseded by the Municipal Election Law which was signed into law and applied to municipal elections after July 2007. However, there was a provision that annexation and referendums (only) were exempt.

Water Tower Color Scheme/N.E. Tenth Street

Mr. Mallamo referenced the graphics he submitted for the water towers noting the painting is under contract with Southern Corrosion. He offered several suggestions and color combinations.

The general consensus was to paint the tower Milford school colors.

Mr. Gleysteen suggested that the tower on Tenth Street state Milford Buccaneers versus Milford, Delaware considering its close proximity to the high school.

Mr. Pikus moved for approval of an off-white tower with maroon lettering (Milford Buccaneers) with the new Milford logo, seconded by Mr. Grier. Motion carried by unanimous vote.

In regard to overspray, Mr. Mallamo reported that the contractors use a dry-fall paint whose paint droplets dry rapidly, usually within a few feet. They dry to a dust-like consistency which can be swept away.

Mr. Mallamo assured council that should a vehicle or structure be damaged as a result of the project, Southern Corrosion is properly insured and the matter will be taken care of immediately.

MSA Funding/S.E. Fourth Street Curbing

Mr. Baird advised that some curb installation was needed on Southeast Fourth Street. Shea Concrete was hired at a cost of \$10,560. He asked for authorization for payment from Municipal Street Aid Account.

Mr. Pikus moved for approval of payment from Municipal Street Aid, seconded by Mr. Gleysteen. Motion carried.

MONTHLY FINANCE REPORT

Mr. Pikus reported that through the second month of Fiscal Year 2011-2012 with 17% of the fiscal year having passed, 22% of revenues have been received and 15% of the operating budget expended.

Mr. Pikus stated that our reserves are in excellent shape at this time though a lot of those funds have been earmarked for various projects and items.

Mr. Pikus moved to accept the August 2011 Finance Report, seconded by Mr. Morrow. Motion carried.

ADJOURN

With no further business, Mr. Brooks moved to adjourn the Monthly Meeting, seconded by Mr. Grier. Motion carried.

Meeting adjourned at 8:08 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is written in a cursive style with a long horizontal flourish extending to the left.

Terri K. Hudson, CMC
City Clerk/Recorder