

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 16, 2010

The City Council of the City of Milford held a Public Comment Session on Tuesday, February 16, 2010 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall at 201 South Walnut Street, Milford, Delaware, prior to the commencement of the official City of Milford Council Meeting. The purpose of the informal session is to allow the public to speak about issues of interest that impact the City of Milford.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

ALSO: City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

Mayor Marabello declared the Comment Session open at 7:15 p.m.

Joseph Palermo of 5 Misty Vale Court, Meadows at Shawnee, thanked the electric department for keeping the lights on noting that people in Bridgeville and Greenwood were without thirty hours plus during the monumental snow storm that occurred over the past couple of weeks.. He also thanked Councilman Owen Brooks for his assistance during the storm. He suggested that plow jacks be added to the sanitation trucks and vendors and contractors on a retainer and some plow training. Overall, he thinks the city did a good job.

Skip Pikus of 16 West Clarke Avenue and 48 North Walnut Street (Lou's Bottery) thanked the city manager, council and police chief for what they did for Downtown Milford during the recent snow storm. He appreciated the work of the street and police departments noting the last time Milford saw a storm Milford has not had that much snow in years. The last time we experienced anything similar was the back to back ice storms in 1994. He appreciates the effort put into getting downtown cleared and commends the city for how they handled the problems, calls and emergencies. The police department kept the town safe and their quick response and the city did an excellent job with all utilities and services.

With no additional persons signed up, Mayor Marabello closed the Public Comment Session at 7:21 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder

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The Regular 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, February 16, 2010.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

ALSO: City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

CALL TO ORDER

Mayor Marabello called the Monthly Meeting to order at 7:30 p.m.

INVOCATION AND PLEDGE

The Pledge of Allegiance followed the invocation given by Councilman Starling. Mayor Marabello acknowledged the loss of city employee Donnell Roach who died on February 11, 2010. He had been employed by the sanitation department for the past twelve years.

APPROVAL OF PREVIOUS MINUTES

Motion made by Mr. Brooks, seconded by Mr. Morrow to approve the minutes of the January 25, 2010 Council Meeting as presented. Motion carried.

RECOGNITION

Adoption of Resolution/Express Condolences to the People of Haiti

Ms. Wilson advised that the Haitian pastors Reverend Radford and Amos were unable to attend tonight's meeting. Therefore, they asked this be deferred until they can be present.

MONTHLY POLICE REPORT

Police Committee Chairman Morrow presented the monthly report on behalf of Chief Hudson. He moved to accept the report, seconded by Mr. Workman. Motion carried.

CITY MANAGER REPORT

City Manager Baird reported that over the course of the last week and a half, a great deal of snow has been removed. He believes that most people were very pleased with our utilities and the work of our crews to make sure we had electricity and other utilities throughout the storm. He said that over the years, council has authorized a great deal of reinvestment in our electric system from pole replacement to tree trimming which paid dividends over the past couple of weeks. He noted the same held true with the water and sewer utilities. Streets crews have been working around the clock, whether directly or through contracted help, since last February 5th and just finished their evening operations.

The city manager said we are receiving information that the governor is making application to the federal government to have these snowstorms declared as a federal emergency. If that occurs, the city will be eligible for a portion of our costs to be reimbursed. The city will work with both the Kent and Sussex Emergency Operation Center and DEMA to complete

the state's application. He expects reimbursement to be approximately 75% of our costs. Throughout the storm, city staff was tracking its time, equipment used, etc. to make accumulating this information easier. The finance department began that work today.

He reported that three structures in the city had major damage. Big Lots Store had a roof collapse and is now closed. Sharing the same structure, Ace Hardware is closed because their fire suppression system was interconnected with Big Lots which has created some fire marshal concerns. A meeting of those parties is scheduled tomorrow to review a number of options.

Roofs also collapsed on a breezeway at 301 Montgomery Street and the Steiner Warehouse on South Washington Street. The awning at Burtons Body Shop also came down.

He also noted that Chief Hudson and some of his employees have been shoveling snow off the flat roof at the police department which is causing some water problems in which some repairs will be needed.

The city will work with each of these property owners to assist them. Continued evaluations will be done as the snow melts and creates additional problems.

Because of the weather, the North Front Street Sewer Project was suspended for more than a week with work resuming today.

The following report was submitted by Mr. Baird prior to the original council meeting scheduled on February 8, 2010:

North Front Street Sewer Project

Work has started on the North Front Street Sewer Project with most of the work concentrated in the area of NW Front Street and Truitt Avenue and the Truitt Avenue Pumping Station. Overall, the project is proceeding as scheduled with the exception of weather delays. The first progress meeting was held on Wed. Feb. 3 between the contractor, engineer and the City. The Contractor determined that there would not be a need to increase the value of the contract to comply with the Davis Bacon Wage Rate requirement. A zero dollar (\$0.00) change order has been prepared to acknowledge this and is included in the contract.

Municipal Street Aid

In FY10, the State Budget did not include any funding for Municipal Street Aid (MSA) and therefore the City's revenues dropped by \$278,000. Prior to the full reduction in FY10, the MSA statewide allocation was \$6 million. The Governor's proposed budget for FY11 includes \$4 million in MSA which would restore approximately \$183,000 in funding to Milford. I am certain there will be a great deal of debate between now and June 30 regarding this and other areas of the budget and we should not expect a final number until the General Assembly adopts a budget on June 30.

Mr. Baird asked council members to remind our state legislators the importance of municipal street aid and what is accomplished with it to ensure it is included in the state's budget.

2009 Water Reports

I am pleased to report that the City reduced its unaccounted water produced from 17.3% (147,396,000) in 2008 to 8.6% (67,424,000) in 2009. The City's Water and Meter Departments have done an excellent job in locating significant losses and replacing old equipment. These efforts combined with a wet 2009 have helped in reducing the City's Water losses and costs associated with the production of potable water.

Recycling Contract (Administration Goal)

In anticipation of DSWA not continuing its collection of recyclables, we are preparing bid packages for the collection of recyclables beginning August 1, 2010. In addition to evaluating private contractors proposals, the City will evaluate the potential for the City to take on the responsibility to collect recycling.

In talking with the street supervisors, they agree this is a real possibility which is the preferred option though the bidding process will continue.

SE Master Plan (Planning Goal)

Mr. Norris and I have continued to work with the Office of State Planning Coordination to finalize the plan based on the comments received from the public as well as the goals outlined by the State Agencies. Additional work will include follow-up coordination with Sussex County Planners. Once the draft plan is completed, there will be a final public workshop to present the plan to the public which will then be followed by consideration of the plan by the Planning Commission and City Council.

GovNow Online Application (IT Goal)

The City has launched the new online payment application for utility bills in late January. Although the site is a beta site and is operating slower than expected, it is receiving positive feedback. We encourage all City residents to visit the new site and experience what the site has to offer in the way of mapping information, tax information, and utility payment and history. We will continue to add upgrades as they become available in the coming months.

Recreation and Trail Plan (Parks and Recreation Goal)

Mr. Emory has submitted a grant application for funding to complete a recreation and trail master plan. This plan will be used to identify future locations for City Parks and trail connections off of the Riverwalk to connect to key locations throughout the City. This information will be extremely helpful as the Planning Commission evaluates the proposed Open Space ordinance. We should expect to hear a final decision on our application by late February or early March.

Electric Substation Improvements (Electric Goal)

The Electric Department is moving forward with discussions with property owners and preliminary survey work on potential properties for acquisition of property needed for the new electric substation and associated improvements. City Council will need to take action on the acquisition of properties as the contracts near completion over the next few months.

Mr. Spillane asked why the Meadows at Shawnee was plowed when those streets were never accepted by the city when other city areas and streets were overlooked. His understanding is the city has done this in the past and asked if there was some deal with that subdivision. Mr. Baird said he is unaware of any specific agreement but from speaking with the street superintendent and city engineer and what transpired in the past is the reason it was done. It is his understanding the road work has been completed in the Meadows at Shawnee and we have been plowing their roads the past couple of years. The top coat of paving is there, the utilities have been adjusted to be level and the decision was made a few years ago to start plowing there. He understands the concerns about why Hearthstone wasn't plowed noting those roads are not finished. Some portions are done though all of the roadways have not been completed. In addition, utility adjustments still need to be made.

Mr. Spillane said he is aware of discussions with Hearthstone I requesting Phases I, II and II be accepted by the city though that action was stalled. His asked why some subdivisions have to pay for private removal and others do not. He feels all of the subdivisions are in the city. Meadows at Shawnee is receiving maintenance services when their streets have not been officially accepted by the city either.

Mr. Baird explained that he does not know why it has been done in the past and we have continued the practice. Mr. Spillane feels their HOA should be charged or Hearthstone should be reimbursed for their plowing costs. Mr. Baird said council would need to make that decision.

Mr. Workman said that because those streets were not accepted, if the city plows went out there and damaged something, it could come back on the city. He is aware a couple of mailboxes that were knocked down and if that is caused by a DELDOT plow, they reimburse that property owner. He is hoping that until a street is accepted, the city would not plow them because of liability reasons. Because council has brought these concerns up, he hopes Mr. Baird will not allow this to happen again.

Mr. Baird hopes the streets and improvements will be accepted before another situation arises. Mr. Workman said in that case, it would be a different situation.

Mr. Adkins agrees the city employees did an incredible job during the storm and asked if an evaluation of the process had been done. He advised that the subdivisions in New Castle Council are required to subcontract the plowing duties out and are reimbursed 75% back. That allows those areas to be plowed immediately while the city takes care of the other streets.

Mr. Baird advised that next week the public works crews will meet to critique their performance over the last couple of weeks. A number of public comments have been received both through the police department as well as through the public works department. All those comments will be taken into consideration and what was done well and what needs to be corrected.

Mr. Adkins pointed out the area around the post office is somewhat of a disaster. There is very little parking and many people are having to go into the post office to pick their mail up because it is still not being delivered.

Mr. Baird agrees there are still some areas that need to be widened and crews continue to work on them. He said the city crews have spent a lot of resources keeping the state-maintained roads open because the state has not come thru as they have in the past. The city was late getting into a lot of residential areas this time and normally would have been there earlier. If this becomes a trend, the city will need to be better prepared. He will also consider using other vehicles as has been suggested and equipping them with plows.

The city manager said it has been ten years since our last big snow storm but we will need to make a decision on whether or not to prepare for a similar situation in the future by making a big investment in equipment or phase it in over time. He will be in a better situation to give city council a recommendation on that investment after he meets with his staff.

Mr. Spillane emphasized the city crews did an outstanding job during the snowstorm especially considering the situation and equipment. He asked if the crews are split into grids in order to know what areas have been plowed or if they have some sort of check off system to prevent overlooking a street or area by mistake.

Mr. Baird is unfamiliar with the process the street department superintendent follows. However, the crews do use the ward system according to the city manager. However, by the time the calls start coming, many of those resources are transferred throughout the city. He agrees that is a deficiency the city needs to improve upon.

Mr. Spillane recommends that Hearthstone be reimbursed for their plowing fees and any other subdivision whose streets have not been accepted and were required to hire private contractors to plow their streets.

Mayor Marabello asked if Mr. Spillane wants that placed on the next agenda; Mr. Spillane answered yes.

The mayor then responded to some comments in the Milford Chronicle that implied he had some influence on Meadows at Shawnee being plowed. He asked the record reflect that he had no influence and has never asked anyone in the city to give preferential treatment to his community.

Mayor Marabello also stated that council was ready to accept Meadows at Shawnee improvements except for a problem with drainage which had nothing to do with the streets. He feels this is a totally different situation than Hearthstone. However, he will have the matter placed on the next agenda to be debated at that time.

Mr. Spillane feels that is the fairest way to handle it.

Mr. Adkins moved to accept the city manager's report, seconded by Ms. Wilson. Motion carried with no one opposed.

COMMITTEE REPORT

Public Works Committee Meeting

Chairman Brooks announced that a Public Works Committee Meeting was scheduled for Monday, February 22, 2010 at 6:00 p.m.

Cemetery Committee Meeting

Committee Member Wilson advised a Cemetery Committee Meeting is scheduled tomorrow at one o'clock at city hall.

Charter Review Committee Meeting

Committee Chair Spillane announced that the second charter review meeting will be held following the Public Works Committee Meeting on February 22, 2010 at seven o'clock.

Mr. Brooks asked if the agenda only consisted of the charter review. Mr. Spillane confirmed the only item on that agenda is the charter review as was previously discussed. The mayor agreed.

Homeowners' Association Committee Meeting

Chairman Workman advised that two ad hoc committees were appointed. One is to work on Title 25 (Chapter 81) and the other is addressing stormwater management issues. An HOA meeting was scheduled this Thursday but because the ad hoc committees needed more time to report back to the HOA committee, that meeting was canceled and will be rescheduled the following week.

Their goal is to have a final draft ready to be presented to council next month.

Haitian Community/Earthquake Victims & Families

Ms. Wilson advised that another community event is being planned as a time of remembrance and celebration of those that have passed in the Haitian earthquake and to show support of those residents whose family residents were victims.

She thanked Mayor Marabello, Council Members Starling, Spillane and Johnson, Chief Hudson and Terri Hudson for attending the first event and encouraged everyone to attend. She will provide council with a follow-up date.

COMMUNICATIONS

UNFINISHED BUSINESS

Board of Adjustment Appointments & Terms

Last year, Ordinance 2009-13 was adopted to amend the Zoning Code thus changing the composition of the Board of Adjustment to reflect 22 Del. C. §322(d). The old code required the mayor, city manager and city solicitor to be members; this ordinance replaces them with three to five residents of the city as members.

Mayor Marabello recommends the appointment of the following three persons, said terms to begin March 1, 2010:

Samuel Johnson	102 Tenth Street	3 Year Term
Frank Bason	400 Matthew Circle, Matlinds Circle	2 Year Term
Keith Grambling	5 Homestead Boulevard, Hearthstone Manor	1 Year Term

Mr. Workman moved to confirm the appointment of the above three persons to the Board of Adjustment, seconded by Mr.

Spillane. Motion carried by unanimous roll call vote.

The mayor assured the new board members he would arrange for training prior to their first hearing.

It was confirmed that the previous composition was not illegal and conforms with our charter which was passed by state legislators and signed into law by the governor. However, state law has since changed and this brings us into compliance with the updated law.

NEW BUSINESS

FY2009-2010 Budget Amendment/Water Capital Reserve Funding

City Manager Baird requested the following budget amendment:

City Council is asked to increase the Water Capital budget by \$20,000.00 from the Water Capital Reserve Fund #202-2020-432-95-49 to replace water service lines and associated service improvements to properties on North Front Street as a part of the North Front Street Sewer Project.

The funds are being requested so that the work can be completed while the street is opened and the service lines are more accessible. The replacement of the water service lines are not an eligible expense as part of the funding from DNREC for the sewer project and therefore will need to be funded by the City. The work will replace the water service to approximately 12 properties.

Mr. Baird explained that because we have North Front Street open, it would be an appropriate time to replace some of the old galvanized service lines from the mains going into the meter pits in curb stops. This involves twelve homes on Northwest Front Street at an approximate cost of \$1,500 each. This is not eligible for funding under the current sewer project.

The city manager confirmed there is \$3,714,214 in the water capital reserve fund as of December 31, 2009.

Mr. Spillane then questioned, and Mr. Baird confirmed, this will help alleviate some of the unaccounted costs incurred during storms and those costs will decrease as a result.

Ms. Wilson moved to increase the water capital budget by \$20,000 for the reasons stated in the memo, seconded by Mr. Starling. Motion carried by unanimous roll call vote.

FY2009-2010 Budget Transfer/General Fund - Legal Expense

City Manager Baird requested the following budget transfer:

City Council is asked to transfer \$25,000.00 from the General Fund Balance #101-0000-399-10-00 to Council's Legal Expense #101-1110-411-30-20 to cover the insurance deductible pertaining to the Hearthstone II legal case.

The City is subject to a \$25,000 deductible under our insurance policy and these funds were not reflected in the previous budget amendment approved by City Council on December 14, 2009. The City has been invoiced just under \$11,750 for legal services against this deductible and I have authorized this payment as we are under contractual obligation to pay.

Mr. Baird confirmed the balance in the general fund account is \$3,016,120.

Mr. Spillane does not feel the entire \$25,000 should be transferred because we have only been billed \$11,750. He said that court cases change daily and we may not have to pay the remaining balance.

The city manager explained that \$25,000 is required to be paid and subsequent bills will be submitted. This transfer is to

prevent multiple requests to transfer funds. If the entire \$25,000 was not spent for this purpose, any remaining funds would be reverted back to the general fund balance.

Ms. Wilson understands that Mr. Spillane likes to keep on top of these bills and suggests that he deduct each amount as it is paid over time. She suggested that Mr. Spillane request an itemized bill of legal expenses paid over the next few weeks.

Mr. Starling moved to transfer \$25,000 from the general fund balance into councils' legal expense account (account numbers above noted) to cover the insurance deductible, seconded by Mr. Adkins. Motion carried by a 7-1 roll call vote. Mr. Spillane was the descending vote and stated the reason he is voting no is because he does not feel the entire amount needs to be transferred until we are billed for the entire amount.

Mr. Workman votes yes and directed the city manager that when something comes it, it is added in a timely fashion.

Mr. Brooks votes yes stating he has a great deal of confidence in the City's Finance Director and if only a portion is used, he will put the remaining money back into the general fund.

Planning Commissioner Vacancy/Appointment of Planning Commissioner

A letter of resignation was submitted from Planning Commissioner John Kramlich who was from the First Ward. When asked if there are any applications on file from the previous vacancy that can still be considered, Mayor Marabello stated that Patty Atkinson had submitted an application but had not showed up for any of the interviews. He asked ward one council members to consider anyone that may be interested.

When questioned about ward four representation, Planning Chairman Chuck Rini recalled that council indicated the position of chairman was not to be considered in the ward representation. Therefore, George Pilla is the only representative from that ward.

The mayor recommends the next member come from the first ward. It was determined there are two representatives from the second, three from the third ward and only one from both the first and fourth wards.

The item will be placed on the next agenda for further action.

Approval of Construction Agreement/DP&L & City of Milford

The city manager advised this agreement has been referred to in his previous reports. This agreement outlines the terms of the interconnection between the city system and Delmarva Powers' system. This is proposed to take place to the south of the transfer station where Delmarva Powers' transmission lines come through and the interconnection will be made.

He explained the first part of agreement deals with basic structure of the agreement and much of what is required by FERC (Federal Energy Regulatory Commission) regulations. The specific responsibilities of the contract are included in the attachment. Attachment A includes the scope of work and outlines Delmarva Power, City of Milford and shared responsibilities. Attachment B shows the project schedule. They were hoping to have it done in January, but because of some delays created by Delmarva Power, the date will be changed to February though it will not impact the schedule as it moves forward. The estimated completion date is the end of August 2011. Attachment C shows an estimated cost of \$141,000 though the city will pay Delmarva Power the actual cost of their services. Attachment D contains the form to be used for any work amendment or modification.

The agreements has been reviewed by City Solicitor Tim Willard and Allen Cobb, Electrical Consultant for the City of Milford.

Mr. Brooks questioned the \$72,000 payment scheduled for February 2010; Mr. Baird explained that half of the estimated costs are required up front. The associated costs will come from the bond proceeds for the electrical project. However, until the city is ready to move to market with those, the money will be advanced from the electric reserve funds.

Mr. Baird verified the location is just to the south of the Delaware Solid Waste Authority Transfer Station where the transmission lines are located. A connection will be made and a facility built there. In addition, the city will obtain land and prepare the site for construction. Upon completion, those improvements will be dedicated to Delmarva Power.

When asked how long this has taken, Mr. Baird said a little over a year. He explained the project would move forward when Delmarva Power make changes to the terms. The original proposal required the city to finance the construction of the connection point. According to the city manager, the city raised objection to that and after additional rounds of negotiations, Delmarva Power will do the construction though the city will pay for the portion of the design costs in addition to some material estimates, construction labor, etc.

Currently the city is served through one interconnection point off Elks Lodge Road and Wilkins Road. This second station will allow the city to redistribute the load coming into the city. The plan is to have a southern and northern system with four circuits running out of each with interconnection points between the two. This will improve reliability throughout the city and the additional infrastructure in place will allow maintenance work on the existing substation.

Mr. Brooks moved to approve the Construction Agreement between the City of Milford and Delmarva Power as presented, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

MONTHLY FINANCE REPORT

Mr. Morrow reported that through the sixth month of Fiscal Year 2009-2010 with 50% of the fiscal year having passed, 52% of revenues have been received and 46% of the operating budget expended. Parks and Recreation is the only department over 50% but that is due to a capital outlay expense paid early in the fiscal year.

Mr. Adkins noted that last year's general fund balance was approximately \$70,000 higher. Mr. Baird cannot explain the \$70,000 difference though the money is used as a cash account for bills and similar matters. Therefore, depending on how the revenues are coming in or expenditures are going out, there may be some fluctuation in that account. Mr. Adkins confirmed the account does earn interest.

With no further questions or comments, Mr. Morrow moved to accept the December 2009 Finance Report, seconded by Ms. Wilson. Motion carried.

ADJOURN

With no additional business, Mr. Workman moved to adjourn the Monthly Meeting, seconded by Mr. Adkins. Motion carried.

The Monthly Meeting was adjourned by Mayor Marabello at 9:08 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk