

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
June 9, 2014

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, June 9, 2014.

PRESIDING: Mayor Bryan W. Shupe

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

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

COUNSEL: City Solicitor David Rutt, Esquire

#### CALL TO ORDER

Mayor Shupe called the Monthly Meeting to order at 7:03 p.m.

#### INVOCATION & PLEDGE

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

#### APPROVAL OF MINUTES

Motion made by Mr. Grier, seconded by Mr. Pikus to approve the minutes of the April 14, April 16, May 12, May 15 and May 27, 2014 Council and Committee Meetings as submitted. Motion carried.

#### RECOGNITION

No special guests in attendance.

#### MONTHLY POLICE REPORT

Police Committee Chairman Morrow presented the police report on behalf of Chief Hudson. Mr. Pikus moved to accept the police report, seconded by Mr. Grier. Motion carried.

Mr. Gleysteen noted that the previous month's criminal arrests had doubled in comparison to the normal number reported. Chief Hudson explained that though he did not have the breakdown of April's arrests, he believes it was the result of a case or cases where a person was arrested on multiple charges. The statistics show the total number of charges and not the number of defendants arrested each month. However, he will follow-up and confirm what occurred in April.

#### CITY MANAGER REPORT

Mr. Carmean read into record the following report:

#### ADMINISTRATION

*Work has started at the PNC building which will soon be known as the City of Milford Business Office. Brad Dennehy and I did a final walk through on June 5<sup>th</sup> with the project manager.*

*There will be more change orders including security needs.*

*In addition, IT Manager Wes Banasan will oversee the software and hardware needs.*

*However, in the long run, even with the additional costs, it will be cheaper than the new building planned on South Washington Street. A drive-up window was not part of that design because there was not enough land at that site.*

*Mr. Portmann and I have been meeting with staff to discuss and prepare the city budget for Fiscal Year 2014-2015. We have met with Chief Hudson and the garage though we have not met with public works. Everyone has made every effort to keep costs as low as possible, but to continue our services at an acceptable level.*

#### *ELECTRIC*

*Our crews have begun removing the decorative lights near the Washington Street basketball courts so they can be powder coated due to the original finishes failing. These lamps will be refitted with LED lighting.*

*We experienced an outage on Monday, June 2, 2014 in the early evening when a fuse failed on McCoy Street and caused a breaker to open at the new substation. We believe a bird caused the problem which created the loss of electric to a section of the city. The breaker did not reset itself as it should. It was necessary for crews to reset it and close the breaker manually. The breaker is being repaired. The Elks Lodge Road Substation was down as we prepared to move one of our transformers. Because of that, we were carrying our entire load through the new substation.*

#### *STREETS*

*The curb and sidewalk work is proceeding on Southeast Front Street. I am still receiving complaints about the condition of the street due to the patches. For the most part, traffic has not been hindered by the work.*

*Street crews have been working in several areas of the city repairing storm grates. A number of grates settled due to severe winter temperatures. These catch basins can cause a traffic hazard if not lifted to a reasonable height with the street.*

#### *SEWER AND WATER*

*We will be replacing sewer laterals on Lemuel and Claude Streets. These two streets, located in the area of LuLu Ross School, have a high traffic volume because of the school. Both will be repaved this summer. Getting the trench work done early will allow appropriate time for the compaction of the fill material prior to paving. I have scheduled a pre-construction meeting on the water extension project from Route 1 to east city limits on Cedar Neck Road. This will provide the ability to deliver water to the annexed properties in the east areas.*

*I brought this matter before the council last fall.*

*I have met with the fire company a few times and they are pleased with the additional hydrants that will be added in the eastern part of city limits.*

Mr. Morrow asked if the damage and related expenses caused by the outage on June 2<sup>nd</sup> are covered by the warranty considering it involved the new substation. Mr. Carmean verified there was no cost to the city because it was a faulty breaker.

Mr. Brooks reported that he was at Milford Little League and before the breaker blew, people were complaining they could smell something burning. He asked what the odor was; Mr. Carmean thought it was a bird that touched the primary and caused the fuse to blow. The smell may have been the bird being electrocuted. Mr. Brooks pointed out the ballpark is quite a distance from McCoy Street though the odor was evident. The city manager said it could have been that the fuse was on the same line as the ballpark. The short in the system may have been in the ballpark and McColley Street area as well.

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

## COMMITTEE &amp; WARD REPORTS

Nothing reported.

## COMMUNICATIONS &amp; CORRESPONDENCE

Included in packet.

## UNFINISHED BUSINESS

*Ordinance 2014-08/Chapter 193/Solid Waste Code Amendment*

The city manager reported this is a clean up of our code which was needed as a result of the recent changes made in our collection procedures, recycling and yard waste. This will help our customers understand the rules and give our staff the authority to inform customers they are incorrect in how they are putting out trash or if they are using an improper can. He said it also eliminates commercial collection.

He noted the changes are in red and/or strikeouts.

Mr. Pikus said he received a lot of complaints about the confusion over our yard waste and leaf collection procedures. He understands we have a policy but it appears to both him and Mr. Gleysteen that only a few people understand the city policy.

Mr. Carmean said it has been slow getting our customers to understand the policy. He thought we would have a lot of trouble when we no longer permitted large bulk collection for commercial businesses. Overall, that went well even though a lot of customers willingly converted to the two-container process and had no problem with us removing their dumpster.

He agrees that many of our residents do not understand that yard waste must be in a designated container or we will not pick it up. This has caused the public works staff a lot of headaches and Mr. Dennehy is even considering picking up anything our customers put out. If that were done, we would need to purchase another truck and hire an additional crew. A claw truck would also have to be purchased because we cannot have our employees picking up excessive yard waste.

Mr. Carmean continues to observe little piles of loose debris all over town and stated that if we pick that up, we will be expected to pick up the fifty-foot piles left curbside. He said that should we decide to expand the service and collect everything, our fee will need to be increased.

The city manager emphasized that most trash services do not pick up yard debris. The customer is responsible for disposing of it through a landfill or transfer station as would be the case in Milford.

Mr. Carmean had a former councilman call him about a problem with yard debris. He agreed with the former councilman that our solid waste crews could have handled it better than they did. He said the yard debris had been placed in the proper container though it was slightly taller than what is allowed. He broke the branches up and placed them in the container though the trash truck drove away.

The former councilman also placed a second pile beside the container which he thought would not be picked up. His plan was to place the additional debris in the container after they emptied the container.

The city manager had the truck go back and pick the debris up.

He feels our employees need to think a little beyond the rules in certain situations. But to spot collect in some areas or on some days and not do it consistently, should not happen.

Mr. Pikus stated that he and a few council members receive an influx of complaints about yard debris. He asked if it would be worth purchasing a mechanical claw truck though he understand we would need to increase our fees. He pointed out

that if the container is filled, because we only pickup every other week, they have to wait another two weeks. The customer then complains to them that their container has been out for two weeks.

Mr. Pikus asked if we can get an approximate price to add the additional crew needed to provide weekly pickup in addition to an increase in the monthly fee. Mr. Carmean said they looked at a claw truck which was almost \$200,000. We would also need to hire two more employees.

It was also pointed out that crews are expected to pick up large trees and branches sometimes after a resident has cleared an entire lot. Mr. Carmean said we will still need a few restrictions in place.

He will get council an estimate for the additional equipment and crew.

Mr. Brooks suggested that if a customer needs the claw truck, they be assessed an additional fee. In that manner, the residents using the service would pay for it and not the entire city. Mr. Pikus agreed that a lot of residents would never use that service.

Mr. Brooks said that if he has large limbs and a lot of debris, he hires a private contractor and pays for it.

Mr. Morrow noted that if he has more than can fit in the container, he puts it in the other containers, then rotates it back into the correct container after it is picked up.

Mr. Carmean likes the additional charge suggested by Mr. Brooks and feels that should be considered.

Ms. Wilson agrees she has received many complaints particularly after someone cleans their yard up and finds the debris will not fit into the container. She explained that once it is full and something is sticking out of the top, the crews will not pick it up. She questioned that practice considering the brush is still contained in the container.

When asked the restriction on height, Mr. Carmean stated forty-two inches.

Ms. Wilson said that her container was not picked up because they had placed the clippings on the bottom and put the branches on top which made them stick out though they were broken up. It also occurred with her neighbor who questioned why it had not been picked up. They pulled the containers back out two weeks later and the second time it was picked up.

The city manager explained that last week, he informed the trash crews that if the debris is in the can, it must be picked up. He personally observed a number of containers with limbs sticking out of the can by two or more feet. He has directed them to pick those containers up now.

Mr. Pikus questioned the possibility of leasing a vehicle for this purpose; Mr. Carmean said he is unaware of any place that would lease the vehicle. Mr. Pikus suggested contacting Asplundh who is our tree trimming company. Mr. Carmean agreed they would have that type truck.

He then said we could contract with a hauler because many times, the resident does not have the ability to transport the yard waste to the transfer station.

Mr. Pikus asked Mr. Carmean to look into what it would cost in personnel and equipment for the city to pick up the additional brush; Mr. Carmean said he will report back to council along with the cost of hiring an outside contractor.

The Solid Waste Ordinance will be prepared for introduction at the next meeting.

## NEW BUSINESS

*Bid Award/Digger Derrick & Winch/Electric Department*

Sealed bids were received, publicly opened and read on May 15, 2014 for the latest model year Hydraulic Rotating Digger Derrick with a Turntable Winch. The following two bids were received:

Terex	\$244,430.64
Altec	\$276,779.00

The city manager recalled that last year before the budget hearings, he took the Public Works Committee out to the city barn to look at some old pieces of equipment. One was a digger truck and the other was a bucket truck. At that time, the committee agreed it was time to replace those vehicles.

Mr. Carmean explained the digger truck is used to set poles and dig holes.

Mr. Pikus asked if this is a four-wheel drive; Mr. Carmean stated yes. Mr. Pikus asked if a four-wheel drive is necessary. The city manager said it does not add that much to the price. He feels if the trucks were only used on concrete or a similar surface, it would not be necessary. Unfortunately, many times they need to back down into a ditch and the four-wheel drive is needed.

Mr. Brooks recalled this was approved during the budget hearings last June and asked how much was budgeted. Mr. Pikus believes \$250,000 was budgeted. Mr. Brooks pointed out it will be almost a year before we receive the truck. The city manager agreed noting that it should have been bid earlier in the year.

Mr. Brooks moved to award the bid for a 2015 Digger Derrick to Terex in the amount of \$244,430.64, seconded by Mr. Starling. Motion carried.

#### *Appointment and Reappointment of City of Milford Planning Commissioners*

Mayor Shupe reported that he has been talking to a resident who will meet with Planning Chairman James Burk and himself when he returns from vacation.

Mr. Brooks pointed out the terms of three commissioners expire in August and asked if they are interested in continuing to serve. Mayor Shupe said that is a good point which he will discuss with Chairman Burk at their meeting.

#### *FY 2013-2014 Budget Adjustment/Continuation of Electric Substation Project*

Mr. Carmean recalled that in 2008, the substation project was part of the \$15 million referendum. At that time, he knew the money borrowed would not pay for the entire substation. Council agreed to pay from reserves anything spent over the \$5.5 million approved by the residents.

He explained that since that time, a lot has changed with right-of-ways and we almost ended up with a potential litigation issue with another utility entity. In addition, the decision to install the large steel poles also increased the cost of the project. Right now, it could cost up to \$1.6 more than what was originally planned.

Mr. Pikus moved to transfer \$1,950,965 from electric reserves to finish paying off the debt of the substation, seconded by Mr. Gleysteen. Motion carried.

#### *FY 2013-2014 Budget Adjustment/Former PNC Bank Renovations-Billing Office*

Mr. Carmean reported that council previously approved a contract for renovations at the former PNC Bank in the amount of \$317,000 though \$300,000 was budgeted for the project. Also, the \$317,000 did not cover the cost of the related Davis, Bowen and Friedel (DBF) contract to oversee the project. Additional council approval is needed to fund the DBF fees.

The city manager asked for council approval for the additional \$17,000 needed to pay for the overage. Any additional DBF costs will need to be brought back before council and discussed.

Mr. Pikus noted that P.E. Erik Retzlaff of DBF was present. He asked an approximate cost for DBF to now oversee the renovations. Mr. Carmean feels we should use them but sparingly and only for the monthly progress meeting where they can check on the contractor every thirty days. He feels there is no need for an inspector from DBF to be on site eight to nine hours a day.

Mr. Pikus asked if the cost will be split between sewer, water and electric considering billing handles all those utilities. Mr. Carmean feels that should be a decision of council.

Mr. Pikus said once we receive an estimate it can be paid from the different accounts. He pointed out that our reserves are what keeps the city financially healthy. The city manager believes that if we can afford to keep outlandish amounts in the reserves, we should consider reducing our fees. He explained that we have not been adding to our reserves the last couple years and they have remained level during that time. We have a balance whereby our customers are not putting funds in the reserves that are above and beyond the cost of operations. He feels we will still have healthy reserve which is why we were able to pull another \$2 million out of electric reserves to pay for the substation and to cover the costs for the PNC bank but most of all, for our ratepayers.

Some reserves such as the general fund reserves have been reduced lower than the city manager prefers. However, our electric, sewer and water reserves are in good shape. That allows us to utilize those funds for projects without raising rates.

Ms. Wilson asked if there are any city employees capable of overseeing the construction. Mr. Carmean said we will have our building inspector, in addition to himself, watch the construction as it progresses. The only problem is the monthly progress meetings which take only an hour to an hour and a half of sitting down with the architectural engineers. He wants to make sure those things are addressed because we have no one in house capable of evaluating structural work or heating and cooling systems.

The city manager pointed out the Southeast Front Street project is different and needs a full-time inspector on site.

Mr. Carmean is willing to assign someone to oversee the project, but would not want to hire a person to replace them. He agrees our employees could inspect the work, but that would require them to be on-site all the time. Once that project is over, we end up with a full-time employee with benefits who will no longer be busy. In those cases, it makes more sense to contract with DBF and allow their inspectors to represent us.

Ms. Wilson said she trusts the city manager's judgment but at the same time, recommends a cap be placed on the engineering services. Mr. Brooks said that because this is an old structure, we are going to find unexpected problems popping up.

Mr. Pikus moved to transfer \$17,000 from electric reserves to the PNC Bank renovation account, seconded by Ms. Wilson. Motion carried.

#### *Introduction-Ordinance 2014-09/Chapter 48/Abolish Parks and Recreation Commission*

Mayor Shupe introduced Ordinance 2014-09 adding that no vote will be taken this evening.

He stated as most of you know, we no longer have a Parks and Recreation Commission, so he recommends that ordinance be removed and replaced with a new Parks and Recreation Ordinance.

Mr. Carmean agreed the commission was abolished many years ago after he became city manager but was never officially removed from the books. At that time, he recommended and council approved the department be moved from under the commission's jurisdiction and placed under the city manager. The ordinance remained in the code and this will simply remove it.

The city manager noted that Ms. Hudson has discussed this ordinance with him and the Parks and Recreation Director.

#### *Introduction-Ordinance 2014-10/Chapter 165/Adds New Chapter/Parks and Recreation*

Mayor Shupe introduced Ordinance 2014-10 and advised that no vote is needed.

He explained that the ordinance covers the rental fees that have been charged by Parks and Recreation for a number years. It also establishes rules and regulations governing the operation and use of park and recreation facilities. Our charter requires an ordinance in order to charge fees for services and/or goods. Once adopted, we will comply with that requirement.

This came up as a result of some problems we were experiencing with people remaining in the parks throughout the night.

Though signs are posted saying the parks are closed from dusk to dawn, the courts prefer something more official on the books. The ordinance will state "All public parks, owned and operated by the City of Milford, shall be closed from sunset to sunrise daily, except where otherwise posted or permitted."

The mayor noted that one exception involves persons traveling by foot or bike to get from one side of Bicentennial Park to the other. Overall, the intent is to prevent people from congregating or grouping together in the parks between dusk and dawn.

Mr. Pikus agreed it is needed. Ms. Wilson pointed out this is not new and most of what is being proposed has been enforced for years. We are simply adding the language to the books.

*Introduction-Ordinance 2014-11/Chapter 176/Adds New Chapter/Public Peace and Good Order*

Mayor Shupe introduced Ordinance 2014-11 adding that no vote will be taken this evening.

He suggested council read through the ordinance noting that this also relates more or less, to loitering in the parks and people publicly going to the bathroom. State law reads that a person cannot be arrested for indecent exposure unless a police officer actually witnesses it. Most complaints are received from citizens and not the result of a police officer actually witnessing the act.

The mayor says this will address the problem by spelling out it is a prohibited act.

*Introduction-Ordinance 2014-12/Chapter 197/Streets and Sidewalks/Adds Article II/Miscellaneous Provisions*

Mayor Shupe introduced Ordinance 2014-12 noting that no vote will be taken this evening.

He explained the ordinance gives city officials the ability to temporarily close streets and sidewalks for public safety reasons. It also prohibits people from throwing, dropping or placing items in the streets and sidewalks.

The third section addresses throwing and kicking objects and playing games in the city streets.

When questioned, Chief Hudson confirmed that skateboarding is addressed in a separate ordinance; however, that was created and based on the skateboard park that was opened by the city several years ago.

Mr. Brooks reported he sees kids skateboarding throughout town.

Ms. Wilson noted that 197-18 could impact a number of areas in towns and in particular, children who do not have large backyards to play in.

Chief Hudson explained that this will protect the city and motorists throughout the city. He said that on many occasions the people in the street impede traffic and there is even more danger to the children playing in the street who could potentially be struck by a vehicle. Unfortunately motorists are increasingly encountering groups who won't stop their game and move for the motorists.

Mr. Carmean added that we will also be adding an ordinance that addresses sidewalks and whether stores can use the sidewalk to display merchandise and other items. The city cannot allow sidewalks be blocked even though they are owned by the property owner. He will be looking on how the city can control those situations. There have been problems reported in the downtown area and Mr. Pikus received a complaint about something that was put in front of one of the stores. He will be presenting that ordinance in the near future. That ordinance will also be added to this chapter.

Mr. Pikus explained that often when Downtown Milford has a program, there are items placed on the sidewalks. Unfortunately, the sidewalks cannot be blocked even though each building owns that sidewalk. He feels the businesses are responsible for keeping the sidewalk clear and clean and referenced the past winter and the number of snowfalls we had.

Mr. Pikus emphasized it is the land owners' responsibility and not the duty of the city.

Mr. Carmean reported that the city continues to extend its park system and throughout town, there are areas within walking distance that these children can play football, frisbee or whatever they wish to play.

Ms. Wilson said there are concerns with some stores using too much of the sidewalk and asked if the code officials should be contacted. The city manager said at this point, we do not have anything on the books. However, he will work on an ordinance which will include rules and enforcement procedures. He is sure sidewalks cannot be blocked and the rules are similar to that of a fire lane.

#### *Milford Vinyard Shipyard Property Offer/Sudler and Joan Lofland Owners*

Mayor Shupe announced that Sudler and Joan Lofland, owners of the Vinyard Shipyard, requested to meet with the city manager and himself about its future. They indicated they wanted the shipyard preserved because it was the last of the seven shipyards in Milford.

The owners offered to sell the shipyard and land to the city. He noted that the property is also between two separate areas of the Mispillion Riverwalk owned by the city and this could unite that walkway.

The mayor wants to gather a group of professionals, at the state and local level, to visit the shipyard with himself and discuss its benefit to the city. The group may include officials from the Division of Historical and Cultural Affairs, Tourism Office, Division of Education and Division of Natural Resources and Environmental Control. Locally, he would like to include Milford Museum, Milford Historical Society and the Chamber of Commerce.

He feels the Vinyard Shipyard has the potential, by highlighting our historical shipbuilding roots, to promote economic development and tourism throughout Milford, provide educational opportunity for local children in the state and continue to preserve the Mispillion River. He reiterated that purchasing this property would create a complete loop of our riverwalk.

This group, which he is asking for council approval to build, will investigate those benefits and any other manifest and latent effects of the offer by Mr. and Mrs. Lofland.

Ms. Wilson recalled when the city hired Consultant John Rhodes of Moran, Stahl & Boyer to address economic development. The shipyard was highlighted in his study so most of council is familiar with its history and tourism possibilities in the city. She is aware the riverwalk actually bypasses this property so purchasing it would allow us to extend the walk completely along the river.

She agrees we should consider what the city's role would be in this situation but believes the maintenance of the property, including its upkeep and maintenance must also be considered.

Mayor Shupe said that is something this group could provide answers to which is the reason he wants both state and local officials to consider the benefits and drawbacks. He would then report to council with their findings and more specific details.

The mayor confirmed the Loflands came to the city manager and him with the offer to sell the property to the City of Milford.

Mr. Pikus moved to approve Mayor Shupe proceed with his plans, seconded by Mr. Starling. Motion carried.

MONTHLY FINANCE REPORT

Finance Committee Chairman Pikus reported that through the tenth month of Fiscal Year 2013-2014 with 83% of the fiscal year having passed, 85% of revenues have been received and 78% of the operating budget expended.

He noted that some monies are being paid from our reserve accounts as council was informed would occur several months ago. Solid waste reserves are down to zero with the exception of \$250,000 in investments according to the finance committee chair.

Mr. Grier moved to accept the April 2014 Finance Report, seconded by Ms. Wilson. Motion carried.

ADJOURN

Mr. Pikus moved to adjourn the council meeting, seconded by Mr. Grier. Motion carried.

Meeting adjourned at 8:09 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is fluid and cursive, with a large initial "T" and "H".

Terri K. Hudson, MMC  
City Clerk/Recorder