

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 12, 2015

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, January 12, 2015.

PRESIDING: Mayor Bryan W. Shupe

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

City Manager Hans Medlarz, 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. Morrow to approve the minutes of the December 8, 2014 Council Meeting as submitted. Motion carried.

RECOGNITION

New City Manager

Mayor Shupe welcomed City Manager Hans Medlarz noting this will be his first official meeting. He reported they have had numerous discussions about what is going well and the many things we need to do better. He stated that Mr. Medlarz is the right man for the job and looks forward to working with him.

Mr. Medlarz said he is excited to work with the mayor and council and after looking at the new goals for 2015, they had a great discussion and agrees with Mayor Shupe this is the beginning of a new chapter for Milford.

Stacey Norton/Human Resources Manager/Perdue Farms, Incorporated

Mayor Shupe recognized Stacy Norton who was in attendance. He reported that Mr. Medlarz and he toured the Perdue Plant and their new organic chicken line. He stated he was very impressed with the operation and the modern and efficient facility.

MONTHLY POLICE REPORT

Police Committee Chairman Morrow presented the report on behalf of Chief Hudson noting the police continue to be extremely busy. Mr. Pikus agreed then moved to accept the monthly police report, seconded by Mr. Mergner. Motion carried.

CITY MANAGER REPORT

City Manager Medlarz presented the following report:

Administration:

- *City Hall was open for the Downtown Stroll on December 5th.*
- *The Armory held an open house on December 11th.*
- *The improvements to the customer service building (former PNC) were ongoing with anticipated contractor completion by January 20th. The security system and furniture procurement was completed in December and both are to be operational by the end of this month.*
- *The Mayor and the current and former Manager were briefed by Del DOT officials on the Department's project prioritization process after the 2nd November Council Meeting.*

Electric Department:

- *Crews assisted Perdue with a primary metering problem.*
- *Asplundh has started trimming trees along the power distribution lines*
- *Crews started the service line relocations associated with the Thompsonville Del DOT Project*
- *The lighting replacement project at the City Hall parking lot was started.*
- *City assisted Delmarva Power in the replacement of a 138KV air break switch.*
- *Crews pulled fiber from City Hall to Customer Service Center (PNC Bank).*
- *Staff opened bids for the 138 KV Motor Operated Switches & Supports with Hamby Young low bidder.*
- *Gary Johnston obtained his Master Electrician's License.*

Streets and Solid Waste Department:

- *Crews worked on two Holidays to provide uninterrupted solid waste collection service to City residents.*
- *New trash truck from Western Standard has been put to full use but is still experiencing warranty issues.*
- *Shawnee Acres sewer trench restoration repair was completed by contractor.*
- *S.E. Front Street striping was completed.*
- *Maple Avenue culvert was examined and remedial action in progress.*

Water and Sewer Department:

- *Crews assisted in the raw water main extension project on Washington Street.*
- *Valve exerciser was procured with delivery in January.*
- *Sewer vacuum truck has experienced a blower breakdown is being repaired with back-up contingencies in place.*
- *CB&I the Southeast water tower contractor started foundation work and offered a change order for adding an obstruction light. It is not required by FAA however with the pending hospital and the likelihood a helipad it may be helpful.*
- *CB&I asked for an additional 45 days for the delay associated with gaining alternate site access from Route 1. They were concerned that the existing access and its proximity to the new Del DOT overpass acceleration lane was not safe for the large vehicles and obtained an alternate site access permit (temporary) from Del DOT.*
- *Seabury Avenue aquifer testing continuing resulting in the permit request for a new construction.*
- *The Southeast water treatment plant is being permitted and advertised.*

Mr. Medlarz then recalled that in November, Mayor Shupe, Former City Manager Carmean and himself met with DelDOT officials to review their plans for the North Front Street interchange. They were informed it is not part of their capital improvement plan and learned how the projects are evaluated and the data used to prioritize projects.

Mr. Medlarz recalled that city council is on record to encourage DelDOT to move forward with the interchange. Unless there is some critical new information, he believes they will stick to their current three-year capital improvement plans. At that time, a new set of data will be considered for the next round.

Mayor Shupe said that city officials clearly expressed concerns about the safety issues. DelDOT made it clear where they are going with the projects they have earmarked and how long this overpass may take. However, that will not prevent him from calling and reminding them that Milford desperately needs the overpass on North Front Street. Even though DelDOT stated that it would be three years before the project was reconsidered, he wants to make sure the city continues to take

every opportunity to remind them how important that project is to Milford.

Mr. Medlarz then reported that city crews assisted Perdue with a metering problem and their plant manager was extremely grateful. He pointed out the benefit of uptime at the facility which is equally important to Perdue and the city.

The electric crews also assisted Delmarva Power in the replacement of a 138KV air break switch. The city manager said that we will also be replacing the same set of breakers on the city side.

Mr. Medlarz stated that in December, an issue was raised by our residents and DelDOT about a culvert problem on Maple Avenue just north of the Gods Way Store. After some investigation, some degradation was found to be causing a dip. He is working on the remedial action with some drafting help. He is hoping to get that project underway to prevent it from becoming a major issue.

He noted that Mayor Shupe, as well as a few other council members, have received some solid waste complaints. He learned there are some warranty issues with the new trash truck recently received from Street Superintendent Tim Webb.

Significant work has occurred on Washington Street. All the raw water mains have been installed and the valves are in place.

The city manager noted that DBF's Eric Retzlaff was heading the operations during the night.

Public works received the valve exerciser which will greatly assist crews with future valve work.

The sewer vacuum truck is out of service due to a blower breakdown that is being repaired which could take some time to repair. He put some backup contingencies in place in cooperation with Kent County and the Town of Wyoming should the city need a sewer vacuum truck in the meantime.

Construction on the southeast water tower started and the contractor has requested a time extension. The city manager believes that is warranted due to the time needed to negotiate a temporary access. The bid for the water plant project is expected in the near future.

Mr. Medlarz advised that the Federal Aviation Administration does not require the tower to be lit because of its height and location. However, our engineers included a change order for an aviation obstruction light of \$6,200. That issue was also brought up by Bayhealth because of their helicopter activities and a somewhat limited approach because of the area power lines. Mr. Medlarz informed them the city had already considered their needs.

Unless there is an objection, he will exercise the change order. He confirmed that council action is not needed and the project has enough money to cover the costs.

Mr. Pikus asked if Bayhealth will share in the costs; Mr. Medlarz explained Bayhealth understands the cost of the extension will be paid by them along with other entities. He will report back once they have discussed this with the other entities.

Mr. Gleysteen asked why there was a need to pull fiber from the new (customer service) building (former PNC) over to city hall; Mr. Medlarz explained that extending the city fiber loop is needed to tie the billing (customer service) department to the city server located in the downstairs of city hall.

When asked for a date when the billing (customer service) department will be operating out of the PNC building, Mr. Medlarz said if everything goes as planned, we could be open sometime in February though that is dependent on the furniture and auxiliary equipment. He expects the construction to be very close to completion by the end of this week.

He said that Mayor Shupe is considering an open house once the billing (customer service) department moves in. He will discuss that further later this evening.

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

City Manager Medlarz advised that he has been subpoenaed on a Personnel Appeals Board Hearing in Kent County on February 9, 2015 which is the same night of the council meeting. Therefore, he will not be in attendance that evening. He will provide the subpoena to the city clerk so that it is on record.

COMMITTEE & WARD REPORTS

Fourth Ward

Mr. Starling reported that a meeting was held with Mayor Shupe, Chief Hudson and Lieutenant Bailey. He said it was a very informative meeting. The ministers in his ward had some questions and concerns and Pastor Starling contacted Chief Hudson and invited him to attend.

He noted that Chief Hudson provided a lot of information and was very well received. He thanked the chief for what he did adding it was very uplifting to the community.

SCAT Meeting

Mayor Shupe reported that he, along with City Manager Medlarz and Councilman Brooks attended the January SCAT meeting. At that meeting, Sussex County Administrator Todd Lawson reported the county has created the 2015 Economic Development and Infrastructure Grant to be awarded to each town in the county in the amount of \$10,000. The intent of the program is to assist towns with economic development opportunities and infrastructure improvements.

He also reported the county will be providing an additional \$10,000 to each police agency in Sussex County.

COMMUNICATIONS & CORRESPONDENCE

Mr. Starling thanked those that donated food and items toward their annual Christmas dinner for the needy that served between 150 and 200 people.

UNFINISHED BUSINESS

Adoption/Ordinance 2014-16/Chapter 130 Amendment/Floodplain Management

Solicitor Rutt advised that he has been reviewing the ordinance in comparison to the Kent and Sussex Flood Management Ordinances as well as those adopted by various municipalities. He prepared a memo with several points.

In speaking with Mr. Medlarz earlier today, they recommend it be tabled. He will provide a copy of the memo to every council member which includes some new definitions, an amendment to the language and some policy considerations.

Mr. Pikus moved to postpone action on Ordinance 2014-16, seconded by Mr. Morrow:

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE AMENDING THE CITY OF MILFORD CODE OF ORDINANCES TO REPEAL CHAPTER 130 FLOODPLAIN MANAGEMENT; TO ADOPT A NEW CHAPTER 130 FLOODPLAIN MANAGEMENT; TO ADOPT FLOOD HAZARD MAPS, TO DESIGNATE A FLOODPLAIN ADMINISTRATOR, TO ADOPT ADMINISTRATIVE PROCEDURES, AND TO ADOPT CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO PROVIDE FOR APPLICABILITY; REPEALER; AND AN EFFECTIVE DATE.

Motion carried.

Adoption/Ordinance 2014-17/Chapter 88 Amendment/Building Construction

The following sections of Chapter 88 have been proposed for changes as noted:

Section 1. An Ordinance to Amend the Code of the City of Milford by Amending Chapter 88 entitled Building Construction.

Section 2. Article 1-International Residential Code, 88-2-Additions, Insertions and Changes is hereby amended as follows:

C. Chapter 3 Building Planning

(1) TABLE R301.2(1)

Climatic and Geographic Design Criteria

| |
|---|
| Flood Hazards |
| ADOPTED: 07-14-78 CURRENT: 01-06-05 <u>See Chapter 130 Floodplain Management</u> |

P. Structural Design.

~~161.2.3 1612.3. Establishment of flood hazard areas. To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for the City of Milford," dated June 16, 1995, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map.~~

~~(FBFM) and related supporting data, along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.~~

Flood hazard areas are established by Chapter 130 Floodplain Management.

Mr. Rutt informed council this piggybacks off the Floodplain Ordinance. As a result, he recommends postponing action on this ordinance and that council consider them together at a future meeting.

Mr. Pikus moved to postpone action on Ordinance 2014-17, seconded by Mr. Morrow. Motion carried.

Ratification/Comcast Agreement

Mr. Rutt said he has prepared his comments based on conversations with Comcast and is awaiting for their response. He looked at similar franchise agreements that Comcast entered into with Smyrna and Felton in addition to some other electronic versions.

He expects to wrap this matter up very quickly considering we are using the same language included in the Smyrna and Felton contracts which was already accepted by Comcast. Mr. Rutt added it is currently in the hands of a representative in New Hampshire who approved both of those contracts.

He said that expanding the income by including advertising and the home shopping networks will make the amount larger; however, there is a federal statutory limit of 5% the city can receive. Overall the city will see an increase in that revenue.

He again reported the contract is non-exclusive. The solicitor expects there may be some questions because it states that in the event the city enters into an agreement with another provider, the city will agree to a reduced percentage (4%).

Mr. Pikus noted that Verizon was here working on fiber optics in the Walnut Street area though it is not yet available in Milford. Mr. Rutt advised it is as close as Blue Jay Lane off the Canterbury Road.

Mr. Pikus moved to postpone action, seconded by Mr. Brooks. Motion carried.

NEW BUSINESS

Introduction/Ordinance 2014-18/Chapter204/Amendment/Taxation

Mayor Shupe recalled this ordinance being discussed at a previous meeting. This ordinance has been developed to address some taxation rules and specifically supplemental bills, appeals and deadlines. Article VII of the City Charter has jurisdiction over city taxation, assessment, rates, etc. This was needed because of some recent problems we uncovered with regard to supplemental bills, appeals and deadlines. Those rules have now been established and will be to Chapter 204. Presently, chapter 204 governs the senior citizen relief program and miscellaneous tax issues.

He reported that this is a housecleaning ordinance and is being presented for introduction only this evening.

Mr. Brooks asked if this can be discussed at the next workshop and Mayor Shupe directed the city clerk to add to that agenda.

Mr. Brooks made a motion to move Ordinance 2014-18 to the January 26th Workshop Agenda for further discussion, seconded by Mr. Morrow:

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

Article II, entitled Exemption of New Improvements Added to Property, Sections 204-6 thru Section 204-11, is hereby removed:

ARTICLE II - Exemption of New Improvements Added to Property

§ 204-6. - Eligibility for new improvement exemption of real property taxes.

The exemption shall only apply to the increase in assessed value resulting from substantial rehabilitation, renovation or improvements of existing properties (residential, commercial, industrial, etc.) located within the city limits. New construction does not qualify. The building permit for the said improvements must be issued prior to June 30, 2013 and shall be valid for a period of one year. The exemption shall be based on the change in the improvement assessment value only. The land assessment is not eligible for exemption under this article.

§ 204-7. - Amount of the exemption.

The amount of the exemption shall be determined by subtracting the value of construction per the building permit from the improvement assessment value following the new construction.

§ 204-8. - Application of the exemption and limitations.

The dollar amount of the exemption shall be multiplied by the property tax rate in the first full tax year following the issuance of a certificate of occupancy by the City. The dollar amount of the exemption shall be limited to a maximum of \$1,000 for residential properties and limited to a maximum of \$5,000 for all other properties. The exemption shall only be good for one year immediately following the following the issuance of a certificate of occupancy.

§ 204-9. - Appeals.

An aggrieved taxpayer may appeal from the disposition of an exemption claim in the same manner as is provided for appeals from assessments generally.

§ 204-10. - Due date for payment of property taxes.

Property taxes shall be payable on or before September 30th of each year.

~~§ 204-11. - Penalties.~~

~~To every tax not paid after the said date established in § 204-10, there shall be added and collected a penalty, for each month that the said tax remains unpaid. A penalty of one percent per month, or fraction thereof, shall be charged on all unpaid property taxes. City Council, by resolution, may impose a date later than that established in § 204-10 for the addition and collection of penalties.~~

Section 2. A new Article II, entitled Authority to Exempt Real Property from Taxation, is hereby added to read as follows:

ARTICLE II – Authority to exempt real property from taxation.

§ 204-6. The city council shall have the power to exempt real property located within the city from municipal property taxes when, in the opinion of the tax assessor, the same will best promote the public welfare. The city assessor shall be empowered to grant tax exemptions pursuant to 9 Del. C. § 8105 and 8110, upon receipt of an application to the City of Milford filed by the organization to establish its entitlement to such exemptions.

§ 204-7. No assessment shall be made against that portion of a parcel during the period in which the portion qualifies for agricultural, horticultural or forest uses as more fully defined by 9 Del. C. § 8330 through 8337, inclusive.

Section 3. A new Article III, entitled Annual Tax Bill, is hereby added to read as follows:

ARTICLE III – Annual Tax Bill.

§ 204-8. The tax year shall run from October 1st through September 30th each year based on assessed values as of June 30th.

§ 204-9. Property taxes shall be payable on or before September 30th of each year.

§ 204-10. To every tax not paid after the said date established in 204-9, there shall be added and collected a penalty, for each month that said tax remains unpaid. A penalty of one percent per month, or fraction thereof, shall be charged on all unpaid property taxes. City Council, by resolution, may impose a date later than that established in 204-9 for the addition and collection of penalties.

Section 4. A new Article IV, entitled Supplemental Assessments and Tax Bills, is hereby added to read as follows:

ARTICLE IV- Supplemental Assessments and Tax Bills

§ 204-11. Supplemental Assessment Required.

A. Changes, including zoning and construction, shall require reassessment of the property at its fair market value as of the date of the last City-wide revaluation. A supplemental assessment will be determined for the amount of difference between the value stated on the regular assessment roll(s) and the new fair market value.

B. Supplemental tax bills shall be issued when there is an increase in taxable value caused by any change as stated in 204-11. More than one tax year may be affected by the increase in value, causing more than one supplemental bill to be issued. Even when a property has been sold, the original owner may be billed for any change in value relating to the dates of their ownership.

C. The increase in assessed value resulting from the reassessment is reflected in a prorated assessment that covers the period from the first day of the month following the supplemental event to the end of the fiscal year.

§ 204-12. - Assessment Appeals.

- A. Appeal date deadlines
Appeal filing deadline (Annual billing) August 31st

| | |
|--|---------------------------|
| Appeal filing deadline (October billing) | November 30 th |
| Appeal filing deadline (January billing) | February 28 th |
| Appeal filing deadline (April billing) | May 31 st |

- B. Right to appeal is lost if appellant has missed the designated appeal date.
- C. Appeals/refunds for errors or opinions of value from appellants will not be heard for prior years.
- D. The assessment as revised and adjusted by the board of assessment appeals shall be the listed value for the year under appeal and shall be the basis for the levy and collection of taxes for the city.

Motion carried.

Board of Adjustment Vacancy

Mayor Shupe informed council that BOA Member Keith Gramling submitted his resignation as of December 31, 2014. The board consists of three members who have the authority to authorize variances as well as hear and decide appeals related to Chapter 230 (zoning code). Therefore, it is a vital part of our zoning process.

He suggested that council members contact either the city manager or himself with any recommendations. In the meantime, he and the city manager will be working to fill the vacancy as well.

Approval/Greater Kent Committee Dues

Mayor Shupe reported the mission of the Greater Kent Committee is to tackle issues that are important to the community and to improve the quality of life for everyone in the county. The organization was founded more than two decades ago and their goal is to make the county a better place to work and live today. There are more than eighty members of the Greater Kent Committee of which the city is one.

Mr. Pikus moved to approve payment of dues in the amount of \$750, seconded by Mr. Starling. Motion carried.

Bid Award/138kV Switches & Supports/Electric Department

Sealed bids were received, publicly opened, and read on December 9, 2014 for furnishing two 138 kV switches and supports for the Delivery #1 Substation. Bids ranged from \$41,985 to \$47,560.

Mr. Medlarz advised that Progressive Engineering, the city's electric consultant oversaw the bid process. The bids were very close and all in the \$40,000 range. Both the Progressive Engineer and Mr. Medlarz reviewed the bids submitted. Mr. Medlarz concurs with the recommendation of the consultant to award the bid to Hamby Young.

Mr. Medlarz explained this will be the city's counterpart to the work done by Delmarva Power and would upgrade the switching on the city's side. He emphasized this is our secondary substation and we need to continue to make improvements at this facility to prevent not totally rely on the new one.

Mr. Pikus moved to award the 138kV bid to Hamby Young in the amount of \$41,985, seconded by Mr. Morrow. Motion carried.

Appointment/DEMEC Director & Alternative Director

Mayor Shupe advised the appointment is a requirement of DEMEC whose bylaws require each member's legislative body to appoint a director and alternate director. Historically in Milford, the director's slot is filled by the city manager and the Electric Department Superintendent becomes the alternate director.

He recommends that our new city manager be appointed director and that Rick Carmean, Electric Department Superintendent remain the alternate director.

Mr. Starling moved to appoint Hans Medlarz as the City of Milford's DEMEC Director and Rick Carmean Milford's Alternate Director, seconded by Mr. Morrow. Motion carried.

Mr. Grier referenced the electric rate comparison chart included in the packet. He asked how it compares to the rates the same month last year noting we are currently fifth and sixth.

Mr. Gleysteen noted the highest cost was '1' Delmarva and asked what that meant. Mr. Medlarz explained that the comparison is based on a typical residential bill @1,000 kWh. Delmarva charges each customer on each individual peak load contribution or history. Each bill can fluctuate based on previous history. It is footnoted and an explanation provided. He recalled the days when Delmarva had the cheapest rate.

Mr. Medlarz explained that there is a savings when you look at the production rate and purchase costs. The detailed report shows the costs have gone down, but the revenue which used to be relied on during peak times, has diminished. Therefore, Milford's gross margin is shrinking which is partly due to the Beasley Power Station in Smyrna being called on during those times and an alternative to wholesale market rates.

He explained there is a power cost adjustment in our tariff which can fluctuate from zero to one-cent depending where the city needs to be to meet the revenue projection. Currently, it appears the .5 cent will continue though it may need to increase to .55 or .6 cents to meet the gross revenue projections. Though he is authorized to do so, Mr. Medlarz is uncomfortable making a change to the power purchase cost adjustment without letting council know ahead of time.

Mr. Medlarz will attend a DEMEC meeting tomorrow and will ask where we fit in when compared to historic residential rates.

Mr. Grier would like as much information as possible because the largest number of complaints he receives is about Milford's electric rates. Having as much knowledge would help.

It was confirmed the PPCA can be adjusted by the city manager without council action though it would be unwise for the manager to abuse that power.

Mr. Medlarz stated he will be meeting with Electric Superintendent Rick Carmean and Jennifer Anderson to discuss some changes they are requesting in our electric tariff. They will bring Jay Kumar in by telephone at which time the entire tariff will be reviewed.

The city manager confirmed that city council sets the electric rates and adopts the tariff.

Billing Department Name Change/Customer Service Department

Mayor Shupe said it was suggested the billing department name be changed to customer service department. He agrees it has a more friendly sound and more accurately covers the work of those employees who handle a number of duties above and beyond billing utilities and taxes.

Mr. Pikus moved to approve the name change from billing department to customer service department, seconded by Mr. Mergner. Motion carried.

FY 2014-2015 Budget Adjustment/Armory O&M/General Fund Reserves

Mr. Medlarz advised there have been some occasions when heat and electric were needed at the armory. There is also a need to have the facility insured.

No money was budgeted this year for armory expenses. Through December 31, 2014, DBF invoices for work done by a structural engineer total \$4,790. Insurance to cover the six-months left this fiscal year is \$4,520. Boiler repairs were needed at a cost of \$634. The total of bills received through the end of 2014 is \$9,944.

Currently, the state is continuing to pay for utilities because the deed has not yet been transferred to the city. Once the deed is recorded, the city will be responsible for those bills.

The recommendation is to approve an amount not to exceed \$20,000, which will allow the current bills to be paid and any additional costs incurred this fiscal year.

Mr. Medlarz emphasized there will be very limited functions at the armory and no long term uses. It will only be open for city activities and heated and lighted as needed. Any other uses should be deferred until there is a determination made on any potential police use. If that were ruled out, council will need to decide how to use the facility and what kind of long term uses would be allowed and any potential staff that may be needed.

Mr. Pikus moved that up to \$20,000 be transferred from General Fund Reserves into a new account 101-1110-411-68-37 be established in which any armory expenses would be paid; any amount exceeding \$20,000 will need further review by council, seconded by Mr. Morrow.

Mr. Gleysteen referenced the \$4,500 insurance bill and confirmed the balance would be for any related expenses that we encounter. Mr. Medlarz reiterated there are bills relating to the structural evaluation, utility bills and some repair bills. He and Finance Director Jeff Portmann believe \$20,000 will cover the balance of the fiscal year.

Motion carried.

DMI Brewgrass Festival Permit Amendment/Time Change

Mayor Shupe recalled this festival was previously approved after the amendment allowing restricted alcohol use to the Parks and Recreation Code was adopted. The committee working on this event felt it was necessary to ask for two changes to the original approval.

They are asking for three additional hours to accommodate a VIP hour (11 a.m. – 12 p.m.) for twenty attendees. The request stated that adding three hours to the event will allow two more bands to be included in the program.

Earlier today, Councilman Pikus brought a concern to the mayor's attention.

Mr. Pikus said some people saw this on the agenda because it is public. He had calls from two different churches. Both Calvary Church and the churches on Front Street called him. They all informed him that changing the hours from noon to 4 p.m. to 11 a.m. to 6 p.m. would create a problem.

Mr. Pikus then contacted Sara Pletcher who is the chairman of the event. Ms. Pletcher agreed to change the start time to noon instead of 11 a.m. when church services were in session.

Mr. Pikus moved that the Brewgrass Festival start at noon and conclude at 6 p.m., amended from its original request, seconded by Mr. Mergner. Motion carried.

DMI Brewgrass Festival/Waiver to Parks and Recreation Ordinance

Mayor Shupe advised the second item the committee is asking council to reconsider is the actual beer glass. The plans were to serve the beer in a commemorative 16 oz. beer glass. One of the new amendments to the ordinance requires alcohol beverages be served and consumed in non-breakable containers. The organizer is requesting a waiver to the ordinance because they feel the commemorative glass will provide more value for the ticket price and will be a token of the festival.

City Solicitor said the statute does not allow a waiver to the ordinance. He said it clearly states that all alcoholic beverages must be served and consumed in a non-breakable container due to safety reasons.

Council suggested insulated or hard plastic cups be used and that a commemorative glass could be issued at the time they leave the event.

Mr. Rutt emphasized that if we start waiving the rules, it could become a problem with later events.

No action by council was needed.

Chapter 193/Solid Waste Ordinance/Proposed Amendments

City Manager Medlarz reported that two things occurred that caused him to review our solid waste policies. The implementation and enforcement of the ordinance passed last year began in the fall. Until then, the solid waste department was wrestling with how to implement the changes. He agrees with Public Works Chairman Brooks that the people generating the waste should bear the burden of paying for it which he believes is the intent of council.

Mr. Medlarz stated that one issue with the ordinance is it requires customers to have the foresight to say for example, next week I am going to have a large quantity of items or large items and I need to call ahead and arrange for their pickup. According to city staff, it rarely happens. The current ordinance states that if the arrangements are not made, the items will be left behind. He said that is what we are seeing throughout the city.

On his first day, Mayor Shupe was expressing concerns with the ordinance; he told him the law is what it states and it cannot be arbitrarily changed.

Mayor Shupe agreed and explained that initially, he would receive complaints from residents because the city did not pick up their trash. That evolved into multiple complaints about the amount of trash sitting around town. People were noticing where trash was left out on sidewalks throughout the city and the reason he brought it to Mr. Medlarz's attention.

Mr. Medlarz and Street Superintendent Tim Webb rode through the four wards for approximately one and a half hour. During that time, dozens of piles of trash were observed. He agrees with the mayor that it is a widespread problem through both the commercial and residential districts.

Mr. Medlarz then asked the finance department and solid waste department to do some research. He asked how much money was received for bulk pickups the first month. He determined that \$1,200 to \$1,250 was billed that month though that does not mean it was collected. He said the administrative effort to collect \$1,200, in \$10 or 20 increments, begins with the crews, then the solid waste administration, then our billing staff and finally our finance staff. He stressed that it will cost \$30 in staff efforts to collect a \$10 charge.

The city manager is proposing that customers who put out excess trash twice in a row or three times in a quarter, be issued a secondary container. That customer would then be charged for the second container at a significant discount. He believes that would be a much simpler way to handle and would address the customer's needs. That would eliminate the significant amount of staff effort that is currently required each time excess trash is put out.

Mr. Medlarz then addressed the renter issue adding that a large number of those accounts become uncollected. He explained the ordinance gives the city the right to lien a property for nonpayment. However, the bills are not in the property owners' name. He does not believe the solicitor would want to enforce collecting a \$100 fine in this situation.

Mr. Rutt agreed adding he had a similar discussion with the former city manager regarding a tenant issue this past summer.

Mr. Medlarz pointed out the city is very proactive in cutting off electric when it becomes delinquent. However, a lot of our customers know how it works and they pay the electric portion before it is disconnected. If they don't pay the trash

fee, the garbage collection continues and hundreds of dollars in trash charges can accumulate. The renter then leaves town without making payment. The city has little or no recourse.

Mr. Pikus agreed pointing out the trash bill is added to the electric bill. Mr. Medlarz explained that right now, the renter can pay the electric portion of the bill and never pay the garbage portion. Adding it to the water and sewer bill that is mailed to the owner, then becomes a lienable expense. The city would then have a way to collect those fees.

Mr. Brooks clarified that his point of concern is the number of trash containers overflowing and the extra bags being put out for collection. Compare that to a home with one person who puts out a small bag of trash for collection. In each case, they pay the same monthly fee which he feels is extremely unfair. He said that Mr. Pikus continuously points out the amount of money we are losing in the solid waste department and the need to raise trash rates. He feels the customers abusing the system should be paying more.

Mr. Medlarz agrees and believes this will accomplish that through a significantly reduced rate for the additional container. The reduced fee is appropriate because the truck and crews are already stopped to pick up the original container so there is a lesser cost associated with the second pickup.

This would allow someone to have a big party and put out additional trash on one occasion which our crews will pick up. That situation will not trigger a second container. However, something needs to be done to address excessive trash day in and day out and month after month.

He also stated that yard waste is another year round service so the discount should be larger and something that does not necessarily occur week after week. However, a yard waste customer who periodically needs a second container, should have an even bigger discount and even possibly cut in half.

Mr. Grier likes the idea and understands the intent.

Mr. Medlarz stated that when he saw the stack of notices, he realized the amount of effort and number of employees that were involved.

This was discussed in depth with city staff and they agree this was the most appropriate manner to handle it.

He recalled that council spent a lot of time discussing the ordinance last year, but he will present a new version for discussion at the workshop on January 26th. It would not recommend it be implemented immediately because a public relations effort is needed because it will be a major change. The ordinance could be adopted relatively quickly, but a slightly long implementation period is needed during which time we will educate our residents.

Mr. Morrow asked if there will be any consideration for the small containers and minimal trash used by customers living alone. Mr. Medlarz said he has analyzed the cost of garbage collection over a number of years. If you break down your actual cost, about 1/3 is the actual tipping, 1/3 is labor (collect and dispose) costs and 1/3 is in the administrative and debt service including equipment and operation of the equipment. He expects it could be reduced by 14 to 16%. However, he is unsure if that would be worth it.

The city manager believes it is much easier to say the second container should be issued and an additional fee applied. Because we are dealing with excess trash, we would automatically issue the larger container unless the customer complains they do not have room for it or some other reason. At that point, we would issue a smaller one.

Mr. Mergner said he sees this to be more of a problem during a holiday week. He had neighbors asking why they would not pick up the bags that were put out beside their containers. His question is for those customers who only put out excess trash once or twice a year.

Mayor Shupe said that is something that council will need to determine and specifically how many times, within a specific time frame, will this occur before it triggers a second container.

Mr. Medlarz said that under the current ordinance, the additional trash is not picked up which is creating all these phone calls.

Council agreed the ordinance needs to be amended.

City of Milford Ethics Ordinance

Mayor Shupe reported the need for an ethics ordinance has been discussed by Mr. Rutt on several occasions. Presently the city falls under the state ethics code for government officials which City Manager Medlarz feels is the most appropriate way to handle. An ordinance will be prepared for Milford's code books that references the State Code of Conduct that would be applicable to all city officials.

Mayor Shupe agrees one is needed and referencing the state code is most appropriate.

Mr. Medlarz explained that if council wanted to create their own ordinance, the state board would no longer be available because it only enforces the state code. It would also have to be more restrictive than the state code.

If Milford adopts the state statute, we will have all the state services available which will eliminate a lot of additional work.

MONTHLY FINANCE REPORT

Finance Committee Chairman Pikus reported that through the fifth month of Fiscal Year 2014-2015 with 47% of the fiscal year having passed, 47% of revenues have been received and 38% of the operating budget expended.

Mr. Pikus pointed out that the solid waste revenues are getting extremely low as has been discussed.

He also noted that the General Improvement Fund has been reimbursed and no longer has a negative balance.

Mr. Grier moved to accept the November 2014 Finance Report, seconded by Mr. Gleysteen. Motion carried.

ADJOURN

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

The meeting adjourned at 8:16 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder