

MILFORD CITY COUNCIL
MINUTES OF MEETING
May 26, 2015

Milford City Council held a Public Hearing on Tuesday, May 26, 2015 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan Shupe

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

City Manager Hans Medlarz, Police Chief Keith Hudson and
City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

Mayor Shupe called the Public Hearing to order at 7:06 p.m.

Mispillion Street Partners/Conditional Use to Allow a Planned Unit Residential Development/Adoption of Ordinance 2015-05

Mayor Shupe reported that the applicant withdrew their application after the planning commission hearing. Therefore, no review and no action will be taken tonight. Should a new application be submitted, it will need to be reviewed by the planning commission before a recommendation is made to council.

Mr. Rutt confirmed that if that occurred, they would be required to start the process from the beginning. After the planning commission review, City Council will make the final determination. If the application were denied, they would have to wait a year before they could reapply.

If the application is withdrawn before council takes action, they can reapply and start over at any point.

According to Mr. Medlarz, the applicant has been in contact with city administration as well as the city solicitor. They were interested in a public/private partnership which would meet the condition of a planned unit residential unit (PURD). As a result, council may see a proposed agreement which would be a separate item from the land use matter. If council is not interested, there is no reason to pursue the planning commission.

When asked for clarification, the city manager explained that if someone proposes to jointly develop something and exclusively pay for it with private funds, that would be a potential public/private partnership. If that occurs, the city manager explained that two approvals would be required by city council. Council would need to consider the partnership and if approved, the land use application would be presented for council action.

Mr. Medlarz then informed council that the planning commission vote purely reflected the unease of the commissioners with the actual PURD and whether it met those requirements. He and City Solicitor Rutt made some suggestions to further cement whether or not they are a PURD.

Solicitor Rutt then warned council that this conversation is inappropriate because the applicant withdrew the application and will be filing another application which may be totally different. The first thing the commission had to vote on was whether they had met the requirements for a PURD and the commission determined they did not.

*Ordinance 2015-04/Zoning Code Amendment
Adoption of Ordinance 2015-04/Alcohol Defined & Permitted with Conditions*

Mayor Shupe recalled discussing this ordinance with specific conditions. He said this has been talked about several times, and the need is not only in the downtown area, but throughout the city. Presently the ordinance prohibits any establishment from serving alcohol within 1,000 feet of a church, school or daycare.

He feels that even with the amendment, it still has the same intent which was to not allow liquor stores next to schools, churches and daycares. However, it was never intended to hinder restaurants, brewpubs or distilleries.

Mayor Shupe said he asked for an amendment to the code to allow restaurants that serve food to serve alcohol and/or a brewpub or distillery that create brews on site.

Mr. Brooks questioned the definition of a church noting there are a number of storefront churches in the downtown area. He asked if they apply to the 1,000 foot rule. Mayor Shupe said if a new restaurant or brewpub wanted to open downtown today, they would be in violation of the ordinance as it is currently written.

Mr. Medlarz pointed out the entire downtown cannot have a new restaurant and/or any new establishments that serve alcohol.

Mayor Shupe asked if council had any further comments.

Mr. Morrow recalled discussing this at the last meeting and feels it is needed to keep up with the times.

Ms. Wilson agreed pointing out the traditional church no longer exists in most areas. Storefront churches or random buildings are used today for worship. There are a number of those churches throughout Milford which creates a problem for any new restaurant. As long as this ordinance protects the churches that exist, she has no problem with it.

The mayor said that is why we wanted to stick with the original intent and prevent a liquor store from opening next door to a church. However, a restaurant or brewpub will bring business to the downtown area and ultimately to the other businesses as well. He wants the city to remain as business friendly as possible.

Mr. Mergner asked what happens if a law is passed that allows retail stores, small grocery stores or convenience stores to sell alcohol. The mayor explained the amendment requires an alcohol product to be made on site. The business is required to serve food and/or make the product on site as Mispillion Brewery does. Under the current code, Mispillion Brewery would not be able to come in and sell alcohol.

Mr. Rutt said if the legislators changed the law to allow liquor stores to sell alcohol in convenience or grocery stores that would need to be considered. Mr. Mergner explained that currently state legislators are considering a law that would allow a convenience store that serves food and has the proper amount of seating, to sell packaged alcohol, not necessarily from a tap or bar. He asked how that will impact this ordinance if that were passed. Mr. Rutt said that state law would supersede the ordinance.

Mayor Shupe then opened the floor to public comment.

Sara Kate Hammer of Downtown Milford, Incorporated asked if a wine store wanted to open downtown, would they meet this criteria. She said that would be considered a liquor store though it may be a high end wine store that sells cheese and gourmet food as well.

Mayor Shupe confirmed that if they serve food, it is permitted. In addition, they would be permitted if the products were made on site.

Solicitor Rutt noted that the definition of alcoholic beverages includes wine. The new language states that unless food is prepared and served or alcoholic beverages are produced, it would not be prohibited. A wine store selling high end wines only would not be permitted.

He reiterated that the food must be prepared and served. Selling packaged cheese does not fit the definition of being prepared there.

Mr. Morrow feels that preparing food could be selling a block of cheese that is sliced so there is some ambiguity. Mr.

Mergner agreed the wine store could serve a cheese platter.

Mr. Burk feels that with any ordinance, there may be situations that create a later need to tweak or amend it.

Mayor Shupe agreed that anything specific can be considered and discussed at another public forum. Right now this amendment allows the city to be business friendly, especially in some of the industries we are seeing such brewpubs in the past couple years. In addition, he pointed out we are trying to attract more restaurants downtown which could be a huge catalyst for the other businesses. This allows one less barrier for someone opening a business in downtown Milford.

Mr. Brooks asked that we be very careful and ensure that everyone is treated fairly even though they may be considering something a little different.

Mr. Medlarz emphasized that the way the code is currently written, the city would not be able to entertain any discussions with someone interested in any of the buildings downtown who may be interested in serving alcoholic beverages in a restaurant or creating a brewpub. The mayor and he came up with this suggestion to allow them.

He feels that a wine store that provides a cheese service fits the definition in his opinion. That had not been considered but if that were the case, he feels it could be done.

Solicitor Rutt feels an amendment to the language should be considered to prevent any future questions. He recommends the following language be added:

Section 3.

Article VIII-Miscellaneous Provisions, 230-44 Prohibited Uses is hereby amended as follows:

*§230-44(D). All establishments involving the sale of alcoholic beverages either on or off premises, which are located within 1,000 feet of any public or private school, day-care or child care center or church, **unless food is prepared and served for consumption on site or for takeout, or alcoholic beverages are produced in said location.** Approval to sell alcoholic beverages at special events or gatherings for a period of time, not to exceed three days, may be granted if approved by City Council.*

Mr. Rutt feels it would be safer to add that language and adding the takeout provision covers this situation.

He feels the change is insignificant and only clarifies service so it does not have to be re-advertised.

With no further comments from the public, Mayor Shupe closed the floor.

Mr. Burk moved to adopt Ordinance 2015-04 with the amendment and added language as recommended by the city solicitor, seconded by Mr. Brooks:

Ordinance 2015-04

WHEREAS, the City has received inquiries from persons interested in opening and operating establishments serving alcoholic beverages in addition to serving food; and

WHEREAS, the Code of the City of Milford, particularly the zoning code, does not directly address these types of businesses; and

WHEREAS, the City Planning Commission and City Council believe these types of businesses may be beneficial to the City of Milford if located in appropriate areas within the City where they would be compatible with the surrounding area and if they are regulated appropriately to minimize negative impact and to protect the public health, safety and welfare of the public.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

An Ordinance to Amend the Code of the City of Milford by Amending Chapter 230 entitled Zoning,

Section 2.

Article I-General Provisions, 230-4 Definitions and word usage is hereby amended by adding the following:

Alcoholic Beverage - Any fermented liquor or malt beverage, such as wine, beer, or distilled spirit that contains ethyl alcohol, or ethanol, as an intoxicating agent.

Section 3.

Article VIII-Miscellaneous Provisions, 230-44 Prohibited Uses is hereby amended as follows:

*D. All establishments involving the sale of alcoholic beverages either on or off premises which are located within 1,000 feet of any public or private school, day-care or child care center or church, **unless food is prepared and served, for consumption on site or for takeout, or alcoholic beverages are produced in said location.** Approval to sell alcoholic beverages at special events or gatherings for a period of time, not to exceed three days, may be granted if approved by City Council.*

Section 4. Dates.

Introduction: April 27, 2015

Adoption: May 26, 2015

Effective: June 5, 2015

City Solicitor Rutt read the revised subsection into record prior to the vote.

Motion carried with no one opposed.

With no further business, Mayor Shupe adjourned the Public Hearing at 7:28 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
May 26, 2015

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Tuesday, May 26, 2015.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Chris Mergner, James Burk, Owen Brooks, Jr., Douglas Morrow, Sr., James Starling, Sr. and Katrina Wilson

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 Council Meeting to order at 7:28 p.m.

INVOCATION AND PLEDGE

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

Councilwoman Wilson asked for a moment to honor the life of the City's Former Planner Gary Norris who passed away unexpectedly this weekend.

Mayor Shupe announced that Councilman Pikus is in the hospital due to having emergency surgery but is much better today and is expected to be released tomorrow.

RECOGNITION

Mayor Shupe referenced three proclamations presented at the NAACP Annual Freedom Banquet last weekend:

PROCLAMATION 2015-12
NAACP Day in the City of Milford

WHEREAS, the National Association for the Advancement of Colored People (NAACP) was founded in 1909 and is the oldest and largest civil rights organization in America; and

WHEREAS, the NAACP is committed to promoting racial equality, educational excellence, economic empowerment and civil rights; and

WHEREAS, the NAACP continues to be the voice that speaks for those whose voices otherwise would go unheard; and

WHEREAS, their efforts have proven successful in historic legislative victories and progressive changes that have impacted our entire nation; and

WHEREAS, the NAACP focuses on challenging issues that are foremost in our changing society; and

WHEREAS, the City of Milford acknowledges the work that is done each and every day by NAACP Milford-Slaughter Neck Branch Unit #2030, whose tireless efforts have greatly enhanced the quality of life in our community; and

WHEREAS, the Milford Senior Center will host the Milford-Slaughter Neck Branch's Annual Freedom Banquet on Saturday, May 16, 2015 at which time the Reverend William A. Grimes of the Solid Rock Baptist Church will speak; and

WHEREAS, during this prestigious event, the Milford-Slaughter Neck Branch will recognize Jerome Harris Jr., Fran Shell Best, Reverend Winton Hill III and Pastor Malissa Dukes; Douglas Gibson, former Milford City Councilman and educator, will be the recipient of the Lifetime Achievement Award and the late Gary Curry will be remembered with the first ever Unsung Hero Award; and

WHEREAS, this occasion marks a historic and proud moment in our community as The Milford Seven--Josephus Clark, Charles Hammond, Timothy Duker, George Davis, John Whalen, Gregory Showell and Ovetta Whaley--the first African-Americans to graduate from Milford Senior High School during the Brown vs. Board of Education era, will be honored.

NOW, THEREFORE, I, Bryan W. Shupe, Mayor of the City of Milford, do proclaim May 16, 2015 as NAACP Day in the City of Milford and encourage all citizens to strive to make positive changes in our community while standing alongside those who continue to fight for justice and freedom for all Americans.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford, Delaware to be affixed this 16th day of May, Two Thousand and Fifteen.

s/Mayor Bryan W. Shupe

TRIBUTE 2015-13
Douglas Gibson-NAACP Lifetime Achievement Award

WHEREAS:

Douglas A. Gibson, a native of Trappe, Maryland, served in the United States Navy and was stationed in Hawaii during World War II;

After the war, Mr. Gibson was among the veterans who would triple the enrollment population of Delaware State College (University) and in 1950, graduated with a Bachelor of Science Degree in Industrial Arts;

Mr. Gibson made a life for himself in Milford, Delaware, where he and his late wife Dorothy raised their children Dawne, Darrald and Craig;

Mr. Gibson became part of a historic group of African-Americans who were permitted to enroll in the University of Delaware as a result of the nationally precedent-setting 1950 Delaware Court of Chancery ruling that required the institution to admit blacks;

He would go on to earn a Master's Degree in School Administration from the university and subsequently enjoy an industrial arts teaching career spanning thirty-eight years — seventeen years at the segregated Benjamin Banneker School in Milford, followed by twenty-two years as an instructor at Delaware Technical and Community College in Georgetown, Delaware;

Mr. Gibson has been a renowned duck decoy carver for more than thirty years competing in the Eastern Waterfowl Festival and Ward Brothers Foundation's Best in the World Competition; he was named the 2000 Artist of the Year by the Delaware Chapter of Ducks Unlimited for his contributions to wildlife conservation and took home the Blue Ribbon honor when he exhibited his works at the Smithsonian Institution's River and Wildlife exhibition in Washington, D.C.;

In 1990, he became the second ever African-American to serve on Milford City Council, an elected post he held for two terms and has been appointed to several state committees including the Governor's Wetlands Committee and the Office of Economic Opportunity;

At the age of 92, Mr. Gibson continues to spend each day in his workshop hand carving the lifelike decoys that have made him known throughout the art world.

NOW, THEREFORE, I, Bryan W. Shupe, Mayor of the City of Milford, do hereby congratulate Douglas A. Gibson on being awarded a well deserved the 2015 Milford-Slaughter Neck NAACP Lifetime Achievement Award.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford, Delaware to be affixed this 16th day of May, Two Thousand and Fifteen.

s/Mayor Bryan W. Shupe

PROCLAMATION 2015-14
Honoring the Bravery of the Milford Seven

WHEREAS, following the Supreme Court's landmark decision in the Brown v. Board of Education in May 1954 which declared 'separate but equal' public accommodations for blacks and whites are unconstitutional, eleven black students showed up for the first day of school at Milford High School in September;

WHEREAS, Milford High School, home to 698 students, received worldwide attention as the first school to attempt integration in Delaware;

WHEREAS, sadly, undue outside pressure only allowed these pioneering African-American students to be in attendance for twenty-eight days;

WHEREAS, more than a decade after the Milford Eleven incident, the first official integrated class, that included seven African-American students, graduated from Milford High School in 1965;

WHEREAS, forever becoming known as the 'Milford Seven', these students proved that an equal education in the public schools of Delaware was an essential right for all;

WHEREAS, all citizens are encouraged to reflect on the history of the Milford Seven and to bear witness on the progress and achievements made possible by these seven students;

WHEREAS, the courage of the Milford Seven proved that with access to educational opportunities, all students are capable of greatness;

WHEREAS, fifty years after the Milford Seven graduated from Milford High School, it is important we all remain vigilant in order to assure that every child has access to quality public education regardless of race or ethnicity.

NOW, THEREFORE, I, Bryan W. Shupe, Mayor of the City of Milford, do proclaim the month of May 2015 as 'THE MILFORD SEVEN' MONTH in the City of Milford and encourage all citizens to join in honoring the courage of the Milford Seven--Josephus Clark, Charles Hammond, Timothy Duker, George Davis, John Whalen, Gregory Showell and Ovetta Whaley.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford, Delaware to be affixed this 16th day of May, Two Thousand and Fifteen.

s/Mayor Bryan W. Shupe

Mayor Shupe asked the city clerk to include these documents in the permanent record of the city.

Councilman Starling then thanked Mayor Shupe for speaking and praying at the retirement banquet for his wife, the Rev. Dr. Jeanel Starling this past weekend.

Mr. Starling explained that they have been at St. Paul's United Methodist Church for seventeen years and when a pastor reaches a certain age, they are required to retire.

Mayor Shupe congratulated Rev. Dr. Starling for her years of service to our community.

COMMUNICATIONS

Mayor Shupe reminded council of the SCAT meeting that will be hosted by Milford on June 3, 2015 at the Rookery North. Anyone wishing should contact City Clerk Hudson.

UNFINISHED BUSINESS

First State Manufacturing (FSM) Land Exchange and Purchase/Lot Creation

City Manager Medlarz reported that he has a meeting scheduled with FSM Representative Dave Hitchens. Before the meeting, he wanted to give council his viewpoint of the proposed sale/exchange. He feels we should not create a parcel that is nonconforming as is now being proposed.

The city manager is not judging the sale/exchange by its merits though he prefers to inform Mr. Hitchens we should be within the bounds. Mr. Hitchens can then go back to his board for their approval.

Mr. Brooks asked if the problem is the land adjacent to the ball park or the lot they requested at Independence Commons. Mr. Medlarz explained that FSM wants to give the city more land which will create parking and setback issues. That would create a parcel that does not meet our code requirements.

The city manager then asked the solicitor if that is legal; Mr. Rutt stated no because the city would be creating a nonconforming lot that would require an application to the Board of Adjustment. We would have to justify why the city is doing that which may be difficult.

Mr. Medlarz said there are other options but the most recent proposal was changed from the original plan.

The city manager wanted to verify we had the solicitor's backing and that council understood the situation.

NEW BUSINESS

Downtown Milford, Incorporated Report

DMI President Sara Kate Hammer said she was unprepared to speak but stated she is happy to provide the report. She referenced the two documents in the packet submitted by DMI. Executive Director Lee Nelson was also in attendance.

President Hammer explained the first document is an overview of what their organization does, their mission and their tasked mission as one of Delaware's eight Main Streets. DMI falls under the Downtown Delaware umbrella which falls under the National Trust for Historic Preservation and National Main Street Center.

She noted the second document is a look back on their activities in 2014. Because the City of Milford invests in DMI, they want council to be familiar with the return on their investment.

President Hammer recalled the quarterly reports that were presented to council for their review in 2014. The document highlights what has been done in 2014 and their intent is to bring quarterly reports to council again. At the end of 2015/early 2016, they will provide the year's activities for 2015.

She referenced the 200 dedicated volunteers who worked 5,421 hours for Downtown Milford which is equivalent to 2.6 full time workers. Delaware Economic Development Office (DEDO) places a value of \$124,791 on those volunteer hours.

She reported that DMI hosted or co-hosted ten special events which included the Bug and Bud Festival, Milford In Bloom, Holiday Stroll, Pub Crawls and Eat in the Street. She reported they also finished the last part of the Launching Augusta project and referred to the painted boats throughout the downtown area.

DMI also donated \$10,000 to Parks and Recreation from the revenues they earned at the Bug and Bud Festival. The investment made by the city in Downtown Milford is returned to the city's youth through the Parks and Recreation Department.

The 2014 Farmers Market outdid the previous year and the 2015 Farmers Market is on pace to outdo the 2014 number. Last week, they counted more than 400 visitors at the market which is a new record. They expect that number to grow during the summer months.

They are partnering with Tourism, Arts and Downtown Development, a group of seventeen towns in Maryland and Delaware by promoting tourism from one town to the next.

DMI also markets Milford all over Delmarva in partnership with the Maryland towns, in addition to Delaware towns that include Dover, Middletown and Rehoboth Beach.

A group of travel writers visited Milford who is focusing on downtown Milford through four national and regional magazines.

In addition, two new Project Pop-Up businesses opened in downtown Milford in 2014.

DMI was also selected as a semifinalist for the Great American Main Street Award out of ten cities selected nationwide. They also received the National Accreditation Main Street designation again this past year.

In conclusion, President Hammer emphasized that DMI continues to make Milford a great place to live, work, play and shop. She acknowledged their appreciation for the city's investment in their organization.

Mr. Mergner thanked DMI for their efforts adding that the festivals are very exciting for the community and look forward to working with them in the future.

Mr. Burk said he appreciates DMI coordinating these events with the help of so many volunteers and stressed the importance of those volunteers in making these events successful.

Mayor Shupe thanked President Hammer and Executive Director Lee Nelson for the work and the assistance they provide to the businesses downtown, in addition to sponsoring the many events that were discussed. He hears from many of the downtown businesses that DMI was very helpful with getting them on their feet and educating them on what it means and takes to be a business. He noted that many of the downtown businesses are first time business owners which can be difficult though DMI provides that needed guidance.

Water Infrastructure Advisory Council (WIAC) Grant Application

Project Description: The City is requesting grant funding for the procurement and implementation of GIS software and hardware in order to develop a comprehensive database of the City's drinking water infrastructure. The City will develop level of service standards based on customer demand and regulatory requirements. The GIS database will be utilized to analyze critical assets, determine minimum life cycle costs of system components, and develop a long term funding strategy for potential repair/rehabilitation projects.

Estimated Cost: \$90,000

Mr. Medlarz explained that he and the new Planning Director Rob Pierce, who was in attendance, have applied for a significant grant which will put our public works facility forward. He said this will create an asset management system which will allow us to track, do preventative maintenance and address long term depreciation of our water utility.

He explained the city has a lot of information we do not have direct control over. This grant will allow us to purchase the equipment and put it to excellent use considering that Mr. Pierce and the new GIS/Mapping Technician can accomplish this.

The city manager reported the program was just rolled out and the city may be the second utility applying for it. Receiving this will make us a better water and wastewater utility. He explained that once we receive the approval, council will need to commit to the conditions of the grant.

Mr. Pierce said the due date was the May 27th and because they are being processed as they are submitted, the city submitted the application last week.

Mr. Brooks commented that he has expressed the need for routine maintenance for a number of years and this appears to address that; Mr. Medlarz confirmed it will be one step above routine maintenance.

When asked if this will improve the quality of the water, Mr. Medlarz said we hope some improvements on the delivery of our utilities can be made.

Mr. Pierce explained there is \$100,000 for each program; if awarded in conjunction with one another, we would receive \$90,000 for one and \$70,000 for the other. If one is received without the other, we will be over the \$100,000 threshold and may need funding from council for the additional monies. The other option is to scale back and hope for another funding source.

Mr. Medlarz is hoping to report back to council that we were successful and present the support resolution.

Mr. Brooks said either way it needs to be done; Mr. Medlarz said that both he and Mr. Pierce were aware of this and decided that the number one priority for his job was to get this application in.

Mr. Pierce reported that the labor for the task of implementing the asset management program is not included in the grant application and really is just a time and effort to prepare the deliverables. He said we can still open that program if we do not receive the money, but it will be scaled back significantly.

Finance Committee Meeting Dates/FY 2015-2016

Mayor Shupe reported that the Finance Committee budget hearings have been scheduled on June 9, 2015 and June 10, 2015 beginning at 5:00 p.m.

Due to some council members not being able to arrive by that time, it was agreed to start the hearings at 5:30 p.m.

EXECUTIVE SESSION

Executive Session-Pursuant to 29 Del. C. §10004(b)(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed (Public Works/New Position/Contract).

Mr. Brooks moved to go into Executive Session reference a strategy session, seconded by Mr. Morrow. Motion carried.

Mayor Shupe recessed the Council Meeting at 7:50 p.m. for the purpose of an Executive Session as is permitted by Delaware's Freedom of Information Act.

Return to Open Session

City Council returned to Open Session at 8:07 p.m.

Public Works Position & Contract

City Manager Medlarz stated that council encourages the further pursuit of a particular position in the infrastructure project management arena for final consideration by council through a revised document that will be prepared by the city solicitor.

The matter will be discussed at the next council meeting in open session.

ADJOURN

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

The meeting was adjourned at 8:09 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Terri K. Hudson".

Terri K. Hudson, MMC
City Clerk/Recorder

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MINUTES OF MEETING
May 26, 2015

The City Council of the City of Milford met in Workshop Session on Tuesday, May 26, 2015 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Chris Mergner, James Burk, Owen Brooks, Jr., Douglas Morrow, Sr., James Starling, Sr. and Katrina Wilson

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 convened the Workshop Session of Council at 8:09 p.m.

Ordinance 2015-06/City of Milford Code/Part II-General Legislation/Appendix B Electric Tariff-Rules & Regulations

City Manager Medlarz pointed out that the word tariff has a negative connotation; however, that is the manner in which the city code refers to it. Instead, it is a document outlining the rules and regulations of how we manage our electric system.

Mr. Medlarz then explained how the city purchases power. The City of Milford is one of nine members of DEMEC (Delaware Municipal Electric Corporation) which is a joint action agency. As a member, Milford is part owner.

DEMEC's mission is to procure wholesale power for its members at a cost effective rate. DEMEC's generates electricity from a portfolio of owned-generation assets and purchases electricity from other generators through staggers, short, medium and long term contracts. Before DEMEC, each member purchased power through individual bilateral agreements. Currently the power supply for DEMEC is partially self-supplied. All members have a stake in the Beasley Power Plant in Smyrna, Fremont Power Plant in Ohio and the Laurel Hill Wind Farm in Lycoming, Pennsylvania.

The city manager explained that DEMEC also has several solar facilities owned by DEMEC. He noted that Milford Solar Farm is not owned by Milford though DEMEC has exclusive power rights. DEMEC also has part ownership in the Dover Sun Park which is a solar-powered plant. Milford does own a very small solar facility though it is insignificant in terms of power.

He explained an equal block of power is covered by long term contacts. They typically bid out power blocks in two or three year strips for its members. There is a small segment of power purchased on the market to cover the balance of the power needed.

Mr. Medlarz explained there are forces such as transmission costs that we have no control over. The power still needs to be wheeled to us unless we can produce the power behind the meter. The city manager said that is the reason the Beasley Power Facility in Smyrna is such an important unit. It carries no congestion charges on the transmission because we are producing it within our own confines of DEMEC. Otherwise, we have to pay congestive charges on top of the power prices from elsewhere in order to get it here.

The same applies to the wind farm but not true for solar should it come from Milford, Dover or Smyrna. If it is all generated behind the meter, there are no transmission charges.

He explained there is a power supply component but also a capacity component which is defined by the ability to produce. There are certain requirements under the PJM (Pennsylvania Jersey Maryland) who is the grid provider. PJM is one of the largest grid-regulating entities in the United States.

However, there are always power supplies in the PJM complaining we are not getting paid enough. The transmission people complain they are not getting paid enough but the end users say they are paying too much. As a result, these things are always in conflict.

Presently there is a request before the Federal Regulatory Commission which would change how we look at capacity and would increase the reliability requirement. An old coal fired power plant that can only be run 85% of the time could be affected by the new capacity mandate which requires that number be up to 98% or more. Otherwise, the facility will be shut down or significant improvements needed.

The DEMEC facilities must meet the new PJM power requirement of 40% or increase capacity. Unfortunately the approximate 55% not covered is what we will have to buy to increase capacity demand charges.

There are also issues relating to emissions. He noted that some of the EPA rulings which are currently being promulgated will impact coal fired power plants. If that happens, we will see increases for no other reason than some plants going off the grid.

When the board looks at these issues, the wholesale power purchase cost will increase over the next 24 months.

Mr. Medlarz said we have enjoyed some very stable prices due to the way DEMEC manages the power portfolio. Though our prices have been stable, other forces are creating a problem. That is when city council will have to decide how to deal with the increases and whether to cut margins, cut transfers, pass it on to our customers or a combination thereof.

Tonight council will be reviewing language changes that have nothing to do with electric costs. Instead they have everything to do with how we rule and regulate our electric utility.

Mr. Medlarz informed council there is significant preventive maintenance on the turbines in Smyrna. Twice a year a borescope with a camera is used. Some problems were found and the units were taken out of service until the final analysis is determined. It was completely disassembled and while it is apart, additional preventative maintenance will be done. The cost will be \$800,000 to \$1 million expense which will be covered by reserve funds.

However, DEMEC will pass that on over the next few months in order to replenish those reserves.

However, if a cash call is needed, the city is required to pay 20% of the bill. Mr. Medlarz does not believe that is the case because the problem was caught in time.

Mr. Medlarz encouraged council members to attend the next DEMEC presentation in Smyrna and reported that no one attended the last one. They feel that two education sessions a year will be very beneficial to council members.

Mr. Mergner feels there is a great need to educate the public because there is a huge misunderstanding of how the city buys and supplies energy. He believes electric costs is the biggest issue he deals with his constituents.

He encouraged Mr. Medlarz to get this information out to the public and thanked the city manager for an explanation.

Mr. Medlarz said that once we have an actual decision to make on how to address the increased wholesale power costs, he would like to fill this chamber with interested citizens and ask their opinion on how the city should approach this. Mr. Burk recommends that be done before the increase, rather than after.

Mr. Mergner noted that a lot of people see the solar panels on Route 14 and believe the city is creating the solar power. They do not understand why they are paying what they are. As a councilman he did not understand it either adding he needs to spend more time with Mr. Medlarz emphasizing the importance of this matter.

Mr. Medlarz then explained that as the previous Kent County Engineer, the Kent County Wastewater Facility was, by far, the largest customer of Delaware Cooperative (Co-Op). He paid very close attention to this and those charges that cannot

be controlled by the city and not controlled by Co-Op. Because the Co-Op has supply agreements in place with the Old Dominion Electric Cooperative, he is familiar with the facilities that Old Dominion controls.

The city manager assured council that Co-Op will be facing these market forces to a greater degree than DEMEC because of their structure. He predicts the gap shown in the residential comparison rates that are included in the council packet each month will be closing faster than expected. As these market forces impact each supplier, each will have to address it and he hopes the city is better prepared to deal with it.

Mr. Medlarz encouraged council to sit down with him and discuss the DEMEC plans and options.

He concluded the background portion of the meeting by stating that DEMEC and the City of Milford, in conjunction with Bayhealth, have a great opportunity that he does not want to slip by. He would love to be the project manager of the Bayhealth Expansion project.

The city manager explained there are a couple other forces in place. He explained that Milford is really not pumping up our demand and has been pretty flat over the past five years. Very few customer classes are showing any increase. With a .1 growth rate over five years, we are not growing out of the problem. He said that Smyrna does not have the problem Milford does. Smyrna's electric sales are constantly growing as well as Middletown. Milford is flat which leaves less options.

He pointed out that one of the biggest problems Milford has is delinquencies. Mr. Medlarz reported that delinquencies have risen \$50,000 a year and has reached almost \$700,000.

A breakdown was provided of the number of accounts in collection, written off, bankrupt, etc.

Collection	1558
Business in Collection	44
Medical people	13 (low number)
Accounts Final	82
Turn off for N/P	27
Write Off	34
Bankrupt	10 (Not inclusive)
Accounts transferred instead of collections	47
Disconnected	30

Some suggestions are included in the tariff in an attempt to bring these numbers down versus continuously growing.

This electric tariff, now referred to as Electric Rules and Regulations, has not been documented for almost ten years. Previous City Manager David Baird started working on it and after he left, some work followed by City Manager Carmean. When Mr. Medlarz came on board, Electric Superintendent Rick Carmean told him the document was in dire need of change and that the amendments were way overdue. He pointed out there are a lot of practices Milford is doing that are not even covered in the tariff which is a bad way of doing business.

At a minimum, we need to bring our practices in line with what staff has been told they can do in the past. Mr. Medlarz said right now the disconnect policy or how we operate, is out of line. The document has been made current with what is being done and also allow extended hours before disconnect days. It is an advantage to get the customer into customer service before the disconnect and not after as is currently being done. This would eliminate calls going to the police department which the city manager feels is inappropriate.

He believes that allowing customer service hours prior to a disconnect date will allow more opportunity for the customer to make arrangements. The goal of the city is not to collect the disconnect fee from the customer. We prefer the customer pay the bill to prevent the disconnect. Mr. Medlarz hopes this will motivate the customer by allowing extra time and/or arrangements to be made.

Mr. Brooks stated that in the past, the bills were always due the 15th. The way it is set up now, it is due on a different date every month. He noted that a lot of people live week to week and if they knew their bill was due the 15th each month, they always paid it. Now they wait another week to pay it, because the due date is later in the month though they may not be paid that week.

Mr. Medlarz feels that could work under our budget billing process. The customer would receive the same bill each month. Mr. Brooks asked if the customers have been educated on that policy; the city manager said customer service is trying to get everyone who is delinquent off the delinquency cycle. If they have an agreement and the customer has not defaulted on the agreement, they prefer the customer remain on budget billing. There are only three dozen or so customers on budget billing. The city provides the customer with a budget billing service and the customer agrees to the conditions. If the customer decides not to pay the budget billing, they are no longer eligible for the program.

Mr. Brooks asked how keeping the office open at night helps someone who has not paid their bill on the due date; Mr. Medlarz explained that a lot of our customers know exactly how to work the system. They have figured out the due date and the disconnect date indicated on the disconnect notice. A number of customers do not even consider paying until they receive the disconnect notice.

In order to prevent them from being disconnected, this will give the people who work during the day few additional hours to take care of their bill before they are disconnected the following day. He hopes this will encourage our customers to work with us and prevent the disconnect altogether.

The amendment to the electric document will allow the extended hours and he is confident it will be money well spent.

Ms. Wilson said those on budget billing really like it. Mr. Brooks agreed adding that council asked for it for many, many years and it was finally approved in the past year or so.

The city manager also explained that currently we automatically generate a refund. The majority of the refunds are very minor and \$15 or less. It takes a great deal of staff time to process and generate the refunds after which it is mailed to an address no longer valid. The refund then comes back and is subject to escheat. The city then ends up giving them to the State of Delaware which makes no sense.

Mr. Medlarz is proposing a nominal fee of \$15 to cover our expenses with a requirement to provide your forward mailing address. That prevents mailing a \$13 check to an invalid address. He said the intent is not to raise revenues but to create an incentive for customers to come in and provide a correct address eliminating one of the problem steps in the process.

Councilman Burk agreed and pointed out that most banks today now charge \$10 to cash a check.

Mr. Medlarz said if we already have to give this money to the state, he prefers not handling it twice.

The city manager said that currently, we still have meters on pedestals in remote locations. Customers will now be required to have all meters in the front of the house in order to accommodate AMR's. He and Electric Superintendent Rick Carmean are analyzing transitioning from Automatic Meter Reading (AMR) to Advanced Metering Infrastructure (AMI) technologies.

Currently we have a ride-by technology in place. Every ten years the meters are supposed to be calibrated. Our next step is the AMI technology that includes the back haul that collects data on a wi-fi support network. The AMI project may be one of the next DEMEC projects because the other utilities are pursuing this as well.

Mr. Brooks said his meter is in the rear of the house and confirmed it will need to be moved to the front but because Mr. Brooks is on a corner lot, his may not have to be moved. Mr. Medlarz' meter is on a pedestal in the rear of his home and has to be moved.

Mr. Burk asked who pays for this relocation; Mr. Medlarz said the city pays for it because it is in the city's best interest to move them.

The city manager said that right now, our overall system power factor runs in the high 90's. We are above the threshold charged by our supplier. Our power still comes into the Delmarva Power transmission grid. They have a requirement of the power factors to prevent interfering with their transmission lines. The city is within that requirement.

Mr. Medlarz said that our customers are supposed to be within a 90% power factor. He explained that the reactive power has to be less than 10%.

He referred to several commercial customers and how they perform.

The city manager explained the intent is not to increase revenues adding this is insignificant but increases the parity on the grid. We need to be as close to 100% as possible and if we can get our customers as close to 95% versus the 90% mark, that will help systemwide.

This does not change the rates and he wants everyone to understand this benefit. Mr. Medlarz explained that US Cold Storage should be much better and there is no reason why they are at 83% and should be in the high 90's. The schools have made a lot of improvements over the years and each are in the 90's. He and Rick Carmean feel that for the city to run our system efficiently and to prevent falling below the Delmarva-required number, this is a market force we can control.

He also noted that other DEMEC members have higher power factor requirements than what was proposed:

City of Dover - 98.5%
City of Middletown - 98.5%
City of Seaford - 98.%
City of Smyrna- 98.5% Interconnection Side/90% Retail Customer Side
Delaware Electric Cooperative - 90%

Their penalties are also higher than Milford. Dover, Middletown, Seaford and Smyrna are all at 98.5%. The Co-Op, being a majority residential load is down at 90%, where Milford is right now. He hopes to steer Milford in the 95% range.

Currently the tariff contains a fixed formula of the purchase power cost adjustment. This is one of the most disliked formulas in the document and is not to be used as written. Right now, the city establishes a margin and in order to achieve it, we use the power purchase cost adjustment. The way we are doing it is not covered in the document. He recommends the formula be removed or followed as written.

Mr. Brooks asked who made the decision to do it differently than how the tariff reads; Mr. Medlarz said he is unsure though he is willing to find out when that started.

The city manager said that council should only be looking at what kind of margin is needed. Over the years, the city pursued the PPCA to meet the expected margin. However, it is not codified in the tariff. If council does not believe there is a way to use a fixed formula, it should be determined at the time the budget is presented.

Mr. Medlarz is trying to make the document conform to our practices and also found that commercial and residential classes were being handled in different situations. He found that in the first few weeks on the job and instructed staff not to treat one classification different from the other one. He thinks it is just bad business. In his opinion, the notification is mailed regardless of the meter class and they will be disconnected. It should not make a difference who the owner or manager is. Simply put, if the bill is not paid, they should be disconnected.

Mr. Medlarz said that right now we do not have a notification requirement for a disconnect notice. There were some previous concerns expressed if it could create imminent danger to the property. The language was added that the city is not obligated though our staff makes significant efforts to notify people who are the owners of the property pending electric disconnect during inclement weather.

He also noted that we have an inclement weather policy and during freezing conditions, the city does not disconnect though that language currently exists.

Mr. Medlarz said that when he first came here, he learned of a customer who was essentially running a hidden business using a residential service. He found very large residential accounts that are over the 2,500 kW and in some cases 5,000-6,000 kW a house which is a large account. They were taking advantage of the fact we did not have a tier in the residential side.

He feels that once a residential customer hits that next tier, just as is done on the commercial side, it should kick the residential customer up to the next level. He pointed out that essentially, the city is supporting residents who are running a quasi business in their backyard.

Right now, the city manager wants to encourage more LED lights especially on the security and private lighting side. We really don't want any additional high pressure sodiums.

The city is working with DEMEC on a much broader program but this is the security and private lighting side.

Mr. Mergner asked if we are working on an incentive for businesses and commercial sites to switch over to LED lighting. Mr. Medlarz explained that is the next level and there is a state program sustainable energy utility (SEU) for that. The city cannot itself use the SEU but a business owner can approach the state.

The city plans that when we switch to the AMI metering system, we would be the local collectors on LED street lights. Approximately 15% of our street lights would be changed during that project. We still need to justify if that will work for the city.

Right now, DEMEC purchases large orders for all of their members. When the City of Milford only purchases one hundred LED lights for a few burned out lamps, we can get them through the DEMEC contract which is very favorable because of the bulk purchase.

Mr. Medlarz reported that currently we have customers who want services beyond the basic services. For example, our closest point of contact for meters should be on the corner of the house though the customer prefers to have it on the other side. It would then have to be routed around the house. The city is happy to provide that service as has been done in the past. Right now we have no charge for these additional services. If a customer requests service above and beyond the basic service, this new document will allow us to recover the additional costs while still being customer friendly.

A customer also has the right to decline the service once the price is determined.

The updated fee schedule in the appendix only has two big numbers according to Mr. Medlarz. It includes the \$15 refund request notice and rental deposit fee. Currently, a renter is required to pay a \$100 electric deposit. The big delinquency number is driven by circumstances beyond our control where renters leave and the city loses what they owe. In most cases it is much more than \$100 and typically \$300, \$400 or \$500. For example, someone has all intentions of moving and cannot afford to buy heating oil their last month. Instead they use a 1,000 watt heater in their house which increases their electric bill to approximately \$500. They then walk away without paying the last bill. Losing the \$100 deposit is no problem because they would receive five times that in free electric service their last month. In the meantime, the city still has to buy the electric but has no means to recover it.

He is recommending we charge the greater of two-twelfths of the average annual estimated bill or a minimum of \$250. However, if the property owner guarantees 100% payment in writing, they renter is not charged.

Any customer in good standing can always vouch for the renter and a form has been developed for those cases and is included in the document. He is attempting to do as much as possible to prevent the delinquent number from continuing to grow any larger.

Ms. Wilson asked about the electric accounts where the residents have documents from their physician stating that electric is needed for medical equipment. Mr. Medlarz assured her there have been no changes in that language adding that the utility has the right to limit the load to supply the power needed for the medical device.

The city manager emphasized we are very generous on how we calculate limitations. A load limiter is then placed on the meter and the resident is notified.

Ms. Wilson said there have been problems in the past with customers who were receiving that courtesy. Mr. Medlarz said the language is appropriate and does not need to be changed adding that we are operating under state statute though the city's rules are somewhat more lenient.

Mr. Medlarz pointed out that some people seem surprised that physicians add a time limit such as six months. The resident does not read the note though our customer service staff does. Unless an extension is provided by the physician, we would not know any different. He has talked about that with the customer service staff and informed them to point out to the customer there is a time limit notation.

Mr. Medlarz said this has been scheduled for a Public Hearing at the June 22, 2015 meeting.

Recommended Charter Review/Powers of Elected and Appointed Officials/Mayor Shupe

Mayor Shupe recommends this matter be postponed due to the absence of two councilman this evening.

Adjourn

With no further business, the Workshop was adjourned by Mayor Shupe at 9:05 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder