

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
April 13, 2015

The Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, April 13, 2015.

PRESIDING: Mayor Bryan W. Shupe

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

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

COUNSEL: City Solicitor David Rutt, Esquire

#### CALL TO ORDER

Mayor Shupe called the Council Meeting to order at 7:00 p.m.

He announced that Councilman Morrow was out of state due to his flight being canceled today.

#### INVOCATION & PLEDGE

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

#### APPROVAL OF MINUTES

Motion made by Mr. Brooks, seconded by Mr. Grier to approve the minutes of the February 23, 2015 Workshop Session, March 9, 2015 Economic Development and Finance Committee Meeting, March 9, 2015 Council Meeting and March 23, 2015 Public Hearing. Motion carried.

#### RECOGNITION

Mayor Shupe reminded council of the following upcoming events:

Little League Opening Day Parade	Friday, April 17 <sup>th</sup>
City Dog Park Reopening Date	Saturday, April 18 <sup>th</sup>
Bug N Bud Festival	Saturday, April 25 <sup>th</sup>
Customer Service Center Ribbon Cutting	Tuesday, May 5 <sup>th</sup>

#### MONTHLY POLICE REPORT

Police Committee Member Wilson presented the monthly police report on behalf of Chief Hudson. Mr. Pikus moved to accept the monthly police report, seconded by Ms. Wilson. Motion carried.

#### CITY MANAGER REPORT

City Manager Medlarz presented the following report:

##### *Administration:*

- \* *Made additional contacts with key business (Wilkerson Brick and US Cold Storage)*
- \* *Presented Bayhealth campus planning efforts at the State of Delaware PLUS meeting*

Mr. Medlarz reported this effort went well and they will begin to work on the master plan which council will see in the near future.

- \* *Continued public works agreement effort for southeast utility expansion*

Bayhealth has presented their needs for the new hospital. Their current facility is just below two megawatts for demand and the new facility will require almost six megawatts. The increase is the result of more imaging units.

The next step is to get the area property owners to come on board so they can proceed with the public works agreement.

- \* *Met with BAC regarding the northwest utility expansion*
- \* *Concluded electric tariff reviews for introduction to council in May*
- \* *Drew up easement agreement for parcel at northwest corner of RT-113 and RT-14*
- \* *Reviewed appraisal and met with legal representatives on easement above*

Mr. Medlarz continues to wait for a response from the property owner's attorney.

- \* *Continued negotiations with First State Manufacturing associated with the potential land exchange*

Mr. Medlarz said he is working with FSM's surveyors to ensure everything is in place before he presents the final land exchange to council. He wants to ensure everything meets the requirements of a potential land exchange.

- \* *Continued parcel consolidation/rezoning effort for Perdue*

He has met with Perdue's attorneys' and council will see this change of zone application at the May meeting.

- \* *Started Watergate force main contractual process for sewer transmission capacity increase*
- \* *Continued settlement efforts with regard to Watergate adjoins*

The city manager announced there is potential litigation between Watergate, the city and the adjoining property owner. He hopes to have this matter resolved by all parties.

- \* *Attended DEMEC strategic planning, Business Development Roundtable, Tourism and Milford Economic Development meetings*
- \* *Continued two meetings with potential Energy Service Companies regarding guaranteed energy savings project(s)*

Electric Superintendent Rick Carmean and he met with these companies in hopes of encouraging them to invest in Smart Grid technology which DEMEC is also considering. Mr. Medlarz advised the city will see this play out over the next year with the hopes of moving Milford into the next century of electrical service and distribution.

Eventually he will bring a recommendation for an energy service company we select; should DEMEC make a selection the city will piggyback on their choice.

- \* *Attended DelDOT meeting for NE Front Street interchange*

Funding has been allocated for this final design, appraisal and right-of-way acquisitions of this overpass. Once the design is approved by all departments, the appraisers will begin their work. Offers will then be made to property owners.

The project moved up in the funding ranking based on reconsidered safety factors. Because this will fix the Tenth Street problem as well, the safety data was combined for both intersections which resulted in a much higher ranking.

- \* *Started the hiring process of the Public Works Superintendent position*

## Electric Department:

- \* *Assisted in move and set up of the Customer Service Center*
- \* *Finalized electric tariff discussions regarding pending changes*

The city manager and staff have completed the review and recommendations on the electric tariff with the help of Electric Consultant Jay Kumar. The document should be completed in the near future.

- \* *Relocated four poles now waiting on Verizon to finish Thompsonville Intersection Project*
- \* *Completed clearing and cleaning of the big conference room at Public Works*
- \* *Started exploring options for a centralized phone system*

Electric Superintendent Rick Carmean and Mr. Medlarz are working together on this project. Three meetings have been scheduled with different phone vendors. He said the estimates may also include a Voice Over IP system.

- \* *Assisted Street Department in the Maple Ave. culvert repair*

All three departments assisted in this project.

- \* *Participated in meetings with potential Energy Service Companies*
- \* *Completed the annual spill training provided by Compliance Environment*
- \* *Cleaned out basement and crawlspace in the Customer Service Center*
- \* *Tested US Cold Storage facility meter with report to customer*
- \* *Gearing up for US Cold Storage metering and pole replacement*

## Streets and Solid Waste Department:

- \* *Solid waste crews are seeing a significant decrease in bulk pickups since Council's approval of the ordinance with customers opting to take care of the items themselves*

Mr. Medlarz reported we are seeing a decline in the pick up requests so customers seem to be handling their own bulk items.

- \* *Solid waste crews are notifying customers via door tags of pending additional container issuance*
- \* *Solid waste crews are improving communication between trucks and the office*

The city manager expressed the importance of the office knowing the status of the bulk pickups in order to track and get notices out to our customers.

- \* *Spring cleanup was completed successfully with fall cleanups scheduled 11/30 - 12/4*
- \* *Street Department crews are in the process of repairing concrete post on SW Front Street*
- \* *Street Department crews completed access road repairs SE water tower off Route 30*
- \* *Several Departments cooperated in the now completed Maple Avenue culvert repair project*

## Water and Sewer Department:

- \* *Repaired sewer lateral on Montgomery Street*
- \* *Assisted Street Department in snow removal activities*
- \* *Pumped down pond for Maple Ave. final culvert repair*
- \* *Replaced meter pits & repaired water service at various locations*
- \* *Replaced 4" valve & water service at old Fire House*

Mr. Medlarz reminded the Parks and Recreation Director to submit a report on their monthly activities.

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

## COMMITTEE &amp; WARD REPORTS

*Economic Development Committee*

Economic Development Chair Grier reported his committee met earlier this evening. The item is on the agenda under new business.

*Community Cemetery Meeting*

Ms. Wilson reported that the Milford Community Cemetery Board met last week at which time they discussed cemetery expansion and roadway improvements and expansion to the area where new lots are being created.

Ms. Wilson explained the large wall along North Walnut is in need of repairs and is actually beginning to crumble. The city manager advised the city now employs a concrete expert so the street and parks and recreation departments will attempt to repair the wall.

Ms. Wilson noted that landscaping on the north side will also be replaced with year-round plantings versus seasonal items.

## COMMUNICATIONS &amp; CORRESPONDENCE

No reports.

## UNFINISHED BUSINESS

*Ratification/Comcast Agreement*

Chris Comer, Director of Comcast Government and Community Affairs was present.

City Solicitor Rutt stated there has been a lot of negotiations and the final draft is in the council packet for review and vote. Mr. Rutt feels this is a good agreement and City Manager Medlarz agrees.

It was confirmed this is a ten-year contract; Mr. Rutt clarified it is a five-year contract with a five-year option.

Mr. Grier confirmed nothing in the contract prevents another cable company from coming into Milford; Mr. Rutt stated that is correct and should the city negotiate with another company, Comcast would have the right to match those terms though they cannot cherry pick and must accept the contract in its entirety or reject it.

Mr. Pikus hears a lot of complaints from residents about blackouts, lost pictures and sounds. When our residents call Comcast, they are informed they are working on it. He said Comcast is a big operation and though there is no competition at this time, he expects that will change in the near future.

He asked for a name of a contact that the city can discuss improving the service in Milford.

Mr. Comer is happy to work with the city and encouraged council to contact him with any concerns. He says he knows without a doubt they try to do their best with the network and upgrading services. They also realize there are always improvements that can be made. Because the city has its own electric service, he feels council understands there are challenges that always seem to pop up.

Mr. Comer said they are constantly looking for ways to make improvements and things customers can sign up for. As an example, if Comcast is working in the area, they can receive an e-mail or text about outages or service disruptions.

In speaking with the city manager and city attorney, there are steps he will take to make himself more aware of service issues in the area. He can then reach out to city officials and make them aware of a situation.

He has also shared some information about their customer escalation team. Any council member can receive information directly related to this escalation team. Mr. Comer is copied on that which allows him to track those matters to determine if there is an isolated issue or something more global occurring.

Mr. Brooks expressed concern about not being able to reach a live person when someone calls Comcast; Mr. Comer reported Comcast is required to have 90% of their calls answered in thirty seconds or less.

Mr. Medlarz then added that Mr. Comer has shared some information on how to address these issues and he will be happy to provide that information. Mr. Comer concluded by stating that whenever there is a breakdown, it is helpful for him to be made aware of it to ensure it is being handled.

Mr. Brooks noted that once he reaches a live person, the service is good though it sometimes takes fifteen to twenty minutes.

Mayor Shupe thanked Mr. Comer for working so closely with the city adding that he appreciated him taking time to attend tonight's meeting.

Mr. Pikus moved to ratify the Comcast agreement as presented, seconded by Ms. Wilson. Motion carried.

*Approval/PNC Building/Customer Service Center/Window and Roof Repair*

Mr. Medlarz announced the staff move is complete under the direction of the Customer Service Manager Debbie Johnson and the help of IT Manager Wes Banasan and the customer service staff.

The city manager again reported that the roof is in good condition. The only problem is the drainage toward the back of the small roof between the church and bank building. Shea Concrete began working at 7:00 a.m. and worked until the work was completed.

Mr. Medlarz also reported that the waterproofing work is complete, the basement is dry and ready to receive storage items and the drainage issue has been addressed.

He has also been working with two companies to get a quotation on the windows; both declined because of their size. Walker Laberge, a storefront specialty company from Salisbury was contacted. They submitted a quote of \$3,175 which requires council authorization.

Additional work, including the removal of the awning, must be done before they proceed with the project. This will not impact customer service but only the temporary use of the back entrance.

Mr. Medlarz said once it is fixed, he will prepare the second floor for occupancy.

Mr. Pikus asked where the funds will come from. Mr. Medlarz said the project actually has an allocation in general fund reserves. Therefore, no funding motion is needed though he will need a motion to allow the city manager to continue the repair effort. He recalled previously informing council that no further repairs would be done without council authorization.

Mr. Pikus moved the work proceed as described, seconded by Mr. Mergner. Motion carried.

NEW BUSINESS

*City Customer Service Center/ATM Consideration*

City Manager Medlarz reported that when the new customer service center opened, a number of customers asked if the city had an ATM. The only ATM downtown is at the M&T bank who will close on April 17<sup>th</sup> though their ATM will remain for now.

Mayor Shupe said he will verify the intent of M&T's ATM when he speaks with their representatives this week.

He would like to solicit proposals from each bank doing business in Milford. When asked if there is some commitment to PNC, Mr. Rutt recalled that when the contract was being negotiated for the purchase of the bank, PNC removed their ATM but added a provision that if the city added an ATM, PNC would have the first option.

Mr. Medlarz explained that his previous employer Kent County negotiated with various banks with the intent to have a minimal fee for nonbank customers. In negotiations, it was agreed that any and all banks could only charge a \$1 service fee.

He will contact PNC and bring it back to council.

Mr. Gleysteen asked if the ATM will only be available during business hours. It was noted the previous PNC ATM was in the front vestibule that could be accessed 24/7.

Mr. Medlarz explained that the vestibule is presently alarmed. If council wanted it placed there, some significant changes would have to be made. Another problem is the outside doors are the locking doors; the interior doors are not secured.

The city manager prefers to look at the entire package. As a result, he will get a proposal from PNC Bank and a proposal from the alarm company to rearrange the alarm system to allow the same location as the previous ATM. He said another option would be to make it accessible from the outside.

Mr. Medlarz feels that having the ATM available in the vestibule only during business hours will be a start. He will bring back the additional costs to council for later review.

Mr. Mergner suggested that the city manager discuss the possibility of PNC installing an outside stand-alone ATM somewhere in the downtown area.

Solicitor Rutt later verified the city has the right to install an ATM machine in the building. However, we are obligated to contact PNC in writing and PNC would have the first right to install it. However, the city and PNC will negotiate the terms. If parties cannot agree within 90 days, the city would then have the right to go out and negotiate with other financial institutions.

*Authorization/SE Sewer Force Main Relocation/USDA Sewer Project/City Contribution (Nichols & Liberio Agreement)*

Mr. Medlarz explained that though the Nichols and Liberio Agreement has been executed by the city, before it is released, the finance director and he have discussed the exact funding arrangements.

He explained the cost of this project is approximately \$150,000 with the developer paying one-third and the city paying two-thirds.

The upsized replacement of the force main was part of a phase I of the approved joint city/USDA sewer improvement project. The first phase was funded with \$400,000 out of sewer reserves and a \$600,000 USDA loan and \$1 million USDA grant. Council previously approved the relocation/upsizing of the SE Sewer Force Main into the future Watergate Subdivision right-of-way.

The documents were executed as a result of council approval, but a motion is needed by council to officially designate sewer fund reserves as the match funding source for the city.

Council will need to accept the intent to meet conditions for Phase II of the USDA project once it is made available. This does not commit the city to the loan because a referendum will be required. However, the intent is to move it forward.

He and Mayor Shupe have reviewed the impact fee fund which they feel can be used for the borrowing. In speaking with USDA, he feels we can fund it without a rate increase by using the revenues from the sewer impact fees. He feels this is an appropriate use of that account because it involves a sewer extension and upgrades.

Mr. Pikus moved that the designated funding source for the \$400,000 USDA match for phase I of the project will be paid from

sewer reserves, seconded by Mr. Gleysteen. Motion carried.

*Approval/SE Front Street Inspection Close Out Change Order*

The city manager recalled the Southeast Front Street road and utility construction project was partially funded by DeIDOT, legislative CTF monies and city funds.

Mr. Medlarz reported this project is complete. All punch list items are done and the money paid out. However, two items were pending which included some unpaid invoices from our city engineers related to inspection services and contract administration.

He said there is also a final reimbursement request that will be sent to DeIDOT.

When he and the finance director looked at the invoices, there was approximately \$40,000 in inspection fees in addition to \$8,000 for contract administration.

Mr. Medlarz said this was perceived to be a DeIDOT project and they agreed to provide inspection services; however, it was the opposite. DeIDOT staff only occasionally visited the job site leaving the vast majority of services to be done by the city inspector from Davis, Bowen and Friedel.

Due to some changes, some of which were self-inflicted, the construction was extended by three months. The city manager feels the inspection services required more time as a result of the time extension.

Mr. Medlarz felt the contract administration should have been presented and approved by council in a more timely manner. He explained the city public works department asked to relocate water services which delayed the project and increased the contract administration costs. However, council was never informed at the time this occurred.

Randy Duplechain has since agreed to waive the administration expenses. Mr. Medlarz asked it be waived because council should have approved it.

Mr. Pikus said that we have been reimbursed from DeIDOT for a large portion of the funds and asked how much more needs to be reimbursed; Mr. Medlarz reported another \$184,000 is expected.

The city manager advised that a motion is needed to increase in the inspection allocation because the city contribution is \$19,845 which is 50% and DeIDOT will pay the other half.

Mr. Pikus moved that \$19,845 be approved for the additional SE Front Street inspection costs, seconded by Mr. Gleysteen. Motion carried.

Mr. Medlarz then stated that he did not like presenting this matter because it should have been done in a timely fashion. In this case it is being approved after the fact, but Mr. Medlarz had no choice.

Former City Manager Carmean was present and added that he just recently found out that the invoices had not been paid. Mr. Medlarz agreed it was discovered toward the end of November and realized we were significantly over our allocation.

*Milford Pop Warner/Electric Rate Reduction Request*

Mayor Shupe reported that the treasurer of Milford Pop Warner is asking for some financial relief by reassessing their electric rates.

Mr. Medlarz said the only reason he asked former City Manager Carmean to be here this evening was because of this request. As far as he remembers, there is no precedence and the tariff does not allow this. He said this cannot be done through electric rates.

He then asked Mr. Carmean if he remembered any precedence in terms of relief on electric bills. Mr. Carmean said he did not do that and the classification would have to be changed which as Mr. Medlarz stated, is not permitted. If that was done, all customers in that classification would have to be changed.

Mr. Medlarz said when the tariff is presented in a couple of weeks, this particular rate class is quite large. If council agrees to give Pop Warner a reduction by changing the tariff on that particular rate class, it would cost hundreds of thousands of dollars.

Mr. Grier expressed concern that if this were done, every organization would request it. Mr. Pikus agreed adding it could get totally out of hand.

Mr. Medlarz then noted the amended tariff will be coming before council; the tariff work has been pending for almost five years and he hopes to present a final draft within the next month or so.

The city manager explained that because the correspondence was addressed to city council it is an official correspondence that requires an official response.

Mr. Rutt confirmed that no motion is needed.

Mr. Brooks recalled the city denying Milford Little League's request for some assistance with their electric bills. He reminded council that many years ago, council adopted a policy not to provide financial assistance to these organizations because it involved taxpayers' money.

It was agreed the only organizations we can assist are those that are city supported. Mr. Brooks emphasized that we do provide in-kind services in the form of trash collection and in other manners.

#### *Tenth Street Water Tower AT&T Lease Extension/Modification*

Mr. Medlarz reported the AT&T lease is a 25-year agreement. Therefore, there is no reason to open it. However, AT&T wants to bring all their leases in the same frame and are addressing all open leases under thirty years. As a result, they have requested to extend the agreement by 60 months.

The city manager said the lease is fixed with no escalation.

He said if council refuses to open the lease, there is a thirty-day notification for termination and they could move away from the city. However, there was no indication of that.

Mr. Medlarz also pointed out the original agreement is silent to sublease rights though they are now asking to have sublease rights added. He noted that if AT&T does not have enough customers in the city and they can find someone to sublease their equipment who will continue to pay the lease, it is in the city's best interest to add that paragraph. He was surprised it was not in the original contract.

He noted a new issue is the rental stream offer. The city has recently been approached by two tower consolidators. The more prominent one being Unison who buys cell tower ground leases from cell site owners and provides capital to the owner and financial protection from cell site risks.

However, the communication companies are more interested in dealing with the lease holder directly versus a tower consolidator that is in New York City.

AT&T recognizing the move toward consolidation offers to match any offer. As a result, AT&T made an offer which was just below the one Unison verbally communicated.

If council is interested, the city manager is willing to solicit another proposal in hopes of obtaining the highest and best value of the present worth of the lease.

Mr. Medlarz reiterated that the clause allows the city to exercise that right at anytime.

He then referenced the AT&T letter authorizing Black Dot Wireless as their representative. Mr. Medlarz also referred to the lease optimization term sheet and rental stream purchase offer. He will continue to negotiate and return to council. In the meantime, the lease can be executed with a motion from council and the amendments can be made.

Mr. Gleysteen suggests going back five years and looking at the AT&T increases and using that number to increase the lease extension. The city manager does not feel it would be appropriate to tell them that they have increased their rates by a certain percentage and that is what the city wants to do with the lease extension.

Mr. Grier moved for approval of the AT&T lease optimization term and lease purchase term sheets as presented in the packet, seconded by Mr. Pikus. Motion carried.

In the meantime, Mr. Medlarz will solicit another stream offer and bring back for council consideration.

#### *Cascades at Milford Phase II/Tax Abatement Consideration*

Mr. Medlarz has met on several occasions with representatives of the Ingerman Group, developers of the Cascades Planned Unit Residential Development (PURD). They purchased Phase I from M&T Bank in 2011 and constructed 76 apartments for moderate income families with the help of some tax credits through the Delaware State Housing Authority. He emphasized it is a fully rented, well-managed development and does not require above average law enforcement activity.

He recalled that on March 14, 2011, council approved the initial five-year tax abatement for Phase I to aid in the competitiveness of the DSHA. Now the Ingerman Group has expressed interest in completing Phase II. If approved by council, a support letter for the Phase II application for the Low Income Housing Tax Credit program could be issued.

Mr. Medlarz explained this is a very competitive program statewide. Milford's support of phase II through the Local Government Contribution category would make the application more competitive. DSHA award points for developments who receive support from the respective local government. Evidence must be submitted to DSHA from the local government entity explaining the tax abatement. The abatement must reduce the operating costs of the project over a five-year period. For each reduction percentage, a reward point will be added up to 5%.

The city manager recommends granting a five-year property tax abatement to Cascades Phase II.

It was noted this phase consists of 66 units and is slightly smaller than Phase 1.

The city manager said that Mr. Holden has offered to do some things during the construction phase that are above and beyond what is required. Without some cooperation, the property will have very little or no chance of getting the funding.

He said it is a matter of whether the city wants to buy in at the 1% or 5% mark. He explained it is not a complete tax abatement but a freeze of taxes at the current level for five years. After five years, taxes would then be paid in full based on the full assessment. The current rate is approximately \$2,500.

Mr. Pikus confirmed there was a tax abatement on phase 1 that increased each year; Mr. Holden explained it was an abatement for five years. Mr. Grier confirmed that in 2016 when the tax abatement expires on Phase I, the city will receive full taxation. Mr. Holden agreed noting that it has increased in value with the improvements. Currently it is taxed on the undeveloped land. After five years, it goes up to the full amount.

He clarified the remaining undeveloped land under consideration is still in foreclosure and is owned by the bank. They are under contract to purchase the land and are prepared to build out on that land.

Mr. Grier said if the tax abatement is not approved, is there an opportunity for other housing there. Mr. Holden emphasized the land has been for sale since 2007 or 2008 and no one else has expressed an interest. Mr. Medlarz said that rarely does he mix general fund and enterprise fund issues and in this case this would be a waiver of property taxes which is a revenue in the

general fund. This is a well-run complex that will generate impact fees beginning on day one because there is no abatement on the impact fees. If this had come before council three years ago, no impact fees would have been collected because of the waiver in place at that time. However, that has since been reinstated. .

Mr. Medlarz then asked if council wants 66 units paying utilities and the ability to collect impact fees or provide a five-year tax abatement. Mr. Pikus feels they can still be built regardless and added that he knows Cascades has a long waiting list. Mr. Holden agreed they have a waiting list and pointed out the after school program is also very popular.

When asked the time frame for completion, Mr. Holden predicts the end of next year.

Mr. Gleysteen agrees it is a nice development and understands the waiting list is two months to a year depending on the size unit requested. He also agrees that the units will be built with or without the tax abatement.

Mr. Rutt then explained that DSHA and HUD consider help for affordable housing in municipalities and the counties. They look at fair housing standards and any opportunity to get on board is something the city needs to consider.

According to the solicitor, they have put some governments through a lot of trouble by making them go through fair housing training. They have also scrutinized every application that comes before the municipality. He said the city would be spending a lot more money on training than the amount of the tax abatement for the five years should they be required to go through the training.

Mr. Medlarz asked Mr. Holden to answer the question of why it cannot be built with normal financing. Mr. Holden said the economics do not work when comparing the rent levels to the building costs in that situation. With the DSHA tax credit program, they can qualify for the tax abatement category if this is approved. Without the tax abatement it is unlikely the application will be successful.

Mr. Holden further explained that his track record is one of the point categories, but the local government tax abatement is another point category. This is a 100-point system where points are given for qualifications, locations, amenities, etc. According to Mr. Holden, the five-year abatement will help them score much higher. He said that this is less than a \$1,000 a year for the whole ten acres; after the five years, the city will receive \$25,000 beginning in year six.

He also confirmed the first phase is complete and the second phase will take up the balance of the land.

Mr. Pikus verified that the bank will no longer own any of the land. Mr. Holden stated that is correct. He said there is a plan to finish the front though the bank insisted on them developing the rear first.

Mr. Pikus asked if they plan to continue the sidewalk down to the business park; Mr. Medlarz then read the following from Mr. Holden's letter:

*To further enhance the site we would propose extending the sidewalk to the west on Airport Road to the next entrance, providing some additional landscaping along Airport Road and converting the City's access road to a landscape buffer.*

Mr. Medlarz informed council that none of the three items were on the review list of the conditional use approval. To extend the sidewalk, some drainage pipe is needed because it is an open ditch and there is not enough room. However, no easement is needed.

He said this will become part of the funding package and part of the project. If the city does not provide the incentives, he would not provide these enhancements and only what was approved as the conditional use.

The city manager feels this is worthwhile and this is his recommendation.

Ms. Wilson pointed out that city council has always supported the housing developments that have a partnership through the Delaware Housing Authorities and HUD in order to support the lower income families. She feels that allowing this abatement aligns with what has been done in the past.

She confirmed that with Former City Manager Carmean who stated she is absolutely right.

Ms. Wilson feels this is a win-win situation and commended Mr. Holden for the nice development they have built on Airport Road adding it is one of the nicest in Milford.

She then remembered how hard it was to get sidewalks on Airport and the need for them. Recalling working with our legislators to get funding for the project did not work out the way they had hoped.

Mr. Medlarz explained that presently the sidewalks are approved to the entrance of Cascades. The offer that the Ingerman Group made was to take it to the next entrance at Walsh Chiropractic Center.

Mr. Pikus has no problem with that.

Mr. Gleysteen said that council earlier discussed the fairness with electric rates and pointed out that everyone needs to be treated the same and wanted to know how something different could happen.

Mr. Medlarz said this does not have to be all or nothing because that is how council is viewing this. He explained the point system works as Mr. Holden explained. He said if we are receiving \$800 in taxes today and council prefers to take in five times; we will cap the annual tax at \$4,000. He said that every point that is taken away limits the competitiveness of the application. Either way, a decision must be made.

Mr. Holden reiterated that this land has been vacant for many years. If it was buildable with something that was fully taxable, he feels that would have been done by this time.

Mr. Grier asked if this could be made a profit making project without the abatement; he asked if the units could be built and sold to low income housing; Mr. Holden said then he would not qualify. The Delaware State Housing Authority has an annual allocation for federal tax credits and that is what they would be competing for. He said that is what makes this worse. Absent that, this site would not be buildable using the DSHA program.

Mr. Medlarz stated that the distinction from the Pop Warner request is that Ingerman's taxes will not increase over the next five years. The only reason we will see any type of development is because it is going through the Delaware State Housing Authority program. If not, the land would remain vacant. The city will receive the full tax increase in year six.

Ms. Wilson asked council to consider how important it is to blend our community and how HUD recommends that all standards of living are needed in a successful community. She emphasized that many people start at this level in order to build up. Sometimes a hand is needed to get to the next level and this community will be the hand to a lot of people.

She also noted that often the rent at this type of housing is not always cheap though it is less expensive than renting from a private landlord.

Ms. Wilson said she bought her first and only home through a program called NCALL. She explained that program that allowed homeownership through HUD. The downpayment and mortgage payments were based on her income. She understands how important it is for people to live in a nice neighborhood where children can play. Therefore, she understands the need to provide this opportunity to our residents.

Mr. Holden said that he has a contract for the remaining land at this site. It is approved for 66 apartments and he plans to apply for financing at the end of April. One of the categories in the competitive process is the real estate tax abatement. If that abatement is not obtained, he is very unlikely to receive the financing which Mr. Holden said Mr. Medlarz confirmed with the Delaware State Housing Authority.

It was confirmed that Ingerman is currently building in Newark with the same tax abatement.

Ms. Wilson then moved to approve the Ingerman Group five-year tax abatement on Cascades Phase II as has been discussed, seconded by Mr. Starling. Motion carried by the following 5-2 roll call vote:

Councilman Mergner said he votes yes.

Councilman Grier stated that he will vote yes so the city can obtain the realty transfer tax at the time of the sale; in addition to impact fees and utility sales, all of which are revenues we would not have generated otherwise. He also considered the property is sitting vacant and the likelihood of another developer coming in is slim to none. The city will start receiving tax revenues from Phase I in another year. He votes yes with reservations of providing tax abatements in the future. It makes him cringe that the city will not receive any tax revenues though he understands the real estate tax revenue especially considering what the city has been dealing with regarding the police.

Councilman Pikus said we gave Ingerman a tax abatement in 2011. This is a second abatement which is basically a continuation. He said we need funding in several situations. He still has a consensus that Mr. Ingerman would be able to get his funding regardless and votes no.

Councilman Gleysteen votes no for the reasons stated. Councilman Brooks votes yes for the same reasons as Councilman Grier stated. Councilman Starling and Councilwoman Wilson both vote yes.

#### *Approval/Electric Department Organization Chart*

The city manager informed council that Electric Superintendent Rick Carmean submitted a request for a modification to his present organizational chart. There is currently an electric lineman first class vacant position which is the highest electric position in the department. In order to even out the crews, the superintendent would like two utility groundsman, the lowest classification, be added in lieu of the lineman first class.

Finance Director Portmann confirmed this will not create a budget increase; Lisa Carmean confirmed what Mr. Portmann had said.

Mr. Medlarz supports Mr. Carmean's request for a reclassification of the organizational chart.

Mr. Brooks asked the reason this is being done now; the city manager said the one position is vacant and the superintendent has already advertised for one of the groundsman and received some good applications. He prefers a crew with one lineman with one groundsman. When asked, Mr. Medlarz confirmed there is significantly more training involved in this new scenario because a lineman first class would arrive lineman-school-certified and approved. The groundsman is an entry level position and this will be a trade off for two untrained positions.

Mr. Brooks moved for approval and seconded by Mr. Mergner that the vacant electric lineman first class position be reclassified as two utility groundsman.

When asked if the positions have been filled, Mr. Medlarz said he hired one. He said the position filled was advertised but the second position will now need to be advertised.

Motion carried.

#### *Approval/Tyler Technologies/CLT 2015 Base Contract Amendment*

Mr. Medlarz recalled the city has an executed Tyler Technologies contract that was executed in 2009 for Universal Appraisal and Support services on July 21, 2009. The agreement has a clause for additional services under Article 23. Under this arrangement Tyler Technologies provides commercial use field work and building permit assistance along with the fiscal year 2016 interim year valuation updates associated with new construction or existing building improvements. In addition, they would perform other related tasks such as handle appeal hearings.

The city manager emphasized that it does not cover the 10% reassessment of the city's overall property base. He took that out because council removed that last year. He recalled the problem with the budget last year created by the elimination of this service because those numbers had already been incorporated into the new budget which left a shortfall.

He explained the charter states the assessment is done every ten years and not on a 10% basis. As a result, he feels to

implement that would require a charter amendment.

Solicitor Rutt said his recollection was that updates were to be done on an annual basis; Mr. Grier agreed. He said that was a result of the \$250,000 + contract cost at the end of the ten years and council was under the impression that updates were being done throughout that ten-year period. Mr. Grier explained that council agreed they would do the 10% each year to avoid another \$250,000 cost in 2015.

Mr. Medlarz pointed out that council rescinded the 10%. Mr. Grier disagreed stating that the records were to be updated each year but increased tax bills would not be mailed. He said the first year, hundreds of property owners received substantial tax increases which resulted in councils' phones ringing off the hook. The intent was to eliminate the big bill in 2019 but not to raise tax revenues each year.

Mr. Medlarz said that is not the way the contract is administered. He explained the tax base was reassessed in 2012. We are keeping up with all new construction, additions, deletions, demolitions and appeals. He said someone who wants to appeal first goes to the assessor. The majority of appeals are resolved by the assessor. Council only sees any that are not resolved.

Mr. Grier asked if you do not make any improvements over that ten-year period, 95% of the properties will have to be re-evaluated in 2019. Mr. Medlarz said he argued with the Tyler representatives that if all additions, deletions and changes are kept current, the only thing needed in a mass appraisal system is to change the date from 2012 to 2022. All values are then updated so there should not be a \$250,000 price tag because of the CAMA system. He emphasized that if the assessment is up to date nothing else is needed.

Mr. Carmean said he wasn't here for the 2012 appraisal, though Tyler did come back and say a full assessment was needed even though they had said ten years earlier that only the date would have to be changed.

When asked the cost of the additional contract, Mr. Medlarz said they had proposed a \$35,000 contract once he whittled down the scope. In his opinion, it should not be more than \$15,000 to \$17,000.

Mr. Grier remembered when council eliminated the tax assessor position because Tyler could provide the services and save the city approximately \$40,000 a year. At that time, they assured council the records would be kept current and prevent another large bill ten years later.

Mr. Pikus said there were motions made when Tyler was hired. They were supposed to be here a certain number of times each year. Mr. Medlarz said we do not want them here any more than we need them.

Mr. Pikus asked how much we pay them a year; according to Mr. Medlarz it has been open ended with the cost established each year.

Mr. Pikus asked that the minutes be pulled; Mr. Medlarz said the minutes are irrelevant because the signed contract will speak for itself. Mr. Brooks and Mr. Pikus do not remember them indicating they would come back each year with a different cost.

Mr. Grier asked how often Tyler comes; Mr. Medlarz said about once a month.

Council asked that the contract and minutes be pulled from 2009. Mr. Medlarz said he will come back with the contract and approved minutes.

Mr. Grier moved to postpone action and review the minutes and contract at the next meeting, seconded by Mr. Pikus. Motion carried.

#### *Approval & Funding/Downtown Master Plan Proposal/Arnett Muldrow & Associates*

Economic Development Committee Chair Grier presented a proposal for Arnett Muldrow and Associates to develop a downtown master plan at a cost of \$27,250. The grant from DEDO (Delaware Economic Development Office) would cover \$24,000 for the plan and the city has been asked to pay the \$3,250 balance and dedicate \$20,000 for downtown improvements.

Mr. Grier recalled a previous economic development strategic plan for the entire city; this will strictly focus on the downtown area. He said his committee met earlier this evening and voted unanimously to recommend approval of the plan.

Mayor Shupe also recalled the John Rhodes plan done several years ago for the entire city. He agrees it was valuable and contained a strategic plan for the entire city. When you review that plan, he said it contains very limited information on the downtown area. Under this plan, he hopes to bring together community leaders from private businesses, non-profits and members of the community to help develop a vision for the future. He recalled discussing the importance of our downtown area.

Across the nation, Mayor Shupe stated that downtowns have become the heartbeats of their community. He feels that this vision can be shared not only with potential investors, but also with our residents and will empower more economic development throughout the city.

He announced that all the meetings will be public and the final plan will be presented to the public. After that happens, community leaders will meet at regular intervals to ensure we are following the plan or if something is needed to get back on track.

The plan will include ways to market and brand it to attract businesses to the downtown area. The mayor feels it is very important to figure out ways to empower private businesses to invest in our downtown. He said this is not about what the city can do and how much money can be spent downtown.

Mayor Shupe has worked on this project through DEDO. He said Milford has gained a lot of attraction and referenced the recent article in Delaware Today that named Milford as the next boom town. He recently represented Milford at the Mainstreet National Conference in Atlanta and was asked to speak on the city's success. However, he is also aware there are still a lot of things to be done. He feels that working with our partners on a visual plan will ensure future investments in the downtown area.

Mr. Grier referenced the Economic Development Advisory Panel that not met since our Economic Development Director was laid off. He feels they should also participate and be part of this process.

Mr. Grier moved to proceed with the Downtown Milford Master Plan and approve payment out of the economic development fund in the amount of \$3,250 and that \$20,000 be dedicated to it implementation, at the discretion of city council, seconded by Mr. Starling. Motion carried.

Mayor Shupe then announced that DEDO would like to see this kick off by June. The mayor will keep council and the public up to date as he and Mr. Grier continue to work with DEDO.

#### *Authorization/National League of Cities/Annual Dues*

Mayor Shupe advised that we have received our membership dues from the National League of Cities. He is asking council to approve though it will be after July 1<sup>st</sup>.

Mr. Pikus moved to approve the annual dues, seconded by Mr. Brooks. Motion carried.

#### *Approval/Hearthstone Manor/Utility Value Engineering/Phases 5, 7-13*

Mr. Medlarz advised that he, along with the city solicitor, have been working on this issue. Presently, phases 5 and 7-13 are unrecorded. The city has been working with the developer to move the two most urgent phases (7 and 9) along as quickly as possible in order to have property sales which result in transactions.

He explained that he and the former City Manager Carmean did not want to piecemeal this together. He said a lot of the problems in the past had to later be presented to council to resolve because of the manner in which the plans were being piecemealed. If they had been properly approved and recorded, with the appropriate notes beginning on day one, council would not have gone through what they did.

The city manager verified there will be notes on the drawings henceforth. Those notes, which may state that the easement will be fixed or a right-of-way must be dedicated for public use, will be on the recorded document. He said it makes no difference whether it is built now or ten years from today, but the appropriate right-of-ways will be in place so that the utilities can be installed as they should be.

Mr. Medlarz fully supports all the documents recorded with the proper notes.

He emphasized that right of way dedication is important and time lines are important. Easements are also important but less important than full right of way dedications which are the city's best line of defense.

He said that including easements could be more complex. The easier approach is to go with right of way dedication.

The second issue relates to the approved construction documents. As he previously stated, this strictly deals with the recordation documents. Pending are the construction plans that were approved by the previous in-house city engineer. Another problem is the city code does not have an expiration and these documents were approved five years ago.

After reviewing the documents, Mr. Medlarz would not build it if he were the owner. If he was the utility, he would not want to accept it. He said there were a number of things not designed as they should have been. There was a great reluctance on the developer's part to reopen them. He understands their concerns because the city may only ask for things we want and not do anything on the issues that need to be addressed by the developer.

For example, he can see more than 1,000 feet of parallel duplicate sewer lines with duplicate caps. He saw dozens of meter locations that need to be combined because the city will eventually end up with them which means we will have to maintain them forever.

He said there are fire service connections that are dead-end lines which will give the city nothing but trouble.

The implementation as designed will cause unnecessary expense in the construction as well as the long term maintenance of said utilities and roads. The city cannot legally require Key Properties Group to revise the documents so we are proposing a joint approach. The city would retain the design services of McCrone, Incorporated on an interim basis to identify and quantify any deficiencies and allow a determination by Key Properties Group to fund the value engineering of the changes.

Mr. Medlarz recommends approval of a temporary time and material contract with McCrone, not to exceed \$17,500, to be funded out of enterprise fund reserves. Key Properties Group has agreed to this approach.

Mr. Pikus asked if this will enable the developer to continue with his plans; Mr. Medlarz said it identifies the issues. In just the two to three hours he reviewed the documents, he found about a dozen areas where improvement were needed. This will result in a cost savings on some, but not all. In the end, the Key Properties group engineers, as well as himself, will have to present this to the owner. The owner will have to make a decision on whether to fund the full engineering design in the long run or take the short road and do something that would not be in the best interest to either party.

Mr. Pikus said we will have to eventually accept it; Mr. Medlarz said the city does not want to take a design that has problems. Mr. Mergner asked if because there is no expiration date, can the city require them to correct it; Mr. Pikus answered that is correct.

Mr. Pikus said it is almost a necessity for the city to do this. Mr. Medlarz disagrees emphasizing that twenty years from now, council will ask who approved this plan. He said this is totally councils' discretion.

The city manager reported that two neutral engineers made a list of recommendations that should be implemented. However, that decision will have to be made by Key Properties.

He explained in more detail that Key Properties has agreed to consider these recommendations though it is a no lose situation for them. Mr. Pikus said this puts this picture in a positive manner to continue.

Mr. Medlarz emphasized that he hopes this is a win-win though it could be a lose-lose and more for the city. He said if nothing

else, it will identify the issues.

Mr. Pikus moved to approve the McCrone Utility Engineering Services Agreement for Hearthstone Manor Phases 5, 7-13, seconded by Ms. Wilson. Motion carried.

#### MONTHLY FINANCE REPORT

Through the eighth month of Fiscal Year 2014-2015 with 67% of the fiscal year having passed, 70% of revenues have been received and 64% of the operating budget expended.

Finance Chairman Pikus noted that a lot of our cash funds are getting lower. He referenced one general improvement account that is down to \$187,000 though a \$189,000 is expected from DelDOT.

He said we are healthy but not rich adding that good reserve spending and tightening the belt is going to happen. The city manager and finance director are doing that as best as they can.

Mr. Gleysteen moved to accept the finance report, seconded by Mr. Grier. Motion carried.

#### EXECUTIVE SESSION

Mr. Grier moved to go into Executive Session reference below reasons, seconded by Mr. Mergner:

*Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation (Union Contract)*

*Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements, or sales or leases of real property (Property Sale)*

Motion carried.

Mayor Shupe recessed the Council Meeting at 9:10 p.m. for the purpose of an Executive Session as permitted by Delaware's Freedom of Information Act.

#### RETURN TO OPEN SESSION

City Council returned to Open Session at 9:24 p.m.

#### *Union Contract*

No action required.

#### *Property Sale*

Mr. Grier moved to deny the offer on the property in question, seconded by Mr. Mergner. Motion carried.

#### ADJOURN

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

The Council Meeting adjourned at 9:26 p.m.

Respectfully submitted,



Terri K. Hudson, MMC  
City Clerk/Recorder