

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 10, 2018

A Swearing In Ceremony for the newly elected Second Ward Councilmember was held Monday, September 10, 2018 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall at 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Arthur Campbell

IN ATTENDANCE: Councilpersons Christopher Mergner, Michael Boyle, Lisa Ingram Peel, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson
City Manager Eric Norenberg, Police Chief Kenneth Brown and Deputy City Clerk Christine Crouch

COUNSEL: City Solicitor David Rutt

RECEIPT OF CERTIFICATION BY ELECTION BOARD OF COUNCIL MEMBERS

The following letter was submitted by the Board of Special Election:

August 23, 2018

*Mayor and City Council
City of Milford
Milford, DE 19963*

Honorable Mayor and Members of City Council:

As members of the City of Milford Board of Special Election and in accordance with 15 Del. C. §7558(d), we hereby certify the results of the August 23, 2018 Special Council Election, to be as follows:

In the 2nd Ward Race, a total of 169 persons voted, with F. Todd Culotta receiving 92 votes and Andrew P Fulton receiving 77 votes. Based on the certification of the City of Milford Board of Elections, F. Todd Culotta is hereby officially declared elected as the 2nd Ward Council Representative, to fill the remaining eight-month term, beginning this date September 10, 2018 and ending May 6, 2019.

Karen F. Boone

Joanne Leuthauser

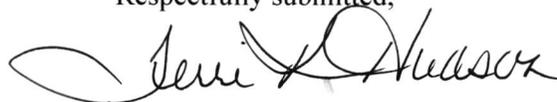
Katrina L. White

SWEARING IN OF MAYOR AND CITY COUNCIL:

The Honorable Noel Eason Primos of the Superior Court of Delaware administered the Oath of Office to Councilman Culotta.

After the swearing in procedure concluded, the Councilman signed his Oath of Office after which he took his place at the Council dais.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Transcriber

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PRESIDING: Mayor Arthur Campbell

IN ATTENDANCE: Councilpersons Christopher Mergner, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow, James Starling Sr. and Katrina Wilson

City Manager Eric Norenberg, Police Chief Kenneth Brown and Deputy City Clerk Christine Crouch

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Campbell called the Council Meeting to order at 7:06 p.m.

INVOCATION AND PLEDGE

The Pledge of Allegiance followed the invocation given by Councilmember Wilson.

APPROVAL OF PREVIOUS MINUTES

Included in the packet were minutes of the August 13, 2018 and August 27, 2018 Council and Committee Meetings. Councilmember Boyle moved for approval, seconded by Councilmember Morrow. Motion carried.

RECOGNITION

Mayor Campbell read the following proclamation into record:

Proclamation 2018-14

NATIONAL SUICIDE PREVENTION AWARENESS MONTH

WHEREAS, September is known around the United States as National Suicide Prevention Awareness Month and is intended to help promote awareness surrounding each of the Suicide Prevention resources available to us and our community. The simple goal is to learn how to help those around us and how to talk about suicide without increasing the risk of harm; and

WHEREAS, Suicidal thoughts can affect anyone regardless of age, gender, race, orientation, income level, religion, or background; and

WHEREAS, According to the Center for Disease Control, each year more than 41,000 people die by suicide; and

WHEREAS, Suicide is the tenth leading cause of death among adults in the US, and the second leading cause of death among people aged 10 to 24; and

WHEREAS, The City of Milford is no different than any other community in the country, but chooses to publicly state and place our full support behind local educators, mental health professionals, athletic coaches, pack leaders, police officers, and parents, as partners in supporting our community in simply being available to one another; and

WHEREAS, Organizations like the National Suicide Prevention Lifeline and the American Foundation for the Prevention of Suicide are on the front lines of a battle that many still refuse to discuss in public, as suicide and mental illness remain too taboo a topic to speak on; and

WHEREAS, Every member of our community should understand that throughout life's struggles, we all need the occasional reminder that we are all silently fighting our own battles; and

WHEREAS, I encourage all residents to take the time to inquire as to the well being of their family, friends, and neighbors over the next few days and to genuinely convey their appreciation for their existence by any gesture they deem appropriate. A simple phone call, message, handshake, or hug can go a long way towards helping someone realize that suicide is not the answer.

Now, Therefore, Be It Resolved, that I, Arthur J. Campbell, by virtue of the authority vested in me as Mayor of the City of Milford, do hereby proclaim the month of September 2018, as National Suicide Prevention Awareness Month in the City of Milford.

MONTHLY POLICE REPORT

Police Chief Brown noted that the arrests are at the levels he expects them to be for the month.

A motion was made by Councilmember Morrow, seconded by Councilmember Brooks to accept the Monthly Police Report as submitted. Motion carried.

MONTHLY CITY MANAGER REPORT

City Manager Norenberg referenced his report that includes updates from the various departments. Noted was the increase in residential construction permits to 37 and the various events involving our Parks and Recreation Department.

In preparation of Hurricane Florence, the Public Works Crews were checking catch basins for stormwater purposes and clearing tree lines to lessen the risk of power outages. That will continue as we prepare for increased winds and rains.

He provided the latest forecast, which is subject to daily changes.

A staff meeting will be held Wednesday to review its status at that time.

The City Manager also confirmed that Mr. Dennehy continues work with the contractor on the Riverwalk Replacement Project and is pleased with the progress.

Councilwoman Wilson moved to accept the City Manager's report, seconded by Councilwoman Peel. Motion carried.

MONTHLY FINANCE REPORT

Finance and Public Works Committee Chairman Morrow reported that through the first month of the fiscal year with 8% of the fiscal year having passed, 8% of revenues have been received and 7% of the operating budget expended.

Councilmember Morrow moved to accept the July 2018 Finance Report, seconded by Councilmember Starling. Motion carried.

COMMITTEE & WARD REPORTS

None to report.

COMMUNICATIONS AND CORRESPONDENCE

None to report.

UNFINISHED BUSINESS

Adoption/Ordinance 2018-21/Chapter 55/Personnel Code/Sick Leave

City Manager Norenberg advised that the new HR Administrator discovered that the recently adopted sick leave policy did not allow employees to use sick leave for a medical appointment or a family member's appointments.

HR Administrator Jamesha Eaddy was in attendance.

Councilmember Morrow asked if a physician statement is required; Mr. Norenberg said that was only required after three days of absence.

Councilmember Wilson confirmed this is a separate issue from FMLA and only applies to time off for a doctor appointment.

Mayor Campbell asked if anyone in the audience wished to comment on the proposed amendment. No one responded.

Councilmember Morrow moved to adopt Ordinance 2018-21, as amended, seconded by Councilmember Peel:

ORDINANCE 2018-21
CODE OF THE CITY OF MILFORD PART I-ADMINISTRATIVE LEGISLATION
CHAPTER 55 PERSONNEL

WHEREAS, Chapter 55 of the City of Milford Code governs personnel practices for all City of Milford employees; and

WHEREAS, the City Council for the City of Milford desires to update Chapter 55 to comply with current personnel practices as set forth herein; and

WHEREAS, the Sick Leave provision does not include time off for medical appointments.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Section 7, Employee Benefits, Subsection 7.2, Sick Leave, of Chapter 55, Personnel, is hereby amended in the following respect:

Section 2. Section 7.2, Sick Leave, is hereby amended to read as indicated (new language will be bold and underlined):

7.2 SICK LEAVE

Regular, full-time employees (including introductory employees) will be provided with paid sick leave benefits for periods of temporary absence due to illness or injuries. Sick leave benefits will accrue at the rate of eight (8) hours per month and can accumulate up to a maximum of 1,040 hours.

An eligible employee may use sick leave benefits for an absence due to illness or injury sustained by either that employee or a family member. **An eligible employee may also use sick leave benefits for a personal or family member medical appointment.** For this section, family members shall mean: employee's spouse, parent, child, step-child, grandparents, grandchildren or siblings.

Section 3. Dates.

Introduction: August 27, 2018

Adoption: September 10, 2018

Effective: September 20, 2018

Motion carried.

Authorization/Kent Economic Partnership/Agreement

Postponed for future action.

Bid Award/Police Department/2018 Police Vehicles

Chief Brown presented the bid for two Chevrolet Tahoes at a cost of \$34,585 noting this was funded in his FY18-19 budget.

Councilman Morrow moved to authorize the bid award for the two police vehicles, seconded by Councilman Starling. Motion carried.

Appropriation/Funding/Cost of Service Study/Water, Wastewater and Solid Waste

Mr. Whitfield recalled Council questioning the price of the Cost of Service Study and whether or not the project could be done in house.

Mr. Whitfield said it could be done by staff, but the advantage to using an outside firm is to have their expert opinion on record should the fee need to be defended at a later date.

The Public Works Department obtained a proposal from Utility Financial Solutions of Holland, Michigan to complete a Cost of Services and Rate Design Study for Water, Wastewater, and Solid Waste Services. Staff recommends Council consider the study to determine if the rate structure is fair to all users, determine if rates meet both operating, as well as future capital needs, determine if adequate reserves are being held in each account to meet future infrastructure improvements and determine if rates are meeting the needs of any associated debt repayment.

Though not included in the original proposal, UFS did agree to review the impact fees for a very reasonable cost of \$2,500 which is approximately half of what they would normally charge.

Another issue is the City's low flat rate and whether that adequately covers fixed costs. The variable cost applies to the amount used and the impact on the system, over and above a certain amount.

Mr. Whitfield asked that Council authorize the funding because it was not included in the 2019 budget. He recommends appropriating \$12,500 out of Sewer Reserves, \$12,500 out of Water Reserves and \$9,000 out of the Solid Waste Operating Budget for the study.

The City Manager stated that in addition to UFS's expertise in this field, the study would be completed in a much more timely manner versus having our employees work on it periodically or as time permitted.

Mr. Whitfield emphasized that because Solid Waste has no reserves, there is a need to build such a fund within that department to assist in the future cost of equipment and vehicles.

There is a rough timeline of three months, though the goal is to have everything in place by the beginning of the budget season in 2019.

Mr. Norenberg recalled that at last year's annual DEMEC dinner meeting the speaker talked about the value of these type studies.

The consensus of Council was for staff to reach out to other municipalities to gather some information on other firms as well as references from those that have utilized UFS.

Councilmember Wilson moved that the Cost of Service Study for Water, Wastewater and Solid Waste be postponed until the September 24th meeting, seconded by Councilmember Mergner. Motion carried.

NEW BUSINESS*Adoption/Resolution 2018-16/Annexation Committee Investigation/Simpson Land*

Planning Director Pierce asked for authorization to send the Simpson annexation request to the Annexation Committee for

further review.

Councilmember Wilson moved to adopt Resolution 2018-16, seconded by Councilmember Morrow:

*Annexation/Lands belonging to Gilbert C. & Irene D. Simpson
Tax Map 3-30-11.00-43.00
1.940 +/- Acres
Current Zone AR-1/Proposed Zone R-2*

COMMITTEE DIRECTED TO INVESTIGATE ANNEXATION

Whereas, a Petition, signed by the legal property owners and duly witnessed, requesting annexation into the City of Milford, all that piece or parcel of land, hereinafter described, situate, lying and being on the northeasterly side of Business Route 1 and located in the City of Milford, Cedar Creek Hundred, Sussex County, Delaware; said piece or parcel of land being more particularly described as follows:

BEGINNING at a point formed by the intersection of the northeasterly right-of-way line of said Business Route 1 with the northwesterly line of the lands of, now or formerly, Jesse C. Webb, Sr. and Joyce L. Webb, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Deed Book 3349, Page 256; said beginning point being coordinated on the Delaware State Grid as North 330,144.801 feet, East 657,801.748; thence,

1) leaving said Webb lands and running by and with said Business Route 1, North 32 degrees 55 minutes 23 seconds West 211.06 feet to a point on the southeasterly line of the lands of, now or formerly, Janet R. Swain, as recorded in said Office of the Recorder of Deeds in Deed Book 2635, Page 47, thence,

2) leaving said Business Route 1 and running by and with said Swain lands, North 58 degrees 33 minutes 27 seconds East 400.53 feet to a point on the southwesterly line of other lands of, now or formerly, Janet R. Swain, identified as Tax Parcel 3-30-11.00-264.00, thence,

3) leaving said Swain lands and running by and with said other Swain lands, South 32 degrees 56 minutes 20 seconds East 211.09 feet to a point on said northwesterly line of Webb lands, thence,

4) leaving said other Swain lands and running by and with said Webb lands, South 58 degrees 33 minutes 43 seconds West 400.59 feet to the point and place of beginning;

CONTAINING 1.940 acres of land, more or less.

has been submitted to the City Council of the City of Milford.

Now, Therefore, a Committee, composed of three (3) elected members of City Council and one (1) member of the Planning Commission has been appointed by the Mayor to investigate the possibility of annexing said property, said Committee to be comprised of Chair Owen Brooks, Councilmembers Christopher Mergner and James Starling Sr. along with Planning Commission Chairman Marvin Sharp.

Be It Further Resolved, that said Committee shall submit a written report containing its findings and conclusions, including the advantages and disadvantages of the proposed annexation both to the City and to the property proposed to be annexed and said report shall further contain the committees' recommendations whether or not to proceed with the proposed annexation and the reasons therefor.

s/City Clerk

Adopted: September 10, 2018

Motion carried.

Funding Authorization/Demolition Expenses/415 South Washington Street

Mr. Pierce reported the Planning Department is requesting an appropriation of \$17,955 from General Fund Reserves to the Enforcement and Inspections Department Demolition budget item (101-1045-429.68-10) to cover expenses associated with the demolition of 415 South Washington Street.

Three written quotes were obtained from contractors with Jimmy Smalls Landscaping, LLC being the lowest bidder.

The City notified the property owner on April 4, 2018 that the single family-detached dwelling was condemned and provided the owner with four options:

- (1) arrange the demolition privately
- (2) repair the building to code and postpone demolition
- (3) appeal the determination
- (4) take no action and the City will demolish the structure

The owner has elected to have the City of Milford demolish the structure and place a lien on the property for the associated expenses. The owner of the property intends to sign a payment arrangement agreement with the Finance Department.

An Order to Demolish was sent in April though the owner chose not to take any action, including signing a restoration agreement. As a result, the City will move forward with demolishing the building.

Solicitor Rutt emphasized that the City will get their money back by either having the owner repay it, or through the monition sale reimbursement process.

Councilmember Wilson moved to appropriate \$17,955 from General Fund Reserves to the Enforcement and Inspection Department Demolition line item, for the purposes as described, seconded by Councilmember Morrow. Motion carried.

Bid Award/Purchase/Front End Loader

Public Works Director Whitfield discussed the following request:

Public Works Department requests City Council consider a recommendation to purchase a wheeled 4WD loader to replace a 2002 Caterpillar backhoe/loader. Because the Department has a 2011 John Deere Backhoe (Street Division), the loader will fulfill a need within the Department for a wheeled loader. The loader will have multiple uses within the department, including loader material (stone, snow, salt, brush, etc.), snow removal, material handling, as well as numerous other uses.

The Street and Utility Division staff have evaluated the proposed unit, as well as demonstrated the unit, and staff recommends a John Deere 524K-II 4WD Loader with a 2.75CY bucket be purchased. Staff also recommends a set of Construction Forks as well as a JRB Grappler Bucket be purchased as attachments with the unit. The construction forks can be used for loading and unloading skid pallets, as well as various other material handling. The Grappler Bucket can be used for collecting large piles of brush, bulk items, and other materials. The unit is available for purchase through the NJPA Cooperative Contract 032515-JDC (and Delaware State Contract) at a price of \$158,208.79, including the attachments.

The vendor also included a trade-in price (trading the 2002 Caterpillar backhoe) of \$28,000, which would bring the final purchase price to \$130,208.79. However, staff solicited bids for the sale of the backhoe, and was able to sell the backhoe via www.govdeals.com for a price of \$31,500. The City's past practice has been to deposit money from the sale of equipment into the General Fund, regardless of the original funding source for the equipment. In this case, the original funding source was the Water and Sewer Funds.

The budgeted amount for the loader was \$150,000. Sufficient funds are available if the equipment was to be traded. However, a high yield was realized by selling the equipment outright. Therefore staff recommends that \$8,208.79 from the sale of the equipment be used to offset the overall cost of the loader.

Councilmember Peel moved to award the purchase of a John Deere Loader, equipped as described, to Jesco, Incorporated of South Plainfield, NJ through NJPA Cooperative Contract 032515-JDC in the amount of \$158,208.79, with funds from Water and Sewer Capital Funds in the amount of \$150,000 and proceeds from the sale of the Caterpillar backhoe in the amount of \$8,208.79. Motion seconded by Councilmember Wilson. Motion carried with no one opposed.

Bid Award/Sidewalk Repair Project

Mr. Whitfield reported that to secure pricing for the replacement of deficient sidewalks as identified in the sidewalk inspections completed to date, the Public Works Department publicly bid the work. Bids were received on August 22, 2018. Although three potential bidders purchased the bid package and attended the pre-bid meeting, only one bid from Shea Concrete LTD was received at a price of \$16.00 per SF for a 4-inch sidewalk.

The price is approximately double what was anticipated.

Based on feedback from the other plan-holders, the unknown quantities prevented them from bidding. Thus, the Public Works Department recommends City Council reject the bid received and proceed with issuing the letters to the property owners with deficient sidewalks. After ninety days following the issuance of the letters, the City will be able to better determine the amount of sidewalks needing to be replaced and include this quantity in the bid package to be resolicited this winter.

Staff recommends City Council reject all bids for Contract Number 2018-St-002 and authorize staff to rebid the project in the winter once quantities are known.

Mr. Whitfield reviewed the repairs that will be the responsibility of the City, as a result of City trees, sewer caps, sewer manhole and water boxes.

Councilman Boyle asked if the owners of those properties will no longer be required to replace their sidewalks until such time the City has an option for them to participate in their program. Mr. Whitfield explained that he had informed residents at the meeting when the program was discussed, the City would solicit bids to provide the homeowners. He was anticipating a price of \$200-\$225 a block. Unfortunately it came in at \$400. The letter will explain that if the sidewalk is not replaced, the City will solicit bids in the spring though that price could be even higher at that point.

He confirmed that property owners who are responsible for the repairs will be offered a five-year monthly repayment plan through the City. For example, one sidewalk, anticipated costing \$200 per block, would be assessed approximately \$3 a month over the next sixty months.

Councilman Morrow suggested informing the homeowners the City would make all repairs. In that manner, we would have a specific number of blocks to provide as part of the bid package.

Councilman Mergner agreed adding that he thought the contractor was being secured to perform all of the work.

It was confirmed that was based on the number of sidewalks the City is responsible for. Councilman Culotta then asked if the problem is 100 properties, there is a possibility that 50 may choose to handle it themselves and the other 50 may have the City oversee. He recommends providing a rough idea and asking each property owner's preference. Councilmember Peel asked if they would prefer a guarantee minimum.

Councilman Boyle understands that the contractor is unable to make an informed decision because they do not have an exact number. He asked what can be done to provide at least some range, so that they at least have some idea.

Councilmember Peel is comfortable rejecting the bid, but also suggests that as much information as possible be included in the letter.

Concern was expressed about the short window of ninety days and the impact on contractors, in addition to people having a sufficient amount of time to get the money together. Councilman Mergner asked if that can be extended.

Councilmember Peel recalled that is the reason Public Works originally held the project up. Council was concerned that homeowners would be shocked to learn that first, sidewalk repairs are their responsibility and second, they were not given an opportunity for input. That was the reason for the question and answer meeting that was held.

City Manager Norenberg pointed out that with winter weather approaching, there will be additional time to prepare for the project. Hopefully some of the sidewalks will be repaired by February or March.

Councilmember Peel then expressed a concern about a property owner getting an estimate but having nothing to compare it to. In particular, they will need to decide if the City is able to do the work for a cheaper price. Mr. Whitfield agreed emphasizing that based on the current bid, the City's cost will be much more expensive.

When asked how long it would take to rebid the project based on specific numbers, Mr. Whitfield explained that it can be rebid but this would delay the bid until sometime in October which is beyond the construction period.

When asked about the DelDOT project, Mr. Whitfield explained that any properties on Southeast Second Street were not included because of that planned work.

Mayor Campbell asked if interest would be assessed; Mr. Whitfield said that is required by ordinance. Mayor Campbell is concerned about the fact the City will be charging the property owners and then adding interest on top of the payments they will be responsible for.

Councilmember Peel moved to reject the bid received for Contract 2018-St-002, seconded by Councilmember Mergner. Motion carried.

Councilmember Peel then made a motion to return the Sidewalk Repair Project to the Public Works and Finance Committee for additional consideration, seconded by Councilmember Wilson. Motion carried.

City Manager Norenberg recommended all Councilmembers attend the committee meeting.

Councilman Brooks recommends changing some of the sidewalk requirements because he is concerned that a resident would be required to repair a one inch drop that he feels is nitpicking.

It was recommended that will also be discussed at the committee level.

When asked the recourse if a homeowner who disagrees with the requirement, Councilmember Wilson noted that they have already heard from residents and that is the reason for this ongoing discussion.

Councilmember Brooks said he has people in his district who are ten years older than him and only receive a social security check and have no retirement benefits. She lives by herself and has a sick daughter in the hospital. She got very upset and had to see a doctor because of the letter. He said there is no way she can pay anything and especially \$3 a month because kerosene is going to go up \$3 plus a month. Councilman Brooks himself used \$1,000 worth of oil in one month this past year, but this lady doesn't have any money.

Councilmember Brooks said he has other people living in a big house and are only using one room to live in. They don't have the money either and most of the time they don't go outside. But they are being told by the City they have to fix their sidewalks.

Councilmember Culotta asked if there is some type of funding available for someone that makes less than x dollars a year who qualify for public money.

Councilmember Morrow again recommended these items be discussed at the committee level.

Solicitor Rutt directed Council to review Chapter 197 of the Code that talks about sidewalk replacement that has been in

place since 2007. It provides the criteria and provisions that if someone qualifies for low income, they can apply for City grants. As a result, there is a recourse for anyone who may have a difficult time making the monthly payments.

Councilmember Brooks reported that all the homes on Southeast Front Street got new sidewalks and the State of Delaware paid for all of it. He then asked if Southeast Second Street will be paid for; when riding through town, he pointed out that 25-30% of the streets have sidewalks on one side and nothing on the other side. He asked if we are only picking on the people that have sidewalks and most of them do not even want them.

He said a lot of developments have no sidewalks because the developer wanted it to look more country-like. Hearthstone is one and those property owners don't have to worry about sidewalks.

Council was directed to bring their suggestions to the committee meeting. Councilman Brooks recommends grinding down the sidewalk where there is only one-inch difference.

Funding Authorization/Police Department/HVAC

Nothing to report.

EXECUTIVE SESSION

Councilmember Boyle moved to go into Executive Session reference the below statutes, seconded by Councilmember Peel:

Pursuant to 29 Del. C. 29 §10004 (b)(4) Collective Bargaining Matters

Motion carried.

Mayor Campbell recessed the Council Meeting at 8:14 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

Return to Open Session

Council returned to Open Session at 8:19 p.m.

MPD Teamsters Negotiations

Mayor Campbell reported that no action was needed.

ADJOURNMENT

There being no further business, Councilmember Peel moved to adjourn the Council Meeting, seconded by Councilmember Boyle. Motion carried.

The Council Meeting adjourned at 8:20 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Transcriber