

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
August 12, 2013

The Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, August 12, 2013.

PRESIDING: Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Bryan Shupe, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Douglas Morrow, Sr. and James Starling, Sr. & Katrina Wilson

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

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Rogers called the Monthly Meeting to order at 7:01 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF MINUTES

Motion made by Mr. Pikus, seconded by Mr. Gleysteen to approve the minutes of the June 11, June 12, June 25, July 8, July 22, July 31 and August 7, 2013 council, committee and public meetings as submitted. Motion carried.

RECOGNITION

No special guests were present.

MONTHLY POLICE REPORT

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

CITY MANAGER REPORT

Mr. Carmean read the following report into record:

*ADMINISTRATION*

*I am happy to report we settled on the PNC property on Friday, August 2, 2013. I thank our solicitor for working with me to allow that to happen so quickly. I intend to immediately begin the process of making the changes needed to adapt the space to suit our billing operations. I will report a schedule for moving our billing office to that location as soon as I know the dates.*

*I don't feel the current setup lends itself to security for our employees. I plan to make some changes for councils' approval before we move forward.*

*ELECTRIC*

*Materials for our substation project are arriving by the truckload. We have started utilizing the warehouse space we recently rented and it has made the inventory of the materials easy to track. The project should be completed by late fall.*

*The staff has been working on the off-site printing and mailing of our utility bills. The first mailing of the new billing format was sent out on Friday, August 9, 2013. I have included an example of the bill. Mayor and Council can bring any changes they feel are necessary to my attention and we can institute those changes in the next cycle. I think the layout of the information to our customers regarding their usage and costs is clear and more informative than in the past. I added the return receipt at the bottom of the page which will help with automation on cashiering.*

*This has been an ongoing project for over more than a year. The majority of our residents will receive the redesigned bill tomorrow. It will be mailed approximately one day later versus when it had to be mailed from Dover.*

#### **SEWER AND WATER**

*The demolition is progressing very satisfactorily and the work should be completed ahead of schedule. We will be proceeding with the bidding process for the next phase of the project in the very near future which is the demolition of the water plant.*

*I was on site this morning during which time they uncovered some nasty materials from the old coal bins. I made an on-site decision it was not necessary to dig out some areas that would be needed had the billing department been built there. This will result in a substantial savings. The vacant property where the billing department was planned can now be easily utilized for a city parking lot. This parking lot can be used for the farmer's market or community festivals instead of the parking lot off Northeast Front Street.*

*I will be bringing the plan back before council to approve the changes from the original plan.*

Mr. Pikus asked if the water pumps are gone at the South Washington Street site; Mr. Carmean said everything is gone and the new pumps will be installed along the back of the lot.

Erik Retzlaff of Davis, Bowen and Friedel explained that the new building will actually be placed more toward the rear corner of the property closest to the Salvation Army which is further away from the street and river.

Mr. Pikus asked about the well in front of the building; Mr. Retzlaff noted that well #1 will remain. He explained the treatment process and pump have been removed. They will be completely rebuilt with the treatment system and facility.

Mr. Retzlaff further explained that the old pumps behind the building were pulled out and though they attempted to salvage the motors, the additional work needed was not cost effective in comparison to the new technology and more efficient pumps.

He reported that the demolition should be completed before the end of September.

He also noted that the bid had been awarded to drill the well on the site behind city hall. With the purchase of PNC, they will now be relocated to the tower site once some investigatory work is completed. The pipe will then be installed that will connect to the treatment facility. Currently, they are awaiting finalization on the location.

He anticipates at the earliest, this project being completed at the end of next year.

Mr. Carmean advised there was a huge savings by moving that well to the PNC site. The controls and equipment that had to be installed behind city hall already exist at the tower site. Some panels may be needed though that will be minor. In addition, the street behind city hall will not have to be disturbed.

The city manager said he would like to build a cupola around the well in place of the concrete slab that currently exists

in front of the new treatment plant site. He will bring those plans back before council for later approval.

In addition, he believes the parking lot can be built with the funds earmarked that were previously earmarked for the administrative building that is no longer needed.

*The Washington Street sewer pump station rebuild is also coming along on schedule. The bypass pumps are working with no problems of capacity even with the recent heavy rains. I am happy that these two much needed facilities are able to be moved forward at the same time, since being located so close to each other could have not allowed that to happen.*

When asked for comments on the new bill, Mr. Gleysteen commented it is very similar to Delaware Cooperative's bill.

Mr. Pikus moved to accept the city manager's report, seconded by Mr. Grier. Motion carried.

#### COMMITTEE & WARD REPORTS

Economic Development Chairman Grier advised his committee will meet this Thursday (August 15<sup>th</sup>) at 5:00 p.m. At that time, David Wilk of Innovation Park will make a presentation at his request.

Mr. Starling thanked Mr. Pikus after explaining the Food Bank had some food they were giving away. They were able to provide approximately 200 dinners to those in need.

#### COMMUNICATIONS & CORRESPONDENCE

Included in packet.

#### UNFINISHED BUSINESS

##### *FOIA Issues/Miscellaneous Meetings/Gatherings of City Council/Solicitor Rutt*

Mr. Rutt advised that Assistant City Solicitor James Sharp attended a previous council meeting at which time the FOIA matter was discussed. There was a suggestion that a workshop or meeting be scheduled to discuss FOIA.

He noted that the Delaware Attorney General's office has come down with some very important decisions that need to be relayed to council. In addition to FOIA, he recommends discussing meeting procedures and ethic issues. He recommends that in addition to council, the planning commission and board of adjustment members attend. He also recommends it be scheduled as a separate workshop with only these items to be discussed.

Mr. Pikus said it is important that council be made aware of what is happening in other towns. He feels a lot of FOIA problems are the result of the lack of information.

Mr. Pikus moved that the city manager schedule the meetings with the city solicitor and three bodies discussed, seconded by Mr. Shupe. Motion carried.

Mr. Rutt said Councilman Brooks had also raised a question about Delaware League, SCAT and other events where a quorum of council frequently attended. He referenced the calendar that Kent County Levy Court publishes on its website that lists any event where a quorum of levy court members was possible. The solicitor agrees that would provide sufficient notice to the public.

Mayor Rogers directed the city manager to select a date for an upcoming workshop.

*Approval of Revised Redner's Market Agreement (Gasoline Pumps)  
Approval of Redner's Market Escrow Agreement*

Mr. Carmean reported that Randy Duplechain from DBF has been negotiating with the Redner's representatives. They changed the original agreement previously approved by city council and wanted an escrow fund established. Today, they stated that if the project was not completed in six months, they would pull the escrow to prevent their monies from being held for an indefinite period. Mr. Duplechain explained the city is unable to accept a time line because at this point, we have no way of knowing how long it will take to complete the process.

He then read the latest e-mail sent by Mr. Duplechain:

*I just spoke to Redner's representative and their attorney. I think there has been a misunderstanding as to what constitutes project approvals. We have therefore agreed to work thru the language in both agreements in the next week or so and then place the issue on the next City Council meeting agenda in two weeks. Therefore, please remove the Redner's Agreement from tonight's agenda.*

Mr. Carmean asked that this matter be postponed with the hope it can be voted on at the next meeting.

Ms. Wilson moved to postpone action on the Redner's Agreement and Escrow Agreement until the next meeting, seconded by Mr. Starling. Motion carried.

#### *Approval of Boys & Girls Club Agreement/Athletic Field*

Mr. Carmean reported there were two separate agreements for the Boys and Girls Club and this one was overlooked. Mr. Rutt and he discussed this agreement earlier today noting a few concerns.

Mr. Rutt explained the agreement before council gives the Boys and Girls Club an exclusive license to use the soccer fields, athletic fields and playgrounds for a certain period of time. There is a playground currently under construction. A lot of the funding came from DNREC, various legislators and private foundations. Longwood Foundation contributed \$200,000 toward the project.

Some of the restrictions require the playground be full accessible at all times (considering it is in a public area). The condition in the agreement states the Boys and Girls Club has exclusive use of the park for twenty hours. He pointed out that if a child were to show up in a wheelchair and were told that by not being a member of the Boys and Girls Club, they could not use the equipment, the city would have a real problem. It could create issues with the Americans with Disabilities Act and also the funding agencies. Some of those agreements state that if there are violations, they can call the money back. Mr. Rutt feels the playground is large enough to accommodate the number of children who wish to use it with plenty of room to spare.

His concern is the wording 'exclusive access' to the fields and playgrounds.

Mr. Pikus noted that the Can-Do Playground belongs to the city and asked the reason for the contract. Mr. Rutt said he thought the field was fully accessible at all times for the Boys and Girls Club. The contract states it would be a reciprocal type of agreement that they could use the playground and field facilities. In turn, the city would be able to utilize their property or the club. It also discusses the use of parking spots, displays, maintenance, etc. They do not have to pay for the maintenance. However, they would be responsible for having their own equipment. To that extent, Mr. Rutt feels the agreement is appropriate. However, he has a major concern with the fact the club would have exclusive use and could deny someone.

The solicitor also pointed out the agreement states the Boys and Girls Club would indemnify and hold the city harmless if a child was hurt when using they were using it. He advised that the club is required to have insurance which benefits the city.

Mr. Pikus asked who wrote the agreement; Mr. Rutt said the first time he saw it was when he opened the council packet. Mr. Carmean is sure either the Boys and Girls Club or their attorney handled it.

Ms. Wilson recalls the original agreement dealt with the gymnasium, pool and locker room. Mr. Carmean said he learned that is now a separate agreement. We found out about the second agreement when the Boys and Girls Club questioned whether or not it had been signed. This is a new, second agreement that applies to the outside areas on the site.

Mr. Rutt also noted that the agreement states the city 'shall', at its own expense, construct an outdoor basketball court and beach volleyball court on the premises.

Mr. Pikus feels we need to take a closer look at the agreement. Mr. Gleysteen confirmed we are already paying \$29,000 to \$30,000 a year and are not getting that much more; now we are required to build additional courts.

Mr. Pikus explained the fee, which increased by a few thousand dollars, covers the use of the gym and pool. He does not understand why we are required to build basketball courts outside when they have them inside. We are already leasing the building.

Ms. Wilson does not recall ever talking about outside basketball courts and asked how that got in the agreement.

Mr. Pikus said there are too many unknowns and requests in this lease that we are unable to comply with especially related to funding issues. Mr. Carmean agreed and recommends we not sign the agreement.

Mr. Pikus moved to postpone action on the request, seconded by Ms. Wilson. Motion carried.

#### *DBF/Engineering/On-Call Services*

Mr. Carmean recalled the Public Works Committee meeting held last week during which time he discussed this matter. He noted that DBF has been our on-call engineering firm for many years. However, he was unable to find where formal action had ever been taken by city council.

He compared 'on-call' services to when the city clerk or the city manager has a legal question and contacts our city solicitor. In addition, our Public Works Director contacts DBF on a daily basis with engineering questions.

The city manager explained that when we abolished our in-house engineering position, we needed somewhere to go to get answers. Mr. Gleysteen asked what other firms are available as potential alternates. Mr. Carmean is familiar with URS and Century Engineering. Mr. Gleysteen asked if they are local; Mr. Carmean said they are not local and believes one is in Dover and the other in Georgetown. At this point, he did not look any further because we had a firm in town that he could call or walk to or that allowed Mr. Dennehy to stop at anytime. DBF can easily go to one of our projects to check things just as Erik Retzlaff did today at the water plant.

Mr. Gleysteen said he would like to know how their rate schedule compares to alternatives. Mr. Carmean said the last time he looked about three years ago, the rates were all about the same. The problem is if we hire another engineering firm, we have to send them to DBF for an answer the majority of the time.

Mr. Carmean also noted that with regard to the on-call situation, DBF has never nickel and dimed us by charging each time we talk to them. If we ask them to engineer a large project, we are charged their hourly fees as we should be.

He said that several years ago, we considered the outside engineering costs we were paying and decided to hire an on-staff engineer. But over the years, we continued to use their services.

Ms. Wilson feels it is appropriate to review their rates periodically. However, it sounds as though they are currently providing the best service for us right now.