

MILFORD CITY COUNCIL
MINUTES OF MEETING
August 26, 2019

A Meeting of the City of Milford Police Committee was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, August 26, 2019.

PRESIDING: Chairperson Katrina Wilson

IN ATTENDANCE: Mayor Arthur Campbell

Committee Members:

Councilmembers Michael Boyle, Lisa Peel and Jason James

Councilmembers Todd Culotta

City Manager Eric Norenberg, Police Chief Kenneth Brown and City Clerk Terri Hudson

CALLED TO ORDER

Chairperson Wilson called the Police Committee Meeting to order at 5:31 p.m.

New Police Facility/Operations

Chief Brown reported he has had several meetings with the PR Firm and Becker Morgan. Recently, they went to Delaware State Police Troop's site for a tour of their new facility. He said because he was able to compare sizes and square footages, some rooms sizes had to be changed.

There will not be any modification to the overall cost of the facility because the main change involved a room that was too large. Because this was so helpful, he plans to continue taking trips to Lewes as they complete that new facility.

Chief Brown reported that the team met with the Hook PR firm because they are going to make a video of interviews of resident supporters who will be financially impacted by the project. Part of the video will also be of the first public meeting to be held the week of September 16th. Becker Morgan will present three sample designs of the exterior of the building and will ask for public input at that time.

He said there will be a future team meeting with Becker Morgan after which the design can be brought to City Council prior to any public meeting.

The site visits were then discussed with Solicitor Rutt weighting in on FOIA. Mayor Campbell explained that he, Councilman James, Chief Brown and his captain and three lieutenants, went together to tour the new Troop 7. He agreed it was very beneficial seeing it firsthand.

Mayor Campbell said he was trying to schedule site visits for the remaining three members of the Police Committee which is why he contacted Attorney Max Walton, who is a specialist in FOIA. He was told that FOIA requires all meetings of a legislative body be open to the public unless authorized for those specific reasons that allow an executive session. It was explained that the definition of the term meeting in the FOIA law is a very broad and encompasses almost every gathering of a majority of Council members, including informal occasions. According to Mayor Campbell, Mr. Walton explained that only one more Police Committee member could go based on the fact that Mayor Campbell and Councilman James went at the same time.

Mayor Campbell then described a situation in Milton who has a Council consisting of six members. The town was looking at a property and two members of Council went on three different days, which resulted in a serial meeting and a violation of FOIA.

He explained that a public body achieves a quorum for purposes of FOIA through serial discussions which allow members of a public body to receive and comment on other members' opinions and thoughts, thus reaching a consensus.

Mayor Campbell also explained that Becker Morgan and the PR group will both be providing presentations to the Police Committee at a future meeting.

Mayor Campbell then stated that in the meantime, City Solicitor Rutt has provided a new option for the Police Committee to tour the facility. He said the Police Committee could meet in the Council Chambers, call the meeting to order, make a motion to go into executive session (based on the building plan exemption), and all three can then go to Troop 3. After the tour is complete, the Police Committee Members would be required to come back to City Hall, close the executive session and go back into the open session and adjourn the meeting. The agenda would have to be posted at least seven days prior to the date and minutes taken.

Councilmember James said that sounds like a good option; Councilmember Wilson agreed. Mayor Campbell said he prefers to run that by Mr. Walton as well.

Mayor Campbell encouraged the Committee to go. He learned a great deal from the State Police Administrator who oversees the construction of all the troop facilities.

If Max agrees, he will report back to the Committee, though it will have to be done as our Solicitor explained. Chairperson Wilson confirmed that Mayor Campbell would let them know if that is permitted.

Chief Brown said if that is allowed, any plans would have to be made on dates agreed to by the State Police. Then the public meeting would be posted and minutes taken by someone.

Councilman James said he does not want to get into the minutia, and prefers the supporters that Chief Brown referenced, not just include business leaders or influential people in Milford, but the common people who will support the new police station. He feels that is just as important because they are our regular voters and not just those who are deemed leaders.

Chief Brown said the PR person suggested keeping the video to three-minutes and she recommended nine people be interviewed. He is willing to sit down with the Committee and decide who those nine people will be.

He clarified that part of the video will include portions of the public meeting the week of September 16th. The PR person indicated they will need another thirty days to complete the video.

When asked if Chief Brown was going to hand out the contract, he asked the City Manager to comment. Mr. Norenberg then explained that late last year, we had an initial contract with Hook PR. They embarked on a portion of the work and what Chief Brown described was included in the initial scope of work. As a result of recent meetings, there is a revised scope of work. There is an open purchase order from the original proposal though the update is going to cost an additional \$1,000 to \$1,500, even though there was still some work left to do, including the video.

Mr. Norenberg pointed out this is still on track with what was discussed with the Police Committee last winter about the engagement with the community as Chief Brown stated.

Councilmember Peel asked if Chief Brown can remind the Committee of the general timeline considering September 16th is coming quickly.

Chief Brown said they need thirty days to complete the video and if we can stay on track to do the first public meeting in September, he is unsure when the second public meeting would be held, but hopes it will closely follow the first meeting.

He said he hopes to be ready with whatever needs to be done for the referendum though that is a two-month process. Right now, he hopes to get that process started by October.

Mayor Campbell said they are planning to do this prior to the school referendum which should not occur until next February or March. Councilman James thought the school had a timeline established emphasizing they are date driven by State requirements.

Councilmember Peel agreed that the State will decide. She noted that Sussex Tech recently applied for funding though they do not have to go to referendum, even though it involves a tax increase for Sussex County property owners. That only requires an Act of the Legislature.

When asked if the Committee could go tour Troop 7 together, as was described earlier, Mr. Rutt agreed the process is legal as he described. He reiterated that the agenda would have to be very specific that the Committee is going into executive session to review building plans for purposes of a public safety facility, based on the exception that allows that.

Mayor Campbell said the State Police Administrator told him that public buildings are exempt. If that is the case, all three remaining members of the Committee can go. Councilman James said if that is the case, he would be willing to go again at that time.

Chief Brown said they were two hours going through the facility, in addition to travel time.

Mr. Rutt also informed Chief Brown that someone will need to take minutes during the course of the executive session.

Mayor Campbell said he cannot go back as he was directed by Max Walton.

Chief Brown asked how detailed the minutes need to be if they are going through the building room by room; Mr. Rutt said they would include who was taking the tour, conducting the tour, what they saw, any pertinent discussion, as is done in any executive session. However, there cannot be any decisions made during that time. It can only be for information gathering only.

The Solicitor reported that several years ago, the police department received a FOIA request from the ACLU who wanted information regarding their tactical team. The City took the position there were certain things they had no right to under the FOIA exemptions. He believes one of the things they asked for was where the tactical team met, what the room was like, etc. The public building plans exception was used to deny that item.

Mr. Rutt cautioned the Police Committee that if they do take this tour together, that they restrict their conversation or discussion. Councilmember Peel said she would be satisfied with Chairperson Wilson going as the head of the committee. Councilmember Boyle agreed that only one person should go.

Mr. Rutt then read the exception under FOIA:

(17) a. The following records, which, if copied or inspected, could jeopardize the security of any structure owned by the State or any of its political subdivisions, or could facilitate the planning of a terrorist attack, or could endanger the life or physical safety of an individual:

1. Response procedures or plans prepared to prevent or respond to emergency situations, the disclosure of which would reveal vulnerability assessments, specific tactics, specific emergency procedures or specific security procedures.

2. Building plans, blueprints, schematic drawings, diagrams, operational manuals or other records of mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are used or stored, arenas, stadiums, waste and water systems, electric transmission lines and substations, high-pressure natural gas pipelines and compressor stations, and telecommunications networks facilities and switching equipment, the disclosure of which would reveal the building's or structure's internal layout, specific location, life, safety and

support systems, structural elements, surveillance techniques, alarm or security systems or technologies, operational and transportation plans or protocols, or personnel deployments. Records that disclose the substances being used or stored on a given piece of property are public records; however, records which disclose the specific location on that property of the substances being used or stored may be disclosed only if the chief administrative officer of the agency from which the record is requested determines that disclosure will not jeopardize the security of any structure owned by the State or any of its political subdivisions, or will not facilitate the planning of a terrorist attack, or will not endanger the life or physical safety of an individual.

He emphasized that if the Committee goes down there to look at specific things, that can be part of the planning process. However, they cannot make any decisions or changes, or put out any information that could potentially jeopardize the City's FOIA position.

The Solicitor stressed that the City has one shot at this, and we don't need to jeopardize it and end up in court over something like this. He suggested that in lieu of saying they are making changes on site; the Chief say he viewed it and came back with some ideas and decided some areas needed to be changed as a result of seeing it in person versus on paper. However, those items still need to be discussed by the Police Committee with the architect, in a public meeting.

However, in terms of the Committee going to Lewes, he does not want them going there to talk about things they liked or needed to be changed, because those things need to be discussed publicly.

Councilman James said that did not happen at the site. Chief Brown explained he was only making the point that seeing things made a big difference though the changes he previously talked about, were decided at a later meeting.

Procedures/City & Police Events/Meetings

Chair Wilson explained that a while back, she received information of monthly meetings with the City Manager and the police officers and staff at the police department. After speaking to Chief Brown, he indicated it caused a hardship making those officers available to meet with the City Manager.

She wanted it clarified that at this time, the Police Chief is not able to do this and asked Chief Brown to elaborate.

Incident Notifications

Chair Wilson explained that over the years, there are different situations in the City, and she has always found it beneficial to be notified of certain circumstances.

She asked Chief Brown that if there is a situation occurring that may cause a lot of attention by the residents, especially in their specific wards, that Chief Brown call her in advance. Many residents start calling their Council Representatives and asking questions. She understands a lot of information cannot be provided, but she is only asking to be notified, and does not expect details, nor does she want this to interfere with their investigation. She only is asking to be aware of those type situations, so that she or the other Councilmembers are able to at least calm any concerns.

Other Committee members said they have at time received phone calls.

Chair Wilson recalled one situation when several officers were in their neighborhood. The residents starting calling Council because the officers were at this place for an extremely long period of time. She reiterated she does not plan to provide any investigative details, but would simply like to be informed of such situations, as has been done in the past.

Chief Brown assured Chairperson Wilson that there have been no really serious incidents lately. But as far as officers being somewhere with their lights on, he does not know himself. If he receives a call, he has to call the department to find out why the officers are at a certain place. He does not keep informed unless there is a critical situation.

Chairperson Wilson explained that a couple of things were at the level that residents needed some type of reassurance. This was particularly the case when several officers were at a location and kept their car lights on for an unusually long period of time. Everyone in the area knew that was not the norm and because it appeared to be an urgent type situation, it caused some residents to become alarmed.

Chief Brown said he prefers Council call him, because it is easier for him. To the patrol officers, those are all routine situations, as was the case when Councilman James contacted him.

Chief Brown said it would tough to have the officers call him every time something happened. Chair Wilson assured him she is not asking to be notified of routine incidents, but something that could be perceived to be more serious. Chief Brown responded by stating that he sends an email if there is a serious situation.

The Chairperson emphasized she is not trying to put more on Chief Brown. Chief Brown said it's not putting more on him but it does put more on the officers to have to call him every time they go out somewhere.

Chief Brown said he will contact Council if someone is seriously injured, shot, stabbed or robbed or a big drug bust. Fortunately, Milford has not had any of those crimes in a long time. He attributes that to foot patrol in the high crime areas which has eliminated a lot of the more serious crimes. He started putting officers on foot in those higher crime areas since December when the little girl was shot in the house. That has eliminated the majority of those problems.

ADJOURNMENT

Chairperson Wilson moved to accept the information provided this evening, seconded by Councilmember Peel. Motion carried.

Chairperson Wilson then adjourned the Police Committee meeting adjourned at 6:06 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder