

MILFORD CITY COUNCIL
MINUTES OF MEETING
March 25, 2013

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, March 25, 2013.

PRESIDING: Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier III, Dirk Gleysteen, Owen Brooks, Jr., Douglas Morrow, Sr. and 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 Council Meeting to order at 7:01 p.m.

INVOCATION AND PLEDGE

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

RECOGNITION

No special guests in attendance.

COMMUNICATIONS & CORRESPONDENCE

All items included in packet.

UNFINISHED BUSINESS

FY 2012-2013 Budget Adjustment/Legal Expenses/Police Department

Chief Hudson requested a \$15,000 increase in the police department's legal expense account with the hope this will be sufficient to carry them through the end of this fiscal year.

The amount budgeted annually is \$10,000. However, an additional \$15,000 must be requested when a claim is filed because the city's deductible is \$25,000.

Mr. Morrow moved that \$15,000 be transferred from general fund reserve to increase the police department's legal expense account, seconded by Mr. Brooks. Motion carried.

Appointment of City of Milford Election Board

When asked why an election board is required when no election will be held this year, Ms. Hudson advised that the municipal state law requires an election board be appointed to oversee all election activity, including pre-election and post-election issues (including deadline matters). Because there was a resignation in our current board, new member Carole Mason needed to be appointed, along with returning board members Joanne Leuthauser and Phyllis Fox.

Ms. Hudson recalled that last year, a complaint was made regarding some pre-election activity which required the election board to convene, consider the complaint and make a decision. This could again occur even though there is no election.

Mr. Brooks moved and Mr. Grier seconded that the following residents be appointed as the City of Milford Election Board:

Joanne Leuthauser 509 Ashley Way
Phyllis Fox 200 E. Clarke Avenue
Carole Mason 153 Barksdale Court, Hearthstone Manor

Motion carried.

Ms. Wilson arrived at this time.

Adoption of Resolution 2013-09/Spring Clean-Up Week

Mr. Morrow moved to adopt the following resolution, seconded by Mr. Brooks:

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Milford, in Council met:

WHEREAS, it is desirous to promote the general cleaning of the City of Milford and improve its overall beauty to the maximum enjoyment and benefit of all citizens and visitors; and

WHEREAS, we are fortunate to live in a community so abundantly blessed with natural assets that we have a continuing responsibility to preserve our environment by keeping it clean, healthy and in order by organizing and carrying out clean-up and fix-up projects which will enhance, restore and maintain the beauty of all properties; and

WHEREAS, all maintenance and clean-up debris, including large and bulk items, shall be placed for curbside pickup in order to exemplify cleanliness and beauty.

NOW, THEREFORE, I, Joseph R. Rogers, Mayor of the City of Milford, by the power vested in me, do hereby proclaim the week of April 22, 2013 to April 26, 2013 "Spring Clean-Up Week" in the City of Milford; in the case of inclement weather, "Spring Clean-Up Week" will be extended through May 3, 2013.

IN WITNESS WHEREOF, I hereunto set my hand and caused the Seal of the City of Milford to be affixed this 25th day of March 2013.

Motion carried.

Mr. Brooks confirmed that because the city is closed on Friday, those scheduled trash customers will have their trash picked up on Thursday.

Adoption of Resolution 2013-10/USDA Loan

Mr. Carmean recalled that when he was hired back as city manager, the city received a letter from the USDA stating that if we did not proceed, they would rescind the loan. Some money has since been spent so the USDA is now allowing the bond close out.

Mr. Grier moved to adopt Resolution 2013-10, seconded by Mr. Johnson:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE Authorizing and Providing for the Incurrence of Indebtedness for the Purpose of Providing a Portion of the Cost of Acquiring, Constructing, Enlarging, Improving, and/or Extending its:

*SOUTHEAST MILFORD WATER EXPANSION FACILITY TO
SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE*

WHEREAS, it is necessary for the City of Milford (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of \$5,000,000 (Five Million Dollars) pursuant to the provisions of the City Charter; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association.

NOW THEREFORE, in consideration of the premises THE CITY OF MILFORD HEREBY RESOLVES:

- 1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.*
- 2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods
of time as required by section 333(c) of said Consolidated Farm and Rural Development Act
(7 U.S.C. 1983(c)).*
- 3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.*
- 4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.*
- 5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.*
- 6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.*
- 7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.*
- 8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.*
- 9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.*

10. *To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.*
11. *To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.*
12. *To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.*
13. *To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.*
14. *That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.*
15. *To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.*
16. *To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.*
17. *To accept a grant in an amount not to exceed \$ -0- under the terms offered by the Government; that the Mayor and City Council of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).*

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas-6 Nays-0 Absent-2

IN WITNESS WHEREOF, the City Council of the City of Milford has duly adopted this resolution and caused it to be executed by the officers below in duplicate on this 25th day of March 2013.

Motion carried.

Preliminary Major Subdivision Extension-CCM-Koelig, LLC on behalf of Wickersham Subdivision

City Manager Carmean confirmed it is the fifth extension though he is aware that at least once, they were unable to get their recordation because the city could not confirm we could extend utilities to the site. He explained that Sussex County is very stringent about recordation without verifying the city is able to serve the development. Now that the Southeast Milford project is underway and we have received the funding, the applicant presented the application to the planning commission for another extension.

Mr. Carmean confirmed that Wickersham will pursue recordation once this extension is approved; Mr. Rutt stated he would hope so.

The city manager also pointed out this site will be the location of our tower. The Wickersham developers have agreed to engineer the sewer main, sewer pumping station and other services going to this location.

Though DBF Engineer Randy Duplechain has been working on the Water Tower Agreement with Wickersham and the transfer of property, it has not been finalized as of this date. Mr. Carmean believes it will be a separate agreement because a transfer of property will be involved. The city worked with Nelson Hall to obtain easements and right-of-ways in order to get to this property. They would not get services if they did not follow through though he has no reason to believe that will occur.

Mr. Grier asked who is going to pay to extend the sewer to this area and how close it will end in relation to this property; Mr. Carmean said the sewer will either come out at West Shores and tie in from the main at Hearthstone, come down Wilkins Road and go down Route 30 to the property and back to their property.

Mr. Grier asked if they would be splitting the costs; Mr. Carmean explained that Wickersham will pay the entire bill. However, there are other lands owned by Milford Housing and Wilson Contracting who will share in the costs at the time they request services.

Mr. Brooks moved to approve the Preliminary Major Subdivision Extension of CCM-Koelig, LLC on behalf of Wickersham Subdivision, seconded by Mr. Wilson. Motion carried.

EXECUTIVE SESSION

Pursuant to 29 Del. C. §10004(b)(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed.

Mr. Grier moved to go into Executive Session reference personnel matters, seconded by Mr. Johnson. Motion carried.

Mayor Rogers recessed the Council Meeting at 7:15 p.m. for the purpose of an Executive Session as is permitted by Delaware's Freedom of Information Act.

Open Session

Council returned to open session at 7:49 p.m.

Executive Session Matter

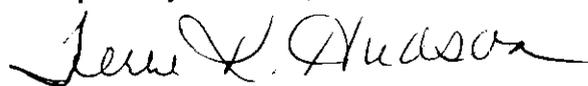
No action required.

ADJOURN

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

Meeting adjourned at 7:50 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder