

The City Council of the City of Milton met in reconvened session, September 29, 2011 at 5:01 p.m. (CDT) in the Council Chambers of City Hall, 6738 Dixon Street, Milton, Florida. The following were:

**PRESENT:**

- Guy Thompson, Mayor
- Buddy Jordan
- R. L. Lewis
- Lloyd Hinote
- Patsy Lunsford (via phone)
- Paul Kilmartin
- Clayton White
- Grady Hester
- Marilyn Jones

Roy Andrews, City Attorney  
Brian Watkins, City Manager  
Janet Scott, Deputy Clerk  
Lori Vann, Budget Director

**OTHERS IN ATTENDANCE:**

Lamar Whitaker, David Cox, Jessie Cornell, Tom Conley, Bill Gamblin.

Mayor Thompson called the meeting to order at 5:02 p.m.

**Roll call was Performed.**

**INVOCATION AND PLEDGE OF ALLEGIANCE:** Mr. Lewis led the invocation and all joined in the Pledge of Allegiance.

**APPROVAL OF MINUTES**

\*\* Motion was made by Mrs. Jones to approve the minutes of the July 12, 2011 City Council Meeting; seconded by Mr. Lewis. Roll call vote: Mrs. Jones, aye; Mr. Lewis, aye; Mr. Hester, aye; Mr. Jordan, aye; Mr. Kilmartin, aye; Mr. Hinote, aye; Mr. White, aye; and Mrs. Lunsford (via phone), aye. Motion carried.

**PUBLIC HEARING(S):**

1) **2<sup>ND</sup> Public Hearing for Millage Rate for FY 2011/2012**

- **Adoption of Millage Rate for FY 2011/2012**

Mayor Thompson opened the Public Hearing for the adoption of the millage rate for FY 2011/2012 at 3.2373. He asked for any questions or comments from the public. (No Response)

Public Hearing for Millage Rate for FY 2011/2012 was closed.

City Attorney Roy Andrews read Resolution No. 1186-11, the Adoption of the Millage Rate for FY 2011/2012:

**RESOLUTION NO. 1186-11**

**A RESOLUTION ADOPTING THE FINAL MILLAGE RATE FOR THE CITY OF MILTON FOR FISCAL YEAR COMMENCING ON OCTOBER 1, 2011 AND ENDING ON SEPTEMBER 30, 2012**

\*\* Motion was made by Mr. Hester to approve Resolution No. 1186-11, as read; seconded by Mr. Jordan. Roll call vote: Mrs. Jones, aye; Mr. Lewis, aye; Mr. Hester, aye; Mr. Jordan, aye; Mr. Kilmartin, aye; Mr. Hinote, aye; Mr. White, aye; and Mrs. Lunsford (via phone), aye. Motion carried.

**2) 2<sup>nd</sup> Public Hearing for Budget for FY 2011/2012**

Mayor Thompson opened the 2<sup>nd</sup> Public Hearing for the Budget for FY 2011/2012. He asked for any questions or comments from the public. (No Response)

City Attorney Roy Andrews was recognized for the reading of Ordinances and Resolution:

**ORDINANCE NO. 1353-11**

**AN ORDINANCE ESTABLISHING A BUDGET PROVIDING FOR THE PAYMENT OF THE EXPENSES OF ALL DEPARTMENTS AND FUNCTIONS OF THE CITY GOVERNMENT OF THE CITY OF MILTON, FLORIDA, FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2012.**

\*\* Motion was made by Mr. Hester and seconded by Mr. Jordan, to approve Ordinance No. 1353-11, as read. Roll call vote: Mrs. Jones, aye; Mr. Lewis, aye; Mr. Hester, aye; Mr. Jordan, aye; Mr. Kilmartin, aye; Mr. Hinote, aye; Mr. White, aye; and Mrs. Lunsford (via phone), aye. Motion carried.

**ORDINANCE NO. 1354-11**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MILTON; AMENDING THE CLASSIFIED SALARY TABLE OF THE CITY OF MILTON; ADOPTING A NEW PAY RANGE SCHEDULE; PROVIDING FOR THE ANNUAL SALARY OF THE CITY CLERK AND CITY MANAGER; AND PROVIDING FOR AN EFFECTIVE DATE.**

\*\* Motion was made by Mr. Hester to approve Ordinance No. 1354-11, as read seconded by Mr. Lewis. Roll call vote: Mrs. Jones, aye; Mr. Lewis, aye; Mr. Hester, aye; Mr. Jordan, aye; Mr. Kilmartin, aye; Mr. Hinote, aye; Mr. White, aye; and Mrs. Lunsford (via phone), aye. Motion carried.

**RESOLUTION NO. 1187-11**

**A RESOLUTION FOR THE ADOPTION OF A BUDGET FOR FISCAL YEAR 2012.**

\*\* Motion was made by Mr. Jordan to approve Resolution No. 1187-11, as read; seconded by Mr. Hester. Roll call vote: Mrs. Jones, aye; Mr. Lewis, aye; Mr. Hester, aye; Mr. Jordan, aye; Mr. Kilmartin, aye; Mr. Hinote, aye; Mr. White, aye; and Mrs. Lunsford (via phone), aye. Motion carried.

## **OTHER BUSINESS:**

**Applegate Street Sewer Backup:** Mr. Watkins reported that a serious sewer backup on Applegate Street resulted in extensive damage to a home. The city's liability insurance, through the Florida League of Cities, has agreed to reimburse the city for the initial cleanup of the home and the hotel stay for the owner during the clean up period. They do not deem the city liable for the cost of restoration of the home. They suggested the owner's insurance company should cover the additional costs.

Mayor Thompson reported that this citizen had a sewer backup at no fault of their own. The city sewer lines had roots in it causing the backup. He stated he has sympathy for the homeowner and he disagreed that the homeowner should involve her homeowner's insurance because it then becomes an incident on her insurance history. He stated he felt the city should make remedies to get her home back to the condition it was prior to this incident.

Mayor Thompson noted his disappointment in the Florida League of Cities for not completely renovating this home to its prior condition. He requested the council to authorize the City Manager to make this home "whole", back to its original condition. The city recently changed insurance to the Florida League of Cities and the Mayor said that he felt they have let the city down.

\*\* Mr. Hester made a motion to authorize the City Manager to negotiate with the homeowner, her insurance company and the city's insurance, to make the owner "whole", completely satisfied with the restoration of her home; seconded by Mr. Jordan. Discussion: Mrs. Jones inquired how much repair is needed? Mr. Watkins stated that sheetrock will have to be removed for 1 – 2 feet and replaced, the baseboards re-done, carpeting replaced, lower cabinets replaced or repaired, and replacement of any personal items that were damaged. Personal items replaced are normally at a depreciated value.

Mr. Kilmartin noted that insurance companies are difficult to deal with. He urged caution to the council noting he has five houses in the City of Milton. "Are you going to do the same for me if my sewer backs up?" He warned that the city is setting a precedence here.

Mrs. Jones suggested placing a ceiling on the restoration costs.

City Attorney Andrews stated that the city does not have a legal liability to restore the home. He agreed with the analysis of the insurance company. The city was not negligent because we are not an insurer of the integrity of all the city's systems. If the city has knowledge of a problem and does not correct it, that gives a right to legal negligence. The city was not aware of the roots clogging this line. He suggested that the city draft documents stating this has no legal precedent and the city has no acceptance of legal liability. Mr. Andrews restated that we don't need to establish a precedent.

Tom Conley, Florida League of Cities, addressed the council noting that this is a "non-liability" incident. The insurer will pay approximately \$20,000 under our courtesy cleanup coverage. Their largest competitor, the insurance company that the city had previously, pays \$1,000 on a non-liable sewer claim. Other insurance companies will pay nothing. The Florida League pays for courtesy clean up costs which includes carpet removal and sheet rock removal. He stated "We are 'stepping up'".

Mayor Thompson said he was satisfied if the insurance company removes the sheet rock and carpet.

Jerald Ward explained that circumstances played a part in this problem that probably occurs in no other place in Milton. There is a gravity sewer line on the street, with two manholes. The home is built right between the manholes. There also is a pump station at a nearby subdivision that pumped 100 gallons a minute into that line. It was not just a clogged sewer line, it was a sewer pump station pumping sewer into her home. It was a unique situation.

Mr. Watkins stated that if the council was to proceed to rectify this situation some of the items might exceed the bid limit. He requested authority to bypass the purchasing policy in order to find a company to proceed with the repairs expeditiously. He would notify the council of the final cost of the repair and report to the council at the next meeting.

\*\* Mr. Hester withdrew his prior motion, and Mr. Jordan withdrew his second to the motion.

\*\* Mr. Hester then made a motion to authorize the City Manager to proceed with completing the necessary repairs to the home, bypassing the purchasing policy when needed, and notifying the council of the costs and/or report to the council at the next meeting; seconded by Mr. Lewis. Discussion: Mr. Watkins inquired if her insurance company should be brought into

the situation? Mayor Thompson stated that the property owner might decide to bring her insurance company into the situation. Roll call vote: Mrs. Jones, aye; Mr. Lewis, aye; Mr. Hester, aye; Mr. Jordan, aye; Mr. Kilmartin, aye; Mr. Hinote, aye; Mr. White, aye; and Mrs. Lunsford (via phone), aye. Motion carried.

**LINING OF 8" SEWER MAIN:** \*\* Motion was made by Mr. Jordan to authorize the lining of the 8 inch sewer main on Applegate Street, with an estimated cost not to exceed \$11,350.00 from Pensacola Concrete Company, sole source; seconded by Mr. Hester. Roll call vote: Mrs. Jones, aye; Mr. Lewis, aye; Mr. Hester, aye; Mr. Jordan, aye; Mr. Kilmartin, aye; Mr. Hinote, aye; Mr. White, aye; and Mrs. Lunsford (via phone), aye. Motion carried.

\*\* As there was no further business to be addressed, motion was made by Mr. Hester to adjourn the meeting at 5:35 p.m.; seconded by Mr. Lewis. Roll call vote: Mrs. Jones, aye; Mr. Lewis, aye; Mr. Hester, aye; Mr. Jordan, aye; Mr. Kilmartin, aye; Mr. Hinote, aye; Mr. White, aye; and Mrs. Lunsford (via phone), aye. Motion carried.

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Guy Thompson, Mayor

ATTEST:

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Dewitt Nobles, City Clerk

/jbs