

Sponsor: Councilman DeFeo
First Reading: 08/03/15
Second Reading: waived
Third Reading: 08/03/15
Ord. No.: 012-15

AN ORDINANCE TO AMEND CHAPTER 70 (“UTILITIES”), ARTICLE III (“ELECTRIC DEPARTMENT RULES AND REGULATIONS”), DIVISION 1 (“GENERALLY”) TO CLARIFY APPOINTMENTS TO THE DELAWARE MUNICIPAL ELECTRIC CORPORATION (“DEMEC”) BOARD OF DIRECTORS

WHEREAS, the Town of Smyrna is a member of the Delaware Municipal Electric Company (“DEMEC”), a municipal electric company established pursuant to 22 Del. C. Chapter 13;

WHEREAS, the Town of Smyrna is authorized to appoint an individual to serve on the DEMEC Board of Directors pursuant to 22 Del. C. § 1304(3);

WHEREAS, Article V, section I of the DEMEC Agreement and Articles of Incorporation grant the Town authority to appoint an alternate director to serve in the absence of the director; and

WHEREAS, in the opinion of the Town Council of the Town of Smyrna, it is necessary to memorialize the appointment and removal procedures for the director and alternate director representing the Town of Smyrna on the DEMEC Board of Directors.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that the Town Code of the Town of Smyrna be and hereby is amended as follows:

Section 1. Amend Chapter 70 (“Utilities”), Article III (“Electric Department Rules and Regulations”), Division 1 (“Generally”) by making insertions as shown by underlining and deletions as shown by strike through as follows:

~~Sec. 70-157. —Reserved.~~ Delaware Municipal Electric Corporation (“DEMEC”) Board of Directors

- (a) Appointments. The Town Manager of the Town of Smyrna shall serve as the director representing the Town of Smyrna on the DEMEC Board of Directors. The Business Office Manager of the Town of Smyrna shall serve as an alternate director representing the Town of Smyrna on the DEMEC Board of Directors in the absence of the director and subject to the procedures outlined herein. In the absence of the director, the alternate director shall have full power and authority to act on the Town’s behalf.
- (b) Removal of Director. If the Town Manager is unable or unwilling to serve as a director on the DEMEC Board of Directors, or if in the opinion of a majority of the Town Council there is good cause for the Town Manager to be removed from her/his position as a director on the DEMEC Board of Directors, Council shall adopt a resolution confirming the Business Office Manager as the director representing the Town of Smyrna on the DEMEC Board of Directors. Council may also appoint a new alternate director if it deems it necessary to do so. Within seventy-two (72) hours of the approval of the resolution, Council shall confirm the new appointment(s) by sending written notification, including a signed copy of the resolution, to DEMEC. Anything herein to the contrary notwithstanding, no action by Council shall be required for the alternate director to act in the absence of a director who has not been removed from office.

(c) Reinstatement of Town Manager as Director. At any time after the Business Office Manager is appointed by Council as a director on the DEMEC Board of Directors, if the Town Manager is willing and able to serve as the director and a majority of the Town Council believes the best interest of the Town of Smyrna will be served by having the Town Manager serve as the director, the Town Council may adopt a resolution reinstating the Town Manager as the director representing the Town of Smyrna on the DEMEC Board of Directors, which resolution shall be forwarded to DEMEC within seventy-two (72) hours after its adoption.

(d) Notification. At the beginning of each calendar year, or as otherwise requested by DEMEC, the Town of Smyrna shall send DEMEC written notice confirming that the Town Manager is the director and the Business Office Manager is the alternate director representing the Town of Smyrna on the DEMEC Board of Directors. If, pursuant to the procedures outlined in this section, someone other than Town Manager is serving as director, and/or someone other than the Business Office Manager is serving as alternate director, the Town shall confirm who is serving as the director and alternate director, which written notification shall include a copy of the resolution whereby such appointments were made.

SYNOPSIS

This ordinance appoints the Town Manager as the Town's director on the DEMEC Board of Directors and appoints the Business Office Manager as the alternate director. This ordinance outlines procedures for removal of the Town Manager as director and the appointment of the Business Office Manager as the director, including the reinstatement of the Town Manager as director. This ordinance requires the Town to notify DEMEC of changes to the Town's director or alternate director and to confirm with DEMEC annually who is serving as the director and alternate director.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on _____, 2015.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in the "Smyrna/Clayton Sun Times" on _____, 2015 and posted at the Town Hall on _____, 2015.

So Certifies:

Town Clerk