

MILFORD CITY COUNCIL
MINUTES OF MEETING
August 13, 2012

— 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 13, 2012.

PRESIDING: Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr., Douglas Morrow, Sr., James Starling, Sr. and Katrina Wilson

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

City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Rogers called the Monthly Meeting to order at 7:04 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. Grier to approve the minutes of the June 25, 2012 Workshop, July 9, 2012, July 12, 2012, July 23, 2012 and August 2, 2012 Committee and Council Meetings as presented. Motion carried.

RECOGNITION

President Marvin Sharp/Carlisle Fire Company

President Sharp reported that on Thursday night, six local heroes will be honored by the Carlisle Fire Company for their courageous acts on June 20th when they together saved two residents from their burning home.

He also noted that the fire company's statistics are available on line by accessing carlisle42.com. Mr. Sharp expects approximately 3,600 dispatches this year due to the growth and population in Milford over the past few years.

Because of the increase, a second ambulance crew has been added Monday through Friday from 7:00 a.m. to 5:00 p.m.

He concluded by stating the fire company is experiencing some growing pains and may need some future help though discussions are in the infant stage.

MONTHLY POLICE REPORT

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

— CITY MANAGER REPORT

Mr. Carmean presented the following report:

ADMINISTRATION

We are continuing to work with JUWI Solar Inc. to finalize our Interconnection Agreement with their company. This project has been stalled for various reasons, but we hope to see all parties come to an understanding in the near future. This project will possibly save us some energy transmission costs if completed. Regardless, sustainable energy is more or less a mandate so having it available is necessary.

I met with the owners of the Watergate Development located on Marshall Street to discuss the fact they are ready to move ahead with Phase I of the project. There were numerous infrastructure questions that I had answered which protect the integrity of city streets and utilities. We were able to settle any concerns I had on behalf of the City, and I am happy to say we should experience some activity in the near future.

I attended an announcement ceremony at the Bay Health Hospital on August 2nd. We received great news for our community and surrounding area. The hospital publicly stated they are going to build a new hospital at their present location at a predicted cost of \$200 million. This should put an end to rumors and concerns that there is a chance of losing that institution. However, I believe that it is Bay Health's intention to build this facility.

The Washington Street Bridge rebuild is set to begin in the second week of September. The date of start-up was in early August, but at the request of the Chamber of Commerce and Downtown Milford, I requested DELDOT hold up for one month. The construction would have made the Fall River Festival much less of a success than it is usually. I think DELDOT deserves credit for this consideration, since the festival is enjoyed by so many. Another positive aspect of the project is that we will have a downtown parking lot repaved at no cost to the city.

The staging area for their equipment will be on the north side of the parking lot adjacent to Park Place and the Skating Center. That will allow the demolition of the Washington Street Water Plant to be completed sooner.

ELECTRIC

Talks continue with Delmarva Power regarding our need of right-of-ways and pole attachments from their company. There are many considerations that they must make in granting these requests because of setting precedents. There are routes other than the one requested from Delmarva, but these are more costly and more time would be needed to do the construction. We are still planning on a fall start date for the substation, and should be on-line by next spring.

I am pricing some work which I feel needs to be done at our public works facility. Our billing employees have been working out of the police dispatch center for a number of years on our nonpayment disconnect days. These hours are after our normal business hours, because we try to accommodate customers by taking payments and reconnecting their service until 8:00 p.m. The problem is that some customers become irate, and even abusive, mostly verbal, but there is the possibility of the abuse escalating. The cashier is at the police station for security purposes rather than business reasons. I think, for a reasonable amount of money, I can secure an area in our public works building that will provide security for the employees. This will improve the customer service, but most importantly it will stop the possible privacy violations that could happen having civilian employees in a police setting.

SEWER AND WATER

Work continues on South Walnut Street and Southwest Front Street. This work involves both sanitary and storm water repairs. During hurricane Irene the flow of storm water was at such a volume a joint on the piping failed allowing the pipe to drop onto the sewer line running below it causing that line to fail. We received a \$25,000 Grant from FEMA for the work, and while the traffic interruption is a nuisance, the work definitely had to be done.

The bids for the southeast water main were due last week, but due to some questions raised by the prospective bidders, they were postponed until August 16th. This main goes down Wilkins Road and across Route 1. We have been required by DELDOT to make our bore under Route 1 in two stages. They believe this will cause less interruption in traffic. There is a bit of cost increase in doing it in two stages, but it is within budget.

BILLING

In early spring, I divided the city into four quadrants for reading and billing purposes. In 1999, the city had 3,200 customers; today, we have almost 8,000. In 1999, we had one due date and one disconnect date. A lot of changes have occurred since that time. For example, because we utilize bulk mailing, we now have to transport our bills to the Dover Post Office. There are still a large number of customers who pay their bills in person, come in to discuss a problem or pay their bill on site after a disconnect. New services are handled at the office.

Anything that could have gone wrong with this process did. The last issue involved a longer than normal billing period (approximately 38 days) for one month. Therefore, the customers in cycle 1 had a much larger bill than normal during a very hot period.

I changed the once-a-month billing to four separate billings (one per week). In June, there were five weeks. As a result, they proceeded with meter reading and billing. That caused two bills to go out in one month even though it was a 28-day period. It also caused cycle 1 to get a 38-day billing period the following month. That was done in order to get back on the four-week cycles. Each of the four cycles has a different due date though each is on a Monday. On a holiday, the due date may fall on a Tuesday.

The next bill will be for 25 days which will put everything back in line.

In addition, the waiver of the late fees will remain until there are no further problems.

Comparatively, Milford is ranked five in rates. Our summer rates are higher than our winter rates.

COMMITTEE & COUNCIL REPORTS

Economic Development Committee Recommendation/Impact Fee & Property Tax Waiver

Chairman Grier reported there was a committee meeting last Thursday to discuss the impact fee waivers and tax exemption for new construction that expired on June 30th. Both had been in effect for just under the past two years. It was recommended that some additional conditions apply to the new impact fee waiver. On the residential side, the committee is proposing that up to 5 EDU's remain in effect though it will no longer apply to all construction in the city. Instead, the intent will be to rehab some of the older homes in a targeted area to be determined.

Mr. Carmean agreed there are areas in town that need attention and this would be a great incentive for potential purchasers. The intent of the committee was to focus on the historic and downtown areas of Milford.

Mr. Grier said he has firsthand knowledge that some contractors have taken advantage of this waiver which he feels is an economic development incentive.

He noted that on the commercial side, the concentration will be on jobs. With every 5 jobs created, one EDU will be waived (sewer, water and electric). It will max out at 5 EDU's when 25 plus jobs are created.

In addition, the one year tax exemption will remain in place.

Mr. Gleysteen stated he is pleased with the proposal and particularly likes the focus on homes that need to be rehabbed. The new construction market is somewhat flat at this point and the percentage these waivers will provide a building is minimal when compared to the cost of the house.

In addition, he likes the job creation incentives which is the goal of the committee.

Mr. Grier said he hopes to have an ordinance to present at the August 27th meeting.

The city manager asked who was going to delineate the targeted areas in the ordinance; Mr. Morrow advised that we will start with the targeted areas the city used previously in the Live Near Your Work Program. He believes it falls within a one-mile radius of the center of town.

Mr. Grier said his preference is to offer the waiver to any old buildings someone is willing to rehab. Mr. Carmean agreed it can be offered citywide.

Sign Code Ad-Hoc Committee/Recommendations/Amendments to Sign Ordinance

City Planner Gary Norris recalled the previous meeting when three recommendations were made. One was to allow the sandwich-board A-frame signs in the downtown areas to remain as long as there was 3½ feet of unobstructed walkway.

Another recommendation was to allow a flag sign, which are temporary and advertise a business, as long as it is ten feet off the public right of way. The third item is to only allow one large shopping center sign listing all stores in the center. All signs would have to be kept in good repair.

Mr. Grier recalled a recommendation to change the subdivision ordinance to require a sign package be submitted with a commercial site plan. He also noted that Chairman Rini handed him a document at the previous meeting where four sentences were crossed out that stated 'allowance shall be determined by the code official'.

Mr. Norris agreed that the committee felt the code official should continue making that decision; Mr. Grier explained that the document Mr. Rini gave him removed that option.

Mr. Norris offered to prepare a draft ordinance for council review. He will then present it to the planning commission for a public hearing and amendment to the zoning ordinance.

Mr. Grier directed Mr. Norris to proceed with the ordinance changes.

COMMUNICATIONS

All correspondence was included in packet.

UNFINISHED BUSINESS

Adoption/Ordinance 2011-28/Chapter 193-Solid Waste/Yard Debris

Mr. Carmean recalled this ordinance being discussed for several months. The city will provide new 95-gallon rollout containers which will be used solely for yard waste to any resident who requests one. Yard waste and recycling will be collected on alternating weeks.

Mr. Brooks expressed concern about pickups on holiday weeks.

Public Works Director Brad Dennehy advised that last year, collection was occurring a day in advance of the holiday. According to Mr. Dennehy, it was heavily advertised though a lot of people did not see it. Henceforth, they will continue to provide the additional services after a storm event. However, it will be for a limited time frame and not a month as was done after Hurricane Irene.

Mr. Dennehy said because of the hurricane in August, he was forced to use water department employees to assist his crews for more than a month in order to pickup all the debris that was put out. He feels many people were abusing the service and recommends that any debris that does not fit into this container, be transported to the transfer station here in Milford.

He informed council he is providing a three to four month transition period to ensure all customers are familiar with the new process. Once that period is over, it will be strictly adhered to.

Mr. Grier moved to adopt Ordinance 2011-28, seconded by Mr. Johnson:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, CHAPTER 193, THEREOF, ENTITLED SOLID WASTE, HEREBY AMENDS §193--1 DEFINITIONS AND ARTICLE I--COLLECTION AND DISPOSAL AND ARTICLE II--YARD WASTE.

Chapter 193-Solid Waste

Section 1. Chapter 193 is hereby amended by moving ‘Article I-Collection and Disposal’ below §193-1 as indicated.

~~Article I-Collection and Disposal~~

Section 2. §193-1, entitled Definitions, is hereby amended by deleting the terms as indicated and by adding a definition for Yard Waste.

§193-1. Definitions.

As used in this ~~article~~ *chapter*, the following terms shall have the meanings indicated:

~~EXTRA HEAVY — Collected four times per week.~~

~~HEAVY- Collected three times per week.~~

~~LIGHT- Collected two times per week.~~

~~1. Editor's Note: The definition of "medium," which immediately followed this definition, was repealed 10-11-2004 by Ord. No. 2004-10.~~

YARD WASTE-- The part of solid waste consisting of leaves, grass clippings, twigs, small branches (less than 4 feet in length), shrubbery, prunings and other garden material.

Article I-Collection and Disposal

Section 3. §193-2 is hereby amended by standardizing descriptions and reducing twice a week collection for Commercial Carts to one collection.

§193-2. Rate schedule.

Rates shall be as follows:

Code Number	Description	Monthly Rate
Residential Rates		
01	Single-family, [includes multiunits (12 and below)] weekly collection <i>single-family & multi-unit buildings with 12 units or less</i> <i>1 x per week collection</i> <i>bi-weekly recycling</i>	\$23.50
Commercial Rates		
CART	95-Gallon, 2/week <i>95-gallon</i> <i>1 x per week collection</i>	\$32.00

05	3-yard, 2/week, light 3-yard 2 x per week collection	\$80.00
06	Customer-owned, 3-yard, 3/week, heavy customer-owned 3-yard 3 x per week collection	\$192.00
07	3-yard, 3/week, medium 3-yard 3 x per week collection	\$134.00
08	City-owned, 3-yard, 3/week, heavy city-owned 3-yard 3 x per week collection	\$198.00
09	4-yard, 3 x week, extra heavy	\$454.00

Section 4. §193-3 is hereby amended by removing word “therefor” in §193-3C.

§193-3. - Bills and payment.

A. The City shall provide for the collection of solid waste to every residential property owner. Disposal of solid waste for other than residential customers shall be either by the City of Milford or by private commercial haulers who meet all requirements under Chapter 193.

B. The rates as established shall be an assessment and shall be billed to the resident of the property on a monthly basis. All bills for service are due and payable each month for normal and additional services performed. Monthly charges, if not paid by the due date, shall accrue interest at the rate of 1 1/2% per month until paid.

C. Bills are rendered for any indicated period of service, either special or monthly, and will show the proper charge ~~therefor~~ as determined by the applicable rate schedule. Bills shall be considered as duly rendered when delivered at or mailed to the recorded address of the customer, as provided by him for that purpose. Non-receipt of a bill shall not constitute a waiver thereof. The city, on request, will issue a duplicate bill to the customer.

D. The annual charge imposed under ordinance shall be a lien against the property served and shall be and remain a lien for 10 years from the date of assessment of such charge. Such lien shall have priority over any other lien, encumbrance or conveyance even though such other lien or liens may be of a date prior to the time of attaching of this lien. The City Manager shall have the same authorities, remedies and powers with respect to the collection of this charge as are provided for the collection of taxes.

E. Any customer, upon receipt of a bill, having reason to doubt its accuracy shall bring or mail the bill within five days to the City for investigation.

Section 5. §193-4 is hereby amended by striking language as indicated, repealing §193-4B, §193-4C, §193-4D, §193-4E and §193-4F, renumbering §193-4G to §193-4B and correcting minor grammatical errors.

§193-4. - Containers.

A. The City shall provide containers to any person occupying a residence. The resident must use these containers in lieu of personal containers. ~~All trash will be put in this container with only an occasional bag or two beside it.~~ Professional offices being served by the City shall also use City containers. ~~Multifamily~~ Multi-family dwellings will utilize city-approved dumpsters; refer to §193-5B Bulk Collection. If any container is lost or destroyed, another container shall be provided at cost to the customer.

~~B. Solid waste containers shall be watertight with a fitted cover and constructed of a solid and durable grade of metal or plastic material. Plastic bags may be used as solid waste containers, provided that they conform to the requirements of Subsection G of this section.~~

~~C. Underground containers are prohibited for use in the city.~~

~~D. All containers (except plastic bags) shall be provided with suitable lifting handles on the outside and a close-fitting or other approved cover equipped with a handle and shall not exceed 30 gallons.~~

~~E. Containers shall not contain any inside structures, such as bands or reinforcing angles, or anything within the container to prevent the free discharge of the contents. Containers that have deteriorated or that have become damaged to the extent that the covers will not fit securely or that have ragged or sharp edges capable of causing injury shall be condemned by the city, and if such containers are not replaced after notice to the owner or user, such containers will be removed by the city.~~

~~F. Plastic bags shall be constructed of a material and in a manner sufficiently adequate in strength and weight to keep contents from rupturing the bag. All plastic bags shall be secured at the top to prevent spillage.~~

G. B. Any residential customer regularly placing trash in excess of the limits provided for in §193-4A, as determined solely by the City, shall be provided an additional container and billed the residential rate for each container provided by the City.

Section 6. §193-5 is hereby amended by striking language as indicated, repealing §193-5A(5) and §193-5A(6) and correcting minor grammatical errors.

§193-5. - Collection procedure.

A. General.

(1) All collection of solid waste materials from residences, apartment houses and other approved establishments shall be by City public works crews or contractors hired or contracted by the City Manager.

(2) It shall be unlawful for any person to place any solid waste container within any public utility easement or public way except on designated collection days at the curblin. All containers shall be placed just behind the curblin of the street abutting such property but shall not be placed where the containers will interfere with vehicular or pedestrian traffic.

(3) Where solid waste is collected from the front or side street, containers shall be placed there no earlier than 3:00 p.m. of the day preceding the day of collection and not later than 7:00 a.m. on the scheduled day of collection and shall be removed to a point at the side or rear of the structure not later than 7:00 p.m. of the day of collection.

(4) No solid waste, trash, brush or any other material shall be placed in the street or on the sidewalk ~~in such a manner as to obstruct or interfere with vehicular or pedestrian traffic~~. No solid waste of any description shall be disposed of within the limits of the City in any manner other than that prescribed herein. Deposit of solid waste upon any land, alley, street, public place, vacant lot, watercourse, ditch or any other method of disposal not in accordance with this article shall be a violation as prescribed in § 193-8.

~~(5) Where the quantity of brush set out for collection is excessive, the City Manager shall determine the amount of brush to be collected at any one time, the day of collection and any other matters pertaining to brush collection. Rubbish or trash consisting of small, loose items shall be placed in approved containers. Brush or tree trimmings for pickup shall be cut in lengths not to exceed four feet.~~

~~(6) Bulk disposal of boxes or cartons must be broken down and bundled. No bundle shall exceed 50 pounds in weight.~~

B. Bulk collection. Owners of ~~multifamily~~ multi-family units desiring to utilize containers for bulk storage may do so, provided that the container and the placement of the container is approved by the City Manager or his designated representative. In no case shall the container be in excess of three cubic yards' capacity.

C. Items the City will not collect.

(1) The scope of the service rendered by the City in the collection and removal of solid waste materials is intended to serve the needs of dwelling units, professional offices and their directly related activities. It is considered to be beyond the scope of such service to collect or remove solid waste materials generated by clearing, construction, demolition and any other such activity producing quantities of solid waste.

(2) Rock, scrap building materials, appliances containing freon or other trash resulting from construction, remodeling or destruction by fire, the elements, acts of God or other causes resulting from a general cleanup of vacant or improved property or trees, brush and/or debris cleared from a property in preparation for construction or landscaping shall not be collected and removed by the City. ~~as a regular service~~. Such materials will be removed at the expense of the owner.

(3) Tires will not be collected by the city. Items too bulky or heavy to be removed during the regular City collection may, at the discretion of the City Manager, be removed by the City after special arrangements have been made by the owner.

(4) The placing of leaves in the streets of the City is prohibited.

D. Frequency and routes of collection. The City Manager shall divide the City into districts and shall schedule the collection of solid waste in these districts on the day or days and at the times that shall be most efficient and convenient. Adequate notice of the collection schedules shall be given to the residents of the times and schedules and any changes thereto.

(1) All special collections will be on Wednesdays:

(a) Bulk or large items, including appliances and furniture ~~and excessive amounts of brush~~, will be collected on Wednesdays.

(b) Customers are required to contact our Solid Waste Department to schedule a time for a Solid Waste employee to determine the cost of this service.

(c) Upon agreement, the special collection fee will be placed on the customer's monthly utility statement.

(2) Additional special collections may be announced.

Section 7. §193-6 is hereby amended by repealing §193-6A and §193-6B to be EFFECTIVE JUNE 30, 2013.

~~§193-6. - Commercial hauling of solid waste.~~

~~A. All vehicles used in the collection of solid waste shall have enclosed bodies or shall have bodies covered with a tarpaulin or canvas cover. All vehicles used for the collection of solid waste containing garbage or other putrescible matter shall have watertight metal bodies or metal-lined bodies of easily cleanable construction, shall be cleaned at sufficient frequency to prevent nuisance or insect breeding and shall be maintained in good repair. The name of the owner of the vehicle shall be displayed in a prominent and legible manner on both sides of all vehicles used in the collection and transportation of solid waste within the City of Milford. There will be no commercial vehicles allowed to collect on Sundays. Collection will be done Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m. only. Any special commercial pickups outside of these collection dates and times must be approved by the City Manager or his designee.~~

~~B. License and inspection of commercial vehicles. Each vehicle used by a commercial collector of solid waste shall be licensed annually by the City of Milford. Each company shall be responsible for a self inspection of its vehicles. The~~

~~inspection is to include seals and hoses. Upon receipt of the list of vehicles to be registered, the City will issue stickers to be displayed in a prominent and legible manner on both sides of all vehicles used in the collection and transportation of solid waste within the City of Milford. The annual fee to receive a sticker is \$150 for the first two vehicles and \$10 for each additional vehicle. All commercial vehicles must be in compliance with these inspection requirements by July 1 of each year.~~

Section 8. §193-7 of Chapter 193 is hereby renumbered to §193-6.

~~§193-7.~~ 193-6. - Supplemental regulations.

Section 9. §193-8 of Chapter 193 is hereby renumbered to §193-7 and amended by removing and updating obsolete language.

~~§193-8.~~ 193-7. - Violations and penalties.

A. Any person or any officer of any firm or corporation violating any of the provisions of this article shall, upon conviction thereof before a ~~District Magistrate~~ *Justice of the Peace*, be sentenced to pay a fine of not less than \$25 nor more than \$300, together with costs of prosecution.

B. Every violation of this article shall be deemed a separate offense for each and every day a violation shall continue and shall be subject to the penalty imposed by this section for each and every such separate offense.

Section 10. §193-8C is hereby deleted and repealed in its entirety **to be EFFECTIVE JUNE 30, 2013.**

~~C. For every vehicular offense after the first, and upon conviction thereof, in addition to any penalty, the collector's license shall be revoked for 30 days.~~

Article II-Yard Waste

Section 11. §193-9 of Chapter 193 is hereby renumbered to §193-8 and amended by deleting and adding thereto the following language:

~~§193-9.~~ 193-8. Unlawful Acts; Containment Required.

It shall be unlawful to deposit or place any leaves, grass trimmings, tree trimmings or other vegetative debris or matter into *any garbage container, recycling container, or* a City street or drainage gutter. Said materials shall be deposited in adequate containers ~~/receptacles or confined in such a manner as to prevent said material from being blown or washed into adjoining yard areas or streets~~ *except as allowed in §193-9.*

Section 12. §193-10 of Chapter 193 is hereby renumbered to §193-9 and amended by deleting and adding thereto the following language:

~~§193-10.~~ 193-9. - Containers. Leaves, grass clippings, tree trimmings, shrubbery or other garden and yard waste or matter for collection by the City shall *only* be placed in *an approved yard waste container provided by the City of Milford. Containers will only be provided to those residents who request one.* ~~adequate containers so as to confine said materials; except as allowed in § 193-11. The container shall not exceed 30 gallons in capacity.~~

Section 13. §193.11 of Chapter 193 is hereby renumbered §193-10.

~~§193-11.~~ 193-10. Loose Leaf Curbside Collection.

Section 14. §193-10, entitled Loose Leaf Curbside Collection is hereby deleted and repealed.

~~§ 193-10. - Loose leaf curbside collection.~~

~~1. Loose leaves may also be raked and placed behind the curb for removal by the City's leaf vacuum at no additional cost.~~

- ~~2. Leaves must be free of stones, branches, brush and grass clippings or they will not be collected in this manner.~~
~~3. It is illegal to place, sweep or blow leaves and other yard waste into the street, storm drains or catch basins.~~

Section 15. §193-10 of Chapter 193 is hereby amended by adding a new §193-10, entitled Collection Procedures, to read as follows:

§193-10. – *Collection Procedures.*

- A. *The City will provide for the collection of leaves, branches and tree trimmings from April 1 through October 31 of each year, provided that such refuse is deposited into the yard waste containers as provided for in §193-9. Disposal of leaves, branches and tree trimmings that will not fit into the container shall be the responsibility of the property owner.*
- B. *The City will provide for loose leaf curbside collection from November 1 through January 31 in accordance with the following conditions.*
 1. *Loose leaves shall be raked and placed behind the curb for removal by the City's leaf vacuum.*
 2. *Leaves must be free of stones, branches, brush and grass clippings or they will not be collected.*
 3. *It is illegal to place, sweep or blow leaves and other yard waste into the street, storm drains or catch basins.*

Section 16. A new §193-11 is hereby added, entitled Collection Schedule, to read as follows:

§193-11. – *Collection Schedule.*

- A. *The City will collect yard waste as described in §193-11A once every other week.*
- B. *The loose leaf curbside collection as described in §193-11B will be collected once each week.*
- C. *The City Manager shall divide the City into districts and shall schedule the collection of yard waste in these districts on the day or days and at the times that shall be most efficient and convenient to the City. Adequate notice of the collection schedules shall be given to the residents of the times and schedules and any changes thereto.*

Section 17. §193-12 of Chapter 193 will remain the same.

193-12. Violations and penalties.

Section 18. Dates.

Adoption: 08-13-12

Effective: 08-23-12 (unless other wise stated—see below)

Effective: Section 7 and Section 10 of this ordinance shall become effective 06-30-13.

All other Sections effective 08-23-12.

When questioned about the June 30, 2013 effective dates for Sections 193-6 and 193-7, the city clerk explained that though the intent was to remove those requirements, it was later determined that a few commercial collection companies have paid their fees through that date. Therefore, those two sections will remain in the ordinance at this time.

Motion carried.

Approval/FY 2012-2013 Budget Adjustment/Economic Development Director Salary Adjustment

Mr. Carmean explained the \$5,000 transfer request is a result of what was advertised and because Mr. Masten did not need any benefits. As a result, Mr. Masten requested his starting salary be increased \$5,000.

Mr. Pikus noted that was the salary agreed before Mr. Masten started; Mr. Grier clarified that it was advertised for \$55,000. Mr. Carmean recalled that the salary range would max out at \$65,000. This action is required because Mr. Carmean provided the finance director with an incorrect salary of \$60,000.

Mr. Gleysteen asked if this is in lieu of benefits; Mr. Carmean stated not really but initially it was agreed to start the position at \$65,000. At the time, he was confident the position could be appropriately filled at a lower salary.

Mr. Grier asked if Mr. Masten is receiving benefits; Mr. Carmean advised that he does not have our medical insurance because he receives insurance as part of his county retirement.

Mr. Carmean explained the second choice was an applicant from Pennsylvania who would have taken a year to become familiar with the area. Mr. Masten is very familiar with the contacts needed to get the job done which is a value that is impossible to place a dollar amount on.

Mr. Pikus moved to transfer another \$5,000 from the Wawa proceeds to increase the Economic Development Director's salary to \$65,000, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

Approval of FY2012-2013 Budget Transfer/Electric Reserves/Louise Miles Property Purchase

Mr. Carmean submitted a request to transfer \$240,176.11 from the electric reserve account to pay for the purchase of 207 South Walnut Street. This was previously approved by council though the funding needs to be authorized. Settlement is scheduled for Thursday and Ms. Miles will be leasing the property for an indefinite period of time.

Mr. Rutt anticipates some additional settlement costs that could total around \$1,500.

Mr. Carmean emphasized that another advantage of purchasing this home is to acquire the permanent easement deeded to Ms. Miles through the city parking lot which was authorized by our former city manager.

Mr. Grier moved for approval of the transfer of \$240,176.11 plus any additional settlement costs from the city's electric reserves, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

NEW BUSINESS

Introduction/Ordinance 2012-13/Water Code/Removal of Permitted Wells

The following ordinance was officially introduced, with adoption scheduled for the August 27th council meeting:

NOTICE IS HEREBY GIVEN the following ordinance is currently under review by the City Council of the City of Milford:

Whereas, the City of Milford operates a municipal utility company which provides water, sewer and electrical services to properties within the City of Milford and beyond; and

Whereas, water services are available to businesses and residences within the City of Milford; and

Whereas, it is necessary that these services be utilized and that for health and safety purposes, persons within the City of Milford not be allowed to build and maintain separate water wells for public, industrial or irrigation purposes; and

Whereas, wells will only be permitted for those specific uses described in the ordinance and only after a permit has been issued by the Delaware Department of Natural Resources and approval has been granted by the City of Milford.

NOW, THEREFORE, the City of Milford hereby ordains:

Section 1. §222-3 shall remain the same with the following definitions referenced in this ordinance.

§222-3. - Definitions

Section 2. §222-32 shall be amended by rescinding subparagraph §222-32B(6).

§ 222-32 - Wells.

A. Except as provided in this section, no person shall install, construct, develop, maintain, or use any type of well within the City limits and/or the area served by the City's water system.

B. Upon the issuance of a permit by the City, the following types of wells are allowed to be installed, constructed, developed, maintained and used within the City limits and/or the area served by the City's water system.

(1) Any well lawfully in existence at the time of enactment of this section, provided, however, the size of such wells shall not be expanded.

(2) Agricultural wells on properties of three or more acres (The intended use of agricultural wells in the City of Milford is for irrigation of open space, public grounds, school grounds, parks and recreational playing fields)

(3) Domestic wells when the property is not located within 200 feet of the City's water system.

(4) Heat pump wells are permitted for the conservation of natural resources and energy.

(5) Dewatering, observation, monitoring and test wells are permitted in accordance with State regulations.

(6) Public, industrial or irrigation wells are permitted upon approval of City Council.

Section 3. Dates.

Introduction: August 13, 2012

Adoption (Projected): August 27, 2012

Ordinance shall become effective at the expiration of ten days following adoption or at any later date specified therein.

Well Request/Haven Lake Animal Hospital/Canine Rehab & Conditional Center

The following request was received from DVM Chris Coon on July 30, 2012:

I would like to discuss the possibility of a private well at Haven Lake Animal Hospital PA (HLAH). The hospital is located at 300 Milford-Harrington Highway.

HLAH is planning a canine rehabilitation and conditioning center. This center would have an underwater treadmill and an endless pool. The treadmill would hold 400 gallons of water, while the pool will hold approximately 4,000 gallons. It is recommended the treadmill be drained and cleaned weekly to every two weeks depending on use. The pool should be drained and cleaned on a three to six-month cycle, again depending on use. Fecal contamination, a definite possibility, could increase these clean out intervals. The waste water from the center could be used to irrigate the large open area behind HLAH.

Doctor Coon was present and advised the Primary Center for Education and Canine Rehabilitation at the University of Tennessee reportedly runs three underwater 400-gallon treadmills. They are completely drained and cleaned on a weekly basis. In addition, the pool is drained on a three to six-month cycle depending on use.

He explained the reason for the request to install a well is to reduce the utility costs. In addition, the pumps, filters and heaters will add significantly to the electric bill. If they had their own well, it would eliminate the additional water use on the utility bill.

Doctor Coon explained they own a large field (25,000 square feet) with a retention pond behind the animal hospital which could be used for drainage and irrigation of the area. That would prevent adding the extra water from the well into the sewer.

Mr. Pikus asked if the drainage would create a problem with DNREC; Doctor Coon advised that DNREC is requiring city approval before the well is installed. However, drainage has not yet been addressed.

Mr. Grier recommended installing a separate meter for this project which would eliminate any sewer and sewer treatment fees. He explained the city's concern is once we start allowing private wells be installed, everyone will want to do this and it will be difficult to monitor.

Mr. Gleysteen asked if the average residential daily usage is 250 gallons; Mr. Carmean said that is likely the average. Mr. Gleysteen does not feel this volume is large enough to justify its own well. He agrees with Mr. Grier and asked that Doctor Coon consider a separate meter whereby they would only be charged for water usage.

Mr. Carmean explained that the city's water rates are not the expensive component. It is the added cost of the sewer treatment fees which an irrigation meter excludes. Mr. Grier stated he can attest to that as a carwash owner because his water goes back through the sewer.

Doctor Coon confirmed that under this scenario, he would only be charged water rates even though he is using the sewer. Mr. Gleysteen explained it would have to be piped to a drain field. Mr. Pikus noted we have a number of residents using a separate meter for irrigation or swimming pools.

The city manager stated that Mr. Pikus is correct that DNREC may argue there are contaminants in the pool so Doctor Coon should check with them first.

He then noted there are two private wells being requested this evening. He emphasized the concern of how easy it is to install a well for irrigation that potentially could end up being tied into a house and sewer which must then be treated without being paid for. The purpose of public utilities is to protect that from occurring.

He told Doctor Coon he is not implying that is the intention of either applicant before council tonight. But it has been done in the past which is why wells are restricted in city limits. That is why they allow a separate meter in these cases so the property owner is only charged the water fee.

When reviewing the numbers, Mr. Carmean anticipates using less water for the treadmill than he uses for his own pool during the summer. However, he pays the sewer charge because he does not have a separate meter. He reiterated that prohibiting private wells has been the policy in the city for years.

Mr. Pikus emphasized the second meter would result in a substantial savings. Putting it through the main meter would be costly. Mr. Grier said there would need to be some guarantee the water is going out to the storm pond and not back into the city system.

Doctor Coon said he will proceed by asking DNREC for permission to direct his stormwater into his holding pond. Council agreed.

Doctor Coon pointed out this will only be the third facility in Delaware to provide this service; the other two are in Wilmington so it is very important to this area. Mayor Rogers agreed it would be a tremendous benefit to our community.

Mr. Pikus moved to deny the private well request for Haven Lake Animal Hospital, seconded by Mr. Gleysteen.

Mr. Gleysteen stated he votes to deny the request though he recommends Dr. Coon consider installing a separate water-only meter.

Motion carried by unanimous roll call vote.

Well Request/Irrigation Well/19592 Drummond Drive/Fork Landing

Council agreed that this request should be denied for the same reasons as were previously discussed. Mr. Carmean asked that council vote on the matter to affirm the action.

Mr. Pikus moved to deny the request for a private well at 19592 Drummond Drive, seconded by Mr. Gleysteen. Motion carried by unanimous roll call vote.

It was also recommended that the applicant install a second water-only meter whereby the property owner will see an overall savings no sewer fees will be charged.

Public Works' Radio System Upgrade

Public Works Director Brad Dennehy advised that all the public works vehicles and equipment contain a two-way radio in addition to the parks and recreation and billing departments. He said it is also the manner in which the police dispatchers contact his personnel if needed.

Mr. Dennehy stated that his personnel are unable to talk on the cell phones in their vehicles since the law prohibits that even though police officers are excluded from the law.

The following memo from Mr. Dennehy was included in the council packet:

As you know the day to day operations of the City Departments hinges on communication, a vital aspect of that communication is our two-way radio system. Not only is this system used by the Electric, Water and Sewer, Streets, Solid Waste and Metering Departments, it is also used by Parks and Recreation, the Garage, and Billing Departments. Also it is used by the Police Department to contact those departments during outages, water breaks, downed limbs on the streets, etc. The radio system is the "key" competent for daily communication between all of these departments, and becomes the lifeblood during any kind of storm event.

However, we have a pressing concern in needing to convert the current City's two-way radio system. The Federal Communications Commission (FCC) is mandating that all radio license holders convert from the current 25 kHz radio system to a narrowband system of 12.5 kHz by January 1st 2013. The purpose of the narrowband mandate is to promote more efficient use of the VHF and UHF frequency bands. This is something different from the Police and Fire 800 MHz system, but it will affect all Public Works departments, and all other City departments who utilize the radio system.

Basically the frequency we use at the moment after January 1st will no longer be available. When we are talking about "converting" we are in essence talking about having to go to a new frequency, and replace all the radios in the trucks, portable radios, and base stations, as they will no longer be compatible. We will also have to replace the current antennae at the Public Works.

Over the last year Rick Carmean and I have had several meetings with different vendors, to discuss what the best options for the City are. This has included visits to other towns and facilities to see how they are proposing to meet the requirements, what sort of equipment they are using, and what the best way is to implement the conversion ("narrowbanding"). During the course of last year we brought down a representative who explained three different options to all department heads, including the former City Manager and Finance Director. Since that time Rick and I have had further meetings this year and we have reduced those options to the most cost effective option.

However, it is still a sizeable investment for the City. Replacing the antennae and upgrading all of the mobile, portable and base station radios will cost in the neighborhood of \$240k. It is a sizeable investment for the City. However, the radio system is a life blood for the Public Works personnel, not just on a daily occurrence, but particularly in times of emergencies (snow storms, nor'easters, etc.) when cell phone coverage at times is unreliable.

The new radio system will have improved functions and I will include a list of those upgrades, but highlights include; being digital which allows for clearer communication, emergency buttons built into them to warn if a worker becomes injured, built in GPS to allow tracking of vehicles, and the capability to give the Police Department their own encrypted channel in case their radio system ever failed.

At this time with your approval, a Request for Proposal (RFP) needs to be drafted and put out, so we can solicit bids to upgrade the system. As I have stated previously the FCC requirement or "narrowbanding" needs to occur before January 1st of 2013, if we do not meet this deadline the City will be in violation and risk both our license being revoked, and possible fines, as well as not having a radio system for communication.

Mr. Dennehy said the only alternative is to eliminate our radio system if it is not upgraded. They have reviewed different features and held several meetings last year with his departmental superintendents.

All radios will need to be changed out from the trucks, in addition to the handheld portable units. A new tower will also need to be installed at the public works yard because we are changing from an analog to digital system. Besides clearer

communications and safety features, digital radios provide higher security. Even though the police department is on 800 megahertz, he can provide them with portable radios should their system could go down.

Mr. Dennehy stated an RFP needs to be prepared so the project can go out for bids. Because it is a sizable amount of money and was not budgeted, it will need to be paid out of reserves. He anticipates the cost of this project being approximately \$240,000.

Mr. Gleysteen referenced Mr. Dennehy's statement that the police department could piggyback off the public works system. He asked if the police radio system could be expanded and the public works department could use some of their equipment. Mr. Dennehy explained the police are on the 800-megahertz system which is the Cadillac version. However, they did consider that at one stage and felt this would be the easiest path to take. He pointed out the cost of that is even higher than what he is proposing this evening.

Chief Hudson advised the police department uses a statewide restricted 800-megahertz digital trunked radio system which provides statewide communication for state, county and municipal police agencies.

Mr. Dennehy said he is not familiar with the technology involved and offered to bring a Motorola representative to answer any technical questions for council.

Mr. Gleysteen asked if there is anything that can be done to reduce the costs and if it is possible to share the police department's tower. Mr. Dennehy said there is one tower at the police department that is currently used by public works though it is insufficient. There is another tower at public works tied into the SCADA system. There is a lot of interference which creates unnecessary alarms during odd hours. Therefore, he is recommending a stand-alone tower away from the police department that will be much taller than the one that currently exists.

Mr. Pikus confirmed this will be publicly bid.

Mr. Dennehy advised there are only a couple radio vendors in Delaware and he expects companies from throughout the United States to bid on the project. The response time for maintenance will need to be a priority of the RFP. He favors Motorola because they are American made, reliable and have a three-year warranty. They also met with a vendor from New Jersey who presented a Chinese-made radio which was \$100 cheaper though his preference is Motorola.

When asked how many radios are needed, the public works director advised that fifty radios should equip their vehicles and equipment. Presently, they have only 14 hand-held radios.

The city manager noted that Mr. Baird had Mr. Dennehy working on this before he returned as city manager. He advised the choice is to have no radios because we will lose our license if we do not upgrade. Mr. Dennehy agreed noting that December 31, 2012 is the deadline and if there is no upgrade, the FCC will pull Milford's license and fine the city.

Mr. Dennehy said he wanted this accomplished a year ago. It was his understanding the previous city manager was going to bring the matter to city council though he never did.

Mr. Brooks expressed concern this is being presented at the last minute and agreed it should have been addressed a year ago. Mr. Dennehy said he has been beating the stick for a while to get the matter before council and it is finally on tonight's agenda. He said if we use a local vendor, we can get the radio update quickly though getting the tower up and on line may take some time.

Mr. Carmean said that we need to find the money to pay for this, but in the meantime, Mr. Dennehy can begin the bidding process.

Mr. Pikus said if it needs to go before the finance committee, he will call a meeting.

Mr. Gleysteen noted that because this is a federal mandate, is there any federal money available to assist with the upgrade; Mr. Dennehy said none that he is aware of. He informed council there is a lease-to-own program through Motorola which

may be the best option. Unfortunately, he has not found any federal funds. Because they are a public works department, they do not have the funding that is made available to public safety. He has been asking if there is some way they can be a saddle up to the police department to get money though that is not a reality.

Mr. Dennehy said he will discuss the programs available through Motorola with Finance Director Jeff Portmann.

He added that a lot of other towns, along with the City of Dover are currently going through the same process. Those towns have all put this off because of the costs involved.

Mr. Carmean and Chief Hudson noted that the police department went through the same process when their radios had to be upgraded to 800 megahertz. It was verified there are no grants available to law enforcement during that process either.

Due to the approaching deadline, Mayor Rogers directed the Finance Committee to address the matter and include Mr. Brooks in any decisions.

Mr. Dennehy asked that a vote be taken so that he can proceed with the RFP. Council agreed Mr. Dennehy should proceed with the proposals, but it should then be forwarded to the finance committee.

Mr. Johnson asked when the proposal will be ready; Mr. Dennehy said he has been working on it and it should be ready within a week to ten days.

Approval of BillTrust Billing Service Agreement

Mr. Carmean recalled this bill outsourcing company has been before council on several occasions. He recalled discussing this company with the other members at a DEMEC meeting. Before he could address it here, Lewes and Middletown were under contract with them.

He explained the process involves our meter readings to be downloaded and then provided to BillTrust. In addition, the city will be able to provide much more information on the customer bills. Customer service will remain local and through our staff at the public works building.

Mr. Pikus pointed out that this will eliminate a lot of paper storage. Mr. Carmean agreed noting that currently we have to purchase envelopes, bills and other related supplies. This will free up a lot of the space at public works after this transition.

Mr. Pikus moved for approval of the BillTrust Service Agreement as an overall savings to the city, seconded by Mr. Johnson.

Mr. Gleysteen asked the current cost of each mailed bill. Mr. Carmean advised there is the cost of the paper, envelope, return envelope, 41 cents postage, printing costs and the cost of an employee stuffing and preparing the bills as well as transportation costs and time of the meter reader transporting the bills to the Dover Post Office. He estimates the labor is around 60 cents.

Mr. Gleysteen said it appears as though the BillTrust cost is about the same, though that does not take into consideration man hours or gasoline costs. Mr. Carmean admitted there is very little savings other than staff time and reduction of storage issues.

Motion carried with no one opposed.

Request for Tax Exemption Status/Meadows at Shawnee HOA Open Areas

Mr. Carmean advised that members of the Meadows at Shawnee HOA Board were present. They are requesting a property tax exemption due to their tax-exempt, nonprofit status.

Dan Marabello of 1 Windy Drive explained that a precedent was set by Knotts Landing HOA because of a code in the state tax code. They became tax exempt after paying property taxes the first couple years. His understanding is that state law says if the property is tax exempt in the county, the city should follow suit.

Mr. Marabello reiterated a precedent was set and it would not be fair if one HOA is exempt and the others are not. He said they are already paying taxes indirectly because the HOA pays to maintain the retention ponds through a fee charged their residents. Therefore, he feels they are taxing themselves.

When asked if their HOA is a 501(c)(3), Mr. Marabello stated yes.

City Solicitor Rutt explained that an HOA can be a not-for-profit but cannot have a 501(c)(3) status. That is only established for charitable purposes.

Mr. Rutt then questioned the Newark address on the bill and asked if the HOA is still under the control of the developer; Mr. Marabello stated no.

Mr. Rutt also noted that the tax bill was mailed with the other bills and referenced the exemption application date. He noted that the law, or ordinance, requires any appeals be filed within a specific time frame. Mr. Marabello advised they have only received one tax bill which was paid.

It was confirmed the HOA is responsible for maintaining the ponds. An erosion and settlement problem occurred last year which cost the HOA \$3,400 to fix.

The solicitor asked that they provide proof of their county exemption and not-for-profit status. In addition, a letter needs to be obtained from the county confirming these two parcels are tax exempt.

Mr. Johnson asked that all HOA's be treated in the same manner.

Mr. Marabello said he is willing to get the letter but said there has already been a precedent set and he does not understand the reasoning.

Mr. Rutt directed Mr. Marabello to contact the tax assessor's office and obtain something that proves they are tax exempt. Knotts Landing is in Kent County and may be handled in a different manner.

Scott Angelucci of Downtown Milford stated he is the current Chairman of the Delaware State Charitable Gaming Board. He confirmed that the solicitor is correct and 501(c)(3) is for charitable organizations. He said that people often apply for licenses for charitable events under a 501(c)(7) which is a not-for-profit though they are not a charitable organization.

Mr. Rutt emphasized that the city currently has no proof of any tax exemption status. He added that by being a nonprofit does not automatically make an organization a 501(c)(3).

Mr. Gleysteen moved that this matter be postponed until the August 27th meeting at which time the appropriate paperwork can be submitted by the HOA, seconded by Mr. Pikus. Motion carried with no one opposed.

Mr. Carmean confirmed that Mr. Marabello must check with the county and bring the appropriate documentation to the city.

The city manager will follow up with the remainder of the HOA's to determine their tax status.

Appointment/DEMEC Board Member and Alternate Member

Mr. Pikus moved to appoint City Manager Carmean as Milford's DEMEC Board Member and Electric Superintendent Rick Carmean as his alternate. Motion seconded by Mr. Grier and carried by unanimous roll call vote.

Adoption/Resolution 2012-10/Annexation Committee/City of Milford Parcel/Electric Substation

The city manager recalled the city purchasing this property for the electric substation/connection point last August. When the planning staff began the annexation process, it was determined the parcel was not in our growth area which required the comprehensive plan be amended. As a result, the annexation process was postponed until the comp plan was corrected. The comp plan has since been completed and we are awaiting final approval from the state.

Ms. Wilson moved to adopt the following resolution, seconded by Mr. Pikus:

*Annexation/Lands belonging to the City of Milford
Tax Parcel 1-30-6.00-094.00 P/O (Former)
Tax Parcel 1-30-6.00-099.02 (Revised-Current)
3.23 +/- Acres (entire Parcel is 4.23 +/- Acres
Current Zone AR-1/Proposed Zone C-3*

COMMITTEE DIRECTED TO INVESTIGATE ANNEXATION

Whereas, a Petition, signed by the legal property owner and duly witnessed, requesting annexation into the City of Milford, land situated west of US Route 113, south of the Delaware Solid Waste Authority Transfer Station, approximately 1.38 miles south of the Cypress Hall entrance, Sussex County, legally described as follows:

*RE: Tax Map 1-30-6.00-94.00 P/O**

All that certain lot, piece and parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, and the State of Delaware, as depicted on a plat titled Property Conveyances to The City of Milford by Bob Nash Associates, dated 29 July 2011, as recorded at the Sussex County Recorder of Deeds in plot book 161 page 54, lying west of but not adjacent to the westerly right-of-way line of U.S. Route 113, adjoining lands now or formerly of Bruce N. and Susan P. Geyer and Joan L. Palmer, lands now or formerly of Preston L. and Betty A. Nailor, residual lands of Calhoun Farms, L.P., lands now or formerly of the Delaware Solid Waste Authority, and being more particularly described as follows, to wit:

Beginning at a found capped rebar at a common corner for lands now or formerly of the Delaware Solid Waste Authority (DSWA) and lands now or formerly of Bruce N. and Susan P. Geyer and Joan L. Palmer, said point being distant 0.85 miles from the centerline of County Road 207; and following the common line between said DSWA lands and Geyer/Palmer lands North 84 degrees 40 minutes 57 seconds West 297.99 feet to the said rebar at a corner for said Geyer/Palmer lands and the point of beginning, thence following said Geyer/Palmer lands, South 42 degrees 57 minutes 23 seconds East 85.77 feet to a set capped rebar at a corner for lands now or formerly of Preston L. and Betty A. Nailor, thence following said Nailor lands, South 03 degrees 18 minutes 53 seconds East 29.42 feet to a set capped rebar at a point on line of said Nailor lands, thence leaving said Nailor lands and proceeding through said Calhoun lands with newly established lines the following three (3) courses and distances:

- 1) North 49 degrees 33 minutes 34 seconds West 214.02 feet to a set capped rebar,*
- 2) North 84 degrees 41 minutes 09 seconds West 608.14 feet to a set capped rebar and*
- 3) North 05 degrees 18 minutes 38 seconds East 406.86 feet to a found capped rebar at a corner for lands now or formerly of DSWA*

Thence following said DSWA lands the following two (2) courses and distances:

- 1. South 53 degrees 15 minutes 16 seconds East 808.47 feet to a found capped rebar and finally,*
- 2. South 42 degrees 57 minutes 23 seconds East 33.41 feet to the place of beginning, containing 3.230 acres of land, more or less,*

has been submitted to the City Council of the City of Milford.

Now, Therefore, a Committee, composed of three (3) elected members of City Council and one (1) member of the Planning Commission has been appointed by the Mayor to investigate the possibility of annexing said property, said Committee to be comprised of Chair Katrina Wilson, Douglas Morrow, S. Allen Pikus and Planning Commission Chairman Charles Rini.

Be It Further Resolved, that said Committee shall submit a written report containing its findings and conclusions, including the advantages and disadvantages of the proposed annexation both to the City and to the property proposed to be annexed and said report shall further contain the committees' recommendations whether or not to proceed with the proposed annexation and the reasons therefor.

*Tax Parcel changed to 1-30-6.00-099.02 (by Sussex County)

Motion carried.

The annexation committee meeting was scheduled for Monday, August 20th at 5:30 p.m.

Introduction of Ordinance 2012-15/Change of Zone/City of Milford Parcel

Relative to the above annexation, City Manager Carmen presented the following ordinance for introduction:

CITY OF MILFORD

Ordinance 2012-15

Annexation and Zoning/Lands the City of Milford

NOTICE IS HEREBY GIVEN the following ordinance is under consideration by the Planning Commission and City Council:

Annexation/Lands belonging to the City of Milford

Tax Parcel 1-30-6.00-094.00 P/O (Former)

Tax Parcel 1-30-6.00-099.02 (Revised-Current)

3.23 +/- Acres (entire Parcel is 4.23 +/- Acres

Current Zone AR-1/Proposed Zone C-3

An Ordinance to Amend the Zoning Designation of the parcel of land, under the legal ownership of the City of Milford, Tax Parcel 1-30-6.00-94.00 (P/O), situated west of US Route 113, south of the Delaware Solid Waste Authority Transfer Station, approximately 1.38 miles south of the Cypress Hall entrance, Sussex County, upon its annexation into the City of Milford, by resolution as adopted by the City Council of Milford, Delaware.*

WHEREAS, the land hereinafter described is contiguous and adjacent to the City of Milford and the owner, thereof, has petitioned City Council to annex the same into the City of Milford, and

WHEREAS, it appears to the Mayor and City Council of the City of Milford, Delaware, that the hereinafter described property will be annexed and become part of the City of Milford and that a zoning classification is required, and

WHEREAS, the land owned by the City of Milford is presently zoned by Sussex County as "AR-1" (Agricultural Residential District), and

WHEREAS, the City Council referred the zoning of the affected territory to the Planning and Zoning Commission for a report and recommendation and after a due hearing on August 23, 2012 as provided by law, the Zoning Commission made its recommendation to City Council, and

WHEREAS, following a Public Hearing held on August 27, 2012 and consideration of the recommendation of the City Annexation Committee, City Council has determined the proper classification under the zoning ordinance of the City of Milford for the property to be annexed.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

That the following described land situated in Sussex County, Delaware:

All that certain lot, piece and parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, and the State of Delaware, as depicted on a plat titled Property Conveyances to The City of Milford by Bob Nash Associates, dated 29 July 2011, as recorded at the Sussex County Recorder of Deeds in plot book 161 page 54, lying west of but not adjacent to the westerly right-of-way line of U.S. Route 113, adjoining lands now or formerly of Bruce N. and Susan P. Geyer and Joan L. Palmer, lands now or formerly of Preston L. and Betty A. Nailor, residual lands of Calhoun Farms, L.P., lands now or formerly of the Delaware Solid Waste Authority, and being more particularly described as follows, to wit:

Beginning at a found capped rebar at a common corner for lands now or formerly of the Delaware Solid Waste Authority (DSWA) and lands now or formerly of Bruce N. and Susan P. Geyer and Joan L. Palmer, said point being distant 0.85 miles from the centerline of County Road 207; and following the common line between said DSWA lands and Geyer/Palmer lands North 84 degrees 40 minutes 57 seconds West 297.99 feet to the said rebar at a corner for said Geyer/Palmer lands and the point of beginning, thence following said Geyer/Palmer lands, South 42 degrees 57 minutes 23 seconds East 85.77 feet to a set capped rebar at a corner for lands now or formerly of Preston L. and Betty A. Nailor, thence following said Nailor lands, South 03 degrees 18 minutes 53 seconds East 29.42 feet to a set capped rebar at a point on line of said Nailor lands, thence leaving said Nailor lands and proceeding through said Calhoun lands with newly established lines the following three (3) courses and distances:

- 1) North 49 degrees 33 minutes 34 seconds West 214.02 feet to a set capped rebar,*
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Thence following said DSWA lands the following two (2) courses and distances:

- 1. South 53 degrees 15 minutes 16 seconds East 808.47 feet to a found capped rebar and finally,*
- 2. South 42 degrees 57 minutes 23 seconds East 33.41 feet to the place of beginning,*

containing 3.230 acres of land, more or less,

upon final approval of its annexation into the City of Milford, as classified under the Zoning Ordinance of the City of Milford, shall be zoned henceforth as C-3 (Highway Commercial District).

**Parcel Number Changed to 1-30-6.00-099.02 by Sussex County*

Dates:

Introduction: August 13, 2012

Planning Commission Review: August 23, 2012

Council Adoption Date: August 27, 2012

Effective Date: Contingent Upon Acceptance of Comprehensive Plan Amendment and Plan of Services (State Planning)

Waiver of Annexation Agreement Requirement

City Clerk Hudson advised that the city's annexation process requires that each petitioner enter into an annexation agreement with the city. Because the applicant is the City of Milford, no agreement is needed.

Mr. Grier moved to approve the annexation agreement waiver for the proposed City of Milford (applicant) annexation, seconded by Mr. Pikus. Motion carried with no one opposed.

Scott Angelucci /Sign Proposal

Mr. Angelucci of 204 Lakeview Avenue stated that when he started his business downtown he did not expect to be an advocate for economic development. But working with DMI and getting training from the National Trust has given him that ability.

He informed council these signs are related to economic development for downtown. He learned that the best way to recruit businesses is through business retention. A lot of the downtown businesses rely on visitors to our community. Through his business, he determined that Milford has been the absent community on the state radar. He stated that the purpose of the signage is to put them in front of the people traveling through the area and to represent the community as far as promoting those businesses.

Mr. Angelucci referenced the bid he put together for the signage package. He emphasized this is part of economic development by making it known Milford has a downtown that is developing and growing.

The sign will be placed on Route 1 at the north overpass. The overall size is 34.5 feet long and 10 feet tall. It was based on guidelines for visibility. He said it is in scale with a billboard though the billboard portion will be removed making only the branding and designation visible.

He advised the cost of one of the large signs is \$13,650. The letters are guaranteed for life against fading, cracking and breaking. This will be a one-time investment based on the company information which will provide a long-term return.

The other portion comes from the framework which will hold the sign.

Mr. Angelucci explained that both proposals came from local vendors. The second vendor, William Steele Welding, is for the support structure which includes the cost of a crane needed for the installation. The total cost for the framework is \$5,382.99.

Additional expenses not included are electricity, plantings and maintenance.

Mr. Angelucci explained by purchasing more than one sign, there is a 10% discount of the overall price. The second sign is planned for the south side of Milford.

He recommends this being put into the works this year because it is an election year and there are a number of things occurring which should provide some support from the State of Delaware. The signs reinforce the fact that Milford is taking action to make this a visible community.

After Mr. Pikus confirmed the plan is to purchase two signs, he verified Mr. Angelucci was familiar with the city's bid policy that requires any project over \$30,000 to be publicly bid. Mr. Angelucci stated yes he is familiar with process noting that two signs total more than \$34,000.

Mr. Gleysteen asked the difference between flat-face and prismatic-face; Mr. Angelucci said the prismatic-face catches more light and looks more professional. The flat-face is more for a building.

It was confirmed the signs would be in city limits.

Mr. Carmean recommends using the Wawa funds set aside for economic development.

Mr. Gleysteen asked if DMI will be contributing toward this project. Mr. Angelucci explained that he wrote a recent grant for the banners while working with Lisa Fitzgerald from the USDA. He said that earlier this year, she had asked about the city match though initially, there was no discussion of that match because the city was providing the funding for the Downtown Milford Director. Then she informed him there was an audit and a match was needed from the city on the signage.

He explained that DMI submitted and received a grant for \$20,000 for the banners. As a result, he does not think there is funding available for this project.

Mr. Angelucci advised the sign will be positioned on the overpass rise on the southbound lane north of the city. He explained the attraction signs will be located just north of this site. The attractions include the Mispillion Art League, Riverwalk and Milford Museum. The next thing drivers will see is the branding at the overpass site.

Mr. Pikus asked if this is a billboard considering the size; Mr. Angelucci said that it is about the same size as a billboard but this will be on a steel framework. Mr. Pikus asked if it will be lit; Mr. Angelucci stated yes noting he does not think this is a billboard because it is not about a business and instead about a community. Council had concerns about that interpretation.

Mr. Angelucci said it will be easy to argue why this is not the type billboard someone does not want. Mr. Johnson responded that is because it supports the downtown businesses. Mr. Angelucci said it is community-wide. He said people are only opposed to billboards that advertise their business or whatever they are selling. He feels that anyone that complains about a billboard that supports the downtown does not live here. This is a community billboard that will bring people into the city.

He further explained the design is created to make the backboard invisible. It is not a billboard because you will only see the letters that read river town, art town and hometown in addition to the attractive plantings and lighting across the front.

Ms. Wilson asked if this will promote just downtown; Mr. Angelucci stated no because it promotes the entire city.

Mr. Pikus moved to put this matter into the hands of the Economic Development Committee, seconded by Mr. Johnson.

Mr. Carmean confirmed that this will require DelDOT approval and will have to go before the planning commission.

Mr. Gleysteen stated that because of the substantial costs involved, what other financial requests can council expect from Downtown Milford. Mr. Angelucci said it is a matter of what comes first. He there are a number of projects in the works and he is working on a specific project himself. It is difficult to move those projects forward until there is a way to advertise the community.

He feels Milford needs to be recognized as a destination. Currently, there is nothing that promotes it. This will be the first step. Once that is done, there are a lot more things that will need to be addressed. He stressed the intent is to recognize Milford as a community with something going on and to bring interest and tourism dollars to our downtown area.

Mr. Angelucci said there are other projects underway including the aquarium and amphitheater projects. He is working on an interactive art center that will bring people to Milford. The National Trust taught him that the heart of the community is downtown and the gateways are the arteries that bring the lifeblood. It is important to mark the gateways so people know how to get downtown and to provide the information about Downtown Milford.

Mr. Gleysteen asked how much is estimated for landscaping; Mr. Angelucci said he has not pulled those numbers yet. If necessary, it can always be done through phases over a few years to minimize their costs. The main thing is to get the structure and lighting in place.

It was confirmed the traffic service signs recently installed on Route 1 are the efforts of Bryan Shupe of Milford Live and Kevin Reading, Abbotts Grill Owner.

Mr. Shupe was present and informed council that Mr. Reading came to him and asked how to get those signs on Route 1. It took a year but there are now signs on both the southbound and northbound lanes of Route 1. The intent is to attract customers from Coastal Highway to those businesses. There is room for additional businesses who wish to advertise on the sign as well. The cost is \$1,200 per sign (per direction).

Motion carried.

The following request, dated June 25, 2012 was presented for council consideration:

The Kent Economic Partnership Inc., is the official economic development organization that has been promoting Kent County as a location for business and industry for 30 years. Previous names for the Partnership included the "Forward Central Delaware Committee", and more recently the "Central Delaware Economic Development Council" (CDEDC).

The Kent Economic Partnership continues to promote Kent County as a desirable place to do business. Our mission is to support and encourage business retention and business expansion while seeking to attract new business. In order to do that effectively we rely on private sector contributions like yours. Please note that all contributions continue to be fully tax deductible. Checks should be made out to "Kent Economic Partnership" and mailed to our office.

Mr. Grier moved to deny the request for financial support, considering we have our own Economic Development Director, seconded by Mr. Pikus. Motion carried by unanimous roll call vote.

Agreement of Sale/Sunolar Land Purchase/Amendment 1

City Solicitor Rutt advised the Contract of Purchase and Sale on the Fordmill Property for Sunolar required settlement by Friday. This amendment allows a thirty-day extension in order to work out the final details on the interconnection agreement and related issues.

Mr. Pikus moved to extend the contract for an additional thirty days and authorize Mayor Rogers to sign the extension, seconded by Ms. Wilson. Motion carried.

MONTHLY FINANCE REPORT

Chairman Pikus reported that through the twelfth month of Fiscal Year 2011-2012 with 100% of the fiscal year having passed, 96% of revenues have been received and 92% of the operating budget expended.

He noted that our cash balance accounts are lower. Electric revenues were down by 4% but expenses were also down. The budget worked out close to what was expected for the fiscal year.

Mr. Grier moved to accept the June 2012 Finance Report, seconded by Mr. Gleysteen. Motion carried.

EXECUTIVE SESSION

Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation-Consideration of Condemnation of Easement for Public

Mr. Grier moved to go into Executive Session reference discussions on a personnel matter and legal matter, seconded by Mr. Pikus. Motion carried.

Mayor Rogers recessed the Council Meeting at 9:17 p.m. for the purpose of an Executive Session as is permitted by Delaware's Freedom of Information Act.

Return to Open Session

City Council returned to Open Session at 9:39 p.m.

Executive Session Matter

Mr. Grier made motion to place on the August 27th agenda an item to negotiate the purchase and/or condemnation of an existing sewer easement for additional public utility easements on property that is currently owned by Key Properties. The purpose would be to serve other portions of southeast Milford with public utilities. Motion seconded by Ms. Wilson.

Motion carried by unanimous roll call vote.

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ADJOURN

With no further business, Mr. Pikus moved to adjourn the Council Meeting, seconded by Mr. Grier. Motion carried.

The Council Meeting adjourned at 9:42 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is written in a cursive, flowing style.

Terri K. Hudson, MMC
City Clerk/Recorder