

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 13, 2011

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, June 13, 2011

PRESIDING: Mayor Joseph Ronnie Rogers

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

City Manager David Baird, 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 7:03 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF MINUTES

Motion made by Mr. Brooks, seconded by Mr. Pikus to approve the minutes of the May 4, 5, 9, 18, and 23, 2011 Meetings as presented. Motion carried.

RECOGNITION

No special guests to be recognized.

POLICE REPORT

Police Committee Chairman Morrow presented the monthly report on behalf of Chief Hudson. With no questions or comments, he moved to accept the report, seconded by Ms. Wilson. Motion carried.

CITY MANAGER REPORT

Mr. Baird read the following report into record:

Solid Waste & Recycling

In 2010, SB234 was signed into law and part of the legislation establishes diversion rates of 50% by January 1, 2015 for Municipal Solid Waste being disposed of at the landfill. The tables below compare the City's diversion rate by month with the same period of the previous year as well as year to date and annual totals.

| | Solid Waste | Curbside Recycling | Igloo Recycling | Yard Waste | Total | Diversion Rate |
|------------|-------------|--------------------|-----------------|------------|--------|----------------|
| April 2010 | 468.90 | 43.02 | 39.55 | 0 | 551.47 | 15.0% |
| April 2011 | 336.36 | 46.80 | 39.52 | 44.58 | 467.26 | 28.0% |

| | Solid Waste | Curbside Recycling | Igloo Recycling | Yard Waste | Total | Diversion Rate |
|-----------|-------------|--------------------|-----------------|------------|---------|----------------|
| 2009 | 4,684.38 | 442.44 | 545.68 | - | 5672.50 | 17.4% |
| 2010 | 4,630.47 | 450.12 | 505.82 | 37.49 | 5632.39 | 17.6% |
| 2011(YTD) | 1,278.29 | 161.77 | 161.63 | 92.59 | 2065.03 | 20.14% |

Impact Fee Waivers

Since the waiver of impact fees was implemented in June 2010, the City has waived \$184,874 in fees. This waiver has allowed property owners in Milford to retain this money and has helped to support a total investment of \$10,809,507 (based on building permit values) during the months of June 2010 through May 2011.

City Bond Issue

On June 1, the City held a sale of the 2011 Series A Bonds totaling \$9,000,000 for our electric and sewer projects. The blended rate of interest on the new bond issue was 3.722% and on the rate discussed at the May 23 council meeting it was 4.2%. This resulted in an interest savings over the life of the bond issue of \$535,111 from what was presented on May 23rd. The 2011 Series B Bonds are scheduled to be sold on Thursday, June 16.

Washington Street Water Plant & Billing Office

The City is moving forward with preparations for this project and has engaged DBF to begin the preliminary planning on the project. City Staff is working the engineers to finalize the scope of the project and to conduct interviews with our billing staff regarding space requirements for a billing office. A more detailed discussion will be held with the Public Works Committee later this month.

I&I Project

As discussed at your last meeting, the revised I&I project is now out to bid and the bid opening is scheduled for Friday, June 17th at City Hall.

Electric Utility Rate Comparison

Residential Rate @ 1,000 kWh

| | | | |
|-----------------|----------|-----|------|
| Del Co-Op | \$121.31 | 0% | -22% |
| Lewes | \$139.15 | 15% | -10% |
| Dover | \$145.88 | 20% | -6% |
| New Castle | \$152.13 | 25% | -2% |
| Middletown | \$154.74 | 28% | 0% |
| Milford | \$155.27 | 28% | 0% |
| Delmarva Power* | \$155.28 | 28% | 0% |
| Smyrna | \$158.48 | 31% | 2% |
| Clayton | \$162.70 | 34% | 5% |
| Newark | \$163.98 | 35% | 6% |
| Seaford | \$164.45 | 36% | 6% |

The city manager advised that Milford has slipped down to fifth among the municipals though this normally occurs during the summer. Conversations will follow up with Electric Consultant Jay Kumar to review all rate classes and consider the economic development needs of the city.

COMMITTEE REPORTS

Economic Development

Economic Development Chairman Grier referenced the letter sent out by Chair Sher Valenzuela as well as two related items.

He then requested council members review and make any comments on the business survey found on page ten of the council packet. Approval of the Business Survey is scheduled at the June 27th meeting of council. The intent is to do a mass mailing to businesses identified through the city's commercial accounts.

Mr. Grier recalled the initial survey was an eight-page document which has been condensed to a more appealing two-page document with questions that can be answered quickly and easily. His recommendation is to approve the survey with the intent it be mailed as soon as possible thereafter.

He noted the second item is the part-time Economic Development Director position currently filled by Richard Carmean. He reported the proposed FY 2011-12 budget includes funding for that position to become full-time effective July 1, 2011. The finance committee has also recommended Mr. Carmean's term be extended to December 31, 2011.

Mayor Rogers said he is very pleased with the work being accomplished by the Economic Development Advisory Panel and believes making this position a full-time position will allow Mr. Carmean to devote more time in assisting the panel with their goals.

Mr. Pikus moved to accept Mr. Grier's report, seconded by Mr. Morrow. Motion carried.

Public Works Committee

A meeting is scheduled for June 28th though it is still being confirmed by the city manager.

COMMUNICATIONS

None to report.

UNFINISHED BUSINESS

Introduction of Ordinance 2011-5/Zoning Code/Outdoor Woodburning Furnaces

Mr. Grier advised that he and Mr. Johnson have received a number of calls from Ward I residents. He reported that the resident who has the furnace wants to keep it; the surrounding neighbors have all expressed concerns about the associated smoke problems.

He said if he was in that position, he would be opposed to it as well. He prefers the furnaces be banned immediately for health and safety reasons. The way it is currently written, they must be removed by the property owners by April 30, 2012.

Mr. Baird agreed there have been discussions about making the deadline earlier adding the date can be changed at the time of introduction. The consensus of city council was that outdoor furnaces are banned as of August 31, 2011.

The ordinance was officially introduced with the following amendment:

Section 5.

Amends Article VIII, Miscellaneous Provisions, §230-41, Accessory Uses, by adding a new paragraph (D) regulating Outdoor Woodburning Furnaces, to read as follows:

D. Outdoor Woodburning Furnaces

(1) Prohibited

(A) The construction and operation of outdoor woodburning furnaces is hereby prohibited within the City of Milford.

(2) Nonconforming Uses

(A) All woodburning furnaces operating within the City of Milford must be removed by the property owner from the subject premise no later than ~~April 30, 2012~~ AUGUST 31, 2011.

Mayor Rogers noted the date for public comment will be June 27, 2011 at 7:00 p.m.

Introduction of Ordinance 2011-6/Zoning Code/Recreational Vehicles

Mr. Baird reported the ordinance clears up the definition for recreational vehicles, provides a definition for vehicle height and length and adds a section about the manner in which they are parked and stored.

Mr. Pikus asked if it addresses large recreational vehicles which has been the problem since the ordinance was first discussed. Mr. Baird answered by reading the following section:

Boat, trailer, bus and van parking. In any residential district, no house trailer, camper, boat trailer, bus or boat shall be parked in the front yard. Parking is allowed in the side or rear yards five feet from the property line if it does not take up space normally occupied by an automobile.

The city manager said the language is not as restrictive as originally proposed and this provides a clearer interpretation.

Mr. Pikus referenced a couple of large, expensive recreational vehicles parked appropriately in adjacent, large lots. He asked if they would be in violation. Mr. Baird verified they are allowed.

The ordinance was official introduced with a new public hearing scheduled on June 27th.

NEW BUSINESS

Approval of Bid/Diesel Generator/Water Department

The invitation to bid was properly advertised with sealed bids for a backup generator for the sewer pump station at the Wendy's Pump Station received and opened in the Council Chamber of Milford City Hall on June 7, 2011.

The following bids were received:

| | |
|------------------------------|----------|
| Roy's Electric Service | \$41,800 |
| Tudor Electric | \$30,675 |
| Zober Contracting | \$32,340 |
| Cahill Electric | \$28,800 |
| First State Electric Company | \$28,495 |

City Engineer Mark Mallamo reviewed the bids and recommends approval of the low bid from First State Electric Company in the amount of \$28,495. The budget has sufficient funding for its purchase.

Mr. Brooks moved to award the bid to First State Electric Company in the amount of \$28,495, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

Water Tower Maintenance Proposal/City Engineer Mark Mallamo

Mr. Mallamo advised that he is presenting an annual contract with terms to renewal annually for up to ten years for long term water tower maintenance on all three water towers. It includes repainting, washouts and exterior pressure washing.

He confirmed the request for proposals for long term maintenance on the city's water towers was duly advertised. Six companies attended a pre-proposal meeting with proposals received from Corrosion Control Corporation, Southern

Corrosion Incorporated and Utility Service Company, Incorporated. After a complete review of the proposals, it was determined the original proposal from Southern Corrosion would best serve the long term needs of the city. The Southern Corrosion proposal provides painting the exterior and dry interior of the Tenth Street water tower in the first year and the exterior again in year eight. They will also paint the Washington Street tower exterior in year two and again in year nine. The LD Caulk tower exterior will be painted in years three and ten. The interior wet zones will be painted as follows:

Tenth Street-Year Four
Washington Street-Year Five
LD Caulk-Year Six

Mr. Mallamo reported that inspections and minor repairs are scheduled every year and the contract includes interior washouts and exterior pressure washing at appropriate intervals. This proposal provides a fixed annual fee of \$52,647.00 for the ten-year term with no inflation clause.

The city engineer noted that by the end of the term of the contract, all three towers will be painted and some will be painted twice. Interiors will be painted at least once.

He confirmed the fourth tower planned in the southeast Milford area is not included and will need to be addressed as an add on. However, any service will fall under the warranty period for a minimum of one year and in his opinion, that tower would not need to be added for several years. Because it is new, the costs would be minimal at the time of the add-on.

The city engineer also noted that Southern Corrosion and Corrosion Control (Corrosion Control) were one company several years ago.

Mr. Pikus confirmed that Southern Corrosion has their own insurance in case there are any problems including overspray. When asked about containing the paint on site, Mr. Mallamo explained they did not specify anything in particular and this is not a full containment job because there is no sandblasting of the tower. They were going to use a dry fall paint which dries before it hits the ground and typically within a ten to twenty foot fall. It is formulated to dry to a chalky powder before they hit the ground.

He also explained that generally a paint sprayer is not used; it will be rolled and handpainted as much as possible to eliminate the overspray problem. However, dry fall paint actually dries best when it is sprayed because the particles are very small. A larger drop can be created by a roller and will most likely not dry when it gets to the ground.

The city engineer noted that another advantage of using this company is they have their own painters and do not subcontract that work out.

Mr. Mallamo confirmed that the Tenth Street tower will be washed and painted this year. The new logo will also be added at no additional cost. Pressure washing will occur throughout the contract term as well.

He noted the problems on the interior need to be addressed as well. He explained that the interior platforms in the dry zones are corroded and were not repainted ten years ago when the outside tower was done. What will be painted will be above the water line and within reach of the ladder to prevent the tank from being taken out of service. To completely paint the interior, the tank would have to be drained and currently, the city does not have enough storage capacity to do that.

To reach the areas not specified in the agreement, it would be necessary to take down the water and put up some scaffolding or rigging to reach the outer areas. There will be zones that are not 100% covered though the worst problems were in the detail areas such as the welded ladder rungs and top hatch area.

Mr. Mallamo explained that into the manway and wet zone of the tank, there are some welding issues around the ring of the hatchway that will need to be addressed, in addition to the ladder itself. Those issues will be touched up in the wet zone; the dry zone will be painted up to the bowl of the tower.

The city engineer advised that moisture condenses inside the tank as well as outside and hits the platforms with the ladders. That needs to be protected before the problem gets worse and the platforms need to be replaced.

Mr. Mallamo commented that this company is very reputable and currently has 300 towers along the east coast. He has been in touch with many of the Southern Corrosion clients and in doing so, received great comments and feedback.

He noted that a color selection can also be chosen by the city. Mayor Rogers asked how much it would cost to have a Buccaneer painted on the tower which Milford High School had requested that some time ago. Mr. Mallamo explained the current contract only includes the new Milford logo.

Mr. Mallamo concluded by stating it will most likely be painted in the fall due to the more favorable weather conditions.

Mr. Brooks moved for approval of the ten-year contract to Southern Corrosion, seconded by Mr. Pikus.

Mr. Rutt then stated that the contract has a termination provision in paragraph seven which states it can be terminated and canceled by Southern Corrosion if the owner is in default; he recommends a similar provision should Southern Corrosion be in default.

Motion was amended by Mr. Brooks to include the termination provision be added on behalf of the city, seconded by Mr. Morrow. Motion carried.

Motion to approve the award of a 10-year contract with Southern Corrosion, Incorporated in the amount of \$52,647 per year subject to an amendment to include a termination clause whereby the city has the right to terminate the contract for default made by Mr. Brooks, seconded by Mr. Pikus. Motion carried by unanimous roll call vote.

Adoption of Resolution 2011-8/Hearthstone Manor/Acceptance of Public Improvements (Phase I, Phase II & Clearview Drive)

City Engineer Mallamo advised that this dedication is different than previous dedications because it goes slightly outside the phased boundaries. Though Phase I and Phase II are delineated, roads, water and sewer systems run through the lines to connect to the rest of the system. In this case, Clearview Drive has been built out though it is not part of either phase. The street is 90% paved and must be completed before the balance (unpaved area) is accepted. Public utilities are also a part of this dedication and the electric, water and sewer systems included, all have the necessary approvals and are currently in operation.

Mr. Mallamo stated that he and Public Works Director Brad Dennehy had several meetings with the developer to determine the limits of streets and utilities that would be dedicated for the mutual benefit of the city, the residents of Hearthstone Manor and the developer as many of the homes are already occupied.

The city will accept the water and sewer systems, from the point where these lines enter the subdivision lands up to the water meters or sewer cleanouts serving the individual lots or multi-family units. The dedication includes all easements and rights of way necessary for access to these systems. However, the maintenance of the ground surface in these easements remains the responsibility of the developer, adjacent land owner or condominium association of homeowners' association as may apply.

The city engineer referenced the ongoing drainage complaints and in particular, Wilkins Road continues to flood after heavy rain. Because it is a state-maintained road, the drainage is also state maintained though it is inadequate. They have met with DeIDOT to discuss the problem on several occasions though there has been no solution. During the review of the Route 30 overpass, it was again requested that additional drainage be extended to this area. Unfortunately, they still have been unable to satisfactorily address the water problems occurring at the main entrance of Hearthstone.

He confirmed the city will take over snow management in the public streets; the condominium areas and parking lots are private and will continue to be maintained by private contractors. This has been reviewed and approved by Street Superintendent Tim Webb.

The wooden street limit signs currently in place show a 15 mile an hour (MPH) speed limit. Once the streets are accepted, the city will enforce a 25 MPH speed limit. Though the current signs do not meet other state sign standards, they will not need to be replaced initially and any maintenance is required by the developer. Should a sign need to be replaced, it will be replaced with a state-issued sign.

Chief Hudson then explained that the speed limit set forth in Delaware Code states that all residential speed limits will be 25 MPH. If there is cause for the speed limit to be lowered, that must be determined by a traffic engineer/study.

Mr. Mallamo said that he and Mr. Dennehy agreed to leave the decorative speed limit signs in place even though it is not enforceable. In that manner, some drivers may obey the 15 MPH though they cannot be arrested unless they are traveling over 25 MPH. However, council has the right to change those signs and install the state-issued signs.

When asked if Key Properties would be willing to later install 25 MPH signs, Dave Hitchens of Key Property Group was present and stated that from a personal standpoint, he would think state law would take precedence when moving forward.

Chief Hudson emphasized that the municipality has the right to request a traffic study be performed to determine if 25 MPH is too fast.

Economic Development Director and Former City Manager/Police Chief Richard Carmean recalled a similar situation on New Wharf Road when the city tried to lower the speed limit. It was determined that a municipality has the right to set a speed limit higher but not lower. The reasoning behind that is to prevent establishing speed traps.

Mr. Grier asked if the Hearthstone residents were aware of the changes being proposed. He felt that initially, all the residents would favor what is being considered particularly when considering the costs of private snow removal. However, he has received some comments and questions over the last few days. He prefers meeting with the residents to discuss some of the concerns and postpone action until the next meeting.

Michael Spillane of 20 Clearview Drive agreed with Mr. Grier adding that a lot of the residents do not understand what is being dedicated. He prefers having a meeting so that everyone will understand what is being impacted and explain exactly what is being taken over by the city and if it involves streets, the swales or anything else.

Mr. Brooks is concerned about the 15 MPH signs though the speed limit is higher.

Joe Palermo of 5 Misty Vale Court, Meadows at Shawnee, stated that once Hearthstone is turned over and the city becomes the landlord, they should change all the signs though they can still have a traffic study done. He believes that no more than fifteen signs are needed.

Mr. Grier moved to postpone action until June 27th and schedule a meeting with Hearthstone residents for next Wednesday, seconded by Mr. Pikus. Motion carried by unanimous roll call vote.

Mr. Brooks asked if DelDOT is able to do the traffic study within the next week; Mayor Rogers said he will work with the city manager to have it done as soon as possible.

Approval of RFP/Evaluation Services/2012 City of Milford Property Assessment

Mr. Baird said the city charter states that not less frequently than every ten years, there shall be made a general assessment of all the real properties within the city limits. He said we are coming up on that ten years.

He reported that City Tax Assessor John Darsney has been working on the Reassessment Project. An RFP was issued with proposals requested from various firms to do this work on behalf of the city. Mr. Baird said that only one vendor responded to the proposal. Tyler Technologies, who completed our reassessment ten years ago and has worked with us since that time, was the sole bidder on the project. Tyler handled the reassessment in 2002 and has worked with us since that time as part of the maintenance efforts.

Tax Assessor John Darsney then confirmed that Tyler handled our 2002 assessment. The first thing he did was go back and review the costs at that time. In 2002, the city had 3,000 tax parcels which came out to approximately \$68 per parcel. That included a site inspection of every building and consideration of any improvements or add-ons as well as to look for any new properties discovered. They measure, look at the amenities inside and make a cost determination.

He said this proposal for 2012 came in at \$48.82 per parcel for \$5,700 parcels. He said by bringing Tyler back, no additional software needs to be purchased which is a savings of \$50,000 plus. The other cost saving is that Tyler's software communicates with our assessment software that produces bills and includes an update program. The tax billing software is run by Sungard HTE and to rewrite the program with another vendor would cost at least \$23,000 which Sungard quoted.

Mr. Darsney reported that only one bid proposal was submitted because Delaware does not have any mandatory requirements for the counties or municipalities. Therefore, there is no business for vendors in this state. According to Mr. Darsney, Tyler has a strong presence in the surrounding states and has done some assessment projects with other towns.

He said the program purchased in 2002 works flawlessly and their customer support has been phenomenal. Mr. Darsney informed council that he was requested to have a Delaware-licensed appraiser on staff should there be any appeals.

Mr. Darsney verified that the City of Dover just completed a reappraisal in 2009 and used this company.

The city manager noted the total cost of the project is \$261,200; there is also an additional \$2,300 fee for appeal assistance that could be offered at the local level as well as the state level should that be needed. There is a \$50 charge per parcel in excess of the count their proposal was based on.

Mr. Baird feels everything is in order and emphasized we are under a statutory requirement through our charter that a reassessment be completed every ten years. He said the city used a five-year payback of \$50,000 per year to pay for the 2002 appraisal. Mr. Portmann had recommended city council authorize payment of the reassessment out of the electric reserves. That would be then be reviewed by the finance committee to determine if and how a payback could be structured because it is a general fund item.

When asked if an ad was done, Mr. Darsney stated yes and he posted the RFP on the website. He said he then went with the IAAO (International Association of Assessing Officers) who distributes a publication with a section of vendors offering this service. He then sent out a broad e-mail to their e-mail addresses telling them the city is looking for a proposal.

Mr. Darsney further commented that Delaware is very unique noting that the last assessment in Sussex County was in 1974 and Kent County was in 1986. Therefore, there is no business in this state and vendors are not interested in establishing a presence by bringing a company here. In New Jersey, municipalities are mandated by state law.

When asked about individual towns, Mr. Darsney stated there are a handful of municipalities that run their own assessment. Most of the smaller towns use the county assessments though there is no equity because they were performed so long ago. Therefore, you shift the cost burden to the taxpayers. He said as an example, in Sussex County, if your home was built in 1974 and a neighbor builds an identical home in 2011, it will be assessed as though it were built in 1974. Though the neighbor has a more modern and higher quality building, both homes have the same tax value.

With Milford doing this in-house, he said we ensure everyone is paying their fair share of taxes.

Mr. Pikus is cautious because of the \$260,000 proposal and is surprised that no one else was interested in the project particularly considering the amount of money involved.

Mr. Baird said the alternative is to consider the county assessments and adopt those. That would be done at no cost other than getting the tax rolls from the county. The problem would be the differences in the two counties and the city would experience the same problem the school district has. Property owners in Sussex pay one rate and property owners in Kent pay a different rate. He added that if you do not deal with this on a regular basis, it is difficult for many people to understand.

Mr. Baird advised that the charter is very clear that a reassessment needs to be done. Mr. Pikus pointed out that we assess every year but need to reassess every ten years. Based on that, he agrees the funds will need to come from our electric reserves and the finance committee will follow up with the finance director and city manager to determine how the payback will be handled. He does not feel it is suitable to raise taxes nor can the burden be put on the general funds. Based on that, he prefers to see more proposals. Mr. Grier asked if the project can be rebid. Mr. Baird said that is an option but in conversations with these vendors, there is no interest in this type work in Delaware.

Mr. Gleysteen agrees it is exorbitantly expensive. He said the quote indicates their hourly rate to range from \$60 to \$257. Mr. Darsney said those quotes are based on appeals; there is an informal appeal process after the assessment is completed. Once that is done, there are four hearings on different dates and one has to be held on a weekend. At that time, he said we will explain how they arrived at this value. Things can then be adjusted if evidence is presented. Then they offer three days for formal appeals or if it goes before council. The higher rates are only charged for anything beyond that and in particular, if it goes in a court.

Mr. Gleysteen pointed out the contract states the \$60 per hour appraisers will have a minimum of forty hours worth of training. He believes the city could benefit by having their own trained appraiser and getting this done by a fraction of this cost.

Mr. Darsney said they have certified appraisers and field evaluators; the field evaluators receive forty hours of training and only do the measuring and fill in the property cards. The appraisers are on staff to ensure the accuracy of that information and will determine the value. He said they revise the cost factor tables inside the software based on current sales values, construction costs, etc. to get a true market value.

When computed, the information from the data collectors will be input and the appraisers verify the numbers.

Ms. Wilson asked Mr. Darsney if he is qualified to handle the duties of the data collectors; Mr. Darsney answered that he does that job and has been trained by CLT. He noted that every number they provide has to be reviewed by Mr. Darsney. However, one person would be unable to handle a complete reassessment of the city.

Mr. Pikus and Mayor Rogers recommended the city manager consider other options. Mr. Pikus then moved to postpone action on this matter at this time, seconded by Mr. Grier. Motion carried.

When asked about the timeline, Mr. Baird said the reassessment is required to be completed by the next tax year. He also cautioned it is an extremely lengthy process in addition to the notification and appeals process which needs to be completed for the 2012 tax year.

The tax assessor then said the contract allows for eight months to complete the reassessment. It took the City of Dover a year to complete their reassessment. He feels it needs to be started to complete the process in time.

In the meantime, Mr. Darsney will determine what other towns have paid for this process.

Mr. Baird plans to present the information at the June 27th meeting for a final decision.

Property Tax Exempt Status Reinstatement/Mr. Wiggles LLC (Former McColley Property)

A letter was received from Key Properties Group requesting the tax exempt status remain on this property as was approved last year. When the property was transferred in 2010, it was changed to a taxable status.

Key Property Representative Dave Hitchens was present and stated this was discovered by an audit after the property was purchased. The land continues to be farmed with corn being planted most recently.

Mr. Brooks asked the current policy; Mr. Baird stated that back in June of 2009, there were a number of properties in an exempt status. They were presented to city council; one was this property which was under the ownership of Lynn and Karen McColley at the time. It was given an exemption contingent upon the sale or transfer of ownership of the property. This property transferred ownership on August 10, 2010. The city received documentation in October at which time the property owner was informed it was subject to taxation according to the city policy adopted in 2009.

Mr. Darsney added that when the property was exempted, Mr. McColley stated the land was under the agricultural preservation district in the state. As a property owner, the McColleys could have renewed that but elected not to which changed the taxation status.

He said that Mr. McColley implied that the city had approached him to annex his land because the city had plans for adjacent properties. He agreed and was annexed. At that time, he was informed that the land would remain tax exempt.

Research determined the state has two programs that address exemptions on farmland. They are outlined in Title 9 and Title 3. The intent was to preserve farmland and to relieve the burden and pressure on a farmer from selling his land because of its increasing value. There is no mention of other buyers purchasing and holding the land even though the agricultural use continues.

He recommends that Mr. Wiggles LLC apply to these state agencies to continue that exemption; at that time, the city would apply the appropriate tax rate. Under Title 22, the city would have to follow those assessments.

It was confirmed the land was tax exempt at the time Mr. McColley owned the property under the land preservation act. Mr. Darsney added that it came out of the preservation district under the McColleys' ownership.

The land is currently assessed at \$502,600; the tax liability is \$2,311.96 per year. The tax assessor verified there has been no taxes received on the property.

Mr. Hitchens said it was their impression that any land whose use is farming is tax exempt and referenced similar properties. The city manager said those properties were exempted in June 2009 when city council made that decision. When the property was sold, the McColley exemption was no longer valid.

Mr. Morrow recommends the city solicitor review the policy and compare to similar parcels being farmed.

Mr. Baird said that whichever direction is selected, clarity is needed as was addressed in 2009. Additionally, he does not believe every property being used for agriculture should automatically be tax exempt.

Mr. Darsney said if we develop a written policy for agricultural land, any land already under the farmland assessment act or that is part of a farmland preservation district, will need to follow that guideline. Any policy should coincide with those state codes.

Mr. Pikus moved to postpone any action on this request, seconded by Mr. Grier. Motion carried with no one opposed.

Adoption of Resolution 2011-6/Tax Appeal Hearing Scheduled

Mr. Pikus moved for adoption of the following resolution, seconded by Mr. Brooks:

WHEREAS, the provisions of Article VII, Section 7.06 of the Charter of the City of Milford state that Council shall cause a copy of the General Assessment to be hung in two public places in the City of Milford and there to remain for the space of ten days for public information; and

WHEREAS, attached to said copies shall be notice of the day, hour and place that Council will sit as a Board of Revision and Appeal for said General Assessment.

NOW, THEREFORE, BE IT RESOLVED, that on Monday, the 25th day of July 2011 at 7:00 p.m., the City Council of the City of Milford will sit as a Board of Revision and Appeal for the 2011-2012 General Assessment.

s/Mayor Joseph Ronnie Rogers

Motion carried.

Adoption of Resolution 2011-7/Live Near Your Work Program

Mr. Baird advised this will set the maximum expenditure for the Live Near Your Work Program at \$5,000 for any fiscal year and in particular, Fiscal Year 2011-2012. Qualifying five properties is consistent with what the city has done in the past and the finance committee agreed to in their budget hearing.

Mr. Pikus moved for adoption of the following resolution, seconded by Mr. Morrow:

WHEREAS, the Council of the City of Milford believes it is important to increase the percentage of home ownership in the City as a means of helping to maintain and revitalize the City's neighborhoods; and

WHEREAS, on April 12, 2004, the Council of the City of Milford, Delaware originally adopted a resolution approving the development of a Live Near Your Work ("LNYW") Program within the City of Milford ("City") in cooperation with local employers and the Delaware State Housing Authority ("DSHA"); and

NOW, THEREFORE, BE IT RESOLVED, it is agreed by and between the parties hereto as follows:

The City Council hereby authorizes the City Manager to be the Administrator of the LNYW Program for the City of Milford.

The Administrator shall implement and administer the LNYW Program with care, skill and diligence in a manner that ensures fairness, impartiality and nondiscrimination with respect to all LNYW program applicants.

The City of Milford has designated LNYW targeted neighborhoods within the City of Milford.

The City of Milford authorizes the expenditure or other incentive(s) of \$1,000 per approved application for this program, subject to a maximum expenditure for the program, during the Fiscal Year of 2011-2012 of \$5,000, which will be appropriated in the City's FY 2011-2012 budget for this program.

The City of Milford will provide the local financial assistance to qualified applicant(s) at the time of settlement; and

The City of Milford will carry out these activities in accordance with the LNYW Program and all applicable Federal, State and local laws.

Motion carried.

Introduction of Ordinance 2011-16/Sewer/Chapter 185/Extends Impact Fee Exemption

Introducing Ordinance 2011-16, the city manager advised this ordinance extends the sewer impact fee waiver from June 30, 2011 to June 30, 2012 as has been discussed by city council in the past.

Mr. Brooks noted in the past, the extension was granted in increments of six months; it was confirmed that is correct.

Mr. Brooks then confirmed that the conditions currently in place will continue to apply; Mr. Baird stated yes.

Introduction of Ordinance 2011-17/Water/Chapter 222/Extends Impact Fee Exemption

Introducing Ordinance 2011-17, the city manager advised this ordinance extends the water impact fee waiver from June 30, 2011 to June 30, 2012 as has been discussed by city council in the past.

Introduction of Ordinance 2011-18/Electrical Standards/Chapter 192/Extends Impact Fee Exemption

Introducing Ordinance 2011-18, the city manager advised this ordinance extends the electrical impact fee waiver from June 30, 2011 to June 30, 2012 as has been discussed by city council in the past.

Introduction of Ordinance 2011-19/Taxation/Chapter 204/Extends Tax Waiver Extension on Improvements

Introducing Ordinance 2011-19, the city manager explained this ordinance extends the property tax waiver for one full year. He advised this is a tax abatement of up to \$1,000 for residential properties and up to \$5,000 for all other properties. The exemption only applies to improvements or additions made to a property.

Adoption of Resolution 2011-9/Approval of City of Milford FY2011-12 Budget/Capital Plan

Finance Chairman Pikus then presented a balanced budget for the fiscal year beginning July 1, 2011. He stated that on behalf of his finance committee, he is pleased to report there are no tax increases and no reserve funds will need to be used. He emphasized it is a tight budget and though some cuts were necessary, no positions were eliminated. In addition, some assistance was provided to a couple of organizations on a small level. He recommends approval of FY2011-12 budget as presented.

Mr. Pikus moved for approval of the following resolution, seconded by Mr. Gleysteen:

WHEREAS, the operating and capital budgets of the City of Milford for the Fiscal Year 2011-2012 were prepared and submitted to the City Council by the City Manager in accordance with Article VI-Financial Procedures of the City Charter; and

WHEREAS, the City Council was presented with the proposed budget after the Finance Committee made a comprehensive study and review during meetings on May 5, 2011 and June 6, 2011; and

WHEREAS, in the opinion of the City Council, the budget accurately, as possible, reflects the city's anticipated revenues and expenditures for the fiscal year beginning July 1, 2011 and ending June 30, 2012.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILFORD, that the City of Milford's Operating Budget for Departments shown under General Fund as Administration, Planning and Zoning, Code Enforcement and Inspections, Finance, Information Technology, Tax Assessment, Council, Police, Streets, Parks and Recreation and Engineering; and the Water Department, Sewer Department, Sanitation Department and Electric Department was adopted and approved as the budget of the City of Milford for Fiscal Year 2011-2012 in the following amounts:

Operations and Maintenance - \$39,026,490
Debt Service - \$2,173,585
Capital Program - \$1,371,810
Total Expenditures - \$42,571,885

AND BE IT FURTHER RESOLVED, that the City of Milford's Five Year Capital Plan was adopted and approved for Fiscal Year 2011-2012 in the following amount:

\$6,092,500

A copy of said budget is on file in the Office of the City Clerk as was passed and adopted by the Council of the City of Milford on the 13th day of June 2011 by a unanimous 8-0 vote.

Motion carried by unanimous roll call vote.

FY2011-2012 Police Department Budget Adjustment

Chief Hudson requested transfers in his current budget of \$1,840.00 from the Sale/Police Equipment and Vehicles (101-0000-342.10-92) to Vehicle/Garage Labor (101-1610-421.40-29) and \$2,482.23 from the Sale/Police Equipment and Vehicles (101-0000-342.10-92) to Fuel Oil and Diesel (101-1610-421.60-24).

Mr. Pikus moved for approval of the transfers, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

FY2011-2012 Finance Department Budget Adjustment

Due to receiving more than \$500,000 in federal funds as a result of the COPS Grant, the city was required to have a single audit done. The bill was for \$7,685 of which no funds were budgeted due to being an unknown. The finance director recommends the police sale of equipment unbudgeted funds be used to pay for the audit which will increase the overall police budget. The accounts involved are Auditing Expense 101-1610-421-30-30 and Sale of Property 101-0000-342-10-92.

It was noted the COPS Grant was the result of the technology grant in which Milford School District was the recipient. Since this request was prepared, the school has agreed to pay half of the audit expense. Therefore, the request is reduced to \$3,842.50 which will leave a balance of \$5,842 in the police sale of equipment fund.

Mr. Pikus moved to approve \$3,842.50 from the Sale of Property 101-0000-342-10-92 line item and transferred into the Auditing Expense line Item 101-1610-421-30-30, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

MONTHLY FINANCE REPORT

Chairman Pikus reported that through the tenth month of Fiscal Year 2010-2011 with 83% of the fiscal year having passed, 88.41% of revenues have been received and 79.09% of the operating budget expended. He added that 70% of our departments on the revenue side have exceeded their revenues projections.

Mr. Pikus moved to accept the April 2011 Financial Statement as presented, seconded by Ms. Wilson. Motion carried.

EXECUTIVE SESSION

Ms. Wilson moved to go into 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, seconded by Mr. Morrow. Motion carried.

Mayor Rogers recessed the Council Meeting at 9:01 p.m. to go into a closed session.

Return to Open Session

Council returned to open session at 9:29 p.m.

Executive Session Matter

Mayor Rogers announced that no action was necessary on the legal issues discussed in closed session.

ADJOURN

Motion to adjourn Monthly Meeting made by Mr. Pikus, seconded by Mr. Morrow. Motion carried.

Mayor Rogers adjourned the Monthly Council Meeting at 9:30 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Terri K. Hudson".

Terri K. Hudson, CMC
City Clerk/Recorder