

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
*July 25, 2011*

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, July 25, 2011.

PRESIDING: Honorable 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 David Baird, Police Chief Keith Hudson and City Clerk/Recorder  
Terri Hudson

City Solicitor David Rutt

CALL TO ORDER

Mayor Rogers called the City Council Meeting to order at 7:48 p.m.

INVOCATION AND PLEDGE

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

RECOGNITION

Ms. Wilson thanked those that sent cards, flowers, food and for the other acts of kindness and support during the recent death of her sister, Sonya.

COMMUNICATIONS

Chief Hudson reminded council of the police department's National Night Out on Tuesday, August 2<sup>nd</sup> from 6:00 p.m. to 8:00 p.m. at the Bicentennial Park.

UNFINISHED BUSINESS

*Adoption of Ordinance 2011-15/Amend 2008 Comprehensive Plan to Include Southeast Master Plan*

State Planning Director Connie Holland and AICP David Edgell were both present.

City Planner Norris recalled the public hearing held July 11<sup>th</sup> and the document presented at that hearing. Since that time, minor changes, including grammar and spelling corrections, were made by Circuit-Rider Planner David Edgell. The final document is included in the packet.

It is Mr. Norris' recommendation the ordinance be adopted to amend the City's Comprehensive Plan by adding the Southeast Master Plan.

Mr. Pikus noted the work done on this plan has been extensive over the past couple of years. He emphasized that this plan does not force any properties in the southeast Milford area to be annexed. The city's policy continues to require that any interested property owner must initiate that action by submitting a petition to annex. However, the document does reinforce Milford's vision of the future and provides a more prepared and detailed plan as we grow.

Mr. Pikus moved to adopt Ordinance 2011-15, seconded by Mr. Grier:

*Ordinance No. 2011-15*

*Amending the 2008 City of Milford Comprehensive Plan  
by adding the Southeast Master Plan*

*WHEREAS, Title 22, Section 702 of the Delaware Code, the Livable Delaware program of the Governor of the State of Delaware and House Bill 255 amending Title 9, Title 22 and Title 29 of the Delaware Code authorize Delaware municipalities to carefully prepare and adopt Comprehensive Land Use Plans to guide and regulate future growth and community development, and*

*WHEREAS, Delaware's Office of State Planning Coordination provides guidance to municipalities in order to effectuate the goal of having well-drawn and executed Comprehensive Plans for all Delaware counties and municipalities, including the provision that Comprehensive Plans be approved and certified by the Governor of Delaware upon their completion, and further requires that certified Comprehensive Plans be revised on a five-year cycle, and*

*WHEREAS, the City of Milford's Comprehensive Plan was last adopted in 2009, and requires revisions to account for physical changes and potential growth in the Southeast Planning Area which have occurred in both the built and natural environments of the community; and*

*WHEREAS, the City of Milford Planning Commission has prepared and approved, in consultation with the public, interested parties, and government agencies, a Southeast Master Plan for the City of Milford, which articulates an overall vision for the Southeast Planning neighborhood's future, including policies and action project recommendations for achieving that vision and has conducted a duly advertised public hearing for public review and comment on June 16, 2011, and at its meeting on June 21, 2011 did recommend approval and adoption of the Amended 2008 City of Milford Comprehensive Plan to include the Southeast Master Plan by Milford City Council.*

*WHEREAS, the Amended 2008 City of Milford Comprehensive Plan will be the foundation for planning and development in the Southeast Planning Area;*

*WHEREAS, the Mayor and City Council held a duly advertised public hearing on the Southeast Milford Master Plan on July 11, 2011, at which time the Amended 2008 City of Milford Comprehensive Plan was reviewed with the public.*

*NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS that the Amended 2008 City of Milford Comprehensive Plan is hereby adopted and made effective as the Comprehensive Plan for Milford on this 25<sup>th</sup> day of July 2011.*

*Dates:*

*Adoption Date: July 25, 2011*

*Effective Date: August 4, 2011*

Motion carried by unanimous roll call vote.

Ms. Wilson stated it makes her proud knowing the relationship the City of Milford has developed with state and county agencies and appreciates those agencies who were involved in the process and made this happen.

Mayor Rogers also thanked the city planner, planning commission and State Planning Director Holland and State Planner Edgell for the work and time they put into this document.

*URS Engineering Agreement*

Mr. Baird recalled this item being tabled at the last meeting because it had not been placed on the agenda. At that time, City Engineer Mark Mallamo did review the proposal to administer the I&I contracts at that time, recommended the agreement be approved.

Mr. Brooks moved for approval of the URS Engineering Contract in the amount of \$225,000 to be funded from the bond

proceeds of the sewer project, seconded by Mr. Gleysteen. Motion carried by unanimous roll call vote.

*Planning Commission Vacancy*

Mayor Rogers has some potential candidates though he has not yet received a commitment. The appointment will be placed on councils' next agenda.

*Planning Commission Reappointments/Replacements*

Mayor Rogers recommended reappointment of the following three planning commissioners, whose terms expire August 31, 2011:

Charles N. Rini	119 Ginger Lane
Kim S. Hoey-Stevenson	509 S. Walnut Street
George R. Pilla	238 S. Landing Drive

Mr. Johnson questioned the new ward alignments noting that when that occurs, there will be no representation from the first ward. He noted that Mrs. Stevenson will be moved to the second ward should the new boundaries be adopted.

Mr. Baird emphasized there is no requirement that two planning commissioners represent all four wards. Therefore, council has the flexibility to appoint any qualified candidate regardless of their residency.

Mayor Rogers then advised that Commissioners Archie Campbell (Meadows at Shawnee) and William Lane (Hearthstone Manor) currently live in the first ward with no changes following the realignment.

It was confirmed that Ms. Stevenson will reside in the second ward upon the realignment; James Burk will continue to reside in the second ward. The wards of Mr. Rini (fourth), Mr. Pilla (fourth), Mr. Sharp (third), Ms. McColley (third) will remain unchanged as well.

Mr. Pikus moved for reappointment of the three commissioners as recommended by Mayor Rogers, seconded by Mr. Grier. Motion carried.

Chairman Rini thanked council for taking this action adding he feels the commission is headed in the right direction. He also noted the commission has taken the stand they are representing the overall city and do not individually represent their wards.

Mr. Pikus noted the hard and attentive work of the planning commission and commended their efforts on behalf of the city.

*Tyler Technology Agreement Funding/Electric Reserves*

Mr. Baird recalled the Tyler Contract approved by city council for the ten-year reassessment project. At that time, there was no funding source approved; Mr. Baird recommends it be funded from the electric reserve account.

Mr. Pikus stated that due to the amount of the proposal, the new budget did not include a payment source. Though he prefers not to ask for payment from this account, in this case he feels there are no other options.

Mr. Pikus then moved to approve payment of the ten-year reassessment project required by 2012, to be paid from the electric reserves in the amount of \$261,200, seconded by Mr. Gleysteen. Motion carried by unanimous roll call vote.

*NEW BUSINESS*

*State Contract/Kubota Tractors & Snow Blade/Parks and Recreation*

Mr. Baird advised that a proposal was received from Burke Equipment Company of Felton, Delaware to purchase two new commercial mowers and attachments for a total of \$28,769.20. Parks and Recreation had budgeted \$30,000 in their capital account for these items.

The city manager also reported that the Parks and Recreation staff, under the direction of Carroll Jester, assist with downtown snow removal and in particular, at the Milford Public Library and Milford Boys & Girls Club properties.

Mr. Brooks moved for approval of Burke Equipment Proposal for \$28,769.20 as presented, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

Mr. Baird confirmed that the older pieces of equipment will be publicly sold. He added the proceeds will be put back into the fund the equipment is assigned.

*Introduction of Ordinance 2011-20/Readjustment of Ward Boundaries in the City of Milford*

Ordinance 2011-20 was officially introduced to city council for later adoption.

Mayor Rogers referred to the readjustment of ward boundaries as has been reviewed and discussed by city council.

Mr. Baird then reviewed the associated dates noting the adoption date is scheduled for August 22, 2011 to allow the new boundaries to be in place for the general election in 2012.

EXECUTIVE SESSION

Mr. Pikus moved to go into executive session, pursuant to 29 Del. C. §10004(b)(9) Personnel Matters, seconded by Mr. Johnson. Motion carried.

Mayor Rogers recessed the regular Council Meeting at 8:08 p.m. to go into a closed session.

*Return to Open Session*

Council returned to open session at 8:41 p.m.

*Assessment Personnel/Department*

Mr. Pikus moved the city enter into a contract with Tyler Technologies to take over the city's assessment duties for an approximate fee of \$27,400 per year and upon the execution of that contract, the tax assessment department would be eliminated as of August 31, 2011; and further directed the city manager to work with the finance director to adjust the budget to reflect that department/position being eliminated, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

ADJOURN

Mr. Pikus moved to adjourn the Council Meeting, seconded by Mr. Grier. Motion carried.

The Council Meeting adjourned at 8:43 p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
*July 25, 2011*

The Milford City Council held Public Hearings on Monday, July 25, 2011 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING:                   Honorable Mayor Joseph Ronnie Rogers

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

ALSO:                        City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

Mayor Rogers called the Public Hearing to order at 7:02 p.m.

*Board of Revision and Appeal Hearing*

The mayor announced the Board of Revision and Appeal hearing was canceled because no property tax appeals were filed.

*Zoning Code Amendment/Outdoor Woodburning Furnaces/Adoption of Ordinance 2011-5*

City Planner Gary Norris reported on the action of the City of Milford Planning Commission in relation to this ordinance.

He advised that on June 21, 2011, a public hearing was held before the Planning Commission at which time they approved the ordinance by a vote of 5-0 with the following comments/questions:

- \*Stacking of wood in the front should be prohibited or appropriately screened;
- \*Wood stacks should not be in heaps or piles;
- \*Concerns regarding the height of a stack of wood;
- \*Year property was purchased and year woodburning furnace installed;
- \*At that time, there was no code for the installation of the woodburning furnace;
- \*The existing home has seven fireplaces which could be worse;
- \*Have complaints been investigated by the city or DNREC;
- \*How complaints have been recorded;

On July 19, 2011, the planning commission again reviewed the matter. By a vote of 6-1, a motion to approve the ordinance failed. Below are some of the commissioners' comments/concerns expressed at that time:

- \*Time to remove the woodburning furnace too short.
- \*Definition of the stacking of wood, including how high and how neat.
- \*Definition of three-inches for wood to be burned.
- \*Possibility of wood burning furnaces being grandfathered.
- \*DNREC should have been informed to perform some air quality measurements.

Council had no questions at this time.

Mayor Rogers then opened the floor to public comment.

John Webb of 610 Southeast Second Street then read into record the following statement:

*I have been a resident at this location for 33 years. He has a study done by the Environmental Protection Agency and this is a quote: "The design of an outdoor wood furnace does not allow for complete combustion, and thus generates large amounts of dense smoke. When it leaves the stack, the smoke is much cooler than smoke from other woodburning*

*appliances. The firebox inside the shed of most outdoor wood furnaces is fully surrounded by a water jacket. This causes the wood fire to remain well below the needed 1,000 degree-Fahrenheit temperature for a complete burn. The slower, cooler fire is inefficient and creates a great deal more smoke, carbon monoxide and creosote. The large amounts of wood smoke, like the plumes from the outdoor wood furnace cannot be kept out of neighboring houses, even those with tight windows and doors. It is a public nuisance that has a significant impact on neighbors quality of life."*

*The law says a neighbor cannot interfere with your way of life. By us not being able to open our windows or hang out our clothes or just sitting out in our yards, is interfering with our way of life. When the smoke comes into my home and causes my furniture, drapes, carpet and bedding to smell and reek of smoke, I feel it is causing property damage. The smell of smoke stays in my house and on my furniture for three or four days after the winds have changed. By the time my house clears the smell of smoke, the wind will change again and the smell of smoke is back. So my house smells of smoke all the time the outdoor wood furnace is burning.*

*There have been times the smoke is so heavy that we wake up in the middle of the night wondering if our house was on fire. It is that thick. There has been a lot of times that we are forced to run our clothes dryer because of the smoke outside. Or we have our clothes on the line and the wind changes and it is stinking up our clothes with smoke so we have to rewash them.*

*Do you know how long it takes to go to sleep when you have your face in a pillow full of smoke. It takes quite awhile and you don't get used to it. These outdoor wood furnaces are also a danger of a liquid fire caused by creosote that is not being burned off due to the fire not being hot enough. The creosote will build up in the walls of the stove pipe and burst into flames. A liquid fire is a very hard fire to control and put out. These outdoor wood furnaces are not UL approved and are not regulated for safety. They have no regulations on them at all. That is why the smoke so bad and they are a fire hazard. All the studies that were made on the outdoor wood furnaces were burning seasoned hardwood. When burning greenwood, it smokes five to six times more than seasoned hardwood. If the wood is pine or an evergreen, in which these types of woods have more sap in them, they will smoke up to ten times the amount of seasoned hardwood. These outdoor wood furnaces are able to burn greenwood and able to burn sappy woods, but that does not mean that you should.*

*The smoke is so heavy at times it looks like there is a dense fog over the neighborhood. The original purpose of these outdoor wood furnaces was to heat outbuildings such as sheds, barns and hunting cabins. Because of their popularity, they have also undergone increased scrutiny for the many potential dangers. The main danger of an outdoor wood furnace is the emissions released. These include the ash and the smoke from the boiler. Health risks are also a danger because of the carbon particles released through the smoke and ash. Breathing problems can occur in neighbors who otherwise used to be healthy. These outdoor wood furnaces were designed to be in the country and not in the city.*

*I have complained to Mr. Carr about the smoke on a regular bases for the past three years. They have done nothing. All the wood that Mr. Carr is putting in this outdoor woodburning furnace is not seasoned; it is green and it is pine. This wood cannot be burned in a fireplace or a wood stove because of the emissions that are being released within the household. These emissions can, and will cause death if burned in the household. The creosote that unseasoned or sappy woods create can cause a stove pipe fire or a fire in the base of the wood stove. So let me make my self clear. This is not a wood stove like the Carrs would have you to believe. But this is an outdoor wood furnace. There is a very big difference between the two of them. The photo you have of Mr. Carr's wood pile is all pine wood. Not one piece is hardwood or oak. It is also unsplit.*

*It also takes six to twelve months to cure or season hardwood after it has been split and longer if it is pine because of the sap in the wood. You also have two photos of stove pipe, one of Mr. Carr's that is three years old and black around thirty inches down, showing that it is not burning clean and that it is going to the ground. The other pipe is six-years-old and from a wood stove. It looks brand new and shows it is burning clean and going into the atmosphere where it is supposed to.*

*We, the surrounding neighbors, do not want the outdoor wood furnace grandfathered in due to the fact of all the health risk and fire hazards that it is imposing on us. We want the same air quality that we had before this outdoor wood furnace was installed inside and outside of our homes. We want to enjoy the same quality of life as you do. It is just not right to*

*have so many neighbors' way of life impacted by one outdoor wood furnace.*

Martha Pileggi of 607 Southeast Second Street then read the following statement into record:

*During the time this furnace has been running, I have had smoke and live a block and a half away. A study from the New York State Attorney General's Environmental Protection Bureau says that just one of these outdoor furnaces is equal to 2 heavy diesel heavy duty diesel trucks, 12 EPA certified indoor wood stoves, 45 passenger cars, 1,000 homes with oil heat or 1,800 homes with natural gas heat.*

*These units were designed to burn dry seasoned wood. Some people use them to burn greenwood. According to a study by the Environment and Human Health Incorporated, which is not funded from any business or corporations, fine particulate matter from these furnaces invade the inside air of the homes and causes a health risk. The health effects from smoldering fires are not the same from hot oxygen rich fires. The small respirable particles of .1 to 5 microns in size are present in all wood smoke. The particles remain suspended in the air for several hours and readily flow into homes.*

*Emissions from a smoldering fire with incomplete combustion contain more carbon monoxide, carcinogens, organic toxicants and irritants than smoke emissions from a very hot fire that is supplied with high levels of air and oxygen.*

*Over a period of several hours, the amount of smoke emissions inside the house will reach the same concentration as the air that surrounds that house. As a rule of thumb, it can be assumed that after one hour in a house with good interior circulation, to mix the emissions entering the house with clean inside air, the concentration of emissions inside the house is approximately half of that outside. The concentration inside the house will increase hourly until after a period of six to nine hours, the concentrations inside and outside the house are essentially the same.*

*We cannot even shut our windows as we will smell it and breath it.*

*The study by the University of Washington in Seattle showed that 50 to 70% of outdoor levels of wood smoke was entering homes that were not burning wood. DNREC does not do a study. There have been tons of studies that already been done and you can look them up on the internet.*

Shirley Thoms of 204 Charles Street explained that she lives in the home beside the house with the furnace at 700 Southeast Second Street which is the closest home.

Ms. Thoms advised that she provided testimony at both planning commission meetings. She is unsure whether she should repeat it as she is aware there is a lot of information that has been provided. She agrees this is a contentious issue.

She emphasized this has a negative effect on a lot of different people. To weigh the benefit versus the risk, she understands the owners of the house have spent a lot of the money. Ms. Thoms also had to replace a heating system noting her house is much smaller. When she replaced it, she went with another oil burning furnace and has experienced a 60% decrease in her heating bills because it is much more efficient.

Ms. Thoms concluded by stating she is in support of passing the ordinance.

John Cannon of 606 Southeast Second Street then read the following statement into the record:

*I am here because I live within one hundred yards of an outdoor wood boiler and I am here to endorse my support of the proposed City Ordinance 2011-5. I apologize in advance for making tonight's city council packet so large as I submitted several documents and pictures to support my points tonight and think I added about ten pounds to your homework.*

*On the first, most beautiful spring day this year, I opened the windows of my house to let in that wonderful fresh air, and evacuate the stale, stagnant winter air that had been circulating inside for the last few cold winter months. What greeted me was not fresh spring air, but was in fact, smoke filled, acrid air. I had to close up the house. This continued most of the spring and I was forced to simply run the air conditioning, because of the thick, irritating smoke that lingered in our neighborhood.*

*I have since done a lot of research into Outdoor Wood Boilers (OWB), which is the source of the smoke that continued to roll into the neighborhood. OWB's are a nuisance almost everywhere they are installed when they are in the vicinity of other dwellings. The following are reasons that they should be completely banned and removed from the City of Milford:*

*\*Outdoor wood boilers are not tested by the EPA, versus indoor ones, which are.*

*\*They emit smoke 27/7*

*\*Because of the harmful impacts of these furnaces, many counties, cities, and towns heavily restrict their usage, while the entire State of Washington has completely banned their usage.*

*\*OWBs, generally, do not use catalytic or non-catalytic emission control devices that other residential, wood-fired combustion devices, such as indoor wood stoves, commonly employ.*

*\*They have short stack heights – stacks from OWBs, as per manufacturer installation instructions, are usually less than twelve feet from the ground, resulting in poor dispersion of smoke and are more likely to cause fumigation within surrounding areas.*

*\*Oversized Firebox – An OWB's large firebox is built such that a user could burn a variety of inappropriate materials that could not be burned in wood stoves or fireplaces. Because the furnaces are in a closed shed, one cannot see what is being burned. Enforcement programs have discovered OWBs burning tires, large bags of refuse and railroad ties. Even when used properly, overall OWB emissions are greater than other residential wood burning devices.*

*\*Manufacturers design OWBs to burn large amounts of wood over long periods of time.*

*\*In general, most units will have operating efficiencies in the range of 30 to 40 percent. A comparison with wood stove efficiencies finds that their efficiencies range from 60 to 80 percent efficient. Low efficiencies translate into increased amounts of wood burning to generate heat, which in turn increases emissions.*

*\*After many attempts to modify fuel use (using seasoned wood), or add-on equipment (catalysts or baffles) and limiting their use, enforcement programs have indicated that shutting down or limiting OWB operations are the only viable remedies for nuisance and odor issues of which we have in our neighborhood.*

*\*Setbacks and stack height requirements do not address the overall emissions from these outdoor wood boilers.*

*If you go to vtwoodsmoke.org, which is the State of Vermont's website for OWB resources, the first item listed asks: I Want To Burn Wood--What Should I Do?*

*The answer is first, consider your neighbors. Burning wood in some dense residential neighborhoods may never be a good idea.*

*While OWBs are advertised as a clean and economical way to heat one's house and water, OWBs may be among the dirtiest and least economical modes of heating, especially when improperly used. Even when used properly, OWBs emit, on an average per hour basis, about 4 times as much fine particulate matter as conventional wood stoves, about 12 times as much fine particulate pollution as EPA-certified wood stoves, 1,000 times more than oil furnaces, and 1,800 times more than gas furnaces. Such emissions are significant because fine particulate matter pollution has both short-term and long-term health effects.*

*I am just going to read a few selections from the New York Attorney General Report by Elliot Spitzer, which starts on page 120 in the meeting packet:*

*Even when operated using clean seasoned wood, OWBs can emit significant pollution because the basic design of the OWB causes fuel to burn incompletely or smolder, resulting in thick smoke and high particulate emissions. The problem is aggravated when other materials, such as wet wood, processed wood and garbage are burned. The short chimney and reduced draft often fail to disperse the smoke, resulting in more concentrated pollution at lower heights reaching residents and neighbors. Exposure to this smoke, like other pollutants, can cause or contribute to short-term health harms such as eye, nose, throat and lung irritation, coughing and shortness of breath, and may exacerbate asthma or trigger asthma attacks. Chronic exposure to smoke can cause long-term effects such as asthma, heart and lung disease, and cancer.*

*During summer months and calm winter days, wood smoke is slow to rise and disperse. With OWB chimneys not high enough to carry the smoke past the heights of surrounding homes and local terrain, wood smoke, soot, and toxins may enter homes and yards of owners and neighbors who are situated close to OWBs. Wood smoke particulates, due to their*

*small size, can remain suspended in the air for long periods of time, can cause a smoky haze and can easily enter homes through air intakes, cracks, doors and windows. Effects on neighbors are especially apparent when OWBs are installed at the outermost limit of the owner's property, and in close proximity to structures on adjacent properties.*

*All wood combustion will create hot ash. How can it be permitted during a summer burning ban, during one of the driest summers on record, to handle hot ashes outdoors? The threat of starting a grass or field fire is extremely high and especially dangerous in a dense residential area next to and containing a large supply of wood fuel nearby. If I were to operate a burn barrel in the same neighborhood, the fire department would extinguish it for me and levy a fine for dangerous and reckless behavior in the given environmental conditions.*

*The OWB in our neighborhood exhibits thick black smoke as shown on the picture in your packet on page 22 that someone else submitted. The top of the chimney is soot covered as shown in the picture I submitted on page 163. A clean burning, inside wood furnace produces little smoke and is generally regulated with a catalyst. A clean pipe looks like the pictures on page 159 and 160, which is on nearby Marshall Street and has been in operation for a longer period of time and looks as though it was installed yesterday.*

*The wood being burned in the OWB in our neighborhood is not clean, dry, split hardwood like most people burn inside their home. The wood being burned there is sappy, smoke creating and creosote-building pine. The wood pile is massive and unkept, as shown on the pictures on pages 161 and 162, one showing the size and one showing the quality of the wood.*

*I implore the City Council to command a full ban on Outdoor Wood Boilers for safety, health and nuisance reasons. The City of Milford does not need another environmental code to enforce and should not waste time and resources on a problem that is inherently a poor choice for our community.*

Michael Ward of 702 Southeast Second Street then read the following statement into record:

*I have resided at this location for the better part of twenty-five years. Working in local government for the better part of thirty years and working in the planning arena and administering zoning regulations for almost twenty years, I understand the process and reasons for ordinances such as this. It is simply for the health, safety, welfare and quality of life for the citizens of the City of Milford.*

*I am here tonight to speak in favor of Ordinance 2011-5 that is before you this evening. I thank you for the opportunity to speak and will try to be brief and stay on point. I know that there are others here regarding this ordinance and I encourage them to speak as well noting there are approximately a dozen here though some are here only for support of this ordinance.*

*I'm sure that you have received a plethora of information pertaining to this issue. The packet is large and much was forwarded from the Milford Planning Commission in addition that received from members of the community. In the information supplied, is a petition signed by 34 individuals of the Southeast Second Street community in favor of this ordinance. Accompanying said petition is attachment of an aerial photograph (page 158) reflecting structures in the area; residential, accessory, commercial, etc. Also you will notice there is a 500-foot radius circle from the existing outdoor woodburning furnace in our neighborhood. That radius is divided into 50 foot increments.*

*On some of the structures you will notice red dots. The dots represent the location of those who signed the petition and the circle radius gives a fairly accurate indication as to how far they are located from the aforementioned furnace; and the concern of those who signed the petition is the output of smoke put off by the furnace. In the smoke there is particulate matter that drifts far beyond property lines invading others quality of life. The map is to scale and was created with the utilization of GIS (Geographic Information Systems) software. This software has proven itself time and again and is used by a significant number of agencies including local, state and federal governments. This software has been used in numerous studies for analytical purposes.*

*Outdoor woodburning stoves are not to be confused with indoor wood stoves, pellet stoves or fireplaces. Outdoor wood furnaces create emissions different from either of those noted above. The smoke from outdoor woodburning furnaces,*

*whether new or old, form in a plume extending up to 1,000 feet and sometimes more. The smoke that leaves the stack, irrespective of the stack height, lacks the heat necessary for it to rise or be diffused. The smoke tends to fall toward the ground. Depending on the prevailing wind, will depend on who is affected from the wind directions. We all know that wind directions are ever changing throughout the course of a day or evening.*

*I find it nice to sleep with the windows open as the weather starts to cool somewhat to try to get a good, restful night of sleeping. But sometimes you are awakened in the middle of the night or early in the morning from the smell of smoke. Waking up from a sound sleep in the middle of the night or very early in the morning, I find I am somewhat dazed and for a time, am scurrying around as I try to collect my thoughts until I can get my wits about me. Then, I realize that it is necessary to close the windows. But the smoke has already entered the house and it takes quite awhile before I can return to sleep as the smell of smoke sticks to anything and everything that can absorb odors. The more humid the air, the worse the situation as the smoke lingers closer to the ground and is more dense. At times it can be slow moving throughout the community which is much more invasive. Smoke particles are so fine that they infest even the tightest houses and strongest lungs, contaminating bodies and homes.*

*We have two young children in the neighborhood with asthma. The furnace smoke, as I understand it, exacerbates their condition. That family has indicated they have a written statement from their physician. And just as anyone knows there are different severities to such conditions where some are more affected than others and some may not be affected at all.*

*In closing, I will say that I support this ordinance.*

Beverly Thawley of 6521 Coastal Highway, just outside of city limits, then spoke. She stated she owns commercial and residential property within the city limits. She then read the following statement into record:

*I am a lifelong resident of the Milford area. I am here to speak in opposition of the ordinance as written regarding the ban and removal of outdoor woodburning stoves, furnaces, fireplaces. I attended the planning commission meeting several weeks ago for another reason and stayed to hear the discussion regarding this matter. Several people spoke against the woodburning devices for reasons of health and just not liking to look at the woodpiles and smelling the smoke. Most of the negative comments seemed to be directed at the Carrs on Southeast Second Street. Another family, Matthews, on Truitt Avenue, will also be affected if this ordinance is passed as written. I have never met Matthews until the previous meeting and only know of the Carrs due to having been in their home briefly once when they were kind enough to open their beautifully restored historic Milford home during a city holiday event. I understand the concern that some of the neighbors have and their rights to object to this issue of woodburning furnaces. But I am also concerned about the rights of the Carrs and the Matthews since they were permitted by city officials to install these furnaces after obtaining the proper permits and being assured there were no issues. The Carrs have stated they are willing to work with city officials and to make some changes if they are permitted to keep the existing furnace.*

*I think it is only fair and just to the two families to have their furnaces grandfathered in. If the ban on outdoor furnaces is passed, both families have invested their hard earned money in these furnaces and followed the law in the installation process. In her opinion, it would be a financial hardship on both families to have to invest in a new heating system for their homes when they already have a working system installed and who would fit the bill for the new furnaces. I am concerned that if this ordinance passes as is written, it may set a precedence for other ordinances which can start as one citizen having a concern or objection regarding something about a neighbor's property. There are some examples in the city and one thing is asbestos roofing and siding and I know there are health issues there, but there are a lot of houses around that have it.*

*We now know that asbestos can be harmful if disturbed, but we are not making any homeowners remove any asbestos on their property as this time.*

*I think the previous legally installed furnaces should be grandfathered in if this ordinance banning such devices is passed.*

Brenda Carr of 700 Southeast Second Street stated she is the owner of the woodstove. She stated that if you go on line you can find things that support the stoves and things against the woodstoves. Any information can be found on line and

she said that she could have run off tons of documents to fit her bill as well.

Ms. Carr said she will state the facts again. They went to the city before they paid \$30,000 to install the stove. They waited a month and a half for them to say there is no reason it cannot be installed. So they installed it. They did not want problems which is the reason they came to the city first. She reiterated they did not want to have to fight this though they cannot afford to install another system.

The fact is she lives right next to the woodstove. It is her property and is closest to her than anyone. She does not smell the smoke and her house does not reek of smoke. She has opened her home to a lot of relatives from Wilmington and they do not smell the smoke.

She stated the last point is it is all about their woodstove, but asked not to forget the Matthews on Truitt Avenue. If the stoves are banned and the city does not grandfather the woodstoves in, they have spent their hard earned money and they went to the city first.

Ms. Carr said there is not one neighbor here to complain about the Matthews stove which says something to her. She also wants to remind council that they are willing to make concessions. She admits they ran out of wood in the early spring and did burn some greener wood than usual. But they would make the concessions to burn only dry wood, burn November through March and add another stack or two stacks. She noted it is almost as high as their house right now.

She asked that they be grandfathered in and that the city not take their property.

When asked if anyone else wished to speak, no one responded. Mayor Rogers then closed the floor for any further comments and asked councils' pleasure.

City Solicitor Rutt then pointed out that per the city code, a three-quarters vote is required by council if their vote is contrary to the recommendation of the planning commission.

Mr. Gleysteen then asked the city manager what type of permit was required to install these furnaces; Mr. Baird stated that he is unsure if a building permit was required though both property owners did come to the city before the stoves were installed. He confirmed there were lengthy discussions by city personnel at that time. Some research was done and nothing prohibited the construction of these furnaces at that time. Therefore, the property owners were given a green light to proceed, though it was with reservations and the understanding there could be potential problems.

The city manager reiterated there was nothing to prohibit these type stoves. He does not know if a permit or verbal permission was provided and concurs with the Carrs that both parties did approach the city first and did receive a blessing to proceed.

Mr. Brooks asked which department they spoke to; Mr. Baird said they spoke with the building inspector at that time.

Mr. Grier then stated that in regards to the grandfathering of these furnaces, he feels it is pointless at this time due to the fact it is causing such a problem to these neighbors. If it is grandfathered in, the problems are not taken care of. He did not even know what a woodburning furnace was until two months ago when many people begin to call and stop in to talk with him.

Mr. Grier explained his personal feeling is that the stoves need to go; he then moved to adopt Ordinance 2011-5, motion was seconded by Mr. Morrow.

Mr. Morrow stated that the overwhelming health and safety of the citizens in Milford overrides any other issues.

When asked for questions, Mr. Johnson stated the only problem he has is the date the stoves have to be removed which is August 31, 2011. He believes that is too soon and recommends an additional two more months.

Mr. Gleysteen suggests the furnaces be decommissioned but do not have to be removed for another two months. Mr.

Grier agreed to amend his motion.

Mr. Baird then read the ordinance which states the furnaces must be removed from the subject premise no later than August 31, 2011. The section prior to that states the construction and operation of the furnaces is prohibited in the city. Therefore, his interpretation is the furnaces will need to cease operations and be removed by August 31, 2011 as the ordinance is currently written.

Ms. Wilson agrees with Mr. Johnson that some additional time is needed for their removal noting it is only a month. Also, she has some concerns about the cost of having the furnace removed. To allow some additional time would seem appropriate to her.

Mr. Morrow recommends amending the motion to state the wood stove has to cease operations by August 31, 2011 and be removed by October 31, 2011. Mr. Grier agreed noting the problems are a result of burning the furnace.

Mr. Grier moved to amend his original motion, which will amend Chapter 230 §41 D(2)(a) to read as follows:

*All outdoor woodburning furnaces within the City of Milford must cease operations by August 31, 2011 and be removed by the property owner from the subject premise no later than October 31, 2011.*

Mr. Morrow seconded the amended motion. Motion carried by an 8-0 roll call vote.

*Morris and Ritchie Associates, Incorporated on behalf of Griffin Realty, LLC (formerly known as Central Parke at Milford/Milford Ponds)*

Mayor Rogers announced that this application, originally scheduled in May, is again deferred.

Mr. Baird advised that both property owners are requesting the city meet to help mediate a compromise. The application will be reviewed and a new public hearing timeline established.

With no further business, Mayor Rogers adjourned the Public Hearing Session at 7:48 p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder