

MILFORD CITY COUNCIL
MINUTES OF MEETING
August 24, 2009

A 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 24, 2009.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, 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

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello called the Council Meeting to order at 7:25 p.m.

The mayor informed Mr. Morrow that the June Finance Report, scheduled to be discussed during the workshop, can be discussed at this meeting.

Monthly Finance Report-June 2009

Mr. Morrow apologized from being absent from the previous meeting and announced the birth of his new granddaughter at that time.

Mr. Morrow advised that Finance Director Jeff Portmann will be providing a more detailed report once the final numbers are in for the fiscal year.

Chairman Morrow advised that through the last month of Fiscal Year 2008-2009 with 100% of the fiscal year having passed, 100.54% of revenues have been received and 98.14% of the operating budget expended. He commended the finance director on the earned interest on reserve accounts over the fiscal year of over \$576,000.

The revenues were slightly higher than expected. As a reflection of the strong fiscal responsibility by the department heads and police chief, almost \$800,000 was left in unexpended expenses.

Mr. Brooks moved to accept the June 2009 Finance Report, seconded by Mr. Morrow. Motion carried.

City of Milford Planning Commission Appointments/Reappointments

Mayor Marabello advised the terms of the following three members of the Planning Commission will expire September 1, 2009:

James Burke John Kramlich Marvin Sharp

The mayor recommended three year terms with an expiration date of August 31, 2012.

Mr. Spillane recommended they be re-interviewed when any new applicants are considered. The consensus of council was unless there is an objection from council, there is no need for another interview.

Mayor Marabello advised that Planning Chairman Chuck Rini recommends reappointment of all three commissioners.

Mr. Adkins moved for reappointment of James Burke, John Kramlich and Marvin Sharp for a three year term to expire August 31, 2012. Motion carried by a 7-1 vote with Mr. Spillane casting the sole dissenting vote.

Mr. Workman suggested that any applicant, not previously appointed, be interviewed by council. Even though some may have been previously interviewed, he believes it is beneficial for them to continually be interviewed until they are appointed.

Mayor Marabello also reminded council of the two seats left vacant by resigning Commissioners Brendon Warfel (term expires 2011) and Jason James (expires 2010).

A special council meeting was scheduled on Monday, August 31st at 7:00 p.m. At that time, council will go into an executive session to conduct interviews. Applications were received from Lorraine Piper, Archie Campbell, Keith Grambling, Mike Ward, Frank Bason, Paul Hayes and Patty Atkinson.

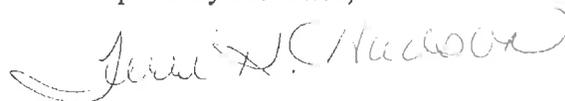
Ms. Wilson expressed a concern that Chairman Rini is currently the only representative from the 4th Ward. She prefers more of a balanced representation and two would be more appropriate and in line with the rest of the city. The mayor said he is willing to accept more applications though no one else has come forth.

Adjourn

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

Mayor Marabello adjourned the Council Meeting at 8:37 p.m.

Respectfully submitted,

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

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
August 24, 2009

On Monday, August 24, 2009, a Public Comment Session was scheduled in the Joseph Ronnie Rogers Council Chambers of Milford City Hall at 201 South Walnut Street, Milford, Delaware, prior to the commencement of the official City of Milford Council Meeting to allow the public to comment about issues of interest that impact the City of Milford.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, 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

COUNSEL: City Solicitor Timothy Willard

No person(s) signed up to speak.

Respectfully submitted,

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

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
August 24, 2009

The City Council of Milford met in Workshop Session on Monday, August 24, 2009 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Honorable Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, 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

COUNSEL: City Solicitor Tim Willard

Mayor Marabello convened the Workshop Session of City Council at 8:02 p.m.

Dan Wolfensberger/Kent Economic Partnership, Incorporated

Mr. Wolfensberger introduced himself as the CEO of the Kent Economic Partnership. He worked at the Milford Chamber of Commerce before he took this job 25 years ago. He has seen a substantial amount of development occur over this time. He said his organization has been formed to encourage and promote Kent County as a location for business to expand and locate.

Mr. Wolfensberger then presented a power point program.

Kent County Economic Partnership, Incorporated is a new organization to lead economic development in and for Kent County. They are a not-for-profit and have applied for a 501 C 3 from the IRS though they have not yet received it. One reason is they are able to receive funds from foundations and other organizations in order to broaden their financial base. They are countywide and support economic development from Harrington to Smryna, Milford and Dover.

They have put in their bylaws the ability to manage, purchase and develop industrial parks. He has managed the Kent County AeroPark which was built in 1988-1989. In the past five years, there have been some setbacks because of companies such as SunRock and Discover Card who have closed their facilities. At one point in time, there were approximately 650 jobs in that park.

They were part of the team, who together with Chuck Moses, started the discussions on the Milford Business Park. The team lobbied to state legislature for \$1 million to purchase 100 acres of land on behalf of the City of Milford. The City turned the land into a very nice economic generator on the west side of Milford.

They are a public/private partnership. They are goal oriented and try to measure their efforts.

Mr. Wolfensberger advised the Board and Officers are as follows:

Dennis E. Klima, Chair (President of Bayhealth)
Daniel W. Wolfensberger, CEO
Michael Petit de Mange, Vice Chair (Kent County Administrator)
Lisa Hastings, (CDCC) Secretary (Central Delaware Chamber of Commerce Chair)
Beverly Williams, Treasurer (City of Dover Council President)

The Board of Directors are:

P. Brooks Banta, President, Levy Court

Ed Dulin, President, Independent Newspapers, Inc.
Dennis McGlynn, President, Dover Downs
George Wright, Director, League of Local Governments
Alan Levin, Director, DEDO
Bill Andrew, President, Delaware Electric Cooperative

He noted that all are volunteers and no one is paid.

The vision, as part of the strategic planning efforts of the Kent Economic Partnership, is the premier engine that creates and sustains a diverse business climate for the benefit of the citizens of Central Delaware.

The values they hold dear in their organization are to be trustworthy and accountable. Activities should be sustainable, pro-active and creative and on the forefront when new opportunities arise. This mission is to target industries and form partnerships with agriculture, education, construction, health care and tourism. They feel those targets are important because if they already exist, that does not mean they will not encourage others such as manufacturing or job creating activities.

Their main interests are capital investments and job creation.

They also have an emphasis on entrepreneurship because they feel that sometimes the homegrown talent does not always get the necessary support. He is part of an entrepreneurship consortium with Delaware Tech at Terry Campus that holds an annual conference in February that attracts a large number of people.

They also try to retain existing employers. He recalled the snowstorm that occurred approximately six years ago when a number of buildings in Dover collapsed. One was Client Logic. They challenged them that if they wanted them to stay in this area, a building of approximately 50,000 to 60,000 square feet was needed at a price of no more than 50 cents a square foot. The building found was the old Walmart in Milford. That portion of Client Logic would have left the state according to Mr. Wolfensberger, but has remained at that location for more than six years.

He said they measure what they do through a dashboard report which keeps track of certain key economic indicators in the county such as unemployment rate. In Kent County, they are reaching 8.2% unemployment though the United States is at 9.2% which is slightly less than the national average. The 8.2% translates into roughly 6,000 people in Kent County without work.

Mr. Wolfensberger said they track website visits (kentpartnership.org). They visit existing employers and recently visited Baltimore Air Coil which is another success story. They shut down the plant in Illinois and 60% of their capacity was transferred to Milford. Approximately five to six years ago, Milford went through a major expansion and continues to grow today.

They track their inquiries, new employment and attempt to track entrepreneurs, which Mr. Wolfensberger said is often difficult because it could be a one man shop working from home.

Their annual budget is \$123,000 for fiscal year 2010. A major contributor is Kent County Levy Court who allocates \$56,000. Mr. Wolfensberger said they receive funding from the private sector of roughly eighty different companies in the amount of \$33,000. The City of Dover provides \$11,000, Central Delaware Chamber provides \$5,000 and Delaware Electric Coop \$10,000. Many are major employers in these cases. He noted they have never refused any money sent to them.

Additional funds used in the promotion of Kent County include a new website at the cost of \$8,500. Most companies wishing to relocate or expand go the web for their first review of the community. He feels a top notch website has been developed. Their advertising tries to drive traffic to the site. They average between 280 to 300 visits a month on the website.

The balance of the budget covers salaries and overheads as follows:

CoreNet Conference: \$ 2,500
Salaries: (1 FT, 1 PT) \$ 75,000
Overhead: \$ 21,000

Some of their achievements is the completion of their first fiscal year this past June as a new organization. They transitioned from what used to be called the Central Delaware Economic Development Council to this new organization. They applied for an Air Commuter Feasibility Study Grant and received a \$135,000 grant from the U.S. Department of Transportation to study commuter air service to the civil air terminal at Dover Air Force Base. He explained that back in 1984, there was a commuter air service called Wings that flew out of the terminal at the base. The study has come back and is extremely positive. One of the benchmarks used to determine the feasibility of a commuter air service is enplanements which is one seat-one person. The benchmark is 10,000 enplanements. The study projected 16,500 enplanements. They produced a video, available on the website, that was sent to five or six commuter airlines they had identified as possible providers of service. All companies responded with interest.

Mr. Wolfensberger administered a property tax abatement program incentive program on behalf of the county. It provides for a property tax reduction of the county portion and not the school or municipal taxes. The two critical ingredients are job creation and capital investments.

The organization is a member of the National Association of Manufacturers. They provide a free service to their members to search and identify a site to locate, relocate or expand a business. They are invited to make presentations and compete for different plants where the manufacturers are looking to establish.

They have a community profile of building inventory and a major employer list which are major documents when someone is considering a community.

Ms. Wilson asked that if the city is part of the chamber, as well as the League of Local Government, the city is already working with Kent Economic Partnership. Mr. Wolfensberger said in a way it is noting there is a history of working with the city over the past many years.

Mr. Adkins asked the perception Milford has as far as being business friendly or not-business friendly. Mr. Wolfensberger said his perception is Milford is business friendly and interested in growth because the development of the business park showed there was a willingness to match the state's fund and install infrastructure to make that happen. He thinks that is proof the community is pro-business.

City Solicitor Willard asked if Sussex County has an equivalent. Mr. Wolfensberger said the Sussex County Economic Development Office is part of the Sussex County government. The component Kent Economic Partnership brings to the table is the corporate/private businesses that contribute to their budget annually, because they are not fully county funded. Mr. Baird asked for that advantage compared to the Sussex County office. Mr. Wolfensberger said the input of the private sector is crucial when it comes to economic development because that is who they are trying to attract. They need to be close to the private sector in order to determine what makes their business successful or what issues there are which is why they need that input from the private sector.

When asked how the city can work with this partnership and move forward or what are the expectations for the city in participating, Mr. Wolfensberger said they would like to have a project in Milford so the city and Kent Economic Partnership can work on together to bring some jobs into the community. In a small state like Delaware, they believe that working together creates some very successful endings. The Client Logic story is a great example of working together and that involved his organization, the city, City Manager Richard Carmean and Walmart.

Mr. Wolfensberger thanked council for allowing him to provide this information. He concluded by saying their goal is to continue working with the city on projects to bring more jobs to Milford.

Monthly Finance Report-June 2009

Mayor Marabello advised that he asked this matter be placed on tonight's agenda because Mr. Morrow was absent at the last meeting.

Mr. Morrow suggested that because it cannot be voted on tonight, it be deferred until the next council meeting. He will make his comments at that time.

With no further business, the Workshop Session concluded at 7:25 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Terri K. Hudson".

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
August 24, 2009

The Milford City Council held Public Hearings on Monday, August 24, 2009 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, 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

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello called the Public Hearing to order at 7:00 p.m.

City Council of the City of Milford held hearings to take public comment and make a final determination on the following matters:

Ordinance 2008-18

AN ORDINANCE TO AMEND Chapter 230, Zoning, of the Code of the City of Milford Relating to Residential Density in Commercial Districts.

The City of Milford hereby ordains:

Section 1. Section 230-12 C-1 Community (Neighborhood) Commercial District.

Amend Section 230-12 B (1) as follows:

(1) Single-family ~~and multifamily~~ dwellings.

Amend Section 230-12 C by adding a new paragraph (3) as follows:

(3) All dwellings other than single-family with a maximum density of 12 units per acre.

Amend Section 230-12 D (1) as follows:

(1) Minimum lot area shall be ~~3500~~ 3630 square feet.

Section 2. Section 230-13 C-2 Central Business District.

Amend Section 230-13 B (2) as follows:

(2) ~~(DELETE) Residence apartments in conjunction with any nonresidential use.~~

RENUMBER REMAINING PARAGRAPHS ACCORDINGLY

Amend Section 230-13 C by adding a new paragraph (10) to read as follows:

(10) All dwellings other than single-family with a maximum density of 12 units per acre and in conjunction with nonresidential use.

Section 3. Section 230-14 C-3 Highway Commercial District.

Amend Section 230-14 C by adding a new paragraph (16) as follows:

(16) All dwellings other than single-family with a maximum density of 12 units per acre.

(17) Business, commercial or industrial uses that do not adversely affect neighboring properties.

Section 4. Synopsis.

This ordinance clarifies that single-family dwelling units in C-1 have a minimum lot size of 3630 square feet; in C-2, 2500 square feet; and in C-3 one acre. All other residential dwelling units in C-1, C-2 and C-3 would be approved by conditional use and could not exceed 12 units per acre.

Section 5. Dates.

Planning Commission Public Hearing: November 17, 2008, December 16, 2008, January 20, 2009, February 17, 2009

Introduction Date: December 8, 2008

Projected Adoption Date: August 24, 2009

Projected Effective Date: September 3, 2009

Gary Norris presented the ordinance for final action and review by city council. Mr. Norris advised this makes the zoning ordinance stricter by defining densities in commercial districts. He recalled there were some loopholes in the original ordinance in relation to the density in C-3.

Mr. Spillane asked how this density requirement will affect the TDR program on properties east of Route 1. The city planner advised that as that program is reviewed and developed, the planning commission and city council may want to consider reducing density in all zoning ordinances. In lieu of taking action on this ordinance, Mr. Spillane preferred council wait and address the reduced density at the time TDR's are under review.

Mr. Norris explained there is a somewhat urgent need to clarify the density at this time due to a recent dispute in the C-3 zone which is why this ordinance was developed.

City Manager Baird advised the city is a long way from having a TDR program and is not in a position to look at densities in conjunction with a TDR program today or within the next six months. He added that because of the complexity of the ordinance, it will be sometime before anything is formally in place.

The mayor then opened the floor for public comment; no one responded. As a result, the public comment session was closed.

Mr. Norris advised the planning commission voted to recommend the adoption of the ordinance with one dissenting vote.

City Solicitor Tim Willard then stated the planning commission spent a great deal of time on this amendment. Overall, the residential density is clarified in the C-1, C-2 and C-3 zones. Currently, C-3 refers to the C-2 and the C-2 allows everything in C-1. However, C-3 states that all lots must be one acre but does not give a density proportion. The idea is if single dwellings are permitted in a C-1, they must be a minimum of 3,630. For any other multi-family dwellings, the density can only be twelve units per acre. Those multi-family units must be approved by conditional use standards which gives the planning commission and council more discretion.

Mr. Spillane then asked about low lands and related problems with high density and flooding after rainfalls. He asked if the homes should be spaced more and suggested a number lower than twelve. Mr. Norris explained that any dwelling units would have to be approved as a conditional use in a commercial district. Wetlands or potential flooding would be items considered. The planning commission and council would then consider the application based on those issues.

Mr. Willard noted the area regulations would still apply and only 80% of the lot could be developed in all three commercial zones. The site plan also requires soil conservation review if it disturbs more than 5,000 square feet. Mr. Spillane feels that in many cases, no one knows there is a problem until the flooding occurs.

When questioned about the open space requirement, Mr. Norris advised the planning commission is discussing the revision of open space requirements particularly those with townhouses and condominiums. Mr. Brooks pointed out that Meadows of Shawnee has single family homes with no playground or recreational areas. He referenced the \$100,000 being budgeted to be put into a park program for land to be purchased at a later date for this purpose.

Mr. Willard agrees that is the benefit of a conditional use which is a broader standard where conditions can be imposed and such issues considered. If it is an outright permitted use, the developer has a better argument to do the maximum. This will give council more discretion on the design.

Mr. Workman moved for approval of Ordinance 2008-18, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

Lynn & Karen McColley for a Change of Zone of 79.5 +/- Acres from R-2 (Residential) to C-3 (Commercial) west of Delaware Route 1, lying south of N.E. Tenth Street and north of N.E. Front Street, Milford, Delaware. Present Use Residential & Agricultural; Proposed Use Highway Commercial; Tax Map MD-16-174.19-01-01.00 (N.E. Side/N.E. Tenth Street); MD-16-174.19-01-01.01 (416 N.E. Tenth Street); MD-16-174.19-01-03.00 (N.W. Side/County Road 409); MD-16-174.19-01-04.00 (819 N.E. Front Street); MD-16-174.19-01-11.00 (N.W. Side/County Road 409); MD-16-174.19-01-13.00 (S.E. Side/County Road 407); MD-16-174.19-01-14.00 (600 N.E. Tenth Street).

City Planner Gary Norris presented the application noting the change of zone complies with the 2008 Comprehensive Plan. The planning commission recommended approval by a vote of 4 to 1.

Lynn McColley of 416 N.E. Tenth Street addressed council stating he is the owner of the parcels being considered for rezoning. He explained they are asking council to approve a change of zone of the property that surrounds the Sunnybrae Mansion. He then read a prepared statement.

In the statement, Mr. McColley reiterated the requested C3 zoning is compliant with the Comprehensive Plan recently certified by the State of Delaware. He said that after a long process, city council participated in a decision to rezone his property to C-3. He said there was no opposition at the planning commission from neighbors or businesses.

He said that commercial properties surround this parcel with Perdue on the west side along with KSI and IG Burton. On the south end is Hitchens Tire, Atlantic Concrete and Warfel Construction. On the east side is NKS and the Silicato-Wood development which have been approved for four commercial uses.

Mr. McColley stated that Milford High School borders the northern part of the property. Also, road improvements on Tenth Street are underway due to the growth at the high school. He believes that DELDOT will require sharing of the Silicato entrance on Tenth Street for any development of these parcels.

According to Mr. McColley, the State of Delaware has authorized funding for site work and engineering for the overpass on Front Street and Route 1. He said that jobs will be created for local residents regardless of the approved uses.

Mr. McColley reported they are in the process of negotiating with Kent County Sewer District to permit a relief line to be built along the west side of their property. He said this should prevent another spill of 250,000 gallons of sewer that went into the Mispillion River recently. He said this also allows service to the parcels without any sewage or road disruptions.

He said it is anticipated the site will be used for retail which will allow residents to shop closer to home.

He asked council to remember that all plans will return to them for final approval after the planning commission has reviewed and approved the applications.

Mr. McColley then stated the city continues to grow and develop uses to benefit its citizens and nearby residents. This request is normal and part of the evolution. He asked council to approve the change of zone to C-3.

He concluded by saying the property is presently being farmed and they are also requesting the city continue to tax it as an agricultural parcel until the farming is stopped.

Mr. Brooks responded by saying he has a number of problems which he has already discussed with Mr. McColley. He stated that if the bypass was constructed, he would have no problem with it. Because that has not been done, he has several problems including trucks on Tenth Street, speeding on Tenth Street and increasing traffic on Tenth Street in addition to school traffic which will increase more over the next few years. He asked where the high school students plan to go because the parking areas were completely filled the other day with only school teachers. The school felt they had adequate parking but found out it was not enough. Mr. Brooks said that when Tenth Street was originally built, it was a dead-end street. That road has become a connector and it was never upgraded to handle the additional traffic that utilizes it today.

Mr. Brooks said that because of the iron fence that fronts the McColley property on Tenth Street, any vehicle traveling east that encountered a problem, would have no place to go. The same would apply to a vehicle traveling west because the school has a chainlink fence surrounding their athletic complex on the other side of the street. The road is a no passing zone though his neighbor recently encountered a problem when turning into their driveway. Another driver passed their turning vehicle because he felt his neighbor was taking too long.

Mr. Brooks emphasized there is already a traffic problem on that street. He is asking for some guarantee the bypass is coming. Mr. McColley said they have met with DELDOT in Dover on several occasions and added they are working on it. He recalled the traffic impact study done by former Superintendent Bob Smith before the new school was approved. Mr. McColley recalled that Denise Silicato had a minor traffic study done. He said there are already some improvements being made on Tenth Street where the street has been widened where vehicles turn into the high school at the new road.

Mr. McColley said the city is going to pave the parking lot and has already installed new lights. He said that eventually, their fence will be moved back as part of this development because the road will most likely be widened.

He reported that because of the Silicato project, Tenth Street will be widened. Their fence will be moved and some trees removed to allow for the street to be widened for vehicles turning into the site.

Mr. Brooks recalled that when the Silicato development was under review, Levy Court Commissioner Eric Buckson stated that Tenth Street is barely passing as far as the level of service, especially during peak hour conditions. He also recalled him stating that if the Silicato development is approved, it would receive a failing mark because of the anticipated increase in traffic.

Mr. Brooks said that when he asked Mr. Silicato the intent of the site on Route 1, he indicated he did not have any plans. He stated the city came to him and asked him to annex because they wanted NKS in the city. Two months later, Mr. Silicato was back with four commercial projects planned for the site though nothing else has been done on the NKS project. He also asked Mr. McColley what his plans were; Mr. McColley said he does not want to do anything which is the same thing he heard in relation to the Silicato site.

Mr. McColley explained that presently, the property is not under contract. He is only asking for the change to C-3. Eventually, if the property is sold, any development plan will have to go before the commission and the state PLUS committee. He stated they will require bicycle paths and other amenities because of the retail development.

Mr. Brooks emphasized that as long as he has been on council, DELDOT has not denied anything that was presented. Mr.

McColley said he knows they are in the initial stages of working on the overpass which was confirmed by Senator Gary Simpson and Senator Colin Bonini's office. They both confirmed they have approved funding to do some site work and the beginning stages of engineering for the overpass. He said they even have drawings of the overpass.

Mr. Brooks pointed out it is a regular occurrence for fire trucks and police cars to be called to the Tenth Street intersection, or that area, for a traffic accident. Chief Hudson agreed that traffic will not decrease noting he was there today to observe the situation.

Mr. Workman questioned Mr. McColley's comment regarding a parking lot the city is putting in and asked where it is and why the city is putting it in. Mr. Brooks said he is talking about the football stadium parking lot; Mr. McColley agreed. Mr. Workman noted the overpass is not in their budget and will not happen this year. It is in their long term plans even though that does not mean it will happen. It must be included in the budget for the project to move forward. He understands the comprehensive plan shows the site as a C-3, but does not believe council has to agree to change the zoning at this particular time. Mr. Workman feels we should wait until we see what impact the four businesses in the Silicato development will have. He believes they will have a big impact not only on Tenth Street, but the existing intersection. He is unsure if the road can handle any more traffic. The other concern is the additional school traffic noting Mr. Brooks is familiar with the situation because he sees it on a daily basis.

Mr. Workman said that Mr. McColley is indicating he is unsure what will go there at this time. If he could give council more specific information, he could base his decision on that use. Mr. McColley countered by saying council will review that at the next stage once they have a buyer and their plans are presented to council.

Mr. Workman emphasized that Tenth Street is his number one concern. He recalled the hearings at the time the Silicato development was being reviewed. He referenced the studies that were based on those specific projects and infrastructure needs. If this land is developed, especially as a shopping or retail center, he agrees it will create additional traffic which he feels is too much for the current roads in that area.

Mr. McColley responded that Kent County is already putting in sewer pipes so there is new, updated equipment that will handle more capacity with less failure. A new sewer is being put in from Harrington to Milford with additional sewer capacity for both the county and the city.

Ms. Wilson said she is trying to put everything in perspective and is considering Mr. Brooks and Mr. Workman's concerns versus what Mr. McColley is presenting. She said that typically, when a zone is changed, council does not always have the plans in place for the property. She understands that the zone must be addressed first. What Mr. McColley is presenting is the same zone previously approved for the Silicato property; she understands why Mr. McColley would want the same zoning district in that area.

Ms. Wilson hopes that if Mr. McColley already knew a certain store was planning to develop there, he would let council know. It is her understanding that information is not yet available. She believes that council's job is to determine if this fits. She noted that this was thoroughly reviewed by the planning commission. Agreeing the bypass will not be completed this year or next year, nor does she believe Mr. McColley will have his development completed during that time.

Ms. Wilson said she is trying to look at the pros and cons though she agrees Tenth Street has some major problems; the State of Delaware understands the need for improvements to Tenth Street. She feels that if more pressure is applied, something will be done by the state. She understands that everyone, including the legislators, are in agreement it is a problem.

Ms. Wilson hopes the bypass will come first noting that council will have more say as the applications are submitted once a buyer is involved. At that time, council can require that be in place before the development occurs.

Mr. Brooks recalled that two of Mr. McColley's parcels were previously zoned C-3. He reiterated his problem emphasizing his focus is the traffic problems. Mr. McColley said he can assure council that before construction would

begin, a traffic impact study would be done. Mr. Brooks stated again that in his 28 years on council, he is unaware of DELDOT denying anything in Milford.

Mr. Adkins added that the State of Delaware wants to increase economic activity in Delaware. He said they have actually tried to prioritize certain intersections with anticipated economic development being planned at Wilkins Road. He thinks that should be considered when approving a C-3 zone. He said this same discussion occurred with the recent change of zone to commercial on Route 113. Councils' discussion involved the type of commercial being considered, if there was enough parking, etc. He agrees those issues will be addressed as the plans are submitted. He thought it was status quo if it was specifically dealt with through the comprehensive plan.

Mr. Brooks said that anyone can say that something is going to be done, but he also recalls that 28 to 30 years ago, DELDOT was going to build an overpass over Route 1 to Tenth Street which was never done. They purchased the Peterman property and relocated the house. He said when he sits on his porch between 6:30 and 9:30, he has actually observed cars going 60-80 miles per hour.

Mr. Spillane agrees there are concerns about traffic on Tenth Street. He said when the first development was approved on Route 1, he went out there and watched traffic on different days and times. He said traffic is very heavy right now. Without the overpass, there is more concern. He asked how traffic would turn into the McColley site after it is zoned C-3.

Mr. McColley explained that DELDOT will figure that out. He is familiar with how traffic will enter and exit the Silicato site which he fully supports and believes will work well. He said we are in the worst recession since the Great Depression. He said sometimes history has a way of repeating itself. He said that in the early 1930's, Sunnybrae began construction. Jack Burris remembers the excitement around Milford at that time when they were coming out of the depression and started construction. He said it gave several people work and the economic activity improved things in Milford.

Mr. McColley is confident it will provide jobs and city growth as well as more taxes and income to the city. He said after looking at the city budget, they need more money. He thinks this will be a wonderful thing for jobs and tax revenues for the city. If we can get construction out there and some retail, it will be a classy thing similar to Sunnybrae. He said some of the shopping centers are done with copper fronts and bricks such as the Lowes, who also have a different architecture.

He agrees that traffic is part of growth. There are some bumps in the road that will have to be figured out. He again stressed the State of Delaware has already approved the funding to start the site work for this overpass. He said many people said there would not be an overpass in Dover before the Air Force base, but there is one now that will be finished within 30-90 days.

Mr. McColley said things get done eventually. He has the support of Woodshaven and is familiar with one of their residents that works for DELDOT who confirmed DELDOT has been talking about getting this overpass done. A lot of the residents in Woodshaven want an overpass there.

Mr. Brooks noted that one of the former residents recently moved from Woodshaven because his daughter is getting her drivers license. His concern is the speed of the vehicles on Route 1 and Tenth Street.

Mr. McColley said that Emmet Venet is the voice for the Woodshaven residents and is very much in favor of this. He thinks that when the development gains some momentum, eventually the overpass will go in.

Mr. Brooks asked Mr. McColley if he feels strongly this overpass will be built; Mr. McColley said yes. Mr. Brooks asked how he will feel if the city does not change the zone to C-3 until the bypass is built. Mr. McColley answered that he does not have any control over when the bypass will be built. He added that the Silicato development will be completed and residents and Mr. McColley will keep speaking to their congressmen and senators to get the funds for the bypass. He then reiterated they have already received some funding. He feels getting money for the site work is big. He said this is in a commercial area stressing it is not like they are in the middle of nowhere which is why they asked for commercial. He again pointed out they are surrounded by IG Burton and Perdue. He understands that Perdue plans to expand which is why

they are putting the sewer pipe for more capacity.

Mr. Brooks invited everyone to come out and observe school traffic between 7:00 a.m. and 8:30 a.m. and then decide if adding more commercial uses will be safe. Mr. Brooks pointed out there is more traffic at the high school than any other schools combined. In addition, most traffic leaving a school is controlled by a traffic light. In this case, there are no traffic control devices on Tenth Street or Route 1. However, he sees fire trucks and police cars with emergency lights traveling toward Route 1 on Tenth Street at least twice a week.

Mr. Workman asked Mr. McColley how a C-3 zone will benefit the city and bring in jobs. He pointed out that an R-2 zone will also bring in revenues with a continuous stream of tax revenue as homes are built in addition to also providing construction jobs. Mr. McColley explained that an R-2 is inconsistent with the current comprehensive plan. The new comp plan shows this entire area as C-3. He said this property is an island in the middle of a commercial area.

Mr. Workman disagreed stating the comprehensive plan is exactly that--a plan showing what the city would like and what is possible and where certain things can go. However, a change of zone does not have to be approved just because a comprehensive plan says that zone. He said the comp plan could be changed again back to show this as a residential area. Ms. Wilson agreed with Mr. Workman but asked why we have a comprehensive plan. She noted the number of hearings Milford had to consider the comp plan and how many times the last one was amended. She feels council endorsed the plan and presented it to the state to be reviewed and certified. Ms. Wilson said that Mr. McColley is willing to change his zoning based on the comprehensive plan that was approved. She said the comp plans must be reviewed before a developer can apply for a new zone to ensure everything is in order.

Mr. Norris reported that during the comprehensive plan process, Mr. McColley had come in and requested this land be designated as highway commercial.

When asked the reason for the one dissenting vote from the planning commission, Planning Commission Chairman Chuck Rini explained the negative vote was Commissioner Kramlich who had concerns about the traffic on Tenth Street. The other four voting in favor of the motion felt they needed a C-3 zoning before they could get people interested. Their opinion was that they could not get an R-2 development with the surrounding commercial. So they went to the comp plan which showed the change to the C-3 zone.

When asked how much discussion occurred regarding traffic on Tenth Street, Mr. Rini said it was a lengthy discussion with Commission Kramlich giving a presentation to the commission.

Mr. Spillane noted that if council agrees to change the zone to C-3, Mr. McColley had asked for it to remain being taxed agriculturally; Mr. McColley said he is asking for that until the farming stops.

Mr. Spillane feels that once the land is zoned C-3, it should be taxed commercially. Mr. McColley is requesting it continue to be taxed in that manner until something is constructed. At that time, it could then be taxed at the C-3 rate.

Mr. Spillane asked if Mr. McColley has a problem waiting until something is determined in regard to the traffic. Mr. McColley said that before a traffic study is done, the use will need to be determined. This will give him a chance to find a developer that wants to build. Then those plans would be considered and comments accepted. He emphasized that right now, there are no plans for the site. Someone was previously interested, but because of the economy, they pulled out.

Mr. Morrow said that a bypass may not have been built because there was no reason for the state to build a bypass. He thinks we need to look at the big picture and let the process work. He feels during the process, which may take 2, 3 or 4 years, the city has a potential piece of land that fits the comprehensive plan. This development will improve Tenth Street and probably force the state to put a bypass in. He agrees this needs to be considered one step at a time and noted the number of properties that have been rezoned and approved for development but nothing has occurred over the past 5 to 6 years. He believes the bypass is being constructed by Route 30 because of the growth taking place in that area.

Mr. Morrow agrees that focus needs to be whether or not this land is good for C-3. All the concerns discussed will be addressed during the process. He agrees this is an opportunity to bring jobs and more taxes to the city during some bad economic times.

When asked for comments from the public, Brendon Warfel of 916 NE Front Street addressed council.

Mr. Warfel feels if council agrees to give Mr. McColley a reduced tax rate after it has been rezoned, he will also ask for relief because of his sixteen acres, over 90% of his property is open green space that he mows in addition to a field. He said he has always been supportive of annexation into the city because of the benefit to the town's infrastructure and revenues.

Mr. Warfel pointed out the comp plan is only the first step. He noted that no one can change any zone unless it is consistent with the comprehensive plan. However, the comp plan does not guarantee a property will be rezoned to commercial but only allows it to become commercial if approved by council.

Mr. Warfel said this is the first time he has heard the state has money to dig dirt for the Tenth Street overpass though he personally would like an overpass there. However, he feels it is odd that in the same comp plan, council approved open space on the other side of this proposed overpass. He is confused whether council wants growth in this area or not. On one side, more commercial is being considered but the other side must remain as open space. He is unsure how DELDOT will be convinced to build an overpass which will lead to open space and how this will end up on their priority list.

He emphasized that during the change of zone process is when the city has control over a site. Mr. Warfel said he has been involved in the city for several years and is supportive of controlled growth. He said that though he always agrees with Ms. Wilson, he must disagree that at this point, city council has some control. He explained that when an application is received on a property previously zoned by council and the applicant has met all the requirements to continue with a permitted use, he does not believe council can legally say no at that point. However, in this case, council is not taking any value or anything away from a property owner if the zoning is never changed to another zone simply because they never had it to begin with. But if a zone has been established and later in the process, council turns down things that are permitted, then the value is taken away.

Mr. Warfel then pointed out this piece of property would be the largest commercial piece of property with the least amount of state highway/roadway access. He said most commercial properties in the city are next to a state highway other than those on Front Street which was developed many years ago. For example, the Lowes retail center is off Route 113 and the Fannin property is adjacent to State Route 30.

Mr. Warfel agrees that council may want to wait until the development occurs on Route 1 to determine how it will work with the access road before a large piece of property like this is zoned commercial.

He is also confused and remembered that some of the same planning commissioners voted against the Silicato development on Route 1 and yet they are voting in favor of a change of zone on this property. He asked that question at a planning commission meeting but never received an answer.

He also would like to see an overpass and probably this area commercial. He was in favor of the street going across his property to Tenth Street though he does not believe Mr. McColley supported that. Ironically, Mr. Warfel said he thought that would benefit the City of Milford.

Mr. Warfel agrees this should wait until the Silicato development is completed and its impact determined. He reiterated that once city council approves the change of zone of 80 acres to commercial, then all uses in that zone are basically allowed.

He feels that the city has made a mess out of many potential commercial properties. He thinks that under the right leadership in Milford, we would have a Lowes by now. Instead, it has turned into a mess. Royal Farms turned into a mess

and everything talked about or presented has turned into a mess. In this case, the city could be adding 80 acres of a potential mess.

If council votes yes, it means we are all for any commercial use. The city will then wrap its arms around the next commercial project and do everything possible to make it happen. He reminded council that DELDOT has jurisdiction over Route 1 and when they come in with that paper stating they have no objection, it is totally out of the city's control. At this point, council has some control.

Mr. Warfel said he does not really care, though he will be confused if council votes in favor of this because of all the issues the city had with the 10 to 14 acre development currently there. There were people lined up at those public hearings. He feels the city needs to allow the access road to be built and see how it works.

No other person wished to speak. Mayor Marabello then closed the floor to public comment.

Mr. Brooks then said he wanted to clarify that he is not against the project nor is he against the commercial development. However, his problem is the impact of traffic to the roads and area. He emphasized the number of 16-year-olds that are exiting and entering a major highway onto this roadway.

Mr. Spillane then moved to keep the zone at R-2.

Mayor Marabello then stated this is only a hearing and council does not have to vote today. Members of council pointed out there is a motion on the floor.

Mr. Willard said this appears to be a motion to deny the rezoning. He said this is a large project and council has discussed their authority in land use decisions. He said in other issues, council makes a zoning decision based on the health and welfare of the city and whether it adversely affects other neighbors and traffic, which is specifically mentioned in the general provisions. He said action can be deferred on something of this magnitude in order to prepare an appropriate motion whether it will be to deny or approve. He said it is important that the moving party has a motion that reflects their intent.

Mr. Willard said he is willing to work with any councilperson to draft a motion based on the facts they feel are relevant whether they are for or against it.

When asked if the motion on the floor was to deny the application and that the zone remain R-2 or defer action, Mr. Spillane said he will change his motion to defer. Mr. Workman seconded motion.

Mayor Marabello said the motion is to defer action until the next meeting.

Motion carried by unanimous roll call vote.

Mayor Marabello said a lot of information has been discussed and both the city and applicants' sides need to be considered before a decision is made.

The mayor then declared the Public Hearing concluded at 8:02 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder